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EDWARD A. CHARBONNEAU
Revisor of Statutes

SUSAN Z. JOHANNESMAN
Deputy Director

MARK A. SWANSON
Senior Attorney

ERIN E. DOOLING
Legislative Attorney

STACY L. BERGENDAHL
Legislative Analyst



ADAM C. MOLESWORTH
JANET L. POOLEY
Paralegals

MAINE STATE LEGISLATURE
OFFICE OF THE REVISOR OF STATUTES
STATE HOUSE STATION 7
AUGUSTA, MAINE 04333-0007
(207) 287-1650
FAX: (207) 287-6468
E-MAIL: revisor.office@legislature.maine.gov

January 14, 2022

Honorable Susan A. Deschambault, Chair
Honorable Charlotte Warren, Chair
Members of the Joint Standing Committee on Criminal
Justice and Public Safety
State House Station 113
Augusta, Maine 04333-0113

Dear Senator Deschambault, Representative Warren and Committee Members:

Pursuant to the directive of Resolve 2021, Chapter 120, I submit the enclosed report and draft legislation identifying and making changes to specified stigmatizing language contained in the laws governing the Department of Health and Human Services, the Department of Public Safety and the Department of Corrections contained in the Maine Revised Statutes, Title 22, Title 22-A, Title 25 and Title 34-A. In addition, in those sections in which changes were made to address the specified stigmatizing language, the sections were also amended to conform to current drafting standards and to use, when possible and appropriate, so-called person-first language.

As detailed in the report and Appendix A, which follows the draft legislation, strict compliance with the Resolve was not always possible, either because it would lead to a substantive change in the intent of the statute or because it would be technically or grammatically incorrect. When it was possible to address the technical and grammatical issues with a slight variance that did not alter the intent or meaning, those changes were made and noted in Appendix A. When it appeared that the change might result in a substantive change to the intent or meaning of the statute, that change was not made, but was noted and described in Appendix A for possible consideration by the joint standing committee.

Please feel free to contact me if you have any questions or concerns about the draft legislation or the rationale involved in addressing the many variations, exceptions and inconsistencies. I would be pleased to review the draft legislation with the members of the committee should you wish me to do so.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward A. Charbonneau".

Edward A. Charbonneau
Revisor of Statutes

Enclosure

**STATE OF MAINE
130TH LEGISLATURE**

OFFICE OF THE REVISOR OF STATUTES

**REPORT REGARDING THE REVIEW OF
STIGMATIZING LANGUAGE IN SPECIFIC
TITLES OF THE MAINE REVISED STATUTES**

Pursuant to Resolve 2021, Chapter 120

January 2022

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BACKGROUND AND DESCRIPTION OF WORK PERFORMED

BACKGROUND: In Resolve 2021, Chapter 120, Section 1 ("the Resolve"), the Legislature directed the Revisor of Statutes ("the Revisor") to review the Maine Revised Statutes, Titles 22, 22-A, 25 and 34-A ("the Titles") for certain stigmatizing language in the laws governing the Department of Health and Human Services, the Department of Public Safety and the Department of Corrections. Following the review, the Revisor is directed to report to the Joint Standing Committee on Criminal Justice and Public Safety and to provide draft legislation that makes the specified changes to the identified stigmatizing language and updates the affected sections in the Titles to comply with drafting standards and so-called person-first language.

DESCRIPTION OF WORK PERFORMED: In performing the review of the Titles and attempting to comply with the instructions of the Resolve, the Revisor encountered a number of issues. To avoid making substantive changes to the laws that were the subject of the Resolve, the Revisor took the same approach as when directed to make changes to the law pursuant to a revision clause that is unclear, confusing or could have a substantive effect; the Revisor erred on the side of caution, deferring those potentially substantive changes to the Joint Standing Committee and others with expertise in the laws being amended.

Attached as Appendix A is a table of exceptions, variations and inconsistencies that were found in performing the review of the Titles. Each problematic word or phrase is followed by the proposed modification, if any, the location of the problematic word or phrase and the rationale used to arrive at that modification. The issues encountered generally fell into 3 categories:

- The Resolve provided a list of the stigmatizing words and phrases to be changed and the exact words and phrases to be substituted for those stigmatizing words and phrases; this specificity presented various issues when attempting to comply with the Resolve. Issues that were technical in nature, such as a misplaced possessive, were changed; issues that were possibly substantive in nature were not changed. In both cases, notation was made in the Appendix A document as to the treatment of these words and phrases;
- There are a number of words or phrases in the current law that are not included in the list of stigmatizing words or phrases but that could be perceived as being stigmatizing; since those words or phrases were not included in the directions of the Resolve and would require a subjective determination, they were considered to be beyond the authority of the Revisor, and no change was made to the law. These were notated in the Appendix A document; and
- Finally, there were times when the directions in the Resolve were ambiguous and attempting to strictly comply with the Resolve would require a subjective determination. These were notated in the Appendix A document.

The specific stigmatizing terms and their substitutes, as identified in the Resolve, are: "prisoner," "inmate" and "convict," which must be changed to "resident of a correctional facility" or "resident of a jail"; "drug user," which must be changed to "person who uses drugs"; "probationer," which must be changed to "client of the Department of Corrections"; and "mentally ill person," which must be changed to "person with a mental illness." See Appendix B for the full text of Resolve 2021, Chapter 120.

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

Sec. 1. 22 MRSA §3174, sub-§3, as amended by PL 1983, c. 178, is further amended to read:

3. Inmate Resident of a correctional facility, jail or public institution. Is not an ~~inmate of any~~ a resident of a correctional facility, a jail or a public institution, except as a patient in a medical institution or ~~an inmate a resident of a correctional facility or a jail~~ a resident of a correctional facility or a jail during the month in which ~~he~~ the person becomes ~~an inmate a resident of a correctional facility or a jail~~ only to the extent permitted by federal law, but ~~an inmate a resident of such an a correctional facility, a jail or an~~ institution may file application for aid and any allowance made thereon ~~shall take~~ takes effect and must be paid upon ~~his~~ the resident's ceasing to be ~~an inmate of such a resident of a correctional facility, a jail or an~~ institution.

Sec. 2. 22 MRSA §3174-T, sub-§2, ¶C, as amended by PL 2017, c. 284, Pt. SSSSSS, §1, is further amended by amending subparagraph (4) to read:

(4) Is ~~an inmate in~~ a resident of a correctional facility, a jail or a public institution or a patient in an institution for mental diseases; or

Sec. 3. 22 MRSA §8001, as enacted by PL 1975, c. 719, §6, is amended to read:

§8001. Definition of drug treatment center

The term "drug treatment center," as used in this subtitle, ~~shall mean~~ means a residential facility, not licensed as a medical care facility under chapter 405, for the care, treatment or rehabilitation of ~~drug users~~ a person who uses drugs, including a person who uses alcohol users.

Sec. 4. 25 MRSA §2002, sub-§3, as amended by PL 2017, c. 407, Pt. A, §100, is further amended to read:

3. Drug-user Person who uses drugs. "~~Drug-user Person who uses drugs~~" has the same meaning as set forth in Title 5, section 20003, subsection 10 means a person who uses any drugs, dependency-related drugs or hallucinogens in violation of any law of the State.

Sec. 5. 25 MRSA §2003, sub-§1, ¶D, as amended by PL 2017, c. 402, Pt. C, §79 and c. 407, Pt. A, §102 and affected by PL 2019, c. 417, Pt. B, §14, is further amended by amending subparagraph (5), division (r) to read:

(r) Are you a ~~drug-user person who uses drugs~~ or a person with substance use disorder?

Sec. 6. 25 MRSA §5101, sub-§2, ¶B, as amended by PL 2019, c. 343, Pt. CCCCC, §1, is further amended by amending subparagraph (1) to read:

(1) Provision of evidence-based treatment programs, including medically assisted treatment, to ~~jail inmates~~ residents of a jail; and

Sec. 7. 34-A MRSA §1001, sub-§1-A, as enacted by PL 1991, c. 314, §2, is amended to read:

1-A. Client. "Client" means any person in the custody or under the supervision of the department, including, but not limited to, a ~~prisoner~~ resident of a correctional facility, juvenile client, contract client, ~~probationer~~ person on probation, parolee, juvenile detainee and an informally adjusted juvenile.

Sec. 8. 34-A MRSA §1001, sub-§9, as repealed and replaced by PL 2009, c. 391, §8, is amended to read:

9. Holding facility. "Holding facility" means a facility or part of a building used for the detention of adult pretrial detainees prior to arraignment, release or transfer to another facility or authority for periods of up to 48 hours. "Holding facility" also means a county jail or part of a jail used for the detention of adult ~~inmates~~ residents of a correctional facility, whether detained pending a trial or other court proceeding or sentenced for periods of up to 72 hours excluding Saturday, Sunday and legal holidays and excluding days during which the ~~inmate~~ resident of a correctional facility is at court.

Sec. 9. 34-A MRSA §1001, sub-§14, as amended by PL 2013, c. 133, §24, is repealed.

Sec. 10. 34-A MRSA §1001, sub-§15-C is enacted to read:

15-C. Resident of a correctional facility. "Resident of a correctional facility" means an adult person sentenced and committed to, transferred to or detained in the custody of the department, including a person on supervised community confinement.

Sec. 11. 34-A MRSA §1001, sub-§16, as amended by PL 1991, c. 314, §8, is further amended to read:

16. Segregation. "Segregation" means the separation of a ~~prisoner~~ resident of a correctional facility from the general population of a correctional facility for administrative or punitive reasons.

Sec. 12. 34-A MRSA §1201, as amended by PL 1991, c. 314, §9, is further amended to read:

§1201. Legislative intent

Recognizing the need to firmly control all of the State's correctional and detention facilities, provide for the safety of staff and clients, undertake appropriate programming for the classification, education, rehabilitation and maintenance of clients and assure an effective system for the supervision of parolees and ~~probationers~~ persons on probation, it is the intent of the Legislature to create a Department of Corrections to improve the administration of correctional facilities, programs and services for clients.

Sec. 13. 34-A MRSA §1208, sub-§4, as enacted by PL 1983, c. 581, §§10 and 59, is amended to read:

4. Emergency powers. The commissioner may take immediate action in response to noncompliance with a mandatory standard, if the noncompliance is determined to endanger the safety of the staff, ~~inmates~~ residents of a jail or visitors of any county or municipal detention facility.

A. The commissioner's action under this subsection ~~shall expire~~ expires within 90 days or upon compliance with the mandatory standard.

B. After having taken action under this section, the commissioner shall send a written inspection report to the affected facility.

