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C-1.34  
Mr. Kearns

December 27, 1973

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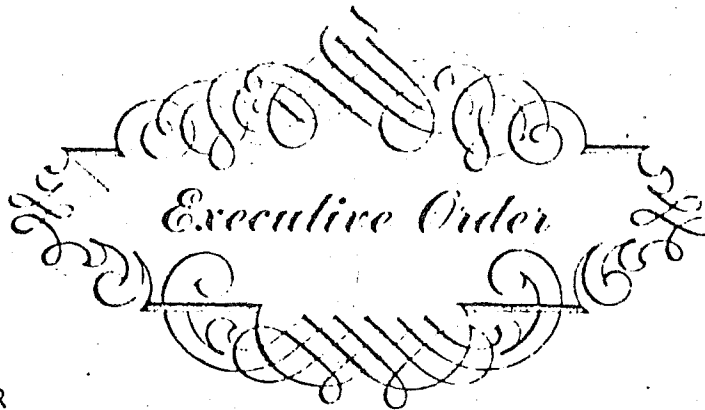
GOVERNOR'S TASK FORCE ON CORRECTIONS

Initial Legislative Report

FEL 70

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OFFICE OF  
THE GOVERNOR

NO. 19  
DATE October 2, 1973

### GOVERNOR'S TASK FORCE ON CORRECTIONS

WHEREAS, the treatment and rehabilitation of criminal offenders is of continuing concern to the people of Maine and their public officials, and

WHEREAS, the upgrading of Maine's Correctional System requires continuous review of procedures, policies and programs at both local and state levels;

NOW, THEREFORE, I, KENNETH M. CURTIS, Governor of the State of Maine, hereby establish the Governor's Task Force on Corrections to review and evaluate the facilities and procedures relating to the treatment of criminal offenders, both juvenile, and adult, in the State of Maine.

The Task Force shall issue a preliminary report no later than January 1, 1974 to include any recommendations for legislative action during the Special Session of the 106th Legislature.

The final report of the Task Force shall be issued no later than September 1, 1974. This report shall include, but not be limited to:

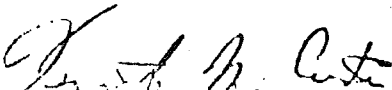
- 1) Identification of all programs and services currently employed and those that are lacking in the process of rehabilitating juvenile and adult offenders.
- 2) Consideration of a phased schedule to implement the recommendations contained in past studies such as the Comprehensive Juvenile Delinquency Study, Cooperative Extension Service UMO, and the study recently completed for the Bureau of Corrections by Batten, Batten, Hudson and Swab, Inc.
- 3) Recommendations concerning pre-trial diversion of juvenile offenders to more meaningful alternatives of treatment.

- 4) Recommendations for providing improved diagnostic and evaluation services to aid in the sentencing and ultimate rehabilitation process.
- 5) Recommendations for improving the county jail facilities and programs involved in these facilities.
- 6) Recommendations for providing a more effective and meaningful experience in the community to prevent repetition of criminal or delinquent behavior.
- 7) Recommendations for involving offenders in deciding upon their own rehabilitation program.
- 8) Recommendations for appropriate legislative and administrative action affecting corrections.

The following persons are hereby appointed to the Governor's Task Force on Corrections: Honorable Gerard P. Conley; Honorable John R. McKernan; Honorable Stephen L. Perkins, Honorable Thomas R. Lapointe; Harold C. Pachios, Esq.; Caroline Glassman, Esq.; John B. Wlodkowski, Esq.; John M. Kerry; Norma Jane Langford; Robert Lovell; Jeff Roth; Alan Caron; Kathryn A. Stevenson; Diane A. Kelly; Mrs. Mark R. Knowles; Donald L. Dahlstrom; Mrs. Helen M. Ordway; Sheriff Charles Sharpe; Carl Anderson; and Sally V. Holm.

Stephen P. Simonds is appointed chairman of the Task Force, and Attorney John E. Larouche of Milo will serve as Special Assistant to the Task Force.

All State agencies are directed to cooperate fully with the Task Force in carrying out this Executive Order.

  
KENNETH M. CURTIS  
GOVERNOR

GOVERNOR'S TASK FORCE ON CORRECTIONS MEMBERSHIP

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GOVERNOR'S TASK FORCE ON CORRECTIONS

Chairman's Charge to Subcommittee

on Prevention


Governor Curtis has charged the Task Force on Corrections in Executive Order No. 19 with several specific items of special concern to both the Governor personally, and to the Legislature. The final report of the Task Force, covering all aspects of Maine's correctional systems, is due August 31, 1974. In order to comply fully with the Executive Order, however, and to accomplish as much as possible before the start of the Special Session of the 106th Legislature in January, I am directing the Subcommittee on Prevention to consider, before January 1974, as many of the following as is possible:

- 1) Recommendations concerning threshold diversion of juvenile and adult offenders from the correctional system to more meaningful alternatives of treatment;
- 2) Recommendations for providing improved diagnostic and evaluation services to the Judiciary to aid in the sentencing of offenders and in ultimate rehabilitation process;
- 3) Developing an inventory of present diversionary programs being administered by State, local and private agencies;
- 4) Recommendations concerning possible administrative actions in the diversionary area requiring legislation or additional appropriations;

Specifically the Subcommittee on Prevention shall investigate the issues of mandatory pre-sentence investigations, indeterminate sentencing, and greater state assistance to the judiciary and the family court system.

The Subcommittee on Prevention, together with the entire Task Force, shall consider the need, purpose, and functions of the Corrections Centers and Training Schools in relation to alternative community-based facilities and make recommendations to the Executive Committee concerning the need and future role of such institutions.

Recommendations for the Special Session of the 106th Legislature should be submitted to the Chairman, in order of priority, as soon as possible, so that drafting of bills can commence by the middle of November, and in no case shall such recommendations be submitted later than December 7, 1973.

  
Stephen P. Simonds  
Chairman  
Governor's Task Force  
on Corrections

GOVERNOR'S TASK FORCE ON CORRECTIONS

Chairman's Charge to Subcommittee

on Institutional Reform

Governor Curtis has charged the Task Force on Corrections in Executive Order No. 19 with several specific items of special concern to both the Governor personally, and to the Legislature. The final report of the Task Force, covering all aspects of Maine's correctional systems, is due August 31, 1974. In order to comply fully with the Executive Order, however, and to accomplish as much as possible before the start of the Special Session of the 106th Legislature in January, I am directing the Subcommittee on Institutional Reform to consider, before January 1974, as many of the following as is possible:

- 1) Recommendations concerning possible actions associated with the present administration of state penal institutions and programs requiring legislation or additional appropriations;
- 2) Recommendations concerning the legal rights and duties of incarcerated persons;
- 3) Recommendations for improving county jail facilities and the programs involved with these facilities;
- 4) Recommendations for involving offenders in deciding upon their own rehabilitation program;

Specifically the Subcommittee on Institutional Reform shall investigate the issues of a specific "bill of rights" for inmates of correctional institutions, eligibility requirements for parole, crimes committed while on parole, conjugal visits, voting rights of inmates; access to the institutions by community organizations and the press, sentence reductions for good behavior, compensation for work performed by inmates, trust positions for persons convicted of crimes of violence, administration of the furlough program, the problems of prison personnel, establishment of School Administrative Districts in correctional institutions, and administration and inspection of the county jail system.

The Subcommittee on Institutional Reform, together with the entire Task Force, shall consider the need, purpose and functions of the Correction Centers and Training Schools in relation to alternative community-based facilities and make recommendations concerning the need, future role and consolidation possibilities for such institutions to the Executive Committee.

Recommendations for the Special Session of the 106th Legislature should be submitted to the Chairman, in order of priority, as soon as possible, so that drafting of bills can commence by the middle of November, and in no case shall such recommendations be submitted later than December 7, 1973.



Stephen P. Simonds

Chairman

Governor's Task Force  
on Corrections



GOVERNOR'S TASK FORCE ON CORRECTIONS

Chairman's Charge to Subcommittee

on Post-Release Community

Programs

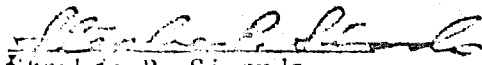
Governor Curtis has charged the Task Force on Corrections in Executive Order No. 19 with several specific items of special concern to both the Governor personally, and to the Legislature. The final report of the Task Force, covering all aspects of Maine's correctional systems, is due August 31, 1974. In order to comply fully with the Executive Order, however, and to accomplish as much as possible before the start of the Special Session of the 106th Legislature in January, I am directing the Subcommittee on Post-Release Community Programs to consider, before January 1974, as many of the following as is possible:

- 1) Recommendations for providing a more effective and meaningful experience in the community to prevent repetition of criminal or delinquent behavior;
- 2) Recommendations concerning possible administrative actions in the area of aftercare services for ex-offenders and the reduction of recidivism, requiring legislation or additional appropriations;
- 3) Recommendations concerning the removal of arbitrary bars to employment in occupations licensed by the State on the basis of past criminal record;
- 4) Recommendations concerning the administration of the present work release/work-study programs and the pardon and parole process and the issue of "expungement" of past criminal records;

Specifically the Subcommittee on Post-Release Community Programs shall investigate the issues of expanding halfway house and group homes programs, legislation to compensate the victims of crime, employment opportunities and retraining assistance to ex-offenders, prohibition of housing and employment discrimination on the sole basis of criminal record (in possible conjunction with the Maine Human Rights Commission), revitalization of the institutional Boards of Visitors, the use of volunteer assistance programs, and greater community and business involvement with the problems of ex-offenders.

The Subcommittee on Post-Release Community Programs, together with the entire Task Force, shall consider the need, purpose and functions of the Corrections Centers and Training Schools in relation to alternative community-based facilities and make recommendations to the Executive Committee concerning the need and future role of such institutions.

Recommendations for the Special Session of the 106th Legislature should be submitted to the Chairman, in order of priority, as soon as possible, so that drafting of bills can commence by the middle of November, and in no case shall such recommendations be submitted later than December 7, 1973.

  
Stephen P. Simonds  
Chairman  
Governor's Task Force  
on Corrections

GOVERNOR'S TASK FORCE ON CORRECTIONS

Meeting Schedule

(Through December 19, 1973)

October 10, 1973

Cabinet Room, Augusta

Full Meeting; Background Testimony by: Commissioner William Kearns (Dept. of Mental Health & Corrections), -Director Ward Murphy (Bureau of Corrections), -Warden Garrell Mullaney (Maine State Prison), -Gary Sawyer and Gerry Samson (MLEPAA)

October 18, 1973

University of Maine School of Law, Portland

Full Meeting

-SCAR, presentation of legislative program, assisted by Pine Tree Legal Services attorneys  
-Staff presentation on Removing Ex-offender Employment restrictions

October 18-

November 8, 1973

(Initiation of Subcommittee Meetings, arranged by chairmen)

Staff assigned to Subcommittees:

-Prevention - S. Mitchell, R. Naiman  
-Institutional Reform - J. Larouche, R. Deprez  
-Post-Release Community Programs - Prof. Joseph Fallon

October 25, 1973

Women's Correctional Center, Skowhegan

-(Tour of Facility) (9:30 - 11:00)  
-Discussion with superintendent, inmates, and staff  
-Stevens School, Hallowell  
-(12:00 - 1:30) Tour and Lunch  
-Discontinuance of WCC and merger with Stevens School (D. Hanauer)  
-Discontinuance of State "Training Schools" per se (D. Hanauer)  
-Establishment of School Administrative Unit for various Correctional Institutions (W. Murphy)  
-Expansion of Halfway Houses- group homes programs (W. Murphy)  
-Expansion of State Probation and Parole volunteer programs (J. Seeley)  
-Subcommittee Reports

November 8, 1973

Maine State Prison Thomaston

-Subcommittee reports  
-Discussion of legislative strategy  
-Furloughs and Conjugal visits (G. Mullaney)  
-Sentence reduction for good behavior (G. Mullaney)  
-Revitalizing Boards of Visitors (C. Jacobs)  
-Voting rights of incarcerated persons (W. Kelleher)  
-(Lunch, inmate dining area)  
-Indeterminate sentencing (W. Murphy)  
-Reformation of parole system (S. Henderson, M. Zarr, F. Jackson, G. Kulberg, R. Nichols)

November 20, 1973

University of Maine School of Law, Portland

- Subcommittee Reports
- Initial screening of priority legislative items
- Initial policy approval of drafted proposals

November 27, 1973

Maine State Prison, Thomaston

- Tour of Facility (9:30 - 11:30)
- Discussion with Inmate Advisory Council of proposals for institutional change
- Discussion with correctional administrators concerning institutional change (W. Murphy, G. Mullaney)
- Joint discussion of advisability of "Bill of Rights" for incarcerated persons
- Discussion with guards and union representatives concerning working conditions and pay scales

December 6, 1973

Kennebec County Jail, Augusta

- Subcommittee Reports
- Richard Haskell (Assistant Director Bureau of Corrections)
  - Adequacy of county jails and municipal lockups in Maine
  - Needs for legislation regarding county jails
  - Staffing inadequacy of Bureau of Corrections
- Sheriff Stanley W. Jordan (Kennebec County)
- Sheriff Rosaire Martel (Androscoggin County)
- Sheriff Alton L. Howe (Oxford County)
- Sheriff Carlton Thurston (Knox County)
  - Work Release programs involving county jail facilities
  - Furloughs for county jail residents including state work release inmates
  - Halfway houses in sheriffs' quarters
  - Voting rights of county jail inmates
  - State takeover of county jail system
- (Lunch, inmate dining area)
- Legislative items

December 19, 1973

Boys Training Center, South Portland

- Subcommittee reports
- Chief Terrence Parker, Citizens Opposing Administration of Maine State Prison Furlough Program
- Professor Joseph Fallon (Criminal Justice Division, U.M.A.)  
Theories of Corrections
- Psychosocial Service Model for Maine Correctional System (D. Laney, Deputy Warden, Maine State Prison)
- Legislative items
- Ronald Deprez - Statistical Analysis of Maine Inmate populations
- Donald Allen (Superintendent, Boys Training Center)
  - Program activities at BTC
  - Legislative problems concerning juveniles

SUMMARY STATEMENT

Pursuant to Executive Order No. 19, F. Y. 74, October 2, 1973, the Governor's Task Force on Corrections makes this initial report to the Governor and to the Legislative leadership concerning proposed priority legislation in the corrections field to be submitted to the Special Session of the 106th Legislature.

The Governor's Task Force on Corrections has made the following findings:

- 1) Sweeping changes are necessary in Maine's correctional system;
- 2) More study and greater public education concerning problems within the State's correctional system is required before the Task Force recommends definitive legislative action affecting all parts of the correctional system in its final report in August, 1974;
- 3) Some priority legislative needs are identifiable and easily apparent at this time, however, and legislation in these following fields should be enacted at the earliest opportunity:
  - A. Establishing a statutory correctional policy for the State of Maine
  - B. Eliminating needless ex-offender employment restrictions in occupations licensed by the State;
  - C. Providing for the closing of the Women's Correctional Center at Skowhegan;
  - D. Authorizing a nongeographic school administrative unit for the Bureau of Corrections;
  - E. Modifying the amount of sentence reduction for good behavior earned by Maine inmates closer to the national level; and
  - F. Providing for a permanent citizens' advisory body to advise the Legislature and the Bureau of Corrections on a continuing basis.

These initial recommendations, it is believed, will go a long way toward establishing a solid base for further reasonable change within Maine's correctional system, and we urge the Legislature and the Governor to act on these initial proposals as quickly as possible.

Report to the Governor

Scope of Task Force Activities

Since its creation in October, 1973, the Task Force has met eight times as a body, including at least one session at each of Maine's five major correctional institutions, and has conducted several subcommittee gatherings concerning the specialized subjects of diversion from the correctional system, institutional reform, and the problems of ex-offenders once they leave the State's correctional system. With very few exceptions, cooperation on the part of State personnel in the corrections field has been excellent, and both Commissioner Kearns of the Department of Mental Health and Corrections, and Director Murphy of the Bureau of Corrections are to be complimented in this regard.

A total of approximately 20 pieces of legislation, arising both from past sessions of the Maine Legislature and from the independent investigations of the Task Force staff itself were considered in some form since October, with State Department heads, institutional personnel, private outside interest groups, academic representatives, and individual citizens making formal presentations on particular proposals before the Task Force membership during this time. A list of items concerning Maine's correctional system discussed by the Task Force during these past eleven weeks includes: statutory policy guidelines for the Bureau of Corrections; indeterminate sentencing; the Maine State Prison Furlough program; compensation of resident inmate labor at the minimum wage rate; earning of sentence reduction for good behavior; the civil and human rights of prisoners; access of community-based organizations to correctional institutions; psychological and social counseling for correctional inmates; the pardon and parole process; expungement of criminal records; ex-offender occupational licensing restrictions; more economical administration of Women's correctional institutions; expansion of State halfway house programs; attraction of Federal educational funds for adult correctional institutions; the prohibition of commitment to a juvenile institution for a non-criminal offense; the use of unpaid community volunteers to aid in the problems of ex-offenders; conjugal visits; revitalization of the institutional Boards of Visitors; voting rights of incarcerated persons; problems of prison guards and administrative personnel; the creation of a permanent advisory committee to the Bureau of Corrections; adequacy of county jails and municipal lockups; staffing inadequacies at the Bureau of Corrections; county jail work release programs; the location of halfway houses in county sheriffs' quarters; and state takeover of the county jail system.

In large part from a discussion of these issues, the Task Force concluded early that wide-sweeping changes were necessary in the State's correctional system. In order to implement the most apparent changes presently facing the State's correctional system without delay, and in order to enhance the credibility of the Task Force before Maine citizens at the onset, it was decided early also to concentrate, during the Special

Session of the 106th Legislature, on those legislative proposals which have widespread professional and Task Force support and a solid factual research base behind them.

### Recommended Legislation

The following proposals were, therefore, drafted by the Task Force within one package corrections bill to be presented to the Special Session: An Act establishing a correctional policy for the State of Maine; An Act removing a variety of ex-offender employment restrictions; An Act authorizing a federally-funded non-geographic school administrative unit within the Bureau of Corrections; An Act authorizing the closing of the Women's Correctional Center; An Act raising Maine's statutory sentence reduction for good behavior closer to the national average; and An Act creating a permanent advisory body to the Bureau of Corrections. The entire draft legislative package appears attached to this report as Appendix A, and is comprised of the following parts:

#### PART A

Part A is a policy preamble to the Bureau of Corrections statute in Title 34 of the Maine Revised Statutes. It is similar in form and content to that presently existing in the State of Vermont, Title 28, Chapter 3, subchapter 1 V.R.S., and is the type of policy statement for the Bureau of Corrections requested by Commissioner Kearns and Warden Mullaney in their appearance before the Task Force on October 10, 1973.

It appears here as an amendment to T. 34, § 525 of the Maine Revised Statutes outlining the present "purposes" of the Bureau of Corrections. Its paramount statement of philosophy in subsection (1) is that the Maine correctional system should be administered in a manner designed to protect the public welfare and that the most effective manner in which to protect the public welfare over the long term is to assure that former offenders will not be forced into further criminal activities once they leave actual confinement in a penal institution.

A further policy enunciated in subsection (2) attacks the problem from the opposite end, recognizing that simple incarceration is often self-defeating, and adopting recommendation 5.2 (1) of the report of the National Advisory Commission of Criminal Justice Standards and Goals to the effect that the final disposition of all criminal cases should be the "least drastic" method consistent with the offender's needs and the public safety, and that total confinement should be the last alternative considered.

Subsection (3) of the amendment very simply declares it to be the policy of the state to avoid punitive incarceration for its own sake, and establishes that total confinement, when necessary, should be used only with a view toward the "safe and reasonable reintegration" of the offender into society, consistent with recommendations 5.2 and 5.3 of the National Advisory Commission of Criminal Justice Standards and Goals.

Subsection (4) establishes an enforceable right to reintegrative services on the part of inmates of Maine correctional institutions, guaranteeing a reintegrative and rehabilitative, rather than punitive, orientation of state correctional programs enforceable by consumers of correctional services, over time and possible changes in political administrations at the state level, and is consistent with recommendation 2.9 of the National Advisory

Commission on Criminal Justice Standards and Goals.

And finally, subsection (5) directs the Department of Mental Health and Corrections to develop "to the maximum extent possible" community based programs and facilities in lieu of institutionalization, consistent with the overwhelming advice of national commissions concerned with problems of corrections and prior private studies commissioned within the State of Maine.

PART B

This part of the legislative package outlines the degree to which state occupational licensing boards may take into consideration an applicant's prior criminal record, and prohibits the denial of an occupational license to a former offender unless the license applied for directly relates to the applicant's prior criminal activity. It is a comprehensive statute recommended by the American Bar Association National Clearinghouse on Offender Employment Restrictions, and appears here as an added chapter under the administrative procedure section of Title 5 of the Maine Revised Statutes.

§4701 establishes the principle that only convictions can be considered by boards or commissions as disqualifying factors in making a determination whether or not a person should be granted a license, and that in no case shall such a prior conviction operate as an automatic bar to the obtaining of a license. In addition, under §4701 (b) (1) the use of records of arrest not followed by a valid conviction, in the licensing process, are prohibited. §4701 (b) (2) then establishes the principle that convictions which could otherwise be considered by a licensing board may not be taken into consideration if the conviction has been set aside or expunged. This provision is based on the findings of Chapter 5 of the ABA publication, "The Closed Door," regarding employment problems of ex-offenders, and reflects some of the principles embodied in the model annulment and sealing statute recommended therein.

§4701 (b) (3) & (4) next exclude certain misdemeanor convictions from consideration by licensing boards. These convictions are: (1) misdemeanors not involving moral turpitude; and (2) misdemeanors for which no jail sentence may be imposed.

The term "moral turpitude" in §4701 (b) (3) relates to either crimes generally or misdemeanors specifically, and in general, it defines some of the more serious misdemeanors such as fraud or abuse of some trust relationship. The second category in §4701 (b) (4), that of misdemeanors which do not involve a jail sentence, covers many minor crimes and "regulatory offenses" for which no serious penalty is imposed. In statutes defining such crimes the usual punishment is a fine or a requirement for restitution. Conviction of such regulatory offenses should not warrant attention by licensing boards, and in fact, ABA research indicates on a national level that individuals frequently forfeit collateral in such cases merely to avoid the inconveniences of appearing in court and possibly having a trial. It is the conclusion of the Task Force that these types of minor offenses should have no bearing on a license application for a state regulated job.

And finally, §4701 (a) establishes clearly that while a prior conviction may be considered by the licensing agency, in no case shall a prior conviction constitute an automatic or arbitrary bar to obtaining a license.

§4702 builds upon §4701 and sets restrictions for licensing agencies to follow when considering a prior conviction of an applicant as part of the licensing process. §4702, in short, adopts the converse of §4701, authorizing licensing agencies and boards to prohibit an applicant from practicing a particular trade or profession where the applicant has been convicted of a felony, or misdemeanor involving moral turpitude or for which a jail sentence may be imposed. It then adds that such an unexpunged criminal conviction must directly relate to the trade or profession for which the license is sought before it can be taken into consideration by the board or commission. The language "directly relates" is taken from a recent Florida statute, Chapters 71-115 F.R.S., and imposes a strict standard on the board.

As drafted, §4702 (a) (1) authorizes a board or commission to use the "direct relationship" standard in perpetuity, without any time limitation. It is the opinion of the Task Force that if there existed such a direct relationship between a conviction and an application, it would be almost impossible to convince an occupational licensing board that the lapse of an arbitrary time limit between the conviction and the application should prohibit the board from consideration of a crime which might go to the very heart of the integrity of the profession involved.

§4702 (a) (2), however, shifts the burden of proof to the licensing agency to find affirmatively that an applicant has not been rehabilitated before being able to deny the license under the "direct relationship" test, and successful completion of parole supervision or final discharge from custody is made a rebuttable presumption of rehabilitation sufficient to meet the terms of the statute.

§4703 flatly prohibits licensing agencies in Maine from considering prior conviction of a crime in assessing the requisite "good moral character" of an applicant. Coupled with the provisions of §4702 (b), this Section ensures that former offenders in Maine will not be denied access to occupations licensed by the state under the guise of lack of "good moral character," without additional objections of substance. §4703 also preserves the prerogative of Maine occupational licensing boards to examine "good moral character" and other standards when considering an applicant apart from his possible prior criminal record.

And finally, §4705 affords ex-offenders orderly access to administrative review and court action to challenge discriminatory denials of occupational licenses in possible violation of this statute.

### PART C

This part of the package is a redraft of a portion of a bill introduced in the Regular Session of the 106th Legislature and is largely comprised of a series of housekeeping amendments which together would allow the Commissioner of the Department of Mental Health and Corrections to close at some time in the future all or part of the Women's Correctional Center presently located at Skowhegan, Maine, in the interests of saving money and providing more efficient rehabilitation of women offenders falling within confines of R.S., T. 34, §851.

As was discussed at several Task Force meetings, the inmate population of the Women's Correctional Center presently averages only 20-30 persons, and is expected not to increase. Maintaining a separate Women's institution with



such a small population makes the provision of rehabilitative services not economically feasible, and necessitates a needless expenditure of thousands of dollars. For example, the present cost per inmate at both women's institutions under the present set up averages \$15,000 per year, and the savings in appropriations and staff contemplated by the merger would allow expansion of the halfway house program in the State.

#### PART D

This part of the package authorizes the Bureau of Corrections to establish a nongeographic school administrative unit for the five correctional institutions presently operating in the state. The goal of the nongeographic school administrative unit arrangement is to allow the Bureau access to federal funding at the various adult institutions in addition to the federal funds already being received for juvenile educational programs. The precise amount of educational aid would be determined cooperatively by the Department of Educational and Cultural Services, the Bureau of Corrections, and the Federal government, and would depend on the average size of the correctional institutions' populations, as well as other factors.

#### PART E

On November 27, 1973, the Inmate Advisory Council at the Maine State Prison requested the Task Force to explore methods through which a possible expansion of the present "good time" allowance for convicted persons serving determinate sentences might be effected. The Task Force has previously heard testimony from the Warden of the Maine State Prison concerning this subject, and in response to this, a bill concerning good time allowance for all persons serving determinate sentences in Maine has been drafted and presented here.

The present system in the State of Maine, which has been in the statutes in some form since 1858, allows 7 days per month to be deducted from the sentence of a person confined at the Maine State Prison or at the Women's Correctional Center for conduct approximating "good behavior." An additional 2 days per month good time allowance may be granted by the head of each institution respectively for certain programs or work engaged in by an inmate. In Maine, good time allowances earned by an inmate are credited both to the maximum sentence to advance eventual discharge from the institution, and to the minimum sentence to advance the date of earliest parole eligibility.

Reduction of sentence for good behavior is a valuable rehabilitative tool, and according to a national survey of good time laws and administrative procedures completed by the Texas Department of Corrections in June 1973, the 9 days per month maximum allowed inmates in Maine, lags substantially behind the national and New England averages, especially for longer sentences. Massachusetts for example, allows up to 17½ days per month for good time allowances, with a 12½ day flat rate for most persons serving longer sentences. New Hampshire allows up to 12½ days per month, Vermont-10 days, Rhode Island-15 days, and Connecticut-17½ days.

The draft good time bill in Part E, adopted by the Task Force, allows 12½ days across the board to prisoners at the State Prison and the Women's Correctional Center, and places Maine more equitably in line with the rest of

the nation, in the administration of reductions of sentence for good behavior, conditioned on the rehabilitative progress of individual inmates.

#### PART F

In proposing a permanent advisory committee on corrections, the Task Force is mindful of the fact that presently there exists no one advisory body to deal with corrections as a whole in Maine, other than the temporary Governor's Task Force on Corrections. Historically, citizen input in the corrections field in Maine has been oriented narrowly toward particular institutions, and frankly this approach under the present institutional Boards of Visitors has proved largely ineffective. This proposal for a permanent advisory body attached directly to the central office of the Bureau of Corrections would hopefully cure many of these problems, while at the same time "bridging the gap" from the point next August at which the Governor's Task Force on Corrections ceases to be, and the start of the regular session of the 107th Legislature in January 1975, at which time hopefully the great bulk of the Task Force's recommendations in its final report will be implemented.

In drafting this proposal also, the Task Force was especially mindful of the continuing need for close inmate contact and input, in the deliberations of any citizens advisory body attached to the Bureau of Corrections, and the bill proposed here makes provision for the appointment of representative and eligible inmates to the advisory body. This measure, as with the other recommendations throughout the corrections package bill, has the strong support of the Director of the Bureau of Corrections and the Commissioner of the Department of Mental Health and Corrections.

APPENDIX A

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"AN ACT Relating to Initial Changes in  
the Penal System of the State of Maine,  
and the Rights and Duties of Convicted  
Persons"

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PART A

ESTABLISHING A CORRECTIONAL POLICY FOR THE STATE OF MAINE

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

Sec. I. R.S., T. 34, § 525 amended. Section 525 of Title 34 of the Revised Statutes, as enacted by chapter 20 of the public laws of 1967, and as amended by chapter 590 of the public laws of 1970, is further amended by adding at the end three new paragraphs to read as follows:

The State of Maine recognizes that society is best and most effectively served by the adoption of a correctional system designed to protect the public welfare; and it is the intention of the State of Maine to:

- (1) Protect the public welfare by emphasizing efforts to assure that an offender will not return to criminal activity after release from the correctional system;
- (2) Direct that the courts and all other elements of the criminal justice system are so administered that an offender's individual correctional program is the least drastic measure consistent with the offender's needs and the public safety, and to direct that confinement, which is the most drastic disposition for an offender and the most expensive for the public, is the last alternative considered;
- (3) Direct the Department of Mental Health and Corrections to administer its correctional institutions in a manner designed to emphasize safe and reasonable reintegration of the offender into society, rather than punitive incarceration;
- (4) Recognize a legal right on the part of persons confined within State Correctional Institutions to services designed to reintegrate such persons adequately into society, and to recognize the prohibition of involuntary participation by confined persons in such services; and
- (5) Direct the Department of Mental Health and Corrections and other

elements of the criminal justice system to develop to the maximum extent possible community-based programs and facilities in lieu of institutionalization, utilizing all state and federal assistance possible for this purpose.

This state correctional policy is established mindful of the realities that nearly all criminal offenders eventually return to society, and that primary reliance upon centralized custodial institutions insulated from the larger community is self-defeating, results in unnecessarily high costs to the taxpayer, and ignores the advantages and economies of correctional treatment in the open community.

The Department of Mental Health and Corrections is directed to cooperate fully with any persons seeking enforcement of the policies enumerated in this Section without stigma or retaliation against such persons who are inmates of state correctional institutions, and is directed generally to administer the correctional system of this State in consonance with the purposes and stated policy of this Section.

PART B

STANDARDS FOR DISQUALIFICATIONS OF APPLICANTS WITH CRIMINAL  
RECORDS FOR A LICENSE OR PERMIT TO PRACTICE A TRADE OR OCCUPATION

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

Sec. I. R.S., T.5, c. 347, additional. Title 5 of the Revised Statutes is amended by adding a new chapter 347 to read as follows:

CHAPTER 347

OCCUPATIONAL LICENSE DISQUALIFICATION

ON BASIS OF CRIMINAL RECORD

§4701. Eligibility for Occupational License or Permit

(a) Subject to the provisions of subsection (b) of this Section, and Sections 4702 and 4703 of this Act, in determining eligibility for the granting of any occupational license or permit issued by the State, the licensing agency may take into consideration conviction of certain crimes which have not been set aside, pardoned, or expunged, but such convictions shall not operate as an automatic bar to being licensed or permitted to practice any trade or occupation.

(b) The following criminal records shall not be used, distributed or disseminated in connection with an application for a license or permit:

- (1) Records of arrest not followed by a valid conviction;
- (2) Convictions which have been set aside, pardoned, or expunged;
- (3) Misdemeanor convictions not involving moral turpitude; and
- (4) Misdemeanor convictions for which no jail sentence can be imposed.

§4702. Denial or Revocation of Licenses Because of Criminal Record

(a) Licensing agencies may refuse to grant or renew, or may suspend or revoke any occupational license or permit for any one or combination of the following causes:

- (1) Where the applicant has been convicted of a felony, or a misdemeanor involving moral turpitude or for which a jail sentence may be imposed, and such criminal conviction directly relates to the trade or occupation for which the license or permit is sought; but only
- (2) If the licensing agency determines, after complete investigation, that the applicant so convicted has not been sufficiently rehabilitated to warrant the public trust.

(b) The licensing agency shall explicitly state in writing the reasons for a decision which prohibits the applicant from practicing the trade or occupation if such decision is based in whole or part on conviction of any crime described in subsection (a) (1) of this Section. For purposes of subsection (a) (2) of this Section, successful completion of probation or parole supervision, or final discharge, or release from any term of imprisonment without any subsequent conviction, shall constitute a rebuttable presumption of sufficient rehabilitation.

§4703. Denial or Revocation of Licenses Because of Non-Criminal Standards

When considering non-criminal standards such as good moral character, unethical conduct, or habitual intemperance in the use of intoxicants, in the granting, renewal, suspension, or revocation of occupational licenses or permits, the licensing agency may not take into consideration conviction of any crime. Nothing in this Act shall be construed to otherwise affect proceedings before the licensing agency involving standards of good moral character which do not involve conviction of a crime.

§4704. Appeals

Any person who is aggrieved by the decision of any licensing agency in possible violation of this Act may file a statement of complaint with the Administrative Hearing Commissioner designated in Title 5, chapters 301 to 307.

PART CECONOMIES IN THE ADMINISTRATION OF THE WOMEN'S CORRECTIONAL CENTER

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

Sec. 1. R.S., T. 34 § 851, amended. The first paragraph of section 851 of Title 34 of the Revised Statutes is amended to read as follows:

The Women's Correctional Center ~~formerly-called-the-Reformatory-for Women;-located-at-Skowhegan;-Maine~~ shall be maintained for the confinement and rehabilitation of:

Sec. 2. R.S., T. 34, § 851-A, sub - § I, amended. Subsection I of section 851-A of Title 34 of the Revised Statutes, as enacted by section 16 of chapter 391 of the public laws of 1967, is amended to read as follows:

1. Center. "Center" as used in this chapter shall mean the Women's Correctional Center ~~located-at-Skowhegan;-Maine;~~

Sec. 3. R.S., T. 34, § 852-A, additional. Title 34 of the Revised Statutes is amended by adding a new section 852-A to read as follows:

§ 852-A. Designation of Women's Correctional Center

The Commissioner of the Department of Mental Health and Corrections shall designate a state institution as and for the Women's Correctional Center.

Sec. 4. R.S., T. 34, § 859, amended. The first sentence of the last paragraph of section 859 of Title 34 of the Revised Statutes, as repealed and replaced by section 20 of chapter 391 of the public laws of 1967, is amended to read as follows:

The superintendent shall certify the fact of each instance of escape to the county attorney for ~~Somerset-County~~ the county in which the center is located, who shall prosecute such inmate or prisoner therefor.



PART DAUTHORIZATION OF A NONGEOGRAPHIC SCHOOL ADMINISTRATIVE UNIT FOR THE  
BUREAU OF CORRECTIONS

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

Sec. I. R.S., T. 34, § 529, additional. Title 34 of the Revised Statutes is amended by adding a new section 529 to read as follows:

§ 529. Institutional school administrative units authorized

The Bureau of Corrections may establish and operate schools in the various institutions under its general administrative supervision. The Bureau of Corrections shall constitute a nongeographic school administrative unit and schools established and operated under this section shall constitute public schools, for the purposes of Title 20, wherever applicable.

1. Eligibility of students. All persons under sentence to such institutions, who are not otherwise eligible to attend public schools, are eligible to attend such schools. In addition, such schools shall be open to members of the public in the open community at the discretion of the Bureau of Corrections.

2. Grants. The Bureau of Corrections may accept grants from both public and private organizations and expend such funds for the purpose of operating such schools.

3. Matching Grants Solicited by State. The State shall solicit matching grants from the Federal government to defray the costs of operating the schools authorized by this section, and the funds received shall be allocated to the Bureau of Corrections. No part of the operating cost of such schools shall be charged to any of the school districts of this state.

Sec. 2. R.S., T. 20, § 3452, amended. Subsection 1 of section 3452 of Title 20 of the Revised Statutes is amended to read as follows:

1. Administrative unit. "Administrative unit" shall include all municipal or quasi-municipal corporations responsible for operating public schools.

or those school administrative units otherwise authorized by the Legislature.

PART EEARNING OF GOOD TIME BY INMATES

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

Sec. 1. R.S., T. 34, § 705, amended. The first paragraph of section 705 of Title 34 of the Revised Statutes, is amended to read as follows:

Each ~~convict~~ inmate whose record of conduct shows that he has faithfully observed all the rules and requirements of the State Prison shall ~~be entitled to~~ earn a deduction of ~~7~~ 12½ days a month from the minimum term of his sentence, commencing on the first day of his arrival at the State Prison. An additional 2 days a month may be deducted from the sentence of those ~~convicts~~ inmates who are assigned duties outside the prison walls or security system, or those ~~convicts~~ inmates within the prison walls who are assigned to work or educational or rehabilitative programs deemed by the Warden of the State Prison to be of sufficient importance and responsibility to warrant such deduction. Any portion of the time deducted from the sentence of any ~~convict~~ inmate for good behavior may be withdrawn by the Warden of the State Prison for the infraction of any rule of the State Prison, for any misconduct or for the violation of any law of the State, not to exceed 1/3 of the inmate's accumulated good time for each offense. Such withdrawal of good time shall be proportionate to the offense and may be made ~~at the discretion of~~ in accordance with procedural due process by the warden who may restore any portion thereof if the ~~convict's~~ inmate's later conduct and outstanding effort warrant such restoration. This section shall apply to the sentences of all ~~convicts~~ inmates now or hereafter confined within the State Prison, and shall not be construed to prevent the allowance of good time from maximum sentences or definite sentences.

