

Committee: CJPS  
Drafter: DCT  
File name:  
LR (item)#: 1572(02)  
New Title?: NO  
Add Emergency?: NO  
Date: 3/2/22

**LD 1721**  
**Proposed amendment – Representative Talbot Ross**

*Amend the bill by removing section 1.*

**Sec. 1. ~~22 MRSA §4003, sub-§4~~**, as amended by PL 1999, c. 731, Pt. AA, §4, is further amended to read:

**4. ~~Permanent plans for care and custody.~~** Promote the early establishment of permanent plans for the care and custody of children who cannot be returned to their family. It is the intent of the Legislature that the department reduce the number of children receiving assistance under the United States Social Security Act, Title IV-E, who have been in foster care more than 24 months, by 10% each year beginning with the federal fiscal year that starts on October 1, 1983; and

*Amend the bill in section 2 as follows (changes shaded):*

**Sec. 2. 22 MRSA §4003, sub-§5**, as enacted by PL 1999, c. 731, Pt. AA, §5 and amended by PL 2013, c. 368, Pt. CCC, §7, is further amended to read:

**5. Report Status report; children of incarcerated parents or primary caregivers.** Require the department to report monthly to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters, beginning in July 2000, on the status of children served by the Office of Child and Family Services. The report must include, at a minimum, information on the department's caseload, the location of the children in the department's custody and the number of cases of abuse and neglect that were not opened for assessment. This information must be identified by program and funding source. The report must also include information on the number of children in the department's care and custody known to have one or more incarcerated parent and information on the number of those children for whom the case goal is reunification.; ~~and~~

*Amend the bill by removing section 3.*

**Sec. 3. ~~22 MRSA §4003, sub-§6~~** is enacted to read:

**6. Children of incarcerated parents or primary caregivers report.** Require the department to report annually to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters, beginning in January 2022, on the current number and case specifics of children served by the

~~Office of Child and Family Services. The report must include, at a minimum, data regarding where the department is in the reunification process of children with whom the Office of Child and Family Services is involved and who have parents or primary caregivers who are incarcerated in a jail or correctional facility and the number of cases of abuse and neglect that were not opened for assessment.~~

*Amend the bill by adding before section 4 the following additional section:*

**Sec. ??.** 30-A MRSA §1561-A is enacted to read:

**§1561-A. Transportation of female prisoners to and from medical appointments**

The sheriff of a county jail housing female prisoners shall to the greatest extent possible ensure the presence of a female law enforcement officer during the transportation of a female prisoner to and from a medical appointment and shall ensure that the prisoner is afforded the greatest amount of privacy as possible during the appointment consistent with safety and security considerations.

*Amend the bill in section 4 as follows (changes shaded):*

**Sec. 4.** 30-A MRSA §1651, sub-§2, as enacted by PL 2003, c. 482, Pt. A, §1, is amended to read:

**2. Appointment.** The sheriff for each county shall appoint a board of ~~5~~ 7 visitors for each correctional facility under the sheriff's supervision.

A. Members of the boards of visitors serve for terms of one year ~~except that, of the initial appointments, 2 must be for terms of 3 years, 2 must be for terms of 2 years and one must be for a term of one year.~~

B. Members of the boards of visitors are eligible for reappointment at the expiration of their terms. The boards of visitors must be representative of a broad range of professionals, family members and citizens interested in the well-being of prisoners, including representatives of advocacy groups for human and civil rights, medical and psychiatric professionals, persons who have served in corrections settings and other interested citizens. One member of each board of visitors must be a person with knowledge of issues related to the incarceration of women. One member of each board of visitors must be a woman who has been incarcerated in the State and who has had prior involvement child welfare experience with the Department of Health and Human Services, Office of Child and Family Services.

C. A member of the Legislature may not serve on a board of visitors.

D. The sheriffs of 2 or more counties, at their discretion, may appoint a joint board of visitors of ~~5~~ 7 or more members.

Amend the bill in section 6 as follows (changes shaded):

**Sec. 6. 34-A MRS §3001-A, sub-§1-A** is enacted to read:

**1-A. Board of visitors for women's services; membership.** The Governor shall appoint a board of visitors for women's services to inspect correctional facilities used for housing female clients and, with regard to female clients, perform the duties assigned to facility boards of visitors. The board of visitors for women's services shall ensure that the incarceration of and services provided to female clients are designed to meet their gender identity needs and reflect best practices established for such incarceration and services. The board Boards of visitors for women's services are otherwise subject to the same requirements and responsibilities under this section as a facility board of visitors, except that, in addition to the member described in subsection 1, paragraph D, a board of visitors for women's services must include one member who was formerly incarcerated in the custody of the Department of Corrections department and who has had prior child welfare experience with the Department of Health and Human Services, Office of Child and Family Services, one member who represents a health care provider that provides sexual and reproductive health care and education, one member who is a health care practitioner who provides sexual and reproductive health care and education to women and one member who has an understanding of or experience with domestic violence.

