

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE
AND PUBLIC SAFETY**

May 2014

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STATE OF MAINE
126TH LEGISLATURE
SECOND REGULAR SESSION
LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

The *Digest* is arranged within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER.....carried over to a subsequent session of the Legislature
CON RES XXX chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSESHouse & Senate disagreed; legislation died
DIED IN CONCURRENCE defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT action incomplete when session ended; legislation died
EMERGENCYenacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE.....emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT.....legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW.....sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY.....ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX chapter # of enacted public Law
RESOLVE XXX chapter # of finally passed resolve
VETO SUSTAINED.....Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the Second Regular Session of the 126th Legislature is August 1, 2014. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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provides therapeutic care for forensic patients and authorizes involuntary placement in or transfer to the secure, therapeutic mental health unit for civilly committed patients with mental illness who pose a likelihood of serious harm to others. The bill establishes the unit as follows.

1. It directs the Commissioner of Corrections and the Commissioner of Health and Human Services to enter into an agreement to establish the unit with the sheriff of either Cumberland County or Somerset County.
2. It directs the Department of Corrections to provide security for the unit. Security staff must be dedicated to the unit and trained to provide security in a mental health hospital environment.
3. It directs the Department of Corrections to provide therapeutic mental health care for the unit. The therapeutic mental health care must meet standards established by a national organization on correctional facilities mental health standards. The Department of Health and Human Services may also provide mental health services to the unit upon agreement with the Department of Corrections and the county jail.
4. It requires that the population in a secure, therapeutic mental health unit be separated by sight and sound from the general jail population, and that forensic patients and civil patients must also be separated by sight and sound within the unit.
5. It specifies that a person under a court order to undergo a mental evaluation by the State Forensic Service must be admitted in the unit unless the Department of Health and Human Services determines that the person's mental health condition contraindicates admittance to the unit, the person is an inmate at a state correctional facility, or there is not a suitable bed available.
6. It also provides that a person not in a state correctional facility who poses a likelihood of serious harm must be admitted to the unit unless the Commissioner of Health and Human Services determines that the person's mental health condition contraindicates admittance to the unit or the unit does not have a suitable bed. Inmates with mental illness housed in a state correctional facility must be treated at the Maine State Prison's mental health unit and are not eligible to be admitted to the unit.

This bill establishes a procedure through which a patient who has been involuntarily committed to a state mental health institute may be involuntarily transferred to the secure, therapeutic mental health unit upon the order of a clinical review panel and after completion of a procedure that protects the rights of the patient and provides due process.

It also authorizes a court, in the process of ordering involuntary civil commitment for a person, to order placement in the secure, therapeutic mental health unit and provides for transfer of physical custody to a state mental health institute at the end of the order of involuntary placement.

LD 1824

An Act To Provide Additional Authority to the State Board of Corrections

**PUBLIC 598
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY DION	OTP-AM OTP-AM ONTP	S-511 S-533 HILL

This bill directs the State Board of Corrections to establish an essential programs and services funding formula for county jails and to review county jail management models in other states. The bill also authorizes the board to:

1. Approve the budget of each county jail in the State;

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2. Review management decisions concerning county jail staffing and the use of overtime;
3. Withhold state funds from a county jail that fails to comply with a decision of the board; and
4. Rescind county jail employee salary and wage increases, and funding for county jail expenditures that exceed levels approved by the board.

Committee Amendment "A" (S-511)

This amendment is the majority report and replaces the bill. It makes the following changes to the process for approving county correctional budgets, and to the authority of the State Board of Corrections.

