

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 29, 2013**

**SECOND REGULAR SESSION**  
**January 8, 2014 to May 2, 2014**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**EMERGENCY LAW IS**  
**SEPTEMBER 6, 2013**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 1, 2014**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2014**

**3. Required inquiry to State Bureau of Identification.** A Maine criminal justice agency, other than a court, shall query the Department of Public Safety, State Bureau of Identification before disseminating any confidential criminal history record information for a noncriminal justice purpose to ensure that the most up-to-date disposition information is being used. "Noncriminal justice purpose" means a purpose other than for the administration of criminal justice or criminal justice agency ~~use~~ employment.

**Sec. 4. 16 MRSA §804, first ¶,** as enacted by PL 2013, c. 267, Pt. A, §3, is amended to read:

Except as provided in sections 805 and 806, a record that is or contains intelligence and investigative record information is confidential and may not be disseminated by a Maine criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would:

**Sec. 5. 16 MRSA §805, sub-§3, ¶B,** as enacted by PL 2013, c. 267, Pt. A, §3, is amended to read:

B. A court rule ~~or~~ court order or court decision of this State or of the United States.

**Sec. 6. 16 MRSA §806, sub-§1,** as enacted by PL 2013, c. 267, Pt. A, §3, is amended to read:

**1. A government agency responsible for investigating child or adult abuse, neglect or exploitation or regulating facilities and programs providing care to children or adults.** A government agency or subunit of a government agency in this State or another state that pursuant to statute is responsible for investigating abuse, neglect or exploitation of children or incapacitated or dependent adults or for licensing or regulating the programs or facilities that provide care to children or incapacitated or dependent adults if the intelligence and investigative record information ~~is used in~~ concerns the investigation of suspected abuse, neglect or exploitation;

**Sec. 7. 16 MRSA §806, sub-§2,** as enacted by PL 2013, c. 267, Pt. A, §3, is amended to read:

**2. A crime victim or that victim's agent or attorney.** A crime victim or that victim's agent or attorney. As used in this subsection, "agent" means a licensed professional investigator, an insurer or an immediate family member, foster parent or guardian if due to death, age or physical or mental disease, disorder or defect the victim cannot realistically act on the victim's own behalf; or

**Sec. 8. 16 MRSA §807,** as enacted by PL 2013, c. 267, Pt. A, §3, is amended to read:

**§807. Confirming existence or nonexistence of confidential intelligence and investigative record information**

A Maine criminal justice agency may not confirm the existence or nonexistence of intelligence and investigative record information confidential under section 804 to any person or public or private entity that is not eligible to receive the information itself.

**Sec. 9. 16 MRSA §809,** as enacted by PL 2013, c. 267, Pt. A, §3, is amended to read:

**§809. Unlawful dissemination of confidential intelligence and investigative record information**

**1. Offense.** A person is guilty of unlawful dissemination of confidential intelligence and investigative record information if the person intentionally disseminates intelligence and investigative record information confidential under section 804 knowing it to be in violation of any of the provisions of this chapter.

**2. Classification.** Unlawful dissemination of confidential intelligence and investigative record information is a Class E crime.

**Sec. 10. 20-A MRSA §6103, sub-§1,** as amended by PL 2013, c. 267, Pt. B, §14, is further amended to read:

**1. Criminal history record information obtained; reliance.** The commissioner shall obtain criminal history record information containing a record of ~~confidential~~ public criminal history record information as defined in Title 16, section 703, subsection ~~2~~ 8 from the Maine Criminal Justice Information System for any person applying for certification, authorization, approval or renewal. The commissioner may rely on information provided by the Maine Criminal Justice Information System within 24 months prior to the issuance of a certificate, authorization, approval or renewal.

See title page for effective date.