Amend the bill in section 7 as follows (changes shaded):

**Sec. 7. 34-A MRS §3031, sub-§8**, as amended by PL 2019, c. 139, §2, is further amended to read:

**8. Visitation.** A reasonable opportunity to visit with relatives and friends, in accordance with departmental policies and institutional procedures, provided except that the department may restrict or prohibit visits when the restriction or prohibition is necessary for the security of the institution. Departmental policies and institutional procedures must be sufficient to provide to a person in a correctional or detention facility opportunities and conditions for visits with the child of the person that provide time together in a manner that meets the standards of Title 22, section 4041, subsection 1-A, paragraph A, subparagraph (1), division (c) and that provide in settings that allow for as positive a parent-child interaction as can practicably be achieved while ensuring protecting the emotional and physical well-being of the child, provided that such visits are not prohibited by court order, prohibited by department policies due to the child being a victim of the person, contrary to the wishes of the child's other parent or guardian or inconsistent with the security of the institution; and

Amend the bill in section 9 as follows (changes shaded):

**Sec. 9. 34-A MRS §3050** is enacted to read:

**§3050. Report regarding juveniles in custody**

By February 1, 2022 2023 and annually thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety

matters on the number of juveniles in the custody of the department as juvenile detainees or juvenile clients or under department supervision on probation whose parents or primary caregivers are known to the department to be in the custody of the department or under the supervision of the department.

*Amend the bill by striking section 10 and inserting the following in its place:*

**Sec. 10. 34-A MRS §3051** is enacted to read:

**§3051. Transportation of female clients to and from medical appointments**

A correctional or detention facility housing female clients shall to the greatest extent possible ensure the presence of a female corrections officer during the transportation of a female client to and from a medical appointment and shall ensure that the client is afforded the greatest amount of privacy as possible during the appointment consistent with safety and security considerations.

*Amend the bill by adding after section 11 the following additional section:*

**Sec. ??.** **Provision of certain information regarding persons incarcerated at county jails to Department of Health and Human Services, Office of Child and Family Services; report.** Each county sheriff, individually or through a statewide association of sheriffs, shall on a voluntary basis work with the Department of Health and Human Services, Office of Child and Family Services, referred to in this section as “the office,” to establish a system for the provision to the office of publicly available information regarding persons incarcerated at county jail facilities. By January 31, 2024, the office shall submit a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the progress made by the office in obtaining the information and any findings or recommendations based on the information received. After reviewing the report, the joint standing committee may report out legislation related to the report to the 131st Legislature in 2024.

**SUMMARY**

This amendment makes the following changes to the bill.

1. It removes from the bill the provision that requires the Department of Health and Human Services to report annually on the current number and case specifics of children served by the department's Office of Child and Family Services. It instead amends an existing legislative reporting requirement by that office regarding the status of children in the department's custody to include in that report information on the number of children in the department's care and custody known to have one or more incarcerated parent and information on the number of those children for whom the case goal is reunification.

2. It amends the provisions of the bill that add additional persons to the board of visitors of each county jail to clarify that one additional person must be a person who has had prior child welfare experience with the Office of Child and Family Services.

3. It amends the provisions of the bill that establish a board of visitors for women's services in certain correctional facilities to clarify for those boards the applicability of the general requirements and responsibilities of facility boards of visitors and to clarify the membership of boards of visitors for women's services.

4. It amends the provisions of the bill regarding child visitation policies and procedures in correctional or detention facilities to specify the conditions under which such visitation may not be allowed.

5. It amends the provisions of the bill requiring a correctional or detention facility to ensure the presence of a female law enforcement officer during the transportation of a female prisoner to and from medical appointments by providing that a correctional or detention facility shall ensure that presence by a female corrections officer to the greatest extent possible. The amendment also adds similar provisions applicable to county jails.

6. It adds a new provision requiring each county sheriff, individually or through a statewide association of sheriffs, to on a voluntary basis work with the Department of Health and Human Services, Office of Child and Family Services to establish a system for the provision to the office of publicly available information regarding persons incarcerated at county jail facilities. By January 31, 2024, the office must submit a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the progress made by the office in obtaining the information and any findings or recommendations based on the information received and the committee may report out related legislation.

7. It makes other technical changes and corrections to the bill.