



125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1754

S.P. 602

In Senate, January 10, 2012

An Act To Amend Certain Provisions of Law Governing the Department of Corrections

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered
printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator MASON of Androscoggin.

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

2 **Sec. 1. 15 MRSA §224, sub-§2**, as repealed and replaced by PL 1983, c. 843,
3 §10, is amended to read:

4 **2. Violations of probation and parole.** Expenses incurred in connection with the
5 extradition of persons charged with violating the terms and conditions of probation, ~~shall~~
6 must be shared equally between the district attorney of the county in which the person
7 was convicted and the Department of Corrections, ~~Division of Probation and Parole.~~
8 Expenses incurred in connection with the extradition of persons charged with violating
9 the terms and conditions of parole ~~shall~~ must be paid by the Department of Corrections;
10 ~~Division of Probation and Parole.~~

11 **Sec. 2. 34-A MRSA §1216, sub-§1**, as amended by PL 2005, c. 487, §§2 to 4, is
12 further amended to read:

13 **1. Limited disclosure.** All orders of commitment, medical and administrative
14 records, applications and reports, and facts contained in them, pertaining to any person
15 receiving services from the department must be kept confidential and may not be
16 disclosed by any person, except that public records must be disclosed in accordance with
17 Title 1, section 408; criminal history record information may be disseminated in
18 accordance with Title 16, chapter 3, subchapter 8; and documents other than those
19 documents pertaining to information obtained by the department for the purpose of
20 evaluating a client's ability to participate in a community-based program or from
21 informants in a correctional or detention facility for the purpose of determining whether
22 facility rules have been violated or pertaining to a victim's request for notice of release
23 may, and must upon request, be disclosed:

24 A. To any person if the person receiving services, that person's legal guardian, if any,
25 and, if that person is a minor, that person's parent or legal guardian give informed
26 written consent to the disclosure of the documents referred to in this subsection after
27 being given the opportunity to review the documents sought to be disclosed;

28 B. To any state agency if necessary to carry out the statutory functions of that
29 agency;

30 C. If ordered by a court of record, subject to any limitation in the Maine Rules of
31 Evidence, Rule 503;

32 D. To any criminal justice agency if necessary to carry out the administration of
33 criminal justice or the administration of juvenile criminal justice or for criminal
34 justice agency employment;

35 E. To persons engaged in research if:

36 (1) The research plan is first submitted to and approved by the commissioner;

37 (2) The disclosure is approved by the commissioner; and

38 (3) Neither original records nor identifying data are removed from the facility or
39 office that prepared the records.

1 The commissioner and the person doing the research shall preserve the anonymity of
2 the person receiving services from the department and may not disseminate data that
3 refer to that person by name or number or in any other way that might lead to the
4 person's identification;

5 F. To persons who directly supervise or report on the health, behavior or progress of
6 a juvenile, to the superintendent of a juvenile's school and the superintendent's
7 designees and to agencies that are or might become responsible for the health or
8 welfare of a juvenile if the information is relevant to and disseminated for the
9 purpose of creating or maintaining an individualized plan for the juvenile's
10 rehabilitation, including reintegration into the school; or

11 G. To any state agency engaged in statistical analysis for the purpose of improving
12 the delivery of services to persons who are or might become mutual clients if:

13 (1) The plan for the statistical analysis is first submitted to and approved by the
14 commissioner; and

15 (2) The disclosure is approved by the commissioner.

16 The commissioner and the state agency requesting the information shall preserve the
17 anonymity of the persons receiving services from the department and may not
18 disseminate data that refer to any person by name or number or that in any other way
19 might lead to a person's identification.

20 Notwithstanding any other provision of law, the department may release the names, dates
21 of birth and social security numbers of juveniles persons receiving services from the
22 department and, if applicable, eligibility numbers and the dates on which those juveniles
23 persons received services to ~~the Department of Health and Human Services~~ any state or
24 federal agency for the sole purpose of determining eligibility and billing for services and
25 payments under federally funded programs administered by the ~~Department of Health and~~
26 ~~Human Services and provided by or through the department~~ agency. The department
27 may also release to the ~~Department of Health and Human Services~~ agency information
28 required for and to be used solely for audit or research purposes, consistent with federal
29 law, for those services provided by or through the department. ~~Department of Health and~~
30 ~~Human Services Agency~~ Agency personnel ~~must~~ shall treat this information as confidential in
31 accordance with federal and state law and ~~must~~ shall return the records when their
32 purpose has been served.

33 **Sec. 3. 34-A MRSA §1403, sub-§9, ¶A**, as amended by PL 2011, c. 340, §2, is
34 further amended to read:

35 A. The program may make services and goods available for use by correctional
36 facilities or for purchase by other state, county or local governmental entities, private
37 businesses in the State, community agencies, as defined in section 1206, subsection 1,
38 or the public. The program may also donate services or goods to other state, county
39 or local governmental entities for the purpose of promoting prison industries or to
40 public or private nonprofit organizations.

1

SUMMARY

2 This bill makes the following changes to the laws governing the Department of
3 Corrections.

4 1. It eliminates a reference to the Division of Probation and Parole, which was
5 eliminated as a separate division of the Department of Corrections by Public Law 1995,
6 chapter 502, Part F.

7 2. It expands the current provision allowing the release by the Department of
8 Corrections to the Department of Health and Human Services of certain information
9 about juveniles to ensure eligibility and proper billing under federally funded programs
10 and for audit purposes. This bill provides that these same categories of information
11 regarding juveniles and adults are releasable to other state and federal agencies,
12 including, but not limited to, the Department of Labor, the United States Social Security
13 Administration and federal and state revenue services, for the same and similar purposes.

14 3. It allows the donation of prison industries program goods and services to
15 governmental entities and to nonprofits.