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Legislative Document

No. 1588

H.P. 1159

House of Representatives, December 30, 2013

An Act To Amend the Laws Regarding the Maine Correctional Center

Submitted by the Department of Corrections pursuant to Joint Rule 204.

Received by the Clerk of the House on December 23, 2013. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DION of Portland.
Cosponsored by Senator PLUMMER of Cumberland.

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

2 **Sec. 1. 17-A MRSA §107, sub-§5-A**, as amended by PL 2003, c. 143, §3, is
3 further amended to read:

4 **5-A.** A corrections officer, corrections supervisor or law enforcement officer is
5 justified in using deadly force against a person confined in the Maine State Prison or the
6 Maine Correctional Center when the officer or supervisor reasonably believes that deadly
7 force is necessary to prevent an escape from custody. The officer or supervisor shall
8 make reasonable efforts to advise the person that if the attempt to escape does not stop
9 immediately, deadly force will be used. This subsection does not authorize any
10 corrections officer, corrections supervisor or law enforcement officer who is not
11 employed by a state agency to use deadly force.

12 **Sec. 2. 34-A MRSA §3402**, as amended by PL 1985, c. 785, Pt. B, §156, is
13 further amended to read:

14 **§3402. Warden**

15 **1. Chief administrative officer.** The chief administrative officer of the Maine
16 Correctional Center is called the ~~superintendent~~ warden.

17 **2. Duties.** In addition to other duties set out in this Title, the ~~superintendent~~ warden
18 shall supervise and control the prisoners, pretrial detainees, employees, grounds,
19 buildings and equipment at the center.

20 **3. Powers.** In addition to other powers granted in this Title, the ~~superintendent~~
21 warden has the following powers.

22 A. The ~~superintendent~~ warden may appoint ~~2 assistant superintendents~~ deputy
23 wardens, subject to the Civil Service Law. ~~An assistant superintendent~~ A deputy
24 warden designated by the ~~superintendent~~ warden has the powers, duties, obligations
25 and liabilities of the ~~superintendent~~ warden when the ~~superintendent~~ warden is absent
26 from the center location or is unable to perform the duties of the office.

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

32 **Sec. 3. 34-A MRSA §3403**, as amended by PL 1995, c. 502, Pt. F, §§25 and 26, is
33 further amended to read:

34 **§3403. Prisoners generally**

35 **1. Conditions of confinement.** Conditions of confinement of prisoners are
36 governed as follows.

1 A. The ~~superintendent~~ warden shall detain and confine all persons committed to the
2 department in accordance with the sentences of the courts and with the rules of the
3 department.

4 B. The ~~superintendent~~ warden shall provide for the safekeeping or employment of
5 persons committed to the department in order to teach them a useful trade or
6 profession and to improve their mental and moral condition, which may include work
7 involving public restitution.

8 **2. Housing.** The ~~superintendent~~ warden shall maintain separate housing facilities for
9 men and women.

10 **Sec. 4. 34-A MRSA §3405, sub-§1**, as repealed and replaced by PL 1983, c. 581,
11 §§42 and 59, is amended to read:

12 **1. Powers.** Employees of the center:

13 A. Have the same power as sheriffs in their respective counties to search for and
14 apprehend escapees from the center when authorized to do so by the ~~superintendent~~
15 warden; and

16 B. May carry weapons and other security equipment when authorized by the
17 ~~superintendent~~ warden inside and outside the center in connection with their assigned
18 duties or training.