1. It clarifies that the correctional services budget for a county does not include county jail debt.
2. It establishes a growth factor for county correctional budgets that is equivalent to the growth limitation factor established in the Maine Revised Statutes, Title 30-A, section 706-A.
3. It requires the State Board of Corrections to approve a county budget that does not exceed the budget growth factor that is calculated on the total county budget that includes both the state and county share of the budget.
4. It authorizes the State Board of Corrections to manage county inmate bed space and direct the transfer of inmates between county jails. If the State Board of Corrections fails to manage inmate bed space or inmate transfers, or if the State Board of Corrections requests that the Commissioner of Corrections take on one or more of these functions and the commissioner agrees, it authorizes the Commissioner of Corrections to perform these functions.
5. It clarifies the purpose of the State Board of Corrections to promote public safety and establish and implement a unified and efficient county jail system.
6. It adds to the list of goals for the State Board of Corrections benchmarks for performance that include increased standardization, economies of scale, a long-term capital improvement budget, addressing mental health and substance abuse issues, and best practices used at the national level.
7. It changes the membership of the State Board of Corrections from nine members to five members to include one sheriff, one county commissioner, two representatives of the executive branch and one member representing the public. It also repeals the requirement that one member must have expertise in mental health issues and directs the State Board of Corrections to consult with mental health and drug abuse experts to assist the board with issues related to mental health and drug abuse.
8. It allows the State Board of Corrections to enter into contracts on behalf of county jails and regional jails for goods and services and requires the counties to meet the terms of the contract and pay their pro rata share.
9. It amends the responsibilities of the Executive Director of the State Board of Corrections to include reviewing and making recommendations concerning the proposed county corrections budgets, preparing the State Board of Corrections budget, coordinating the long-term county improvement plans into a single document and preparing performance metrics. It also allows the executive director to appoint a financial analyst to assist the State Board of Corrections.
10. It provides that a county may exceed the budget growth factor as applied to personnel costs but may not exceed the county's overall budgeted growth factor cap.
11. It requires the State Board of Corrections to adopt and enforce standards related to the efficiency of the county correctional system including information systems, security equipment, inmate classification, pretrial services, staffing qualifications and staffing levels, ratios of personnel across different levels of command and other matters

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related to construction, maintenance and operations.

12. It requires the State Board of Corrections to receive and review all reports and results of county jail inspections conducted by the Department of Corrections.

13. It provides that the laws governing the State Board of Corrections do not authorize it to engage in collective bargaining obligations under the Maine Revised Statutes, Title 26, section 965.

14. It changes the name of the State Board of Corrections Investment Fund program to the State Board of Corrections Operational Support Fund program.

15. It provides that expenditures from the State Board of Corrections Operational Support Fund program are only for expenses approved by the board for personnel, goods and services, including, but not limited to, motor vehicles, information technologies and office equipment, that do not exceed \$50,000 per item.

16. It provides that in the first fiscal year in which any unencumbered balance in the corrections-related account of a county arises out of savings realized during the course of that fiscal year, the county may retain the unencumbered balance for future corrections-related purposes; however, 10% of savings in any subsequent fiscal year must be submitted to the State Board of Corrections.

17. It creates the County Corrections Capital Improvement Fund and requires the State Board of Corrections to prepare a 10-year system-wide capital investment plan with the assistance of an independent entity for the purpose of determining capital projects that can be funded for each county jail facility from the fund.

18. It directs the State Board of Corrections to contract with an independent entity with expertise in developing a capital investment plan for correctional facilities to assist in developing the ten-year system-wide capital investment plan.

19. It requires the State Board of Corrections to report on the status of a capital investment plan to the Legislature by no later than January 15th of each first regular session of the Legislature.

20. It requires the State Board of Corrections to develop a capital expenditure budget for each county jail facility based on a capital investment plan to be submitted by each county with the operational budget for inclusion in the biennial budget or as required by the State Budget Officer.

21. It establishes a uniform method of accounting and budgeting for county jail facilities.

22. It provides that federal or state inmate boarding revenues are retained by the county jail facility generating the funds and are not offset against the state appropriation otherwise due that county under the approved allocation formula.

23. For remaining federal revenues, it provides that federal inmate boarding revenues are retained by the county up to budgeted amounts approved as part of budgeted county correctional services. It requires a county jail holding jail debt on or before July 1, 2008 to transfer to the County Corrections Capital Improvement Fund 25% of any remaining federal revenue and apply 75% to the jail debt until the full discharge of that debt. A county jail without any jail debt must transfer 75% of any remaining federal revenue to the County Corrections Capital Improvement Fund.

24. It clarifies that any county that has realized savings may retain those savings for future corrections-related services without the State's withholding funds that it would otherwise have allocated to that county.