C. The commissioner shall decide what long-term action to take with respect to the affected facility on the basis of county or municipality response to the inspection report and subsequent meetings.

Sec. 14. 34-A MRSA §1208, sub-§5, ¶A, as enacted by PL 1983, c. 581, §§10 and 59, is amended to read:

A. The commissioner may grant a variance only when ~~he~~ the commissioner determines that the variance will not result in diminishing the safety, health or security of staff, ~~inmates~~ residents of a jail or visitors of a county or municipal detention facility.

Sec. 15. 34-A MRSA §1208-A, as amended by PL 2007, c. 102, §7, is further amended to read:

§1208-A. Standards for additional accommodations

The commissioner shall establish standards for facilities not covered by section 1208 that are used to house residents of a county prisoners jail, including secure detention facilities as defined in Title 15, section 3003, subsection 24-A and temporary holding resources as defined in Title 15, section 3003, subsection 26 and has the same power to determine compliance with and enforce those standards as provided under section 1208.

Sec. 16. 34-A MRSA §1208-B, sub-§1, ¶A, as amended by PL 2017, c. 407, Pt. A, §152, is further amended to read:

A. The standards, policies and procedures must address record keeping and reporting of financial data, capital improvement planning, jail staffing, administration and management of ~~prisoners~~ residents of a jail, transfer of ~~inmates~~ residents of a jail, notification to ~~prisoners~~ residents of a jail of prohibition on contact with victims and other persons, pretrial assessments and services, evidence-based programming, literacy programs, mental health and substance use disorder programs and correctional officer training.

Sec. 17. 34-A MRSA §1208-B, sub-§1, ¶B, as corrected by RR 2019, c. 2, Pt. A, §32, is amended by amending subparagraph (1) to read:

(1) Require reporting of data that indicates average daily population of ~~prisoners~~ residents of a jail, that excludes federal ~~prisoners~~ residents of a jail, that indicates sending and receiving jails for transferred ~~prisoners~~ residents of a jail and that is useful in calculating the distributions to the counties pursuant to section 1210-D, subsection 4; and

Sec. 18. 34-A MRSA §1210-D, sub-§3, as enacted by PL 2015, c. 335, §23, is amended to read:

3. Prisoner support Support for residents of a jail. The fund must be used to provide a portion of the counties' costs of the support of ~~prisoners~~ residents of a jail detained or sentenced to county jails. The following provisions apply to ~~prisoner~~ support funding for residents of a jail.

A. Up to 70% of the funds distributed to a county under this section may be used for the purpose of support of ~~prisoners~~ residents of a jail detained or sentenced to county jails and for such other jail operations and correctional services purposes as the sheriff determines to be appropriate.

B. The county treasurer shall deposit 70% of the funds received under subsection 4 into an account for ~~prisoner~~ support of residents of a jail, jail operations and correctional services purposes.

Sec. 19. 34-A MRSA §1210-D, sub-§4, as enacted by PL 2015, c. 335, §23, is amended to read:

4. Formula; distribution. The department shall establish by rule a formula for the distribution of funds from the fund to the counties for jail operations. Beginning July 1, 2015 and annually thereafter, the department shall distribute to the counties from the fund amounts based on the formula. The formula must be based on the most recent fiscal year for which data is available and must:

A. Take into consideration total statewide county jail ~~prisoner~~ resident of a jail days for all jails;

B. Take into consideration and assign to a jail the number of county jail ~~prisoner~~ resident of a jail days attributable to each ~~prisoner~~ resident of a jail who was charged with committing a crime in that county or was committed to the custody of or detained by the sheriff of that county;

C. Determine the proportion of statewide county jail ~~prisoner~~ resident of a jail days attributable to each county;

D. Determine the per diem per ~~prisoner~~ resident of a jail reimbursement amount; and

E. Determine the reimbursement amount for each county based on the county's proportion of statewide county jail ~~prisoner~~ resident of a jail days multiplied by the per diem per ~~prisoner~~ resident of a jail rate.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 20. 34-A MRSA §1217, as enacted by PL 2009, c. 213, Pt. W, §1, is amended to read:

§1217. ~~Prisoner~~ Resident of a Correctional Facility Boarding Fund

The ~~Prisoner~~ Resident of a Correctional Facility Boarding Fund is established in the department to provide funding for the boarding of ~~prisoners~~ residents of a correctional facility at county jail facilities.

1. Commissioner's powers. The commissioner may receive and use, for the purpose of this section, money appropriated by the State.

2. ~~Prisoner~~ Resident of a Correctional Facility Boarding Fund. All funds appropriated for the purpose of this section must be credited to the ~~Prisoner~~ Resident of a Correctional Facility Boarding Fund. State funds appropriated to the ~~Prisoner~~ Resident of a Correctional Facility Boarding Fund that are unexpended at the end of the fiscal year for which the funds are appropriated do not lapse, but must carry forward into subsequent fiscal years to be expended for the purpose of this section.

Sec. 21. 34-A MRSA §1402, sub-§5, as amended by PL 2009, c. 1, Pt. S, §3, is further amended to read:

5. Grievance procedures. The commissioner shall establish procedures for hearing grievances of clients. The commissioner shall establish a separate grievance process for addressing complaints by ~~prisoners~~ residents of a correctional facility and residents of a jail about their medical and mental health treatment.

Sec. 22. 34-A MRSA §1402, sub-§9, as amended by PL 2007, c. 240, Pt. YYY, §2, is further amended to read:

9. Statement of correctional system impact. The commissioner shall prepare statements pertaining to the impact that proposed legislation has upon correctional system resources, including the cost that the correctional system would bear. The commissioner shall make inquiry of a statewide association of prosecuting attorneys, the judicial branch, a statewide association of county sheriffs and any other parties, as appropriate, in order to provide the most accurate estimates of the correctional system impact, including the number of additional ~~probationers~~ clients of the department, the number of additional incarcerated individuals and the number of additional jail and prison beds that may reasonably be anticipated from enactment of the legislation, by fiscal year. Whenever practicable, the statements must also include the impact of such legislation in future biennia as well. For purposes of this subsection, the correctional system includes correctional facilities and services operated or funded by the State or by any county government. The statements must be furnished to the appropriate committee of the Legislature for the information of its members and to the legislative staff office designated to collect and assemble fiscal information for use of legislative committees under Title 3, section 163-A, subsection 10. The statements must be considered in the preparation of the fiscal note included in a committee amendment or other amendment if the legislation or amendment has a fiscal impact on the correctional system. A statement is not required for any legislation that has no impact upon the correctional system.

Sec. 23. 34-A MRSA §1403, sub-§7, as amended by PL 2011, c. 340, §1, is further amended to read:

7. Establishment of farm programs and gravel mining programs to support farm programs at correctional facilities. The commissioner may establish a farm program at each correctional facility for the purposes of producing agricultural and farm products and teaching ~~prisoners~~ residents of a correctional facility and juvenile clients cultivation and gardening techniques. The commissioner may also establish a gravel mining program at any correctional facility sited on land that contains sufficient gravel for the purpose of supporting the farm programs.

A. Products from farm programs under this subsection must be used by correctional facilities. If a surplus exists, it may be:

- (1) Sold or distributed to other state, county or local governmental entities;
- (2) Exchanged with other state, county or local governmental entities for services or other goods;
- (3) Sold to or exchanged with private Maine businesses; or
- (4) Sold to or exchanged with community agencies as defined in section 1206, subsection 1.

B. The revenue generated by the sale of farm products under this subsection must be deposited in a special account. This account does not lapse at the end of a fiscal year but must be carried forward from year to year.

C. The funds in the special account under paragraph B may be expended to implement and maintain farm programs in correctional facilities. These expenditures include, but are not limited to, the purchase of necessary materials and equipment, construction, administrative costs and employee salaries.

D. The commissioner may establish, for the purpose of supporting farm programs at correctional facilities by generating additional revenue for the special account under paragraph B, a gravel mining program at any correctional facility sited on land that contains sufficient gravel. The commissioner shall determine the amount of gravel to be mined. Gravel not used by correctional facilities may be sold, distributed or exchanged in the same manner as farm products pursuant to paragraph A. In addition to the expenditures allowed by paragraph C, the revenue generated from a gravel mining program may be expended to implement and maintain gravel mining programs in correctional facilities.

Sec. 24. 34-A MRSA §1403, sub-§8, ¶C, as enacted by PL 1989, c. 127, §3, is amended to read:

C. The commissioner may contract with the Attorney General of the United States or officer designated by the Congress for the care, custody, subsistence, education, treatment and training of any ~~prisoner~~ resident of a correctional facility or juvenile accepted under this section. All sums paid pursuant to contracts authorized by this section ~~shall~~ accrue to the General Fund.

Sec. 25. 34-A MRSA §1403, sub-§9, ¶D, as amended by PL 2013, c. 368, Pt. ZZZ, §1, is further amended to read:

D. All revenues from direct sales of goods and services produced by ~~prisoners~~ residents of a correctional facility at correctional facilities and all amounts received from a private sector industry participating with the Department of Corrections in an industries program certified by the United States Department of Justice under the United States Code, Title 18, Section 1761, in consideration of lease of industry space, provision of utilities, trash removal and other services provided to the private industry that are related to the use of industry space at correctional facilities must be deposited into the department's industries enterprise account, which does not lapse. All revenues generated from career and technical training programs must be deposited into Other Special Revenue Funds accounts, which do not lapse and must be used to support the costs of vocational training programs.

Sec. 26. 34-A MRSA §3032, sub-§3, ¶B, as enacted by PL 1983, c. 459, §6, is amended to read:

B. The ~~prisoner shall~~ resident of a correctional facility must be provided with a sufficient quantity of wholesome and nutritious food.

Sec. 27. 34-A MRSA §3032, sub-§3, ¶C, as enacted by PL 1983, c. 459, §6, is amended to read:

C. Adequate sanitary and other conditions required for the health of the ~~prisoner shall~~ resident of a correctional facility must be maintained.

Sec. 28. 34-A MRSA §3032, sub-§5-A, as amended by PL 2005, c. 506, §§4 and 5, is further amended to read:

5-A. Restitution. The imposition of restitution at all facilities is subject to the following conditions.

