

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Laws Relating to the Department of Corrections

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

Sec. 1. 15 MRSA §891, first ¶, as amended by PL 2007, c. 277, §1, is further amended to read:

When a person has been admitted to bail or juvenile conditions of release or is committed by a judge, or is indicted or held upon a complaint and warrant for an assault or ~~other~~ a Class D or E crime, as defined by Title 17-A, section 4-A, or is the subject of a juvenile petition alleging commission of a crime that, if the juvenile charged were an adult, would be an assault or ~~other~~ a Class D or E crime, as defined by Title 17-A, section 4-A, for which the party injured has a remedy by civil action, except aggravated assaults, assaults upon or resistance of a ~~law enforcement~~ an officer as defined by Title 17-A in the execution of a ~~law enforcement~~ the officer's duty; as defined by Title 17-A, section 751-A or 752-A, assaults of those officers, crimes involving family or household members as defined in Title 19-A, chapter 101 and molesting lobster gear pursuant to Title 12, chapter 619, if the injured party appears before the judge or court and in writing acknowledges satisfaction for the injury, the court, on payment of all costs, may stay further proceedings and discharge the defendant. The judge may exonerate the bail and release the obligors, supersede the commitment by written order and exonerate the bail of the witnesses.

Sec. 2. 15 MRSA §3314, sub-§7, as enacted by PL 2007, c. 196, §5, is amended to read:

7. Enforcement of a dispositional order or order to appear. After notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court may exercise its inherent contempt power by way of a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to enforce the disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. Any confinement imposed as a punitive or remedial sanction upon a person who has not attained 18 years of age may not exceed 30 days and must be served in a facility approved or operated by the Department of Corrections exclusively for juveniles. Any confinement imposed as a punitive or remedial sanction upon a person who has attained 18 years of age, if to be served in a facility approved or operated by the Department of Corrections exclusively for juveniles, may not exceed 30 days. To enforce the disposition ordered following an adjudication for a juvenile crime defined in section 3103, subsection 1, paragraph B or C upon a person who has not attained 18 years of age, the court shall, at the time of the disposition, provide written notice to the juvenile of the court's authority to enforce the dispositional order through an exercise of its inherent contempt power and that a contempt order could include an order of confinement for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction. Nothing Except as explicitly set out in this subsection, nothing in this subsection affects the court's ability to exercise its contempt powers for persons who have attained 18 years of age.

Sec. 3. 34-A MRSA §3036-A, sub-§3, ¶A, as enacted by PL 1991, c. 845, §4, is amended to read:

A. The prisoner 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 who is involved in an approved full-time treatment program.

Sec. 4. 34-A MRS §3046, as amended by PL 2001, c. 386, §14, is repealed.

Sec. 5. 34-A MRS §3046-A is enacted to read:

§ 3046-A. Funeral and deathbed visits

1. Family member. At the discretion of and under conditions prescribed by the commissioner, a client confined in a correctional or detention facility may attend the funeral of the client's spouse or domestic partner or the client's parent, child, sibling, grandparent or grandchild, whether the relationship is natural, adoptive, foster or through marriage, and may be permitted deathbed visits to any of those persons if the funeral or visit is held within the State.

2. Another person. At the discretion of and under conditions prescribed by the commissioner, a client confined in a correctional or detention facility may attend the funeral of or be permitted a deathbed visit to another person if the funeral or visit is held within the State. The commissioner may not delegate this authority.

3. Certification of terminal illness. Before a deathbed visit is permitted under this section, terminal illness must be certified to the commissioner by the attending physician.

4. Costs. The client, if able, shall pay the cost of transportation under this section and the per diem compensation of the accompanying officers if the officers are required by the commissioner.

Sec. 6. 34-A MRS §3805, sub-§2, as amended by PL 2005, c. 507, §22, is further amended to read:

2. Limitations. A person may not be detained or confined in or committed to the facility if that person is more appropriately a subject for intensive temporary out-of-home treatment services or for in-home treatment services provided by or through the Department of Health and Human Services as agreed upon by the commissioner and the Commissioner of Health and Human Services or their designees.

Sec. 7. 34-A MRS §4104, sub-§2, as amended by PL 2005, c. 507, §26, is further amended to read:

2. Limitations. A person may not be detained or confined in or committed to the facility if that person is more appropriately a subject for intensive temporary out-of-home treatment services or for in-home treatment services provided by or through the Department of Health and Human Services as agreed upon by the commissioner and the Commissioner of Health and Human Services or their designees.

Sec. 8. 34-A MRS §7003, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 9. 34-A MRS §7005, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 10. 34-A MRSA §7006, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 11. 34-A MRSA §7007, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 12. 34-A MRSA §7008, as enacted by PL 1983, c. 459, §6, is repealed.

SUMMARY

This bill makes several changes to laws relating to the Department of Corrections.

It permits waiver of the work or education requirement for a prisoner who is participating in a full-time treatment program while on supervised community confinement.

It simplifies the funeral and deathbed visit provision, it adds “domestic partner” to the list of persons to whom a prisoner may make deathbed visits or whose funerals a prisoner may attend and it permits the Commissioner of Corrections to allow attendance at a funeral of or a deathbed visit to a person other than one specifically listed.

It adds assaults on corrections officers and other staff of an institution in which the person is being held in custody as categories of assault that may not be resolved by accord and satisfaction.

It makes it clear that if a person who has attained 18 years of age is to serve time in confinement in a juvenile facility as a punitive or remedial sanction for contempt under the Maine Juvenile Code, that time is limited to 30 days for each type of sanction, just as it is for a person who has not attained 18 years of age. This clarifies that there is a time limit if a court does not exercise its option under the Maine Revised Statutes, Title 15, section 3205, subsection 2 for a person who has attained 18 years of age but not 21 years of age for ordering time in confinement for contempt to be served at a county jail. The 30-day time limit is the one consistently used throughout the Maine Juvenile Code for short-term incarceration in a juvenile facility.

It also prohibits the incarceration in a juvenile facility of a person who is more appropriately a subject of intensive out-of-home treatment services provided by the Department of Health and Human Services, whether those services are temporary or not.

Finally, it repeals a number of provisions related to juvenile services that are either outdated or repeat provisions found elsewhere.