25. It gives the State Board of Corrections enforcement authority by allowing it to hold funding in escrow for

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violations of rules, declare a county jail facility ineligible for participation in programs, suspend or deny funding, and restrict or modify the operations of a county jail facility identified as a habitual violator.

26. It allows the State Board of Corrections to accept funds and apply for grants.

27. It prohibits a sheriff and a county commissioner from withdrawing from the coordinated correctional system or refusing to house any out-of-county inmates except in cases of jail overcrowding. It also provides that a disagreement or dispute with the State Board of Corrections is subject to mediation.

28. It establishes that the State Board of Corrections has the authority to monitor the operational, programmatic and financial performance of each county jail facility.

29. It requires the State Board of Corrections to work with the judicial branch to use electronic technology whenever possible to reduce the level of physical transfer of inmates between a county jail facility and a court, and report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the progress in implementing electronic technologies.

30. It provides an appropriations and allocations section for the State Board of Corrections Operational Support Fund and to continue funding for a financial analyst position.

Committee Amendment "B" (S-512)

This amendment is the minority report and replaces the bill. It makes the following changes to the process for approving county correctional budgets and to the authority of the State Board of Corrections.

1. It makes annual adjustments to the amount counties collect from municipalities for correctional services based on the Consumer Price Index.
2. It clarifies that the correctional services budget does not include county jail debt.
3. It establishes a growth factor for county correctional budgets that is equivalent to the growth limitation factor established in the Maine Revised Statutes, Title 30-A, section 706-A.
4. It requires the State Board of Corrections to approve a county budget that does not exceed the budget growth factor that is calculated on the total county budget that includes both the state and county share of the budget.
5. It authorizes the State Board of Corrections to manage county inmate bed space and direct the transfer of inmates between county jails. If the State Board of Corrections fails to manage inmate bed space or inmate transfers, or if the State Board of Corrections requests that the Commissioner of Corrections take on one or more of these functions and the commissioner agrees, it authorizes the Commissioner of Corrections to perform these functions.
6. It clarifies the purpose of the State Board of Corrections to promote public safety and establish and implement a unified and efficient county jail system.
7. It adds to the list of goals for the State Board of Corrections benchmarks for performance that include increased standardization, economies of scale, a long-term capital improvement budget, addressing mental health and substance abuse issues and best practices used at the national level.
8. It changes the membership of the State Board of Corrections from nine members to five members to include one sheriff, one county commissioner, two representatives of the executive branch and one member representing the public. It also repeals the requirement that one member must have expertise in mental health issues and directs the State Board of Corrections to consult with mental health and drug abuse experts to assist the board with issues related to mental health and drug abuse.

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9. It allows the State Board of Corrections to enter into contracts on behalf of county jails and regional jails for goods and services, and requires the counties to meet the terms of the contract and pay their pro rata share.
10. It amends the responsibilities of the Executive Director of the State Board of Corrections to include reviewing and making recommendations concerning the proposed county corrections budgets, preparing the State Board of Corrections budget, coordinating the long-term county improvement plans into a single document and preparing performance metrics. It also allows the executive director to appoint a financial analyst to assist the State Board of Corrections.
11. It provides that a county may exceed the budget growth factor as applied to personnel costs but may not exceed the county's overall budgeted growth factor cap.
12. It requires the State Board of Corrections to adopt and enforce standards related to the efficiency of the county correctional system including information systems, security equipment, inmate classification, pretrial services, staffing qualifications and staffing levels, ratios of personnel across different levels of command and other matters related to construction, maintenance and operations.
13. It requires the State Board of Corrections to receive and review all reports and results of county jail inspections conducted by the Department of Corrections.
14. It provides that the laws governing the State Board of Corrections do not authorize it to engage in collective bargaining obligations under the Maine Revised Statutes, Title 26, section 965.
15. It changes the name of the State Board of Corrections Investment Fund program to the State Board of Corrections Operational Support Fund program.
16. It provides that expenditures from the State Board of Corrections Operational Support Fund program are only for expenses approved by the board for personnel, goods and services, including, but not limited to, motor vehicles, information technologies and office equipment, that do not exceed \$50,000 per item.
17. It provides that in the first fiscal year in which any unencumbered balance in the corrections-related account of a county arises out of savings realized during the course of that fiscal year, the county may retain the unencumbered balance for future corrections-related purposes; however, 10% of savings in any subsequent fiscal year must be submitted to the State Board of Corrections.
18. It creates the County Corrections Capital Improvement Fund and requires the State Board of Corrections to prepare a 10-year system-wide capital investment plan with the assistance of an independent entity for the purpose of determining capital projects that can be funded for each county jail facility from the fund.
19. It directs the State Board of Corrections to contract with an independent entity with expertise in developing a capital investment plan for correctional facilities to assist in developing the ten-year system-wide capital investment plan.
20. It requires the State Board of Corrections to report on the status of a capital investment plan to the Legislature by no later than January 15th of each first regular session of the Legislature.
21. It requires the State Board of Corrections to develop a capital expenditure budget for each county jail facility based on a capital investment plan to be submitted by each county with the operational budget for inclusion in the biennial budget or as required by the State Budget Officer.
22. It establishes a uniform method of accounting and budgeting for county jail facilities.