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**CHAPTER 508**

**H.P. 1159 - L.D. 1588**

**An Act To Amend the Laws Regarding the Maine Correctional Center and To Establish the Bolduc Correctional Facility in Statute**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 34-A MRSA §3402,** as amended by PL 1985, c. 785, Pt. B, §156, is further amended to read:

**§3402. Warden**

**1. Chief administrative officer.** The chief administrative officer of the Maine Correctional Center is called the superintendent warden.

**2. Duties.** In addition to other duties set out in this Title, the superintendent warden shall supervise and control the prisoners, pretrial detainees, employees, grounds, buildings and equipment at the center.

**3. Powers.** In addition to other powers granted in this Title, the superintendent warden has the following powers.

A. The superintendent warden may appoint ~~2 assistant superintendents~~ deputy wardens, subject to the Civil Service Law. ~~An assistant superintendent~~ A deputy warden designated by the superintendent warden has the powers, duties, obligations and liabilities of the superintendent warden when the superintendent warden is absent from the center location or is unable to perform the duties of the office.

B. The superintendent warden may, with the written approval of the commissioner, contract with the Director of the Federal Bureau of Prisons acting pursuant to the United States Code, Title 18, Section 4002, for the imprisonment, subsistence, care and proper employment of persons convicted of crimes against the United States, and may receive and detain such persons pursuant to the contracts.

**Sec. 2. 34-A MRSA §3403**, as amended by PL 1995, c. 502, Pt. F, §§25 and 26, is further amended to read:

**§3403. Prisoners generally**

**1. Conditions of confinement.** Conditions of confinement of prisoners are governed as follows.

A. The superintendent warden shall detain and confine all persons committed to the department in accordance with the sentences of the courts and with the rules of the department.

B. The superintendent warden shall provide for the safekeeping or employment of persons committed to the department in order to teach them a useful trade or profession and to improve their mental and moral condition, which may include work involving public restitution.

**2. Housing.** The superintendent warden shall maintain separate housing facilities for men and women.

**Sec. 3. 34-A MRSA §3405, sub-§1**, as repealed and replaced by PL 1983, c. 581, §§42 and 59, is amended to read:

**1. Powers.** Employees of the center:

A. Have the same power as sheriffs in their respective counties to search for and apprehend escapees from the center when authorized to do so by the superintendent warden; and

B. May carry weapons and other security equipment when authorized by the superintendent warden inside and outside the center in connection with their assigned duties or training.

**Sec. 4. 34-A MRSA §3407, sub-§1**, as enacted by PL 1983, c. 581, §§43 and 59, is amended to read:

**1. Duties of commissioner.** The commissioner shall immediately notify the superintendent warden and the sheriff of the county in which the sentencing court is located;

**Sec. 5. 34-A MRSA §3407, sub-§2, ¶B**, as amended by PL 1999, c. 583, §26, is further amended to read:

B. Deliver the person to the officer in charge of the center between the hours of 8 a.m. and 4 p.m. Monday to Friday, except for holidays, unless prior arrangements are made and approved by the superintendent warden, accompanied by a duly signed warrant of commitment and record, as provided by Title 15, section 1707;

**Sec. 6. 34-A MRSA §3407, sub-§4**, as amended by PL 2009, c. 391, §19, is further amended to read:

**4. Duties of the warden.** The superintendent warden shall:

A. File the record, as provided by Title 15, section 1707, in the superintendent's warden's office.

**Sec. 7. 34-A MRSA c. 3, sub-c. 9** is enacted to read:

**SUBCHAPTER 9****BOLDUC CORRECTIONAL FACILITY****§4201. Establishment**

There is established the Bolduc Correctional Facility, referred to in this subchapter as "the facility," located in Warren in Knox County for the confinement and rehabilitation of persons who have been duly convicted and sentenced to the Department of Corrections.

**§4202. Purposes**

The purposes of the facility include, but are not limited to, vocational and academic education and rehabilitative programs, including work release and work involving public restitution.

**§4203. Director**

**1. Chief administrative officer.** The chief administrative officer of the facility is called the director and is responsible to the commissioner.