Sec. 2. R.S., T. 34, § 865, amended. Section 865 of Title 34 of the Revised Statutes is amended to read as follows:

Each prisoner whose record of conduct shows that she has faithfully observed all the rules and requirements of the center shall ~~be entitled to~~ earn a deduction of 7  $12\frac{1}{2}$  days a month from the minimum term of her sentence, commencing of the first day of her arrival at the center. An additional 2 days a month may be deducted from the sentence of those prisoners who are assigned duties outside the institution or its security system, or those prisoners within the institution who are assigned to work or educational or rehabilitative programs deemed by the superintendent to be of sufficient importance and responsibility to warrant such deduction. Any portion of the time deducted from the sentence of any prisoner for good behavior may be withdrawn by the superintendent for the infraction of any rule of the center, for any misconduct or for the violation of any law of the State, not to exceed 1/3 of the inmate's accumulated good time for each offense. Such withdrawal of good time shall be proportionate to the offense and may be made ~~at the discretion of~~ in accordance with procedural due process by the superintendent, who may restore any portion thereof if the prisoner's later conduct and outstanding effort warrant such restoration. This section shall apply to the sentences of all prisoners now, or hereafter, confined within the center, and shall not be construed to prevent the allowance of good time from maximum sentences or definite sentences.

PART F

A PERMANENT ADVISORY COMMITTEE ON CORRECTIONS

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

Sec. I. R.S., T. 34, § 530, additional. Title 34 of the Revised Statutes is amended by adding a new section 530, to read as follows:

§ 530. Maine Advisory Committee on Corrections: duties

There shall be a Maine Advisory Committee on Corrections composed of 15 members, consisting of one member from the House of Representatives appointed by the Speaker of the House and one member from the Senate appointed by the President of the Senate, and 13 representative citizens, including at least one full time employee from the correctional system, and at least one inmate from each adult correctional institution, appointed by the Governor, who shall designate a chairman. Of the first gubernatorial appointments, 5 shall be for a term of one year, 4 for 2 years, and 4 for 3 years. Thereafter, appointments shall be made for a term of 3 years. Each member of the Committee shall receive as full compensation for each day actually spent on the work of the Committee the sum of \$25 and his actual and necessary expenses incurred in the performance of duties pertaining to his office. In addition, the Committee shall be authorized to receive public and private grants to aid in defraying the cost of its operation.

The duties of the Maine Advisory Committee on Corrections shall be to act in an advisory capacity to the Commissioner of the Department of Mental Health and Corrections and to the Director of the Bureau of Corrections in assessing present programs, planning future programs, and in developing ongoing policies to meet the correctional needs of the State of Maine. To this end, the committee shall issue a report containing the results of its studies to the Legislature, the Governor, and to the Commissioner of the Department of Mental Health and Corrections on August 31 of every year, the preparation

and printing of the report to be paid for by the Bureau of Corrections. The committee shall meet as often as necessary to carry out its duties, at the discretion of the chairman.

Sec. 2. Appropriation. There is appropriated to the Maine Advisory Committee on Corrections from the General Fund the sum of \$6,000 to carry out the purpose of this Act. The breakdown shall be as follows:

MENTAL HEALTH AND CORRECTIONS	1973-74	1974-75
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DEPARTMENT OF

Bureau of Corrections

Maine Advisory Committee on Corrections

All Other	----	\$6,000
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Sec. 3. Effective Date. The effective date of this bill shall be September 1, 1974.

## STATEMENT OF FACT

PART A

Part A is a policy preamble to the Bureau of Corrections statute, and appears here as an amendment to T. 34, § 525 of the Maine Revised Statutes. The present Bureau of Corrections Statute in Title 34 provides almost no coherent policy direction for the Bureau, and the statutory amendment proposed here represents a consensus policy statement of the Governor's Task Force on Corrections, the Law Enforcement Assistance Agency of the United States Department of Justice, the Commissioner of the Department of Mental Health and Corrections, the Director of the Bureau of Corrections, and Bureau of Corrections personnel.

PART B

Obtaining jobs for ex-offenders is a critical need. Part B outlines the degree to which state occupational licensing boards may take into consideration an applicant's prior criminal record, and prohibits the denial of an occupational license to a former offender unless the license applied for "directly relates" to the applicant's prior criminal activity. The basic premise of the legislation is that while the prior conviction of any applicant may be considered fully and thoroughly by an occupational licensing agency under guidelines, in no case shall such a prior conviction constitute an automatic or arbitrary bar to obtaining a license to work.

PART C

Part C is a series of amendments which together authorize the Commissioner of the Department of Mental Health and Corrections to close at some time in the future all or part of the Women's Correctional Center presently located at Skowhegan, Maine, in the interests of saving money and providing

more efficient rehabilitation of women offenders.

#### PART D

Part D authorizes the Bureau of Corrections to establish a non-geographic school administrative unit for its correctional institutions, allowing the Bureau to receive federal educational funds to be applied to adult as well as juvenile offenders in its institutional programs.

#### PART E

Reduction of sentence for good behavior is a valuable rehabilitative tool. Part E simply amends existing "good time" statutory provisions in Maine relating to prisoners serving determinate sentences at the State Prison and at the Women's Correctional Center, bringing the amount of good time allowed each month to inmates at such facilities in Maine up closer to the national and New England averages for such allowances.

#### PART F

The Bureau of Corrections is drastically short of personnel to serve as a research, investigative, and policy-making body to deal with corrections problems in the State of Maine. Part F creates a permanent legislative and citizens advisory committee to the Bureau of Corrections, reporting to the Legislature, the Governor, and the Bureau, designed to continue the work of the Governor's Task Force on Corrections, and to aid the Bureau of Corrections in its research and decision-making duties.