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23. It provides that federal or state inmate boarding revenues are retained by the county jail facility generating the funds and are not offset against the state appropriation otherwise due that county under the approved allocation formula.

24. For remaining federal revenues, it provides that federal inmate boarding revenues are retained by the county up to budgeted amounts approved as part of budgeted county correctional services. It requires a county jail holding jail debt on or before July 1, 2008, to transfer to the County Corrections Capital Improvement Fund 25% of any remaining federal revenue and apply 75% to the jail debt until the full discharge of that debt. A county jail without any jail debt must transfer 75% of any remaining federal revenue to the County Corrections Capital Improvement Fund.

25. It clarifies that any county that has realized savings may retain those savings for future corrections-related services without the State's withholding funds that it would otherwise have allocated to that county.

26. It gives the State Board of Corrections enforcement authority by allowing it to hold funding in escrow for violations of rules, declare a county jail facility ineligible for participation in programs, suspend or deny funding, and restrict or modify the operations of a county jail facility identified as a habitual violator.

27. It allows the State Board of Corrections to accept funds and apply for grants.

28. It prohibits a sheriff and a county commissioner from withdrawing from the coordinated correctional system or refusing to house any out-of-county inmates except in cases of jail overcrowding. It also provides that a disagreement or dispute with the State Board of Corrections is subject to mediation.

29. It establishes that the State Board of Corrections has the authority to monitor the operational, programmatic, and financial performance of each county jail facility.

30. It requires the State Board of Corrections to work with the judicial branch to use electronic technology whenever possible to reduce the level of physical transfer of inmates between a county jail facility and a court and report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the progress in implementing electronic technologies.

31. It provides an appropriations and allocations section for the State Board of Corrections Operational Support Fund and to continue funding for a financial analyst position.

Senate Amendment "A" To Committee Amendment "A" (S-533)

This amendment eliminates the General Fund appropriation for a ten-year system-wide capital improvement plan in fiscal year 2014-15.

Enacted Law Summary

Public Law 2013, chapter 598 makes the following changes to the process for approving county correctional budgets and to the authority of the State Board of Corrections.

1. It clarifies that the correctional services budget for a county does not include county jail debt.
2. It establishes a growth factor for county correctional budgets that is equivalent to the growth limitation factor established in the Maine Revised Statutes, Title 30-A, section 706-A.
3. It requires the State Board of Corrections to approve a county budget that does not exceed the budget growth factor that is calculated on the total county budget that includes both the state and county share of the budget.