A. Restitution may be imposed for the purpose of replacing or repairing property destroyed or damaged by the ~~prisoner~~ resident of a correctional facility or juvenile while the ~~prisoner~~ resident of a correctional facility or juvenile is at the institution. When restitution is imposed at a facility, a ~~prisoner~~ resident of a correctional facility or a juvenile who is subject to that restitution and who receives money from any source shall pay 25% of that money to the facility where the damage occurred. The facility shall collect that money and apply it to defray the cost of replacement or repair of the items destroyed or damaged. Money received by the ~~prisoner~~ resident of a correctional facility or juvenile and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the ~~prisoner~~ resident of a correctional facility or juvenile and transferred from the telephone call account to the department's general client account at the time of the ~~prisoner's~~ resident's or juvenile's discharge or transfer to supervised community confinement or community reintegration status must be collected and disbursed as provided in this paragraph.

A-1. Restitution may be imposed for the purpose of paying the cost of medical care incurred as a result of the conduct of a ~~prisoner~~ resident of a correctional facility or juvenile while the ~~prisoner~~ resident of a correctional facility or juvenile is at the institution. When restitution is imposed at a facility, a ~~prisoner~~ resident of a correctional facility or a juvenile who is subject to that restitution and who receives money from any source shall pay 25% of that money to the facility where the medical care was provided. The facility shall collect that money and apply it to defray the cost of medical care. Money received by the ~~prisoner~~ resident of a correctional facility or juvenile and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the ~~prisoner~~ resident of a correctional facility or juvenile and transferred from the telephone call account to the department's general client account at the time of the ~~prisoner's~~ resident's or juvenile's discharge or transfer to supervised community confinement or community reintegration status must be collected and disbursed as provided in this paragraph.

B. A ~~prisoner~~ resident of a correctional facility or juvenile who is transferred to another facility remains liable for any restitution authorized under this chapter. The facility receiving the ~~prisoner~~ resident of a correctional facility or juvenile shall collect the restitution and transfer it to the facility where the damage occurred or where the medical care was provided.

B-1. A ~~prisoner~~ resident of a correctional facility or juvenile who is discharged from the facility remains liable for any restitution authorized under this chapter. If the

~~prisoner resident of a correctional facility~~ or juvenile is returned to the custody of the department, any facility in which the ~~prisoner resident of a correctional facility~~ or juvenile resides shall collect the restitution and ensure that it is used to defray the costs as set out in this chapter.

C. Restitution is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the ~~prisoner resident of a correctional facility~~. Any payments made for the support of the dependents that are required by the Department of Health and Human Services may not be used for restitution payments.

Sec. 29. 34-A MRSA §3032, sub-§5-B, as amended by PL 2005, c. 506, §6, is further amended to read:

5-B. Monetary sanctions. The imposition of monetary sanctions at adult correctional facilities is subject to the following conditions.

A. When a monetary sanction is imposed at a facility, a ~~prisoner resident of a correctional facility~~ who is subject to that monetary sanction and who receives money from any source shall pay 25% of that money to the facility where the monetary sanction was imposed. The facility shall collect that money and apply it to defray the cost of holding disciplinary hearings. Money received by the ~~prisoner resident of a correctional facility~~ and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the ~~prisoner resident of a correctional facility~~ and transferred from the telephone call account to the department's general client account at the time of the ~~prisoner's resident's~~ discharge or transfer to supervised community confinement must be collected and disbursed as provided in this paragraph.

B. A ~~prisoner resident of a correctional facility~~ who is transferred to another facility remains liable for any monetary sanction authorized under this chapter. The facility receiving the ~~prisoner resident of a correctional facility~~ shall collect the monetary sanction and transfer it to the facility where the monetary sanction was imposed.

C. A ~~prisoner resident of a correctional facility~~ who is discharged from a facility remains liable for any monetary sanction authorized under this chapter. If the ~~prisoner resident of a correctional facility~~ is returned to the custody of the department, any facility in which the ~~prisoner resident of a correctional facility~~ resides shall collect the monetary sanction and ensure that it is used to defray costs as set out in this chapter.

D. A monetary sanction is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the ~~prisoner resident of a correctional facility~~. Any payments made for the support of the dependents that are required by the Department of Health and Human Services may not be used for monetary sanction payments.

Sec. 30. 34-A MRSA §3033, as amended by PL 1989, c. 127, §§7 to 9, PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

§3033. Work assignments

1. Public works. The commissioner may authorize the employment of able-bodied ~~prisoners~~ residents of a correctional facility in the construction and improvement of highways or other public works within the State under such arrangements as may be made with the Department of Transportation or with another department or commission of the State, county or municipality in charge of these public works, and the commissioner may prescribe whatever rules and conditions the commissioner considers expedient to ensure the proper care and treatment of the ~~prisoners~~ residents of a correctional facility while so employed and to ensure their safekeeping and return.

2. Fire or disaster. The commissioner may authorize the training and use of able-bodied ~~prisoners~~ residents of a correctional facility by the Bureau of Forestry or the Maine Emergency Management Agency, to fight fires or provide assistance during or after a civil disaster.

3. Charitable property improvement. The commissioner may authorize the use of able-bodied ~~prisoners~~ residents of a correctional facility to provide assistance in the improvement of property owned by charitable, nonprofit organizations.

A. The commissioner shall ~~promulgate~~ adopt such rules as ~~he deems~~ the commissioner determines proper to ensure the care and treatment of the ~~prisoners~~ residents of a correctional facility and the safe working conditions of ~~prisoners~~ residents of a correctional facility and departmental employees.

B. The commissioner may request that charitable, nonprofit organizations pay for the transportation of the ~~prisoners~~ residents of a correctional facility and pay the per diem compensation of guards, correctional officers or instructors who must accompany the ~~prisoners~~ residents of a correctional facility or oversee the work to be performed.

4. Prohibited act. A person is guilty of escape under Title 17-A, section 755, if that person is a ~~prisoner~~ resident of a correctional facility and escapes from any assignments described in this section or from any other assignment beyond the walls or other security restraints surrounding a correctional facility or otherwise off the grounds of an assigned location.

Sec. 31. 34-A MRSA §3035, sub-§6, as enacted by PL 1997, c. 714, §4, is amended to read:

6. Notification of law enforcement agencies. A ~~prisoner~~ resident of a correctional facility may not participate in a furlough under subsection 2 unless, in advance of the chief administrative officer's consideration of the request for that furlough, the department notifies:

A. The district attorney for the district in which the ~~prisoner~~ resident of a correctional facility will reside;

B. The sheriff for the county in which the ~~prisoner~~ resident of a correctional facility will reside;

C. The chief of police of any municipality in which the ~~prisoner~~ resident of a correctional facility will reside;

D. The Department of Public Safety; and

E. The district attorney for the district where the ~~prisoner's~~ resident's underlying commitment of the resident of a correctional facility to the department originated.

If the department grants a ~~prisoner~~ resident of a correctional facility furlough request, the department shall again notify those listed in paragraphs A to E.

A furlough may be granted in an emergency without any prior notification as long as notification is given as soon as practicable.

Sec. 32. 34-A MRSA §3036-A, as amended by PL 2021, c. 376, §§1 to 7, is further amended to read:

§3036-A. Supervised community confinement program

1. Establishment. The commissioner shall adopt rules establishing and governing a supervised community confinement program for certain ~~prisoners~~ residents of a correctional facility committed to the department.

2. Participation and eligibility. The commissioner may transfer any ~~prisoner~~ resident of a correctional facility committed to the department from a correctional facility to supervised community confinement subject to the following restrictions.

A. A transfer to supervised community confinement may be granted only subject to rules adopted by the commissioner.

B. A ~~prisoner~~ resident of a correctional facility may not be transferred to supervised community confinement until the ~~prisoner~~ resident of a correctional facility has served at least 2/3 of the term of imprisonment imposed or, in the case of a split sentence, at least 2/3 of the unsuspended portion, after consideration of any deductions that the ~~prisoner~~ resident of a correctional facility has received and retained under Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or section 2311 if the term of imprisonment or, in the case of a split sentence, the unsuspended portion is more than 5 years. A ~~prisoner~~ resident of a correctional facility may not be transferred to supervised community confinement until the ~~prisoner~~ resident of a correctional facility has served at least 1/2 of the term of imprisonment imposed or, in the case of a split sentence, at least 1/2 of the unsuspended portion after consideration of any deductions that the ~~prisoner~~ resident of a correctional facility has received and retained under Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or section 2311 if the term of imprisonment or, in the case of a split sentence, the unsuspended portion is 5 years or less.

C. Except as provided in paragraph C-1, a ~~prisoner~~ resident of a correctional facility may not be transferred to supervised community confinement unless the ~~prisoner~~ resident of a correctional facility has no more than 2 years remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the ~~prisoner~~ resident of a correctional facility has received and retained under Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or section 2311.

C-1. If the commissioner determines that the average statewide probation case load is no more than 90 ~~probationers~~ clients of the department to one probation officer, then a ~~prisoner~~ resident of a correctional facility may be transferred to supervised community confinement if that ~~prisoner~~ resident of a correctional facility has no more than 30 months remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the ~~prisoner~~

resident of a correctional facility has received and retained under Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or section 2311.

D. A ~~prisoner~~ resident of a correctional facility may not be transferred to supervised community confinement if the ~~prisoner~~ resident of a correctional facility has a custody classification level higher than minimum.

2-A. Criteria and process. The commissioner shall establish criteria and a process for determining whether a ~~prisoner~~ resident of a correctional facility eligible for transfer to supervised community confinement as provided in subsection 2 is approved for transfer. The primary determining factor for approval must be the ~~prisoner's~~ resident's likelihood of completion of supervised community confinement if transferred.

A. The criteria must be evidence-based and designed to evaluate the likelihood of a ~~prisoner's~~ completion by a resident of a correctional facility of supervised community confinement if transferred. The criteria must be specific and include, but may not be limited to, fulfillment of 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 by a resident of a correctional facility 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~~ resident of a correctional facility for transfer to supervised community confinement, that those persons be informed of the ~~prisoner's~~ resident'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~~ resident of a correctional facility 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.

3. Mandatory conditions for supervised community confinement. ~~Prisoners~~ Residents of a correctional facility transferred to supervised community confinement are subject to the following mandatory conditions.

A. The ~~prisoner~~ resident of a correctional facility must be involved in a program of work or education that is approved by the commissioner together with any treatment program that the commissioner might require. The commissioner may waive the requirement of involvement in a program of work or education for a ~~prisoner~~ resident of a correctional facility who is involved in an approved full-time treatment program.

B. The ~~prisoner~~ resident of a correctional facility must live in a residence that is approved by the commissioner.

C. The prisoner resident of a correctional facility must be subject to a curfew set by the commissioner during which time the prisoner resident of a correctional facility must be at the approved residence.

D. The prisoner resident of a correctional facility must be subject to travel or movement restrictions set by the commissioner limiting the prisoner's resident's travel to times and places directly related to approved employment, education, treatment or such other specific purposes as are approved in advance by the commissioner.

