

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 2016 to August 2, 2017

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NON-EMERGENCY LAWS IS
NOVEMBER 1, 2017

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

Augusta, Maine
2017

for purposes of this subsection. ~~This subsection is repealed August 1, 2017.~~

Sec. 3. 34-A MRSA §3049, sub-§8, as enacted by PL 2013, c. 434, §4, is repealed.

Sec. 4. 34-A MRSA §3069-A, sub-§6, as enacted by PL 2013, c. 434, §5, is repealed.

Sec. 5. 34-A MRSA §3069-B, sub-§6, as enacted by PL 2013, c. 434, §6, is repealed.

Sec. 6. 34-B MRSA §1207, sub-§1, ¶B, as repealed and replaced by PL 2015, c. 329, Pt. A, §21, is amended to read:

B. Information may be disclosed if necessary to carry out the statutory functions of the department; the hospitalization provisions of chapter 3, subchapter 4; the provisions of section 1931; the purposes of section 3608; the purposes of Title 5, section 19506; the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319; the investigation and hearing pursuant to Title 15, section 393, subsection 4-A; or the provision of mental health services by the Department of Corrections pursuant to Title 34-A, section 3031, 3069-A or 3069-B. ~~This paragraph is repealed August 1, 2017;~~

Sec. 7. 34-B MRSA §1207, sub-§1, ¶B-3, as amended by PL 2015, c. 329, Pt. A, §22, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 8, 2017.

CHAPTER 148

S.P. 503 - L.D. 1457

An Act to Rename and Repurpose the Mountain View Youth Development Center as the Mountain View Correctional Facility and To Eliminate the Charleston Correctional Facility as a Facility Separate from Mountain View

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current laws relating to the Department of Corrections create significant difficulties in the administration of the Department of Corrections; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §17851, sub-§11, as amended by PL 1999, c. 731, Pt. CCC, §1, is further amended to read:

11. Maine State Prison employees. Except as provided in section 17851-A, the warden or deputy warden of the Maine State Prison, any officer or employee of the Maine State Prison employed as a guard or in the management of prisoners or any person employed as the supervising officer of those officers or employees or as an advocate at the Maine State Prison qualifies for a service retirement benefit if that person:

A. Was employed in one of those capacities before September 1, 1984 and:

- (1) Completes 20 years of creditable service in one or more of those capacities; and
- (2) Retires upon or after reaching the age of 50 years; or

B. Was employed in one of those capacities after August 31, 1984 and before January 1, 2000 and completed 25 years of creditable service in one or more of those capacities.

Notwithstanding any other provision in this section, no person in the employ of the Bangor Pre-Release Center on August 4, 1988 who would have qualified for a service retirement benefit if the Bangor Pre-Release Center had remained the administrative responsibility of the Maine State Prison may be denied such a benefit by virtue of the transfer of that responsibility to the former Charleston Correctional Facility.

A person in the employ of the Bangor Pre-Release Center to whom paragraph A applies and who is employed at the Bangor Pre-Release Center on June 30, 2000 remains covered under paragraph A notwithstanding the closing of the Bangor Pre-Release Center if the person is thereafter and without a break in service employed in a capacity to which this subsection or section 17851-A, subsection 1, paragraph I applies or if not thereafter employed in such a capacity but having qualified at the time of the closing of the Bangor Pre-Release Center for retirement under paragraph A, retires then or at a later time.

Sec. 2. 15 MRSA §2121, sub-§2, as amended by PL 2013, c. 133, §3, is further amended to read:

2. Post-sentencing proceeding. "Post-sentencing proceeding" means a court proceeding or administrative action occurring during the course of and pursuant to the operation of a sentence that affects whether there is incarceration or its length, including revocation of parole, failure to grant parole, an error of law in the computation of a sentence including administrative calculations of deductions relative to time detained pursuant to Title 17-A, section 1253, subsection 2 and default in payment of a fine or restitution. It does not include the following Title 17-A, Part 3 court proceedings: revocation of probation, revocation of supervised release for sex offenders or revocation of administrative release. It does not include the following administrative actions: calculations of good time and meritorious good time credits pursuant to Title 17-A, section 1253, subsections 3, 3-B, 4, 5 and 7 or similar deductions under Title 17-A, section 1253, subsections 8, 9 and 10; disciplinary proceedings resulting in a withdrawal of good-time credits or similar deductions under Title 17-A, section 1253, subsections 6, 8, 9 and 10; cancellation of furlough or other rehabilitative programs authorized under Title 30-A, sections 1556, 1605 and 1606 or Title 34-A, section 3035; cancellation of a supervised community confinement program granted pursuant to Title 34-A, section 3036-A; cancellation of a community confinement monitoring program granted pursuant to Title 30-A, section 1659-A; or cancellation of placement on community reintegration status granted pursuant to Title 34-A, section 3810 or former section 4112.

Sec. 3. 17-A MRSA §15, sub-§1, ¶A, as repealed and replaced by PL 2011, c. 691, Pt. A, §12, is amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 19-A, section 4002, subsection 4;

(5-B) Domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct;

(6) Theft as defined in section 357, when the value of the services is \$1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(9) A violation of a condition of probation when requested by a probation officer or juvenile community corrections officer;

(10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;

(11) Theft involving a detention under Title 17, section 3521;

(12) Harassment, as set forth in section 506-A;

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; Title 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5;

(14) A violation of a sex offender registration provision under Title 34-A, chapter 15;

(15) A violation of a requirement of administrative release when requested by the attorney for the State;

(16) A violation of a condition of supervised release for sex offenders when requested by a probation officer;

(17) A violation of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State;

(18) A violation of a condition of release as provided in Title 15, section 3203-A, subsection 9;

(19) A violation of a condition of supervised community confinement granted pursuant to

Title 34-A, section 3036-A when requested by a probation officer;

(20) A violation of a condition of placement on community reintegration status granted pursuant to Title 34-A, ~~sections section~~ section 3810 and former section 4112 when requested by a juvenile community corrections officer;

(21) A violation of a condition of furlough or other rehabilitative program authorized under Title 34-A, section 3035 when requested by a probation officer or juvenile community corrections officer;

(22) A violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State;

(23) Failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A;

(24) A Class D or Class E crime committed while released on preconviction or post-conviction bail; or

(25) A violation of a condition of release from a community confinement monitoring program pursuant to Title 30-A, section 1659-A; and

Sec. 4. 20-A MRSA §1, sub-§34-A, ¶E, as amended by PL 2003, c. 706, Pt. A, §8, is further amended to read:

E. In the custody or under the supervision of the Department of Corrections, including, but not limited to, a juvenile on conditional release, an informally adjusted juvenile, a probationer or a juvenile on community reintegration status from the Long Creek Youth Development Center ~~or the Mountain View Youth Development Center~~ and who is placed, for reasons other than educational reasons, pursuant to a court order or with the agreement of an authorized agent of the Department of Corrections, outside the juvenile's home.

Sec. 5. 34-A MRSA §1001, sub-§8-A, as amended by PL 2003, c. 410, §10, is further amended to read:

8-A. Detention facility. "Detention facility" means the Long Creek Youth Development Center and, to the extent it houses juveniles, the Mountain View ~~Youth Development Center~~ Correctional Facility.

Sec. 6. 34-A MRSA §1001, sub-§11, as amended by PL 2005, c. 507, §18, is further amended to read:

11. Juvenile client. "Juvenile client" means a juvenile committed to a juvenile correctional facility

who is either residing at the facility or is on community reintegration status, or ordered confined in a juvenile correctional facility pursuant to Title 12, section 6004, 8004 or 10608; Title 15, section 3314, subsection 1, paragraph H; Title 15, section 3314, subsection 7; or Title 29-A, section 115.

Sec. 7. 34-A MRSA §3061, sub-§1, as amended by PL 2013, c. 28, §10, is further amended to read:

1. Transfer. The commissioner may transfer any client from one correctional or detention facility or program, including prerelease centers, work release centers, halfway houses, supervised community confinement or specialized treatment facilities, to another. A juvenile may not be transferred to another facility or program for adult offenders and an adult offender may not be transferred to another facility or program for juveniles, except that an adult offender may be housed in the Long Creek Youth Development Center or the Mountain View ~~Youth Development Center~~ Correctional Facility pursuant to ~~section 3816 or~~ section 4117 or Title 17-A, section 1259.

Sec. 8. 34-A MRSA c. 3, sub-c. 4, as amended, is repealed.

Sec. 9. 34-A MRSA §3816, as enacted by PL 2013, c. 28, §11, is repealed.

Sec. 10. 34-A MRSA §4101, as enacted by PL 1991, c. 400 and amended by PL 1999, c. 401, Pt. J, §6 and PL 2001, c. 439, Pt. G, §8, is further amended to read:

§4101. Establishment

There is established the Mountain View ~~Youth Development Center~~ Correctional Facility located in Penobscot County.

Sec. 11. 34-A MRSA §4102-A, as amended by PL 2011, c. 282, §7, is further amended to read:

§4102-A. Purposes for juveniles

1. Statement. The purposes of the Mountain View ~~Youth Development Center~~ Correctional Facility with respect to juvenile detainees and juvenile clients are:

A. To detain juveniles pending a court proceeding;

B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section 3318-A;

~~C. To rehabilitate juveniles committed to a juvenile correctional facility pursuant to Title 15, section 3314, subsection 1, paragraph F;~~

D. To protect the public from dangerous juveniles;

E. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 1, paragraph H;

F. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D;

G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004 and 10608 and Title 29-A, section 115; and

H. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 7; and

~~I. To confine juveniles committed to a juvenile correctional facility pursuant to Title 17-A, section 1259.~~

2. Accomplishment. To accomplish the purposes set out in subsection 1, the disciplines of education, casework, group work, psychology, psychiatry, medicine, nursing, vocational training and religion as they are related to human relations and personality development must be employed. Security measures, whether in the form of physically restrictive construction or intensive staff supervision, when appropriate, may be taken to accomplish these purposes.

Sec. 12. 34-A MRSA §4102-B is enacted to read:

§4102-B. Purposes for prisoners

The purposes of the Mountain View Correctional Facility with respect to prisoners include vocational and academic education and rehabilitative programs, including work release and work involving public restitution.

Sec. 13. 34-A MRSA §4103, sub-§1, as amended by PL 2005, c. 488, §12, is further amended to read:

1. Chief administrative officer. The chief administrative officer of the Mountain View ~~Youth Development Center~~ Correctional Facility is called the superintendent and is responsible to the commissioner.

Sec. 14. 34-A MRSA §4103, sub-§2, as amended by PL 2005, c. 488, §12, is further amended to read:

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

A. The superintendent shall exercise supervision over the employees, grounds, buildings and equipment at the Mountain View ~~Youth Development Center~~ Correctional Facility.

B. The superintendent shall supervise and control the juvenile detainees and juvenile clients at the Mountain View ~~Youth Development Center~~ Correctional Facility in accordance with department rules.

C. The superintendent shall supervise and control the prisoners at the Mountain View Correctional Facility in accordance with department rules.

Sec. 15. 34-A MRSA §4104, as amended by PL 2007, c. 536, §8, is further amended to read:

§4104. Detention and confinement of juveniles

~~**1 A. Eligibility.** Only a juvenile, as defined in Title 15, section 3003, subsection 14, who is 11 years of age or older at the time of commitment may be committed to the Mountain View Youth Development Center pursuant to this subchapter and Title 15, Part 6.~~

2. Limitations. A person juvenile may not be detained or confined in ~~or committed to the facility~~ Mountain View Correctional Facility if, upon petition by the commissioner or the commissioner's designee and after hearing, the court finds by a preponderance of the evidence that the person juvenile is more appropriately a subject for intensive treatment services that are available and provided by or through the Department of Health and Human Services. Prior to the hearing, the court shall provide notice of the hearing in writing or orally to the juvenile, the juvenile's parents, the juvenile's guardian or legal custodian, the attorney for the State and the Department of Health and Human Services.

3. Certification. When a person juvenile is detained or confined in ~~or committed to the Mountain View Youth Development Center~~ Correctional Facility, the court ordering the detention or ~~commitment~~ confinement shall certify on the mittimus the ~~person's~~ juvenile's birthplace, parentage and legal residence.