**2. Duties.** In addition to other duties set out in this Title, the director has the following duties.

A. The director shall exercise proper supervision over the employees, grounds, buildings and equipment at the facility.

B. The director shall supervise and control the prisoners at the facility in accordance with departmental rules.

**3. Powers.** In addition to other powers granted in this Title, the director may appoint one assistant director, subject to the Civil Service Law; the assistant director has the powers, duties, obligations and liabilities of the director when the director is absent or unable to perform the director's duties.

**§4204. Prisoners generally**

**1. Confinement of prisoners transferred to facility.** All prisoners transferred to the facility must be detained and confined in accordance with the sentences of the court and the rules of the department.

**2. Education.** The director shall maintain suitable courses for academic and career and technical education of the prisoners. The director shall maintain necessary equipment and employ suitable qualified instructors as necessary to carry out the objectives of the facility's programs.

**3. Employment.** The commissioner may authorize the employment of prisoners of the facility on public works with any department, agency or entity of state, county or local government and may authorize the use of prisoners to provide assistance in the improvement of property owned by nonprofit organizations.

A. The commissioner shall adopt those rules as the commissioner considers proper to ensure the care and treatment of the prisoners and the safe working conditions of prisoners and departmental employees. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. The purpose of the employment authorized in this subsection is to provide training to the prisoner and to be a form of public restitution for the crime or crimes committed by the prisoner.

C. The prisoners employed under this subsection may not be compensated monetarily for work performed.

D. The commissioner may request that nonprofit organizations pay for the transportation of the prisoners and pay the per diem compensation of correctional officers or instructors who must accompany the prisoners or oversee the work to be performed.

**4. Escape.** Any prisoner who escapes from the facility, or from any assignment beyond the grounds of the facility, including assignment with community-rehabilitative programs, is guilty of escape under Title 17-A, section 755.

**Sec. 8. 34-A MRSA §5802, first ¶,** as enacted by PL 1983, c. 459, §6, is amended to read:

The board may grant a parole from a penal or correctional institution after the expiration of the period of confinement, less deductions for good behavior, or after compliance with conditions provided for in ~~sections~~ section 5803 to 5805 applicable to the sentence being served by the prisoner or inmate. It may revoke a parole when a condition of the parole is violated.

**Sec. 9. 34-A MRSA §5802, sub-§2,** as enacted by PL 1983, c. 459, §6, is amended to read:

**2. Custody and control.** While on parole, the parolee is under the custody of the warden ~~or superintendent~~ of the institution from which ~~he~~ the parolee was released, but under the immediate supervision of and subject to the rules of the division or any special conditions of parole imposed by the board.

**Sec. 10. 34-A MRSA §5804,** as enacted by PL 1983, c. 459, §6, is repealed.

**Sec. 11. 34-A MRSA §5805,** as enacted by PL 1983, c. 459, §6, is repealed.

**Sec. 12. 34-A MRSA §5808,** as enacted by PL 1983, c. 459, §6, is amended to read:

**§5808. Discharge from parole**

Any parolee who faithfully performs all the conditions of parole and completes ~~his~~ the parolee's sentence is entitled to a certificate of discharge to be issued by the warden ~~or superintendent~~ of the institution to which ~~he~~ the parolee was committed.

**Sec. 13. 34-A MRSA §5809,** as enacted by PL 1983, c. 459, §6, is amended to read:

**§5809. Certificate of discharge**

Whenever it appears to the board that a person on parole is no longer in need of supervision, it may order the ~~superintendent~~ or warden of the institution from which ~~he~~ the parolee was released to issue ~~him~~ the parolee a certificate of discharge, except ~~that~~ in the case of persons serving a life sentence who may not be discharged from parole in less than 10 years after release on parole.