E. The prisoner resident of a correctional facility must be subject to searches of the prisoner's resident's person, residence, papers and effects without a warrant and without probable cause, for items prohibited by law or by the conditions of supervised community confinement or otherwise subject to seizure, upon the request of the commissioner. The commissioner may prohibit the prisoner resident of a correctional facility from residing with anyone who does not consent to a search of the residence to the extent necessary to search the prisoner's resident's person, residence, papers and effects.

F. The prisoner resident of a correctional facility may not possess or use illegal drugs or other illegal substances, may not possess or use alcohol and may not misuse any other legal substance.

G. The prisoner resident of a correctional facility must submit to urinalysis, breath testing or other chemical tests without probable cause at the request of the commissioner.

H. The prisoner resident of a correctional facility must notify any law enforcement officer, if stopped, of the prisoner's resident's status as a prisoner resident of a correctional facility on supervised community confinement and notify the commissioner within 8 hours of any such contact with any law enforcement officer.

I. The prisoner resident of a correctional facility may not violate state or federal criminal law.

J. When required by the commissioner and to the extent that the commissioner determines that the prisoner resident of a correctional facility has the financial resources, the prisoner resident of a correctional facility must pay part or all of the costs of the prisoner's resident's participation in the supervised community confinement program.

4. Additional conditions. In addition to the mandatory conditions, the conditions of supervised community confinement that may be imposed on a prisoner resident of a correctional facility at any time include:

A. Any condition that may be imposed as a condition of probation pursuant to Title 17-A, section 1807; and

B. Any condition that would be appropriate for the prisoner resident of a correctional facility and the supervised community confinement program. The conditions imposed may be as stringent or restrictive as, but not more stringent or restrictive than, those that may be constitutionally imposed if the prisoner resident of a correctional facility were actually housed at a maximum security institution.

5. Copy of rules. Copies of rules must be provided to ~~prisoners~~ residents of a correctional facility as follows.

A. The commissioner shall provide to any ~~prisoner~~ resident of a correctional facility permitted to participate in the supervised community confinement program under this section a copy of the rules applicable to the program.

B. The ~~prisoner~~ resident of a correctional facility shall attest to the receipt of the copy of the rules.

6. Prohibited acts. Prohibited acts under this section are governed as follows.

A. A person 18 years of age or older is guilty of interference with supervised community confinement if that person intentionally or knowingly obstructs, intimidates or otherwise abets any ~~prisoner~~ resident of a correctional facility participating in the supervised community confinement program under this section and intentionally contributes or causes the ~~prisoner~~ resident of a correctional facility to violate any term of supervised community confinement program participation, after having been warned by the commissioner to end the offending activity.

B. Interference with supervised community confinement is a Class D crime.

7. Investigation of compliance. The commissioner, at any time and in any manner the commissioner determines appropriate, may investigate compliance with the conditions imposed. The means of investigation may include, but are not limited to, the following:

A. Personal contact with the ~~prisoner~~ resident of a correctional facility at the ~~prisoner's~~ resident's residence, place of employment or any other place;

B. Direct inquiry of the ~~prisoner's~~ resident's employer, school or any other person or entity;

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

D. Credit and other financial inquiries.

8. Funding. Funds generated pursuant to this section must be deposited into the Supervised Community Confinement Account established by the department, except that where authorized by the department, a person participating in the supervised community confinement program may be required to pay fees directly to a provider of electronic monitoring, drug testing or other services. Funds from this account, which may not lapse, must be used to pay for the costs of the supervised community confinement program.

9. Probation violation; revocation. If a ~~prisoner~~ resident of a correctional facility on supervised community confinement violates a condition of supervised community confinement imposed on the ~~prisoner~~ resident of a correctional facility and if the violation conduct is also a violation of a condition of probation imposed as part of the sentence the ~~prisoner~~ resident of a correctional facility is serving while on supervised community confinement, a probation officer may file with any court a motion for revocation of probation and the court may revoke probation as specified in Title 17-A, section 1812.

10. Terminally ill or incapacitated ~~prisoner~~ resident of a correctional facility. With the consent of the ~~prisoner~~ resident of a correctional facility, the commissioner may transfer a ~~prisoner~~ resident of a correctional facility committed to the department 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 resident of a correctional facility 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 resident of a correctional facility 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 resident of a correctional facility 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 resident of a correctional facility 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 resident of a correctional facility shall provide any information pertaining to the prisoner's resident's medical condition or care that is requested by the commissioner at any time while the prisoner resident of a correctional facility is on supervised community confinement. If the commissioner determines that the prisoner resident of a correctional facility has failed to fully comply with a request or if at any time the department's director of medical care determines that the prisoner resident of a correctional facility 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.

11. Revocation of transfer. The commissioner may revoke a transfer to supervised community confinement at any time for any reason in the commissioner's discretion.

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

13. Data tracking. The department shall track data for all prisoners residents of a correctional facility 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 resident's current incarceration.

Sec. 33. 34-A MRSA §3036-B, as enacted by PL 2019, c. 396, §1, is amended to read:

§3036-B. Reentry houses

1. Reentry house defined; requirement. For purposes of this section, "reentry house" means a correctional program provided by the department through a written contract with one or more private employers under which the employers provide and maintain housing for specified prisoners residents of a correctional facility, employ those prisoners residents of a correctional facility and provide to those prisoners residents of a correctional

facility all meals, laundry facilities and transportation to and from job sites. A reentry house is not a correctional facility. A reentry house must meet all state and local building and life safety codes for the type of building in which the reentry house is located.

2. Contract. The commissioner may enter into contracts for the establishment of reentry houses for the purpose of providing housing and other assistance to prisoners residents of a correctional facility transferred to supervised community confinement under section 3036-A.

3. Other assistance. The department shall employ, or contract for, program staff to provide other assistance to prisoners residents of a correctional facility housed at a reentry house, including, but not limited to, assistance with reentry planning.

4. Transfer. A prisoner resident of a correctional facility may be transferred to supervised community confinement to be housed in a reentry house only if the prisoner resident of a correctional facility meets all of the eligibility requirements of section 3036-A and the rules adopted by the commissioner pursuant to section 3036-A, has successfully participated in a work release program at a department facility and has the skills necessary to perform a job available from a private employer with which the department has contracted.

5. Supervision. All of the provisions of section 3036-A and the rules adopted by the commissioner pursuant to section 3036-A apply to a prisoner resident of a correctional facility housed at a reentry house, and supervision of the prisoner resident of a correctional facility must be conducted by a probation officer in the same manner as for any other prisoner resident of a correctional facility transferred to supervised community confinement.

6. Escape. A prisoner resident of a correctional facility who is transferred to supervised community confinement who intentionally violates a requirement to reside at a reentry house or otherwise escapes is guilty of escape under Title 17-A, section 755.

Sec. 34. 34-A MRSA §3039-A, as enacted by PL 1997, c. 358, §4 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

§3039-A. Family support

A prisoner resident of a correctional facility may not participate in an industry program under section 1403, a work program under section 3035 or any other program administered by the department by which a prisoner resident of a correctional facility is able to generate money unless the prisoner resident of a correctional facility consents to pay at least 25% of that money for the support of any dependent child if the parent, legal guardian or legal custodian of the child requests that payment. Upon the written request of a parent, legal guardian or legal custodian, the chief administrative officer of the correctional facility where the prisoner resident of a correctional facility is incarcerated shall collect and disburse to the parent, legal guardian or legal custodian that portion of the prisoner's resident's money to be paid for the support of the dependent child. This section does not apply to any prisoner resident of a correctional facility making payments for the support of a dependent child pursuant to a support order issued by a court or by the Department of Health and Human Services.

Sec. 35. 34-A MRSA §3042, as amended by PL 2019, c. 113, Pt. C, §96, is further amended to read:

§3042. Disposition of detainees

1. Notice to ~~prisoner~~ resident of a correctional facility. The commissioner, chief administrative officer or other official having custody of a ~~prisoner~~ resident of a correctional facility serving a term of imprisonment in a correctional facility in this State shall promptly inform the ~~prisoner~~ resident of a correctional facility in writing of:

A. The source and contents of any untried indictment, information or complaint pending in this State against the ~~prisoner~~ resident of a correctional facility of which the commissioner, warden or other official has knowledge; and

B. The ~~prisoner's~~ right of the resident of a correctional facility to request a final disposition of the untried indictment, information or complaint.

2. Right to trial. A ~~prisoner~~ resident of a correctional facility serving a term of imprisonment in a correctional facility in this State is entitled to be brought to trial on any untried indictment, information or complaint pending in this State against him ~~him~~ the resident of a correctional facility within 180 days after giving proper notice in accordance with subsections 3 and 4.

3. Proper notice. To constitute proper notice under subsection 2, the ~~prisoner~~ resident of a correctional facility must send to the prosecuting official of the county in which the indictment, information or complaint is pending, and to the appropriate court, the following:

A. Written notice of the place of imprisonment;

B. Written notice of the request for final disposition to be made of the untried indictment, information or complaint; and

C. A certificate of the commissioner, warden or other official having custody of the ~~prisoner~~ resident of a correctional facility stating:

(1) The term of commitment under which the ~~prisoner~~ resident of a correctional facility is held;

(2) The time already served on the sentence;

(3) The time remaining to be served;

(4) The total of deductions received and retained;

(5) The time of parole eligibility of the ~~prisoner~~ resident of a correctional facility; and

(6) Any decisions of the State Parole Board relating to the ~~prisoner~~ resident of a correctional facility.

4. Manner of giving proper notice. The manner of giving proper notice under subsection 2 is as follows.

A. The ~~prisoner~~ resident of a correctional facility shall give or send the written notice of place of imprisonment and the written notice of request for final disposition to the commissioner, warden or other official having custody of him ~~him~~ the resident of a correctional facility.

B. The commissioner, warden or other official having custody of the ~~prisoner~~ resident of a correctional facility shall promptly forward the written notices, together with the

certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

5. Continuance. For good cause shown in open court, the ~~prisoner~~ resident of a correctional facility or ~~his~~ the resident's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

6. Time limitation. If the ~~prisoner~~ resident of a correctional facility is not brought to trial on the untried indictment, information or complaint within 180 days after the ~~prisoner~~ resident of a correctional facility gave or sent proper notice under subsection 2:

- A. The untried indictment, information or complaint is no longer of any force or effect;
- B. No court has jurisdiction over it; and
- C. The appropriate court shall enter an order dismissing it with prejudice.