19 **Sec. 5. 34-A MRSA §3407, sub-§1**, as enacted by PL 1983, c. 581, §§43 and 59,
20 is amended to read:

21 **1. Duties of commissioner.** The commissioner shall immediately notify the
22 ~~superintendent~~ warden and the sheriff of the county in which the sentencing court is
23 located;

24 **Sec. 6. 34-A MRSA §3407, sub-§2, ¶B**, as amended by PL 1999, c. 583, §26, is
25 further amended to read:

26 B. Deliver the person to the officer in charge of the center between the hours of 8
27 a.m. and 4 p.m. Monday to Friday, except for holidays, unless prior arrangements are
28 made and approved by the ~~superintendent~~ warden, accompanied by a duly signed
29 warrant of commitment and record, as provided by Title 15, section 1707;

30 **Sec. 7. 34-A MRSA §3407, sub-§4**, as amended by PL 2009, c. 391, §19, is
31 further amended to read:

32 **4. Duties of the warden.** The ~~superintendent~~ warden shall:

33 A. File the record, as provided by Title 15, section 1707, in the ~~superintendent's~~
34 warden's office.

35 **Sec. 8. 34-A MRSA §5802, first ¶**, as enacted by PL 1983, c. 459, §6, is
36 amended to read:

1 The board may grant a parole from a penal or correctional institution after the
2 expiration of the period of confinement, less deductions for good behavior, or after
3 compliance with conditions provided for in ~~sections~~ section 5803 ~~to~~ and former sections
4 5804 and 5805 applicable to the sentence being served by the prisoner or inmate. It may
5 revoke a parole when a condition of the parole is violated.

6 **Sec. 9. 34-A MRSA §5802, sub-§2**, as enacted by PL 1983, c. 459, §6, is
7 amended to read:

8 **2. Custody and control.** While on parole, the parolee is under the custody of the
9 warden ~~or superintendent~~ of the institution from which ~~he~~ the parolee was released, but
10 under the immediate supervision of and subject to the rules of the division or any special
11 conditions of parole imposed by the board.

12 **Sec. 10. 34-A MRSA §5804**, as enacted by PL 1983, c. 459, §6, is repealed.

13 **Sec. 11. 34-A MRSA §5805**, as enacted by PL 1983, c. 459, §6, is repealed.

14 **Sec. 12. 34-A MRSA §5808**, as enacted by PL 1983, c. 459, §6, is amended to
15 read:

16 **§5808. Discharge from parole**

17 Any parolee who faithfully performs all the conditions of parole and completes ~~his~~
18 the parolee's sentence is entitled to a certificate of discharge to be issued by the warden ~~or~~
19 ~~superintendent~~ of the institution to which ~~he~~ the parolee was committed.

20 **Sec. 13. 34-A MRSA §5809**, as enacted by PL 1983, c. 459, §6, is amended to
21 read:

22 **§5809. Certificate of discharge**

23 Whenever it appears to the board that a person on parole is no longer in need of
24 supervision, it may order the ~~superintendent or~~ warden of the institution from which ~~he~~
25 the parolee was released to issue ~~him~~ the parolee a certificate of discharge, except ~~that~~
26 in the case of persons serving a life sentence who may not be discharged from parole in less
27 than 10 years after release on parole.

28 **Sec. 14. 34-A MRSA §5810**, as enacted by PL 1983, c. 459, §6, is amended to
29 read:

30 **§5810. Records forwarded to State Police**

31 When a person who has been convicted under Title 17, ~~former~~ section 1951, 3151,
32 3152 or 3153 is paroled, the warden ~~or superintendent~~ of the institution shall forward to
33 the State Police a copy of ~~his~~ the person's record and a statement of facts necessary for
34 full comprehension of the case. Whenever any prisoner, who has been convicted of an
35 offense under Title 17, ~~former~~ section 1951, 3151, 3152 or 3153 is discharged in full
36 execution of ~~his~~ the prisoner's sentence, the Warden of the Maine State Prison shall make
37 and forward to the State Police a copy of the prison record of that prisoner together with a

1 statement of any fact or facts ~~which he~~ that the warden may ~~deem~~ consider necessary for
2 a full comprehension of the case.

3

SUMMARY

4 This bill changes the title of the chief administrative officer of the Maine Correctional
5 Center from "superintendent" to "warden." It also provides that a corrections officer,
6 corrections supervisor or law enforcement officer is justified in using deadly force against
7 a person confined in the Maine Correctional Center when the officer or supervisor
8 reasonably believes that deadly force is necessary to prevent an escape from custody. It
9 repeals outdated sections of law.