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S.P. 702

In Senate, January 8, 2020

An Act To Standardize Language and Improve Correctional Services

Submitted by the Department of Corrections pursuant to Joint Rule 203.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DESCHAMBAULT of York.

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

2 **Sec. 1. 15 MRSA §3314, sub-§1, ¶H,** as amended by PL 2019, c. 113, Pt. C,
3 §48, is further amended to read:

4 H. The court may order the juvenile to serve a period of confinement that may not
5 exceed 30 days, with or without an underlying suspended disposition of commitment
6 to a Department of Corrections juvenile correctional facility, which confinement must
7 be served concurrently with any other period of confinement previously imposed and
8 not fully discharged or imposed on the same date but may be served intermittently as
9 the court may order and must be ordered served in a facility approved or operated by
10 the Department of Corrections exclusively for juveniles. The court may order such a
11 disposition to be served as a part of and with a period of probation that is subject to
12 such provisions of Title 17-A, section 1807 as the court may order and that must be
13 administered pursuant to Title 34-A, chapter 5, subchapter 4. Revocation of
14 probation is governed by the procedure contained in subsection 2. Any disposition
15 under this paragraph is subject to Title 17-A, section 2305 except that a statement is
16 not required to be furnished and the day-for-day deduction must be determined by the
17 facility, but is not subject to Title 17-A, section 2305, subsection 4; section 2307,
18 subsections 2, 3 and 4; section 2308, subsection 2; section 2309, subsection 2; or
19 section 2310, subsections 3, 6 and 7. ~~For purposes of calculating the commencement~~
20 ~~of the~~ The period of confinement, credit is accorded only for the portion of the first
21 day for which the juvenile is actually confined; the commences on the date on which
22 the juvenile is received into the facility pursuant to the order and that day is counted
23 as the first full day of the period of confinement. The juvenile may not be released
24 until the juvenile has served the full term of hours or days imposed by the court at
25 any time on the final day of the period of confinement. When a juvenile is committed
26 for a period of confinement, the court shall determine whether reasonable efforts have
27 been made to prevent or eliminate the need for removal of the juvenile from the
28 juvenile's home or that reasonable efforts are not necessary because of the existence
29 of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and
30 whether continuation in the juvenile's home would be contrary to the welfare of the
31 juvenile. This determination does not affect whether the court orders a period of
32 confinement.

33 **Sec. 2. 34-A MRSA §3001, sub-§3** is enacted to read:

34 **3. Director of women's services.** The commissioner may appoint a director of
35 women's services to serve, as applicable, as the chief administrative officer of any
36 correctional facility operated by the department for female prisoners and, notwithstanding
37 any provision of law to the contrary, of any correctional facility housing unit used by the
38 department for female prisoners. The director of women's services has all the powers and
39 duties of other chief administrative officers, whether described in this Title or in any
40 other provision of statute.

41 **Sec. 3. 34-A MRSA §3903,** as repealed and replaced by PL 2019, c. 343, Pt.
42 LLLL, §2, is amended to read:

1 **§3903. Superintendent Warden**

2 **1. Chief administrative officer.** The chief administrative officer of the Downeast
3 Correctional Facility is the superintendent warden of the Mountain View Correctional
4 Facility, referred to in this subchapter as "the superintendent warden," and is responsible
5 to the commissioner.

6 **2. Duties.** In addition to other duties set out in this Title, the superintendent warden
7 has the following duties.

8 A. The superintendent warden shall exercise proper supervision over the employees,
9 grounds, buildings and equipment at the Downeast Correctional Facility.

10 B. The superintendent warden shall supervise and control the prisoners at the
11 Downeast Correctional Facility in accordance with departmental rules.

12 **3-A. Powers.** In addition to other powers granted in this Title, the warden has the
13 following powers.

14 A. The warden may, with the written approval of the commissioner, contract with the
15 Director of the Federal Bureau of Prisons acting pursuant to 18 United States Code,
16 Section 4002 for the imprisonment, subsistence, care and proper employment of
17 persons convicted of crimes against the United States and may receive and detain
18 such persons pursuant to the contracts.

19 **Sec. 4. 34-A MRSA §3904, sub-§2,** as amended by PL 2019, c. 343, Pt. LLLL,
20 §3, is further amended to read:

21 **2. Education.** The superintendent warden shall maintain suitable courses for
22 academic and career and technical education of the prisoners of the Downeast
23 Correctional Facility. The superintendent warden shall maintain necessary equipment
24 and employ suitable qualified instructors as necessary to carry out the objectives of the
25 facility's programs.