7. Effect of escape. If a ~~prisoner~~ resident of a correctional facility escapes from custody after ~~his~~ the resident's execution of the request for final disposition, ~~his~~ the resident's request is voided.

8. Exception. This section does not apply to any person adjudged to be mentally ill.

Sec. 36. 34-A MRSA §3047, as amended by PL 2019, c. 113, Pt. C, §97, is further amended to read:

§3047. Discharge or parole

When any ~~prisoner~~ resident of a correctional facility sentenced to the department is paroled or discharged, the commissioner:

1. Clothing. Shall ensure that the ~~prisoner~~ resident of a correctional facility is provided with decent clothing;

2. Money. May give the ~~prisoner~~ resident of a correctional facility an amount equal to the net salary of a single wage earner with no dependents for 40 hours of work at the state minimum wage less all applicable state and federal deductions except that any amount in excess of \$50 may not be provided by the General Fund, except that the commissioner may not give money to a ~~prisoner~~ resident of a correctional facility who:

- A. Has, within the 6 months prior to the date of parole or discharge, transferred from the department's general client account to any person more than \$500, excluding any money transferred for the support of dependents; or
- B. Has, on the date of parole or discharge, more than \$500 in personal assets.

Money received by the ~~prisoner~~ resident of a correctional facility under this subsection is not subject to section 3032, subsection 5-A or 5-B or Title 17-A, section 2016, subsection 2;

3. Transportation. Shall furnish transportation to the place where the ~~prisoner~~ resident of a correctional facility was convicted, except that:

- A. If the ~~prisoner's~~ home of the resident of a correctional facility is within the State, transportation must be furnished to the ~~prisoner's~~ home of the resident of a correctional facility;

B. If the ~~prisoner~~ resident of a correctional facility has secured employment within the State, transportation must be furnished to the place of employment;

C. If the ~~prisoner's home of the resident of a correctional facility~~ is outside the State, or if the ~~prisoner~~ resident of a correctional facility has secured employment outside the State, transportation must be furnished to the place on the Maine border nearest the place of employment; or

D. If the ~~prisoner~~ resident of a correctional facility requests a reasonable place nearer the place of incarceration than any of the foregoing, transportation must be furnished to that place; or

4. Extreme circumstances. May, in extreme circumstances, if the ~~prisoner's home of the resident of a correctional facility~~ is outside the State, or if the ~~prisoner~~ resident of a correctional facility has secured employment outside the State, furnish transportation to the ~~prisoner's home or place of employment of the resident of a correctional facility~~.

Sec. 37. 34-A MRSA §3048, as enacted by PL 2007, c. 546, §1, is amended to read:

§3048. Religious services

The commissioner shall adopt rules that provide for the accommodation of any ~~prisoner~~ resident of a correctional facility who expresses a desire to practice a religion of the ~~prisoner's resident's~~ choice as long as the practice does not present a threat to the safety, security or orderly management of the facility in which the ~~prisoner~~ resident of a correctional facility is housed. The rules must be consistent with all federal requirements. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 38. 34-A MRSA §3062, sub-§1, as amended by PL 1991, c. 314, §54, is further amended to read:

1. Requirements. The commissioner may transfer any ~~prisoner~~ resident of a correctional facility sentenced to the department to a federal penal or correctional institution if the ~~United States~~ Federal Bureau of Prisons accepts the commissioner's application for transfer of the ~~prisoner~~ resident of a correctional facility.

Sec. 39. 34-A MRSA §3062, sub-§2, ¶B, as amended by PL 1991, c. 314, §55, is further amended to read:

B. The chief administrative officer shall affix to the contract a copy of the mittimus or mittimuses under which the ~~prisoner~~ resident of a correctional facility is held.

Sec. 40. 34-A MRSA §3062, sub-§2, ¶C, as enacted by PL 1983, c. 459, §6, is amended to read:

C. The contract and mittimus or mittimuses are sufficient authority for the United States to hold the ~~prisoner~~ resident of a correctional facility on behalf of the State.

Sec. 41. 34-A MRSA §3062, sub-§3, as enacted by PL 1983, c. 459, §6, is amended to read:

3. Effect on ~~prisoner~~ resident of a correctional facility. The rights of transferred ~~prisoners~~ residents of a correctional facility are governed as follows.

A. A ~~prisoner~~ resident of a correctional facility transferred under this section is subject to the terms of ~~his~~ the resident's original sentence or sentences as if ~~he~~ the resident were serving the sentence or sentences within the confines of the prison.

B. Nothing in this section deprives a ~~prisoner~~ resident of a correctional facility transferred under this section of ~~his~~ the resident's rights to parole or ~~his~~ the resident's rights to legal process in the courts of this State.

Sec. 42. 34-A MRSA §3063-B, as enacted by PL 2015, c. 335, §28, is amended to read:

§3063-B. Transfer from jails

The commissioner may accept custody of ~~prisoners~~ residents of a jail transferred to the department from county jails under Title 30-A, section 1557-B.

Sec. 43. 34-A MRSA §3063-C, as amended by PL 2019, c. 113, Pt. C, §100, is further amended to read:

§3063-C. Transfer to jails

1. Transfer of ~~prisoner~~ resident of a correctional facility. The commissioner may transfer a ~~prisoner~~ resident of a correctional facility serving a sentence in a correctional facility to a county jail, upon the request of the chief administrative officer and the approval of the sheriff of the jail.

2. Cost of transfer. The department shall pay the cost of the transfer or the return of the ~~prisoner~~ resident of a correctional facility.

3. Reimbursement. By agreement between the commissioner and the sheriff of the receiving jail pursuant to this section, the department shall pay directly to the jail reimbursement in accordance with this subsection.

A. During a state fiscal year in which at least \$12,202,104 has been appropriated to the County Jail Operations Fund and disbursements have been made equal to the amount appropriated to the counties as required by section 1210-D, the receiving jail may charge the department for the transferred ~~prisoner~~ resident of a correctional facility a rate to be negotiated between the sheriff of the jail and the department that is no higher than \$25 per diem per ~~prisoner~~ resident of a correctional facility.

B. During a state fiscal year in which less than \$12,202,104 has been appropriated to the County Jail Operations Fund or disbursements have not been made equal to that amount to the counties as required by section 1210-D, the receiving jail may charge the department for the transferred ~~prisoner~~ resident of a correctional facility a rate to be negotiated between the sheriff of the county jail and the department that is no higher than \$108 per diem per ~~prisoner~~ resident of a correctional facility.

C. The department shall reimburse the receiving jail for any costs incurred in the provision of extraordinary medical or surgical treatment for conditions of the ~~prisoner~~ resident of a correctional facility that existed prior to transfer.

D. Payment amounts provided for in this section may be adjusted or dispensed with upon terms mutually agreeable to the commissioner and the sheriff of the receiving jail.

4. Transferee subject to rules. A ~~prisoner~~ resident of a correctional facility transferred under this section is subject to the general rules of the facility to which the

prisoner resident of a correctional facility is transferred, except that for a prisoner resident of a correctional facility who has been sentenced:

- A. The term of the original sentence remains the same unless altered by the court;
- B. The prisoner resident of a correctional facility becomes eligible for deductions as provided in Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or section 2311 for a prisoner resident of a correctional facility committed to the department;
- C. The prisoner resident of a correctional facility becomes eligible for release and discharge as provided in Title 17-A, section 2314, subsection 1 for a prisoner resident of a correctional facility committed to the department;
- D. The prisoner resident of a correctional facility is entitled to have the time served in the jail under this section deducted from the sentence; and
- E. The prisoner resident of a correctional facility becomes eligible for furloughs, work or other release programs, and supervised community confinement as authorized by sections 3035 and 3036-A and may apply pursuant to the rules governing the correctional facility from which the prisoner resident of a correctional facility was transferred.

5. Return of prisoner resident of a correctional facility. A prisoner resident of a correctional facility transferred pursuant to this section must be returned to the department upon the request of the commissioner or the sheriff.

Sec. 44. 34-A MRSA §3069, sub-§1, as amended by PL 2007, c. 102, §10, is further amended to read:

1. Involuntary. When a prisoner resident of a correctional facility has been determined by a competent medical authority to require inpatient treatment for mental illness, the chief administrative officer of that facility shall make application in accordance with Title 34-B, section 3863.

- A. Any person with respect to whom an application and certification under Title 34-B, section 3863 are made may be admitted to either state mental health institute.
- B. Except as otherwise specifically provided in this section, Title 34-B, chapter 3, subchapter 4, Article 3 is applicable to the person as if the admission of the person were applied for under Title 34-B, section 3863.
- C. A copy of the document by which the person is held in the facility must accompany the application for admission.
- D. If the sentence being served at the time of admission has not expired or commitment has not been terminated in accordance with law at the time the person is ready for discharge from hospitalization, the person must be returned by the appropriate officers of the correctional facility.
- E. Admission to a mental health institute under this section has no effect upon a sentence then being served or a commitment then in effect. The sentence continues to run and the commitment remains in force, unless terminated in accordance with law. While the sentence or commitment is in effect, the person may not receive a privilege, including, but not limited to, a furlough or its equivalent, a funeral or deathbed visit or

the use of tobacco, unless the chief administrative officer of the correctional facility approves the receipt of the privilege.

Sec. 45. 34-A MRSA §3069, sub-§4, as enacted by PL 2003, c. 482, Pt. C, §1 and amended by c. 689, Pt. B, §6, is amended to read:

4. Review use of seclusion and restraint with ~~prisoners~~ residents of a correctional facility with major mental illness; report. Beginning October 1, 2003, the Department of Health and Human Services, utilizing its medical directors and forensic psychiatrists, shall review the use of seclusion and restraint with ~~prisoners~~ residents of a correctional facility with major mental illness in all adult correctional facilities. The department and the Department of Health and Human Services shall agree to the design and scope of this review. This review must include, but not be limited to, a case review of the rates of and duration of such practices with ~~prisoners~~ residents of a correctional facility with major mental illness, whether the use of seclusion and restraint is appropriate and whether there is a pattern of restraint and seclusion with any particular ~~prisoners~~ residents of a correctional facility with major mental illness. Beginning December 30, 2004 and annually thereafter, the Department of Health and Human Services shall issue a written report that includes its findings and recommendations for improvements determined to be necessary. That report must be forwarded to the commissioner and to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

Sec. 46. 34-A MRSA §3069-A, as amended by PL 2017, c. 147, §4, is further amended to read:

§3069-A. Transfer of ~~jail inmates~~ residents of a jail for mental health services

1. Eligible ~~inmates~~ residents of a jail. The commissioner may transfer from a jail to a correctional facility an adult ~~inmate~~ resident of a jail who the chief administrative officer of the Riverview Psychiatric Center confirms is eligible for admission to a state mental health institute under Title 34-B, section 3863, but for whom no suitable bed is available, for the purpose of providing to the ~~inmate~~ resident of a jail mental health services in a mental health unit of a correctional facility that provides intensive mental health care and treatment. The commissioner may not transfer pursuant to this section a person who has been found not criminally responsible by reason of insanity. The commissioner may return an ~~inmate~~ resident of a correctional facility transferred pursuant to this subsection back to the sending facility.

For purposes of this subsection, "intensive mental health care and treatment" has the same meaning as in section 3049, subsection 1.

2. Evaluation. The commissioner may transfer from a jail to a correctional facility an adult ~~inmate~~ resident of a jail whom the court orders to be examined or further evaluated by the State Forensic Service under Title 15, section 101-D, subsection 1, 2, 3 or 9 if the State Forensic Service determines that the jail where the ~~inmate~~ resident of a jail is incarcerated cannot provide an appropriate setting for the examination but that a mental health unit in a correctional facility can provide an appropriate setting for the examination. The commissioner shall return an ~~inmate~~ resident of a correctional facility transferred pursuant to this subsection back to the sending facility upon the completion of the examination ordered, including any further evaluation ordered, unless the commissioner transferred the ~~inmate~~ resident of a jail for another reason in addition to the examination.

3. Disclosure of information. With respect to an adult ~~inmate~~ resident of a jail who has previously been hospitalized under Title 34-B, chapter 3, subchapter 4, the commissioner may make it a prerequisite to a transfer of the ~~inmate~~ resident of a jail under this section that necessary information be disclosed to the department pursuant to Title 34-B, section 1207, subsection 1, paragraph B.

4. Application of other laws. All other applicable provisions of law governing ~~inmates~~ residents of a jail, whether detained pending a trial or other court proceeding or sentenced, apply to ~~inmates~~ residents of a jail transferred under this section.

5. Discretion. Nothing in this section or in any other provision of law requires the commissioner to transfer an adult ~~inmate~~ resident of a jail from a jail to a correctional facility or precludes the commissioner from transferring an adult ~~inmate~~ resident of a jail from a jail to a correctional facility at any time for any other reason at the commissioner's discretion.

Sec. 47. 34-A MRSA §3073, as enacted by PL 2001, c. 228, §2, is amended to read:
§3073. Transportation to and from courts

Notwithstanding any ~~other~~ provision of law ~~to the contrary~~, transportation of a ~~prisoner~~ resident of a correctional facility between a correctional facility and a court in connection with the prosecution of the ~~prisoner~~ resident of a correctional facility for a crime committed within a correctional facility is the responsibility of the department, unless the department and the sheriff agree that the sheriff will undertake the responsibility of the transportation at an agreed-upon rate of reimbursement to the county by the department.

Sec. 48. 34-A MRSA c. 3, sub-c. 1, art. 4, headnote is amended to read:

ARTICLE 4

PREGNANT PRISONERS RESIDENTS OF A CORRECTIONAL FACILITY AND PREGNANT JUVENILES

Sec. 49. 34-A MRSA §3101, sub-§5, as enacted by PL 2015, c. 315, §4, is amended to read:

5. Restraints. "Restraints" means any physical restraint or mechanical device used to control the movement of a ~~prisoner's or juvenile's~~ the body or limbs of a resident of a correctional facility or a juvenile, including, but not limited to, disposable or soft restraints, handcuffs, a security restraint system that combines handcuffs with a rigid component, leg irons, belly chains, a security or tether chain and a convex shield.

Sec. 50. 34-A MRSA §3102, as enacted by PL 2015, c. 315, §4, is amended to read:
§3102. Restraint of pregnant ~~prisoners~~ residents of a correctional facility and pregnant juveniles

1. Restraints prohibited. A correctional facility or a detention facility may not use restraints on a ~~prisoner~~ resident of a correctional facility or juvenile known to be pregnant, including during transport to a medical facility or birthing center, labor, delivery and postpartum recovery, unless the chief administrative officer or the designee of the chief

administrative officer makes a determination that the ~~prisoner~~ resident of a correctional facility or juvenile presents an extraordinary circumstance as described in subsection 2.

2. Exceptions. Use of restraints on a pregnant ~~prisoner~~ resident of a correctional facility or a pregnant juvenile for an extraordinary circumstance is permitted only if the chief administrative officer or the designee of the chief administrative officer makes a determination that there is a substantial flight risk or other extraordinary medical or security circumstance that requires restraints to be used to ensure the safety and security of the pregnant ~~prisoner~~ resident of a correctional facility or pregnant juvenile, the staff of the correctional facility, detention facility or medical facility, other ~~prisoners~~ residents of a correctional facility or juveniles or the public, except that:

A. If a doctor, nurse or other health professional treating the ~~prisoner~~ resident of a correctional facility or juvenile requests that restraints not be used, the corrections officer accompanying the ~~prisoner~~ resident of a correctional facility or juvenile shall immediately remove all restraints; and

B. Notwithstanding this subsection, leg or waist restraints may not be used at any time, and restraints may not be used on a ~~prisoner~~ resident of a correctional facility or juvenile in labor or childbirth.

3. Procedures. If restraints are used on a pregnant ~~prisoner~~ resident of a correctional facility or pregnant juvenile pursuant to subsection 2:

A. The corrections officer must apply the least restrictive type of restraints in the least restrictive manner necessary; and

B. The chief administrative officer or the designee of the chief administrative officer shall make written findings within 10 days as to the extraordinary circumstance that required the use of the restraints. These findings must be kept on file by the correctional facility or detention facility for at least 5 years and must be made available for public inspection, except that individually identifying information of any ~~prisoner~~ resident of a correctional facility or juvenile may not be made public under this paragraph without the prior written consent of the ~~prisoner~~ resident of a correctional facility or juvenile.

4. Privacy. When a ~~prisoner~~ resident of a correctional facility or juvenile is admitted to a medical facility or birthing center for labor or childbirth, a corrections officer may not be present in the room during labor or childbirth unless specifically requested by medical personnel. If a corrections officer's presence is requested by medical personnel, the corrections officer must be female if practicable.

Sec. 51. 34-A MRSA §3104, as enacted by PL 2015, c. 315, §4, is amended to read:

§3104. Notice

A correctional facility or detention facility shall inform all female ~~prisoners~~ residents of a correctional facility and juveniles of the rules developed pursuant to section 3103 upon admission to the correctional facility or detention facility and shall include the rules in any handbook provided to female ~~prisoners~~ residents of a correctional facility or juveniles.

Sec. 52. 34-A MRSA §3231, sub-§2, as repealed and replaced by PL 1999, c. 583, §18, is amended to read:

2. Duties. In addition to other duties set out in this Title, the warden shall supervise and control the ~~prisoners~~ residents of a correctional facility, pretrial detainees, employees, grounds, buildings and equipment at the prison.

Sec. 53. 34-A MRSA §3233, sub-§1, ¶B, as enacted by PL 1983, c. 459, §6, is amended to read:

B. If a ~~prisoner~~ resident of a correctional facility at the prison resists the authority of any uniformed or ununiformed officer or refuses to obey ~~his~~ the officer's lawful commands, the officer shall immediately enforce obedience.

Sec. 54. 34-A MRSA §3236, sub-§2, ¶C, as enacted by PL 1983, c. 459, §6, is amended to read:

C. Labor diligently and faithfully for the mental, moral and religious improvement of the ~~prisoners~~ residents of a correctional facility; and

Sec. 55. 34-A MRSA §3236, sub-§2, ¶D, as enacted by PL 1983, c. 459, §6, is amended to read:

D. Aid the ~~prisoners~~ residents of a correctional facility, when practicable, in obtaining employment after their discharge.

Sec. 56. 34-A MRSA c. 3, sub-c. 2, art. 3, headnote is amended to read:

ARTICLE 3

PRISONERS RESIDENTS OF A CORRECTIONAL FACILITY

Sec. 57. 34-A MRSA §3264, as amended by PL 1999, c. 583, §22, is further amended to read:

§3264. Conditions of imprisonment

~~Prisoners~~ Residents of a correctional facility in the prison shall work at tasks normal to the maintenance, service, industrial, agricultural and other activities of the prison.

Sec. 58. 34-A MRSA §3402, sub-§2, as amended by PL 2013, c. 508, §1, is further amended to read:

2. Duties. In addition to other duties set out in this Title, the warden shall supervise and control the ~~prisoners~~ residents of a correctional facility, pretrial detainees, employees, grounds, buildings and equipment at the center.

Sec. 59. 34-A MRSA §3403, as amended by PL 2013, c. 508, §2, is further amended by amending the section headnote to read:

§3403. ~~Prisoners~~ Residents of a correctional facility generally

Sec. 60. 34-A MRSA §3403, sub-§1, as amended by PL 2013, c. 508, §2, is further amended to read:

1. Conditions of confinement. Conditions of confinement of ~~prisoners~~ residents of a correctional facility are governed as follows.

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

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

Sec. 61. 34-A MRSA §3903, sub-§2, ¶B, as repealed and replaced by PL 2019, c. 343, Pt. LLLL, §2, is amended to read:

B. The superintendent shall supervise and control the ~~prisoners~~ residents of a correctional facility at the Downeast Correctional Facility in accordance with departmental rules.

Sec. 62. 34-A MRSA §3904, as amended by PL 2019, c. 343, Pt. LLLL, §3, is further amended to read:

§3904. ~~Prisoners~~ Residents of a correctional facility generally

1. Confinement. All ~~prisoners~~ residents of a correctional facility at the Downeast Correctional Facility ~~shall~~ must be detained and confined in accordance with the sentences of the court and the rules of the department.

2. Education. The superintendent shall maintain suitable courses for academic and career and technical education of the ~~prisoners~~ residents of a correctional facility of the Downeast Correctional Facility. The superintendent shall maintain necessary equipment and employ suitable qualified instructors as necessary to carry out the objectives of the facility's programs.

3. Employment. The commissioner may authorize the employment of ~~prisoners~~ residents of a correctional facility of the Downeast Correctional Facility on public works with any department, agency or entity of the State, county or local government and may authorize the use of ~~prisoners~~ residents of a correctional facility to provide assistance in the improvement of property owned by nonprofit organizations.

A. The commissioner shall ~~promulgate~~ adopt such rules as ~~he deems~~ the commissioner determines proper to ensure the care and treatment of the ~~prisoners~~ residents of a correctional facility and the safe working conditions of ~~prisoners~~ residents of a correctional facility and departmental employees.

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

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

4. Escape. ~~Any prisoner~~ A resident of a correctional facility who escapes from the facility, or from any assignment beyond the grounds of the facility, to include community-rehabilitative programs, is guilty of escape under Title 17-A, section 755.

Sec. 63. 34-A MRSA §4102-B, as enacted by PL 2017, c. 148, §12, is amended to read:

§4102-B. Purposes for ~~prisoners~~ residents of a correctional facility

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

Sec. 64. 34-A MRSA §4103, sub-§2, ¶C, as enacted by PL 2017, c. 148, §14, is amended to read:

C. The superintendent shall supervise and control the ~~prisoners~~ residents of a correctional facility at the Mountain View Correctional Facility in accordance with department rules.

Sec. 65. 34-A MRSA §4117, as amended by PL 2017, c. 148, §26, is further amended to read:

§4117. Confinement of ~~prisoners~~ residents of a correctional facility

The commissioner may confine adults sentenced and committed to the custody of the department in the Mountain View Correctional Facility as long as the housing facilities for ~~prisoners~~ residents of a correctional facility 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~~ residents of a correctional facility apply to ~~prisoners~~ residents of a correctional facility confined in the Mountain View Correctional Facility as if they were confined in a correctional facility housing only adults.

Sec. 66. 34-A MRSA §4118, as enacted by PL 2017, c. 148, §27, is amended to read:

§4118. ~~Prisoners~~ Residents of a correctional facility generally

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

2. Transferred ~~prisoners~~ residents of a correctional facility. All ~~prisoners~~ residents of a correctional facility 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~~ residents of a correctional facility.

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~~ residents of a correctional facility 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~~ residents of a correctional facility 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~~ residents of a correctional facility and the safe working conditions of ~~prisoners~~ residents of a correctional facility and department employees.

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

C. The ~~prisoners~~ residents of a correctional facility 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~~ residents of a correctional facility and pay the per diem compensation of correctional officers or instructors who must accompany the ~~prisoners~~ residents of a correctional facility or oversee the work to be performed.

5. Escape. A ~~prisoner~~ resident of a correctional facility 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. 67. 34-A MRSA §4203, sub-§2, ¶B, as enacted by PL 2013, c. 508, §7, is amended to read:

B. The director shall supervise and control the ~~prisoners~~ residents of a correctional facility at the facility in accordance with departmental rules.

Sec. 68. 34-A MRSA §4204, as enacted by PL 2013, c. 508, §7, is amended to read:

§4204. Prisoners Residents of a correctional facility generally

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

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

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

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

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

C. The ~~prisoners~~ residents of a correctional facility employed under this subsection may not be compensated monetarily for work performed.

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

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

Sec. 69. 34-A MRSA §5003, sub-§1, as amended by PL 2003, c. 706, Pt. B, §3, is further amended to read:

1. **Interference with probation.** A person 18 years of age or older is guilty of interference with probation if that person willfully obstructs, intimidates or otherwise abets a ~~probationer~~ client of the department under the supervision and control of the department and thereby causes or contributes to causing the ~~probationer~~ client of the department to violate the conditions of that person's probation, after having been warned in writing by the commissioner to end that person's relationship or association with the ~~probationer~~ client of the department.

A. Interference with probation is a Class E crime, except that, notwithstanding Title 17-A, it is punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

B. This subsection applies to interferences with the probation of ~~probationers~~ clients of the department who are under the supervision and control of the department at the request of other states under terms of the Interstate Compact for Adult Offender Supervision and the Interstate Compact for Juveniles.

Sec. 70. 34-A MRSA §5402, sub-§2, ¶B, as amended by PL 2013, c. 491, §6, is further amended to read:

B. Appoint, subject to the Civil Service Law, field probation and parole officers, juvenile community corrections officers and such other employees as may be required to carry out adequate supervision of all ~~probationers~~ clients of the department, parolees from the correctional facilities and other persons placed under the supervision of an employee listed in this paragraph;

Sec. 71. 34-A MRSA §5402, sub-§2, ¶M, as amended by PL 1995, c. 502, Pt. F, §34, is further amended to read:

M. Aggregate the statistics contained in any reports the department receives on individual ~~probationers~~ clients of the department and make the aggregated statistics available to other state agencies provided as long as the data is aggregated in such a way that statistics pertaining to any individual ~~probationer~~ client of the department can not be disaggregated.

Sec. 72. 34-A MRSA §5402, sub-§3, ¶F, as enacted by PL 2005, c. 265, §21, is amended to read:

F. Provide for necessary assessment and supervision procedures and direct the use of adult probation resources and staff to the management of adult ~~probationers~~ clients of the department with a high risk of reoffending.

Sec. 73. 34-A MRSA c. 5, sub-c. 5, headnote is amended to read:

SUBCHAPTER 5

PAROLE LAWS FOR PRECRIMINAL CODE PRISONERS RESIDENTS OF A CORRECTIONAL FACILITY

Sec. 74. 34-A MRSA §5802, first ¶, as amended by PL 2013, c. 508, §8, is further amended to read:

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

Sec. 75. 34-A MRSA §5803, as enacted by PL 1983, c. 459, §6, is amended to read:

§5803. Eligibility for hearing; Maine State Prison or Maine Correctional Center

A ~~prisoner~~ resident of a correctional facility at the Maine State Prison or Maine Correctional Center becomes eligible for a hearing by the board as follows:

1. Expiration of minimum term in minimum-maximum sentence. Prior to the expiration of the ~~prisoner's~~ resident's minimum term of imprisonment, less the deduction for good behavior, when the law provides for a minimum-maximum sentence;

2. Expiration of 1/2 of term in certain cases. Prior to the expiration of 1/2 of the term of imprisonment imposed by the court, less the deduction for good behavior, when the ~~prisoner~~ resident of a correctional facility has been convicted of an offense under Title 17, ~~former~~ section 1951, 3151, 3152 or 3153. This subsection applies to a ~~prisoner~~ resident of a correctional facility who has been convicted previously of an offense under Title 17, ~~former~~ section 1951, 3151, 3152 or 3153;

3. Expiration of 15-year term in life imprisonment cases. Prior to the expiration of a 15-year term of imprisonment, less deduction for good behavior, when the ~~prisoner~~ resident of a correctional facility has been convicted of an offense punishable only by life imprisonment; and

4. Expiration of 15-year term in other cases. Prior to the expiration of a 15-year term of imprisonment, less deduction for good behavior, when, following conviction, the ~~prisoner~~ resident of a correctional facility has been sentenced to a minimum term of 15 years or more.

Sec. 76. 34-A MRSA §5806, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. **Forfeits deductions.** Upon revocation of parole by the board, the prisoner resident of a correctional facility forfeits any deductions for good behavior earned while on parole.

Sec. 77. 34-A MRSA §5806, sub-§2, as enacted by PL 1983, c. 459, §6, is amended to read:

2. **May earn deductions.** While serving the unexpired portion of his a sentence after parole has been revoked, the prisoner resident of a correctional facility may earn deductions for good conduct.

Sec. 78. 34-A MRSA §5810, as amended by PL 2013, c. 508, §14, is further amended to read:

§5810. Records forwarded to State Police

When a person who has been convicted under Title 17, former section 1951, 3151, 3152 or 3153 is paroled, the warden of the institution shall forward to the State Police a copy of the person's record and a statement of facts necessary for full comprehension of the case. Whenever any prisoner resident of a correctional facility who has been convicted of an offense under Title 17, former section 1951, 3151, 3152 or 3153 is discharged in full execution of the prisoner's resident's sentence, the warden shall make and forward to the State Police a copy of the prison record of that prisoner resident of a correctional facility together with a statement of any fact or facts that the warden may consider necessary for a full comprehension of the case.

Sec. 79. 34-A MRSA §9601, as enacted by PL 1983, c. 459, §6, is amended to read:

§9601. Purpose and policy--Article I

The party states find that charges outstanding against a prisoner resident of a correctional facility, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trials of persons already incarcerated in other jurisdictions, produce uncertainties which that obstruct programs of prisoner for the treatment and rehabilitation of residents of a correctional facility. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from other jurisdictions, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

**APPENDIX A:
TREATMENT OF EXCEPTIONS, VARIATIONS AND INCONSISTENCIES**

The following is a table containing the issues encountered in the review of the Maine Revised Statutes, Title 22, Title 22-A, Title 25 and Title 34-A. The issues are sorted by where they appear in the statutes.

Stigmatizing Word or Phrase	Proposed Modification	Location of Word or Phrase in the Maine Revised Statutes	Rationale
"drug user"	"person who uses drugs"	5 MRS c. 521 & 25 MRS §2002, sub-§3	<p>Resolve 2021, c. 120 ("the Resolve") directs the Revisor of Statutes ("ROS") to review Title 25 of the Maine Revised Statutes and change "drug user" to "person who uses drugs." 25 §2002, sub-§3 defines the term "drug user" to have the same meaning as in 5 §20003, sub-§10. Since changes to Title 5 were outside of the scope of the Resolve, to accomplish the intent of the Resolve with regard to Title 25, the definition from Title 5 was used, changing "drug user" to "person who uses drugs."</p> <p>The committee may wish to consider changing those terms in 5 c. 521 in a like manner in any legislation the committee reports out pursuant to Resolve 2021, c. 120, section 2.</p>
"mentally competent"; "mentally incompetent"	None	Title 22 (throughout)	<p>The phrases "mentally competent" and "mentally incompetent" were not among the specified stigmatizing phrases to be changed. Additionally, those terms have distinct legal meaning.</p>
"inmate"; "prisoner"; "convict"	"resident of a correctional facility" or "resident of a jail"	Titles 22, 25, 34-A	<p>The direction given pursuant to the Resolve requires the change of the stigmatizing terms to the alternate terms without distinguishing or directing when one or both of the alternate terms applies. While there are times when context makes it clear that it is a correctional facility or a jail, such as the definition of "correctional facility" that excludes facilities under a specific section of law, there are other times when it is not as clear. In those cases, where the stigmatizing words appear, except as noted in this document, both alternate terms were included.</p>

**APPENDIX A:
TREATMENT OF EXCEPTIONS, VARIATIONS AND INCONSISTENCIES**

Stigmatizing Word or Phrase	Proposed Modification	Location of Word or Phrase in the Maine Revised Statutes	Rationale
"developmentally disabled"	None	Titles 22 & 34-A (throughout)	The phrase "developmentally disabled" does not match any stigmatizing phrase to be replaced pursuant to the Resolve, so is outside the scope of the Resolve.
"patients who are mentally deranged"	None	22 §1781	The direction pursuant to the Resolve was to change "mentally ill person" to "person with a mental illness." The phrase here is beyond the scope of the Resolve.
"the mentally ill"	"persons with mental illness"	22 §2883; 22-A §208	The phrase "the mentally ill" does not match the stigmatizing phrase to be replaced pursuant to the Resolve. It was changed in these places to comply with the respectful language directive only because those sections of law were also the subject of updates for stigmatizing language. Other occurrences of "the mentally ill" in the statutes were not changed if no other changes were being made to the statute containing that phrase.
"inmate of any public institution"; "inmate in a public institution"	"resident of a correctional facility, a jail or a public institution"	22 §3174, sub-§3 & §3174-T, sub-§2, ¶C	The Resolve requires the change of "inmate" to "resident of a correctional facility" or "resident of a jail." The statutes refer to an "inmate of a public institution." "Public institution" is not defined nor within the scope of the changes required to be made. The committee may wish to determine whether "correctional facility or jail" is an appropriate substitute for "public institution" or whether it needs to include "public institution" where the stigmatizing phrase is being replaced.
"developmentally disabled person"	None	22 §3474, sub-§3, ¶D	The phrase "developmentally disabled person" is not one of the specified stigmatizing phrases to be changed.
"the mentally ill, mentally defective or epileptic"	None	22 §4192, sub-§2	The phrase "mentally defective or epileptic" is not one of the specified stigmatizing phrases to be changed.

**APPENDIX A:
TREATMENT OF EXCEPTIONS, VARIATIONS AND INCONSISTENCIES**

Stigmatizing Word or Phrase	Proposed Modification	Location of Word or Phrase in the Maine Revised Statutes	Rationale
"alcohol users"	"users of alcohol"	22 §8001	The phrase "alcohol users" is not one of the specified stigmatizing phrases to be changed. It was changed to comply with the respectful language directive since that section was being changed to comply with the Resolve. Other occurrences of "alcohol users" in the statutes were not changed if no other changes were being made to the statute containing that phrase.
"convicted person"	None	Title 25 (throughout)	The phrase "convicted person" is not one of the specified stigmatizing phrases to be changed. Modification of this term in an attempt to comply with the Resolve would muddle the distinction between a person who has been convicted of a crime and a person who has been incarcerated as a result of such a conviction.
"drug user"	Definition changed	25 §2002, sub-§3	25 §2002, sub-§3 defines the term "drug user" to have the same meaning as in 5 §20003, sub-§10. Since changes to Title 5 were outside of the scope of the Resolve, to accomplish the intent of the Resolve with regard to Title 25, the definition from 5 §20003, sub-§10 was used, changing "drug user" to "person who uses drugs" and adding the rest of the definition from 5 §20003, sub-§10.
"mental disease or defect"	None	25 §2002, sub-§10-A	The phrase "mental disease or defect" is not one of the specified stigmatizing phrases to be changed. Since it is an established legal term governing criminal culpability, no changes were made.
"jail inmates"	"residents of a jail"	25 §5101, sub-§2, ¶B	A strict compliance with the Resolve would result in the phrase "jail residents of jails."
"inmate"; "prisoner"	None	Title 30-A (throughout)	Although Resolve 2021, c. 120 did not direct ROS to review Title 30-A, it should be noted that the terms "inmate" and "prisoner" are used throughout portions of Title 30-A.

**APPENDIX A:
TREATMENT OF EXCEPTIONS, VARIATIONS AND INCONSISTENCIES**

Stigmatizing Word or Phrase	Proposed Modification	Location of Word or Phrase in the Maine Revised Statutes	Rationale
"inmate"; "prisoner"; "convict"	None	Title 34-A (throughout)	In certain instances, such as in 34-A §1207, sub-§2, ¶A and the New England Interstate Corrections Compact (34-A c. 9, sub-c. 2), "inmate," "prisoner" and "convict" are used to refer to individuals in the custody of out-of-state jurisdictions. Reference to those persons as "residents of correctional facilities," as required by the Resolve, would appear to change the meaning of the statutes.
"prisoners"; "inmates"	"residents of a correctional facility"; "residents of a jail"	Title 34-A (throughout)	Changing the plural form of "prisoner" and "inmate" results in "residents of a correctional facility" or "residents of a jail." These changes should be verified to ensure that the intent of the statute is not affected.
"prisoner"	"resident of a correctional facility"	Title 34-A (throughout)	As required by the Resolve, the term "prisoner" was changed to "resident of a correctional facility." In the current definition (34-A §1001, sub-§14), "prisoner" is defined for Title 34-A to mean "an adult person sentenced and committed to, transferred to or detained in the custody of the department, including a person on supervised community confinement." This would seem to imply that a "prisoner" (or, as changed, "resident of a correctional facility") currently does not actually have to be a "resident" of a correctional facility.
"probationer"	"client of the department"	Title 34-A (throughout)	The Resolve requires the stigmatizing term "probationer" to be replaced with the alternate term "client of the Department of Corrections." However, "department" is defined for Title 34-A as the "Department of Corrections," so adding "of Corrections" after every instance of "department" does not comport with Maine legislative drafting standards.

**APPENDIX A:
TREATMENT OF EXCEPTIONS, VARIATIONS AND INCONSISTENCIES**

Stigmatizing Word or Phrase	Proposed Modification	Location of Word or Phrase in the Maine Revised Statutes	Rationale
"probationer"	"person on probation"	34-A §1001, sub-§1-A	Modification of this term as required by the Resolve (change "probationer" to "client of the Department of Corrections") makes the definition of "client" currently found in 34-A §1001, sub-§1-A circular at best and incomplete at worst. Since the current definition of "client" includes "probationer," inserting "client" in place of probationer in a definition of "client" makes "client" mean "client" (circular), but omits "probationer" from "client," making the definition incomplete in comparison to the current law. The modification proposed changes the definition of "client" to include a person on probation.
"probationers"	"persons on probation"	34-A §1201	Modification of this term as required by the Resolve (change "probationer" to "client of the Department of Corrections") means that the Department of Corrections is created to supervise clients of the Department of Corrections, which is circular. The proposed modification is to change "probationers" to "persons on probation."
"prisoners detained or sentenced to county jails"	"residents of a jail detained or sentenced to county jails"	34-A §1210-D, sub-§3	Strict adherence to the Resolve results in this nonsensical phrase. A possible modification is to replace "prisoners" with "persons" but that change is beyond the scope of the Resolve.
"county jail prisoner days"	"county jail residents of a jail days"	34-A §1210-D, sub-§4	Strict adherence to the Resolve results in this nonsensical phrase. A possible modification is to restructure as "county jail resident days" but it is unclear if that changes the meaning of the law and is beyond the scope of the Resolve.
"prisoner"; "prisoners at county jail facilities"	"resident of a correctional facility"; "residents of a correctional facility at county jail facilities"	34-A §1217	It is not clear whether these instances of "prisoner" are meant to apply only to "residents of a correctional facility" but based on the context (the boarding for DOC prisoners in jails), just "residents of a correctional facility" was used.

**APPENDIX A:
TREATMENT OF EXCEPTIONS, VARIATIONS AND INCONSISTENCIES**

Stigmatizing Word or Phrase	Proposed Modification	Location of Word or Phrase in the Maine Revised Statutes	Rationale
"prisoner's"; "his"	"resident's"	34-A §§3032; 3036-A; 3039-A; 3042; 3048; 3062; 3174; 5803; 5810	Using the full alternative phrase would result in the possessive being placed on facility, instead of on the person ("resident of a correctional facility's..."). This same issue arises when attempting to comply with the direction to provide gender-neutral terms.
"adjudged to be mentally ill"	None	34-A §3042, sub-§8 & §9606	Modification of this phrase may affect the substance of the provision.
"prisoner of a correctional facility"	"resident"	34-A §3069, sub-§1	Strict adherence to the Resolve would result in "resident of a correctional facility of a correctional facility."
"female"	None	34-A § 3102, sub-§4 & §3104	When used in these sections, there is an explicit intent that it applies to a "female." Changing that word to make it gender neutral alters the intent of the section and is beyond the scope of the Resolve.
"prisoner or inmate"	"resident of a correctional facility"	34-A §5802	Strict adherence to the Resolve would result in "resident of a correctional facility or resident of a correctional facility."
"parolee"	None	34-A §5806	"Parolee" was not one of the specific stigmatizing words to be changed and so is beyond the scope of the Resolve.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

H.P. 1177 - L.D. 1588

Resolve, To Replace Certain Stigmatizing Language in the Maine Revised Statutes with Respectful Language

Sec. 1. Identification of stigmatizing language; substitution of respectful language. Resolved: That the Revisor of Statutes shall review the Maine Revised Statutes, Titles 22, 22 A, 25 and 34 A for stigmatizing language in the laws governing the Department of Health and Human Services, the Department of Public Safety and the Department of Corrections. The Revisor of Statutes shall report to the Joint Standing Committee on Criminal Justice and Public Safety by January 15, 2022 and shall provide draft legislation to amend the laws of the 3 departments in the Titles identified to change stigmatizing language as described in this section to respectful language. The Revisor of Statutes shall recommend editing the laws as necessary to accommodate singular and plural forms, masculine and feminine forms and adult and minor forms and, when possible, shall use so-called person-first language. The stigmatizing language to be changed includes "prisoner," "inmate" and "convict," which must be changed to "resident of a correctional facility" or "resident of a jail"; "drug user," which must be changed to "person who uses drugs"; "probationer," which must be changed to "client of the Department of Corrections"; and "mentally ill person," which must be changed to "person with a mental illness."

Sec. 2. Legislation. Resolved: That based on the report from the Revisor of Statutes pursuant to section 1, the Joint Standing Committee on Criminal Justice and Public Safety may report out legislation to change stigmatizing language in the Maine Revised Statutes, Titles 22, 22 A, 25 and 34 A to respectful language and direct the Department of Health and Human Services, Department of Public Safety and Department of Corrections to amend their rules, policies, procedures, forms and publications to conform to the respectful language that is adopted by the Legislature.

Sec. 3. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE**Legislature 0081**

Initiative: Provides one-time funding to the Office of the Revisor of Statutes to contract with an outside entity to review Titles 22, 22-A, 25 and 34-A of the Maine Revised Statutes

for stigmatizing language and to prepare a report to the Joint Standing Committee on Criminal Justice and Public Safety by January 15, 2022, with draft legislation to amend the laws to change the stigmatizing language to respectful language.

GENERAL FUND	2021-22	2022-23
All Other	\$11,400	\$0
GENERAL FUND TOTAL	<u>\$11,400</u>	<u>\$0</u>