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4. It authorizes the State Board of Corrections to manage county inmate bed space and direct the transfer of inmates between county jails. If the State Board of Corrections fails to manage inmate bed space or inmate transfers, or if the State Board of Corrections requests that the Commissioner of Corrections take on one or more of these functions and the commissioner agrees, it authorizes the Commissioner of Corrections to perform these functions.
5. It clarifies the purpose of the State Board of Corrections to promote public safety and establish and implement a unified and efficient county jail system.
6. It adds to the list of goals for the State Board of Corrections benchmarks for performance that include increased standardization, economies of scale, a long-term capital improvement budget, addressing mental health and substance abuse issues, and best practices used at the national level.
7. It changes the membership of the State Board of Corrections from nine members to five members to include one sheriff, one county commissioner, two representatives of the executive branch and one member representing the public. It also repeals the requirement that one member must have expertise in mental health issues and directs the State Board of Corrections to consult with mental health and drug abuse experts to assist the board with issues related to mental health and drug abuse.
8. It allows the State Board of Corrections to enter into contracts on behalf of county jails and regional jails for goods and services and requires the counties to meet the terms of the contract and pay their pro rata share.
9. It amends the responsibilities of the Executive Director of the State Board of Corrections to include reviewing and making recommendations concerning the proposed county corrections budgets, preparing the State Board of Corrections budget, coordinating the long-term county improvement plans into a single document and preparing performance metrics. It also allows the executive director to appoint a financial analyst to assist the State Board of Corrections.
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12. It requires the State Board of Corrections to receive and review all reports and results of county jail inspections conducted by the Department of Corrections.
13. It provides that the laws governing the State Board of Corrections do not authorize it to engage in collective bargaining obligations under the Maine Revised Statutes, Title 26, section 965.
14. It changes the name of the State Board of Corrections Investment Fund program to the State Board of Corrections Operational Support Fund program.
15. It provides that expenditures from the State Board of Corrections Operational Support Fund program are only for expenses approved by the board for personnel, goods and services, including, but not limited to, motor vehicles, information technologies and office equipment, that do not exceed \$50,000 per item.
16. It provides that in the first fiscal year in which any unencumbered balance in the corrections-related account of a county arises out of savings realized during the course of that fiscal year, the county may retain the unencumbered balance for future corrections-related purposes; however, 10% of savings in any subsequent fiscal year must be submitted to the State Board of Corrections.

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17. It creates the County Corrections Capital Improvement Fund and requires the State Board of Corrections to prepare a ten-year system-wide capital investment plan with the assistance of an independent entity for the purpose of determining capital projects that can be funded for each county jail facility from the fund.
18. It requires the State Board of Corrections to report on the status of a capital investment plan to the Legislature by no later than January 15th of each first regular session of the Legislature.
19. It requires the State Board of Corrections to develop a capital expenditure budget for each county jail facility based on a capital investment plan to be submitted by each county with the operational budget for inclusion in the biennial budget or as required by the State Budget Officer.
20. It establishes a uniform method of accounting and budgeting for county jail facilities.
21. It provides that federal or state inmate boarding revenues are retained by the county jail facility generating the funds and are not offset against the state appropriation otherwise due that county under the approved allocation formula.
22. For remaining federal revenues, it provides that federal inmate boarding revenues are retained by the county, up to budgeted amounts approved as part of budgeted county correctional services. It requires a county jail holding jail debt on or before July 1, 2008 to transfer to the County Corrections Capital Improvement Fund 25% of any remaining federal revenue and apply 75% to the jail debt until the full discharge of that debt. A county jail without any jail debt must transfer 75% of any remaining federal revenue to the County Corrections Capital Improvement Fund.
23. It clarifies that any county that has realized savings may retain those savings for future corrections-related services without the State's withholding funds that it would otherwise have allocated to that county.
24. It gives the State Board of Corrections enforcement authority by allowing it to hold funding in escrow for violations of rules, declare a county jail facility ineligible for participation in programs, suspend or deny funding, and restrict or modify the operations of a county jail facility identified as a habitual violator.
25. It allows the State Board of Corrections to accept funds and apply for grants.
26. It prohibits a sheriff and a county commissioner from withdrawing from the coordinated correctional system or refusing to house any out-of-county inmates except in cases of jail overcrowding. It also provides that a disagreement or dispute with the State Board of Corrections is subject to mediation.
27. It establishes that the State Board of Corrections has the authority to monitor the operational, programmatic, and financial performance of each county jail facility.
28. It requires the State Board of Corrections to work with the judicial branch to use electronic technology whenever possible to reduce the level of physical transfer of inmates between a county jail facility and a court and report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the progress in implementing electronic technologies.
29. It provides an appropriations and allocations section for the State Board of Corrections Operational Support Fund and to continue funding for a financial analyst position.

Public Law 2013, chapter 598 was enacted as an emergency measure effective May 1, 2014.