26 **Sec. 5. 34-A MRSA §3905,** as amended by PL 2019, c. 343, Pt. LLLL, §4, is
27 repealed and the following enacted in its place:

28 **§3905. Downeast Correctional Facility employees**

29 **1. Power of sheriffs; weapons.** Employees of the Downeast Correctional Facility:

30 A. Have the same power as sheriffs in their respective counties to search for and
31 apprehend escapees from the facility, when authorized to do so by the warden; and

32 B. May carry weapons and other security equipment when authorized by the warden
33 inside and outside the facility in connection with their assigned duties or training.

34 **2. Uniforms and special clothing.** Downeast Correctional Facility employee
35 uniforms and special clothing are governed as follows.

1 A. Employees of the facility may be provided, at the expense of the State, with
2 distinctive uniforms for use when required for the performance of their official duties
3 and that remain the property of the State.

4 B. Employees of the facility may be provided with a clothing allowance when the
5 private purchase of special clothing is required for the performance of their official
6 duties.

7 **Sec. 6. 34-A MRSA §4103**, as amended by PL 2017, c. 148, §§13 and 14, is
8 further amended to read:

9 **§4103. Superintendent Warden**

10 **1. Chief administrative officer.** The chief administrative officer of the Mountain
11 View Correctional Facility is called the superintendent warden and is responsible to the
12 commissioner.

13 **2. Duties.** In addition to other duties set out in this Title, the superintendent warden
14 has the following duties.

15 A. The superintendent warden shall exercise supervision over the employees,
16 grounds, buildings and equipment at the Mountain View Correctional Facility.

17 B. The superintendent warden shall supervise and control the juvenile detainees and
18 juvenile clients at the Mountain View Correctional Facility in accordance with
19 department rules.

20 C. The superintendent warden shall supervise and control the prisoners at the
21 Mountain View Correctional Facility in accordance with department rules.

22 **3. Powers.** In addition to ~~the other~~ powers granted in this Title, the superintendent
23 ~~may appoint one assistant superintendent, subject to the Civil Service Law. The assistant~~
24 superintendent warden has the following powers, duties, obligations and liabilities of the
25 ~~superintendent when the superintendent is absent or unable to perform the~~
26 ~~superintendent's duties.~~

27 A. The warden may appoint deputy wardens, subject to the Civil Service Law. A
28 deputy warden has the powers, duties, obligations and liabilities of the warden when
29 the warden is absent or unable to perform the warden's duties.

30 B. The warden may, with the written approval of the commissioner, contract with the
31 Director of the Federal Bureau of Prisons acting pursuant to 18 United States Code,
32 Section 4002 for the imprisonment, subsistence, care and proper employment of
33 persons convicted of crimes against the United States and may receive and detain
34 such persons pursuant to the contracts.

35 **Sec. 7. 34-A MRSA §4106**, as amended by PL 2017, c. 148, §17, is repealed and
36 the following enacted in its place:

1 **§4106. Mountain View Correctional Facility employees**

2 **1. Power of sheriffs; weapons.** Employees of the Mountain View Correctional
3 Facility:

4 A. Have the same power as sheriffs in their respective counties to search for and
5 apprehend escapees from the facility, when authorized to do so by the warden; and

6 B. May carry weapons and other security equipment when authorized by the warden
7 inside and outside the facility in connection with their assigned duties or training.

8 **2. Uniforms and special clothing.** Mountain View Correctional Facility employee
9 uniforms and special clothing are governed as follows.

10 A. Employees of the facility may be provided, at the expense of the State, with
11 distinctive uniforms for use when required for the performance of their official duties
12 and that remain the property of the State.

13 B. Employees of the facility may be provided with a clothing allowance when the
14 private purchase of special clothing is required for the performance of their official
15 duties.

16 **Sec. 8. 34-A MRSA §4108, sub-§2,** as amended by PL 2005, c. 488, §§14 to 17,
17 is further amended to read:

18 **2. Conditions.** Placing a juvenile under observation is subject to the following
19 conditions.

20 A. Placement under observation must first be approved by the ~~superintendent~~
21 warden.

22 B. The conditions under which a juvenile is placed under observation must conform
23 with all applicable federal and state standards relating to the health and safety of
24 clients in detention facilities.

25 C. Placement under observation may not exceed the period of time necessary to
26 alleviate and prevent the reoccurrence of the behavior described in subsection 1 and it
27 may not be used as punishment.

28 D. When placement under observation exceeds 12 hours, the ~~superintendent~~ warden
29 shall direct the facility physician or a member of the facility medical staff to visit the
30 juvenile immediately and at least once in each succeeding 24-hour period the juvenile
31 remains under observation to examine the juvenile's state of health.

32 (1) The ~~superintendent~~ warden shall give full consideration to recommendations
33 of the physician or medical staff member concerning the juvenile's dietary needs
34 and the conditions of the juvenile's confinement required to maintain the
35 juvenile's health. If the recommendations of the physician or medical staff
36 member are not carried out, the ~~superintendent~~ warden shall immediately convey
37 the reasons and circumstances for this decision to the commissioner for review
38 and final disposition.

1 (2) Placement under observation must be discontinued if the ~~superintendent~~
2 warden, on the advice of the physician, determines that placement under
3 observation is harmful to the mental or physical health of the juvenile, except that
4 placement under observation may be continued if the behavior of the juvenile
5 presents a high likelihood of imminent physical harm to that juvenile or others
6 and there is no less restrictive setting in which that juvenile's safety or that of
7 others can be ensured. If placement under observation is continued, the physician
8 or a member of the medical staff shall visit the juvenile at least once every 12
9 hours.

10 E. When placement under observation exceeds 24 hours, the ~~superintendent~~ warden
11 shall direct appropriate facility staff to develop a plan for the further care of the
12 juvenile. The plan must be revised as needed to meet the changing needs of the
13 juvenile.

14 F. Placement under observation may not exceed 72 hours without the commissioner's
15 approval, which must:

- 16 (1) Be in writing;
17 (2) State the reasons for that approval; and
18 (3) Be kept on file.

19 G. If the recommendations of the physician or medical staff member regarding the
20 juvenile's dietary or other health needs while under observation are not carried out,
21 the ~~superintendent~~ warden shall send a written justification to the commissioner.

22 H. A juvenile held under observation must be under sight and sound supervision by
23 facility staff, which must be constant if necessary to prevent imminent harm to the
24 juvenile.

25 **Sec. 9. 34-A MRSA §4118, sub-§3**, as enacted by PL 2017, c. 148, §27, is
26 amended to read:

27 **3. Education.** The ~~superintendent~~ warden shall maintain suitable courses for
28 academic and career and technical education of the prisoners.

29 A. The ~~superintendent~~ warden shall maintain necessary equipment and employ
30 suitable qualified instructors as necessary to carry out the objectives of the Mountain
31 View Correctional Facility's programs.

32 B. Before employing instructors in career and technical education, the ~~superintendent~~
33 warden shall obtain the approval of the Department of Education.

34 **SUMMARY**

35 This bill counts as the first full day of a period of confinement the day a juvenile is
36 received into a juvenile correctional facility, regardless of when the juvenile arrives at the
37 facility, and allows the juvenile to be released at any time on the last day of the period of
38 confinement, instead of requiring the juvenile to be released at an exact time dependent
39 on when the juvenile arrived at the facility.

1 It allows the Commissioner of Corrections to appoint a director of women's services
2 to oversee services and otherwise act as the chief administrative officer for female
3 prisoners, whether housed in a correctional facility exclusively serving female prisoners
4 or in a female prisoner housing unit in a correctional facility serving both males and
5 females.

6 It renames the chief administrative officer of the Mountain View Correctional
7 Facility and the Downeast Correctional Facility the warden. It authorizes the warden of
8 the Mountain View Correctional Facility and the warden of the Downeast Correctional
9 Facility, with the written approval of the commissioner, to contract with the Director of
10 the Federal Bureau of Prisons for the imprisonment, subsistence, care and proper
11 employment of persons convicted of crimes against the United States. It allows
12 employees of the Mountain View Correctional Facility and the Downeast Correctional
13 Facility to carry weapons and other security equipment when authorized by the warden.
14 It includes provisions for uniforms and clothing allowances for employees of the
15 Mountain View Correctional Facility and the Downeast Correctional Facility.