**Sec. 14. 34-A MRSA §5810,** as enacted by PL 1983, c. 459, §6, is amended to read:

**§5810. Records forwarded to State Police**

When a person who has been convicted under Title 17, ~~former~~ section 1951, 3151, 3152 or 3153 is paroled, the warden ~~or superintendent~~ of the institution shall forward to the State Police a copy of ~~his~~ the per-

son's record and a statement of facts necessary for full comprehension of the case. Whenever any prisoner, who has been convicted of an offense under Title 17, former section 1951, 3151, 3152 or 3153 is discharged in full execution of his ~~the prisoner's~~ sentence, the ~~Warden of the Maine State Prison~~ warden shall make and forward to the State Police a copy of the prison record of that prisoner together with a statement of any fact or facts ~~which he that the warden~~ may deem ~~con-~~sider necessary for a full comprehension of the case.

See title page for effective date.

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## CHAPTER 509

### H.P. 1177 - L.D. 1605

#### An Act To Amend Maine's Aquaculture Laws

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 12 MRSA §6072, sub-§13, ¶G,** as corrected by RR 2013, c. 1, §22, is amended to read:

G. For adding or deleting authorization for the holder of an aquaculture lease to grow specific species and use specific gear on the lease site. A change in authorization is not an adjudicatory proceeding. The regulations must provide for notice of proposed changes in gear authorization to ~~the lessee,~~ the public, riparian landowners and the municipality in which the lease is located and an opportunity to submit written comments on the proposal. Authorization to add ~~or delete~~ species or gear must be consistent with the findings made under subsection 7-A when the lease was approved; and

**Sec. 2. 12 MRSA §6072, sub-§18** is enacted to read:

**18. Violation.** A person who violates a condition of a lease under this section commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged.

**Sec. 3. 12 MRSA §6072-A, sub-§1,** as amended by PL 2013, c. 301, §2, is further amended to read:

**1. Authority.** The commissioner may issue a limited-purpose lease for areas in, on and under the coastal waters, including the public lands beneath those waters and portions of the intertidal zone, for commercial aquaculture research and development or for scientific research. The commissioner or the deputy commissioner acting on the commissioner's behalf may authorize in writing qualified professional department staff to issue a final decision and sign a lease document on an application for a limited-purpose

lease. A decision issued by department staff pursuant to this subsection is a final agency action with respect to that lease application. ~~The commissioner may adopt regulations for adding or deleting authorization for the holder of an aquaculture lease to grow specific species and use specific gear on the lease site. The commissioner may grant authorization for species or gear amendments under this subsection only:~~

~~A. After giving notice of the proposed amendment to the public, the owners of riparian land within 1,000 feet of the lease site and the municipal officers of the municipality within which the lease is located. The notice must provide an opportunity to submit written comments on the proposed amendment within 14 days; and~~

~~B. Upon a determination by the commissioner that the amendment is consistent with the findings made under subsection 13 when the lease was approved.~~

**Sec. 4. 12 MRSA §6072-A, sub-§8,** as amended by PL 2013, c. 301, §3, is further amended to read:

**8. Rules; general and lease application.** The commissioner may adopt rules to implement the provisions of this section. Within 180 days of the effective date of this section, the commissioner shall adopt rules regarding a limited-purpose lease application. The rules must require an applicant to, at a minimum, meet the requirements of section 6072, subsection 2, paragraph E and subsection 4, paragraphs A, B, C, E, F, G and J. The rules must also require an applicant to provide to the department proof of access to the lease area. If access will be across riparian land, the applicant shall provide to the department the written permission of every riparian owner whose land will be used to access the lease area. The commissioner may adopt rules to add or delete authorization for the holder of an aquaculture lease to grow specific species and to use specific gear on the lease site. A change in authorization is not an adjudicatory proceeding. The rules must provide for notice of proposed changes in gear authorization to ~~the lessee,~~ the public, riparian landowners and the municipality in which the lease is located and an opportunity to submit written comments on the proposal. Authorization to add ~~or delete~~ species or gear must be consistent with the findings made under subsection 13 when the lease was approved.

**Sec. 5. 12 MRSA §6072-A, sub-§24** is enacted to read:

**24. Violation.** A person who violates a condition of a lease under this section commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged.