

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND THIRTIETH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 2020 to March 30, 2021**

**FIRST SPECIAL SESSION**  
**April 28, 2021 to July 19, 2021**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2021**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 18, 2021**

**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**  
**2021**

expectations as to conduct, fulfillment of expectations as to work, education and rehabilitation programs assigned in the case plan, other rehabilitative efforts and accomplishments, arrangements for suitable housing in the community, taking into consideration the proximity of this housing to the victim, and the existence of support systems and resources in the community.

B. The process must reflect best practices for evaluating the likelihood of a prisoner’s completion of supervised community confinement if transferred and must provide guidance to department staff as to how to apply the established criteria when conducting the evaluation. The process must require, when information is obtained by the department from persons in the community for the purpose of determining whether to approve a prisoner for transfer to supervised community confinement, that those persons be informed of the prisoner’s fulfillment of expectations as to conduct, fulfillment of expectations as to work, education, and rehabilitation programs assigned in the case plan and other rehabilitative efforts and accomplishments. The process must also include the right of a prisoner who is eligible for transfer to supervised community confinement as provided in subsection 2 but who has not been approved for transfer to appeal that determination to the commissioner.

**Sec. 4. 34-A MRSA §3036-A, sub-§7, ¶C,** as enacted by PL 1991, c. 845, §4, is amended to read:

C. Criminal, court and ~~police~~ law enforcement agency investigations; and

**Sec. 5. 34-A MRSA §3036-A, sub-§10,** as amended by PL 2009, c. 391, §16, is further amended to read:

**10. Terminally ill or incapacitated prisoner.** With the consent of the prisoner, the commissioner may ~~permit transfer~~ a prisoner committed to the department ~~to be transferred~~ from a correctional facility to supervised community confinement without meeting the eligibility requirements of subsection 2, paragraphs B and C and without meeting the criteria or fulfilling the process provided for under subsection 2-A if the department’s director of medical care has determined that the prisoner has a terminal or severely incapacitating medical condition and that care outside a correctional facility is medically appropriate. Except as set out in this subsection, the prisoner ~~shall~~ must live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or a facility that is a licensed hospice program pursuant to Title 22, section 8622, approved by the commissioner. As approved by the commissioner, the prisoner may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services provided by an entity approved by the commissioner and, subject to approval by the commissioner, may live at

home while receiving these services. The commissioner may exempt a prisoner transferred to supervised community confinement pursuant to this subsection from any mandatory condition under subsection 3 that the commissioner determines to be inapplicable. The prisoner shall provide any information pertaining to the prisoner’s medical condition or care that is requested by the commissioner at any time while the prisoner is on supervised community confinement. If the commissioner determines that the prisoner has failed to fully comply with a request or if at any time the department’s director of medical care determines that the prisoner does not have a terminal or severely incapacitating medical condition or that care outside a correctional facility is not medically appropriate, the commissioner shall revoke the transfer to supervised community confinement.

**Sec. 6. 34-A MRSA §3036-A, sub-§12** is enacted to read:

**12. Information for prisoners.** The department shall make available to all prisoners written information about supervised community confinement, including eligibility requirements, the application process and the criteria and process for determining whether a prisoner eligible for transfer to supervised community confinement may be approved for transfer.

**Sec. 7. 34-A MRSA §3036-A, sub-§13** is enacted to read:

**13. Data tracking.** The department shall track data for all prisoners who apply for supervised community confinement and approval, denial and, if approved, completion of the program. Such data must include, but is not limited to, demographic data regarding race and ethnicity, gender, age and convictions leading to the prisoner’s current incarceration.

See title page for effective date.

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**CHAPTER 377**

**H.P. 590 - L.D. 785**

**An Act To Change the Standard for Taking a Person into Protective Custody**

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

**Sec. 1. 34-B MRSA §3862, sub-§1,** as amended by PL 2019, c. 411, Pt. C, §5 and affected by Pt. D, §3, is further amended to read:

**1. Law enforcement officer’s power.** If a law enforcement officer has probable cause to believe that a person may be mentally ill and that due to that condition the person ~~presents a threat of imminent and substantial physical harm to that person or to other persons~~ poses a likelihood of serious harm as defined in section 3801,

subsection 4-A, paragraph A, B or C, or if a law enforcement officer knows that a person has an advance health care directive authorizing mental health treatment and the officer has probable cause to believe that the person lacks capacity, the law enforcement officer:

- A. May take the person into protective custody; and
- B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination by a medical practitioner as provided in section 3862-A or 3863 or, for a person taken into protective custody who has an advance health care directive authorizing mental health treatment, for examination as provided in Title 18-C, section 5-803, subsection 4 to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective.

When formulating probable cause, the law enforcement officer may rely upon information provided by a 3rd-party informant if the officer confirms that the informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that the person may be mentally ill and that due to that condition the person ~~presents a threat of imminent and substantial physical harm to that person or to other persons~~ poses a likelihood of serious harm as defined in section 3801, subsection 4-A, paragraph A, B or C.

See title page for effective date.

**CHAPTER 378  
H.P. 731 - L.D. 993**

**An Act To Retroactively Grant Sick Leave Days to Public School Employees Affected by COVID-19**

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

**Sec. 1. 20-A MRSA §13605** is enacted to read:

**§13605. School administrative units to grant sick leave to public school employees affected by COVID-19**

A school administrative unit shall grant up to 15 sick leave days used by a public school employee affected by the illness caused by infection with the coronavirus SARS-CoV-2, referred to in this section as "COVID-19," in accordance with the following.

**1. Requirements.** A public school employee who was affected by COVID-19 and used sick leave prior to the effective date of this section is entitled to have sick

leave time restored for those days used by that employee up to a maximum of 15 days if the employee:

- A. Was subject to a federal, state or local quarantine order related to COVID-19;
- B. Had been or was advised by a health care provider to self-quarantine for reasons related to COVID-19;
- C. Experienced symptoms of COVID-19 and sought a medical diagnosis;
- D. Cared for an individual subject to a federal, state or local quarantine order related to COVID-19; or
- E. Is a parent or guardian who provided care for a child whose school or place of child care was closed or unavailable due to precautions related to COVID-19.

**2. Application.** This section applies to any sick leave used by an employee from January 1, 2021 until the employee has been granted a maximum of 15 days of sick time for the purposes described in this section.

See title page for effective date.

**CHAPTER 379  
S.P. 208 - L.D. 821**

**An Act To Improve the Investigation and Prosecution of Cases That Involve Vulnerable Road Users**

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

**Sec. 1. 29-A MRSA §2251, sub-§12** is enacted to read:

**12. Vulnerable users.** A law enforcement officer who investigates a reportable accident involving a vulnerable user or an incident resulting in bodily injury or death to a vulnerable user and who has probable cause to believe that a traffic infraction, civil violation or criminal violation is connected to that accident or incident shall inform a district attorney of relevant jurisdiction about the investigation within 5 days of initiating the investigation. The law enforcement officer shall submit a final accident report to that district attorney including any evidence relevant to the potential prosecution of an alleged criminal violation or civil violation resulting from the investigation as soon as is practicable and no later than 60 days after the accident or incident. A law enforcement officer may submit any additional evidence as soon as it becomes available after the submission of the final accident report. Nothing in this subsection precludes evidence submitted later than 60 days after the accident or incident from being used in the prosecution of a criminal violation or civil violation. Failure of a law enforcement officer to inform a district