

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FIFTEEN

—  
S.P. 542 - L.D. 1440

**An Act To Amend the Laws Regarding the Department of Corrections and  
Correctional Services**

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

**Whereas,** current laws relating to the Department of Corrections and correctional services create significant difficulties in the administration of the Department of Corrections and place the department at risk of noncompliance with federal law; and

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

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

**Sec. 1. 17-A MRSA §1259,** as amended by PL 2013, c. 28, §9, is further amended to read:

**§1259. Commitments to the Department of Corrections of bound-over juveniles who have not attained 18 years of age at the time of sentence imposition**

A juvenile who has been bound over, pursuant to Title 15, section 3101, subsection 4, ~~for a juvenile crime for which the juvenile had the burden of proof with respect to the finding of appropriateness,~~ who is subsequently, as to the juvenile crime's adult counterpart, convicted and sentenced to a sentence alternative involving imprisonment and who has not attained 18 years of age at the time of sentence imposition must be committed to a Department of Corrections juvenile correctional facility for an indeterminate period not to extend beyond the juvenile's 18th birthday to serve the term of imprisonment or any unsuspended portion until discharge from the juvenile correctional facility and once discharged must be transferred to a correctional facility in which adult offenders are confined to serve out the remainder of the imprisonment term or unsuspended portion, if any.

**Sec. 2. 30-A MRSA §1561, sub-§1, ¶D**, as enacted by PL 1995, c. 201, §1, is amended to read:

D. Is seriously mentally ill or developmentally disabled. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" means a prisoner who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the prisoner's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist. The exemption under this paragraph applies only to supportive treatment or services being provided to improve the prisoner's emotional or behavioral functioning;

**Sec. 3. 34-A MRSA §1403, sub-§2, ¶D**, as enacted by PL 2013, c. 491, §3, is repealed.

**Sec. 4. 34-A MRSA §3001, sub-§1**, as amended by PL 2013, c. 491, §5, is further amended to read:

**1. Appointment.** The commissioner may appoint chief administrative officers as necessary for the proper performance of the functions of the department, subject to the Civil Service Law. ~~An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.~~

A. To be eligible for appointment as a chief administrative officer, a person must be experienced in correctional management.

B. Chief administrative officers shall report directly to the commissioner or to the deputy commissioner or an associate commissioner if so directed by the commissioner.

**Sec. 5. 34-A MRSA §3031, sub-§2**, as amended by PL 2011, c. 542, Pt. A, §59, is further amended to read:

**2. Medical care.** Adequate professional medical care and adequate professional mental health care, which do not include medical treatment or mental health treatment requested by the client that the facility's treating physician or treating psychiatrist or psychologist determines unnecessary. The commissioner may establish medical and dental fees not to exceed \$5 for the medical and dental services that are provided pursuant to this subsection and a fee not to exceed \$5 for prescriptions, medication or prosthetic devices. Except as provided in paragraph A, every client may be charged a medical or dental services fee for each medical or dental visit, prescription, medication or prosthetic device. The facility shall collect the fee. All money received by the department under this subsection is retained by the facility to offset the cost of medical and dental services, prescriptions, medication and prosthetic devices.

A. A client is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the client:

- (1) Receives treatment initiated by facility staff;

- (2) Is a juvenile;
- (3) Is pregnant;
- (4) Is a person with a serious mental illness or developmental disability. For the purposes of this paragraph, "a person with a serious mental illness or developmental disability" means a client who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the client's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist. The exemption under this paragraph applies only to supportive treatment or services being provided to improve the client's emotional or behavioral functioning;
- (5) Is an inpatient at a state-funded mental health facility or is a resident at a state-funded facility for individuals with adult developmental disabilities;
- (6) Is undergoing follow-up treatment;
- (7) Receives emergency treatment as determined by the facility's medical or dental staff; or
- (8) Has less than \$15 in the client's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device.

B. Notwithstanding paragraph A, the State may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a client incarcerated in a facility. The following assets are not subject to judgment under this paragraph:

- (1) Joint ownership, if any, that the client may have in real property;
- (2) Joint ownership, if any, that the client may have in any assets, earnings or other sources of income; and
- (3) The income, assets, earnings or other property, both real and personal, owned by the client's spouse or family;

~~A person who has not attained 18 years of age but who is residing in a correctional facility pursuant to a conviction as an adult may consent to necessary medical care as if the person had attained 18 years of age.~~

**Sec. 6. 34-A MRSA §5402, sub-§3, ¶A-1**, as enacted by PL 2013, c. 491, §7, is amended to read:

A-1. Appoint regional correctional administrators as necessary for the proper performance of the functions of the department, subject to the Civil Service Law. ~~An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.~~

- (1) To be eligible for appointment as a regional correctional administrator, a person must be experienced in correctional management.

(2) A regional correctional administrator shall report directly to the commissioner or to the deputy commissioner or an associate commissioner if so directed by the commissioner.

**Sec. 7. 34-A MRSA §5404, sub-§2**, as amended by PL 2013, c. 133, §31, is further amended to read:

**2. Arrest.** Arrest, after completing the entry level and orientation training course prescribed by the commissioner, in the following circumstances:

A. Arrest violators of probation or supervised release for sex offenders and parole violators and return parole violators upon request of the commissioner;

B. Arrest and return to a correctional facility persons released from the correctional facility under section 3035 or transferred from the facility under section 3036-A; ~~and~~

C. If the officer has probable cause to believe that a person under the supervision of the department has violated a condition of that person's probation, supervised release for sex offenders or parole, the officer may arrest that person; and

D. Arrest and return to a correctional or detention facility persons who have escaped from the official custody of the department. For the purposes of this paragraph, "official custody" has the same meaning as set out in Title 17-A, section 755, subsection 3;

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