Sec. 16. 34-A MRSA §4105, as enacted by PL 1991, c. 400 and amended by PL 1999, c. 401, Pt. J, §6 and PL 2001, c. 439, Pt. G, §8, is further amended to read:

§4105. Juvenile detainees generally

All juvenile detainees at the Mountain View ~~Youth Development Center~~ Correctional Facility must be detained in accordance with the orders of the court and the rules of the department.

Sec. 17. 34-A MRSA §4106, as amended by PL 2005, c. 488, §13, is further amended to read:

§4106. Powers of employees

Employees of the Mountain View ~~Youth Development Center~~ Correctional Facility have the same power as sheriffs in their respective counties to search for and apprehend escapees from the facility, when authorized to do so by the superintendent.

Sec. 18. 34-A MRSA §4107, as enacted by PL 1991, c. 400 and amended by PL 1999, c. 401, Pt. J, §6 and PL 2001, c. 439, Pt. G, §8, is further amended to read:

§4107. Transportation

All court-ordered and court-related transportation of juvenile detainees to and from the Mountain View ~~Youth Development Center~~ Correctional Facility is the responsibility of the sheriff of the county in which the court is located.

Sec. 19. 34-A MRSA §4108, sub-§1, as enacted by PL 1991, c. 400 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

1. Generally. When the behavior of a juvenile residing at the Mountain View ~~Youth Development Center~~ Correctional Facility presents a high likelihood of imminent harm to that juvenile or to others, presents a substantial and imminent threat of destruction of property or demonstrates a proclivity to be absent from the facility without leave as evidenced by a stated intention to escape from the facility or by a recent attempted or actual escape from any detention or correctional facility, the juvenile may be placed under observation if the juvenile demonstrates that anything less restrictive would be ineffectual for the control of the juvenile's behavior.

Sec. 20. 34-A MRSA §4111, sub-§§1 and 2, as enacted by PL 1999, c. 583, §44 and amended by PL 2001, c. 439, Pt. G, §8, are further amended to read:

1. Juvenile client. The commissioner has all the power over a juvenile client that a guardian has over a ward and that a parent has over a child with regard to person, allowable property that the juvenile client has at the Mountain View ~~Youth Development Center~~ Correctional Facility, earnings that the juvenile client receives during the juvenile client's stay at the Mountain View ~~Youth Development Center~~ Correctional Facility and the rehabilitation of ~~every~~ the juvenile client. If a juvenile client is or becomes 18 years of age while still ~~under commitment~~ confined at the facility, the statutory guardianship of the commissioner over the juvenile client terminates, but the juvenile client remains subject to the control of the commissioner; ~~and the staff and rules of the Mountain View Youth Development Center until the expiration of the period of commitment or~~ Correctional Facility until discharge from the Mountain View Youth Development Center Correctional Facility.

2. Juvenile detainee. The commissioner has all the power over a juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary medical care. If a juvenile detainee is or becomes 18 years of age while still detained, the statutory guardianship of the commissioner over the juvenile detainee terminates, but the juvenile remains subject to the control of the commissioner; ~~and the staff and rules of the Mountain View Youth Development Center~~ Correctional Facility until release

from the Mountain View ~~Youth Development Center~~ Correctional Facility.

Sec. 21. 34-A MRSA §4112, as amended by PL 2003, c. 410, §20, is repealed.

Sec. 22. 34-A MRSA §4113, as amended by PL 2003, c. 410, §21, is repealed.

Sec. 23. 34-A MRSA §4114, as amended by PL 2005, c. 488, §18, is repealed.

Sec. 24. 34-A MRSA §4115, as enacted by PL 1999, c. 583, §45 and amended by PL 2001, c. 439, Pt. G, §8, is repealed.

Sec. 25. 34-A MRSA §4116, as amended by PL 2003, c. 410, §22 and c. 689, Pt. B, §6, is repealed.

Sec. 26. 34-A MRSA §4117, as amended by PL 2015, c. 320, §1, is further amended to read:

§4117. Confinement of prisoners

The commissioner may confine adults sentenced and committed to the custody of the department ~~who have not attained 26 years of age, except that, until April 30, 2017, the commissioner may confine adults of any age who have been sentenced and committed to the department, in the Mountain View Youth Development Center~~ Correctional Facility as long as the housing facilities for ~~adult offenders~~ prisoners are fully separated from the housing facilities for juvenile detainees and juvenile clients and the commissioner maintains at all times full compliance with mandatory sight and sound separation standards established by federal law. All provisions of this Title that are applicable to prisoners apply to ~~adult offenders~~ prisoners confined in the Mountain View ~~Youth Development Center~~ Correctional Facility as if they were confined in a correctional facility housing only adults.

Sec. 27. 34-A MRSA §4118 is enacted to read:

§4118. Prisoners generally

1. Evaluation. Before assignment to the Mountain View Correctional Facility, prisoners must be evaluated for security status, program needs and emotional stability by the classification process approved by the commissioner.

2. Transferred prisoners. All prisoners transferred to the Mountain View Correctional Facility must be detained and confined in accordance with the sentences of the court and the rules of the department.

3. Education. The superintendent shall maintain suitable courses for academic and career and technical education of the prisoners.

A. The superintendent shall maintain necessary equipment and employ suitable qualified instructors as necessary to carry out the objectives of the Mountain View Correctional Facility's programs.

B. Before employing instructors in career and technical education, the superintendent shall obtain the approval of the Department of Education.

4. Employment. The commissioner may authorize the employment of prisoners of the Mountain View Correctional Facility on public works with any department, agency or entity of the State or 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 rules that the commissioner considers proper to ensure the care and treatment of the prisoners and the safe working conditions of prisoners and department employees.

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 the 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.

5. Escape. A prisoner who escapes from the Mountain View Correctional Facility, or from any assignment beyond the grounds of the facility, is guilty of escape under Title 17-A, section 755.

Sec. 28. 34-A MRSA §5402, sub-§2, ¶H, as amended by PL 2005, c. 328, §25, is further amended to read:

H. Issue warrants for the arrest of parole violators and juveniles who violate conditions of placement on community reintegration status pursuant to ~~sections~~ section 3810 and former section 4112;

Sec. 29. 34-B MRSA §6205, as amended by PL 2011, c. 542, Pt. A, §134, is further amended to read:

§6205. Services for juveniles committed to Long Creek Youth Development Center

1. Department authority. The department may provide consultation services to any juvenile with an intellectual disability or autism committed to the Long Creek Youth Development Center ~~or the Mountain View Youth Development Center~~ if those services are requested by the Commissioner of Corrections or the commissioner's designee. Consultation services may include participation by appropriate department professionals on the Classification Committee of the Long Creek Youth Development Center ~~or the Classification~~

~~Committee of the Mountain View Youth Development Center~~ in order to assist in the design of individual treatment plans to provide habilitation, education and skill training to juveniles with an intellectual disability or autism in residence at the Long Creek Youth Development Center ~~or the Mountain View Youth Development Center.~~

2. Support services. Whenever a program has been designed for a juvenile with an intellectual disability or autism by the Classification Committee of the Long Creek Youth Development Center ~~or the Classification Committee of the Mountain View Youth Development Center~~ and the classification committee has included participation by the department professionals, the department shall provide, insofar as possible, support services to implement that program.

3. Case management. The department may provide case management services to juveniles with intellectual disabilities or autism who are released from the Long Creek Youth Development Center ~~or the Mountain View Youth Development Center.~~

Sec. 30. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 34-A, chapter 3, subchapter 8, in the subchapter headnote, the words "mountain view youth development center" are amended to read "mountain view correctional facility" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 8, 2017.

CHAPTER 149

S.P. 504 - L.D. 1458

An Act To Amend the Law Relating to the Crime of Hindering Apprehension or Prosecution

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current laws relating to the crime of hindering apprehension or prosecution do not include hindering the apprehension or prosecution of persons who violate probation, supervised release for sex offenders, or the terms of deferred disposition, administrative release or parole and therefore create significant barriers to timely arrest and prosecution that are of immediate concern; and