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An Act To Improve the Coordination of State and County Correctional Services

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

Sec. 1. 14 MRSA §5545, 2nd ¶, as amended by PL 2007, c. 653, Pt. A, §4, is further amended to read:

Whenever, under this section or under any other section in this chapter, a court issues a writ of habeas corpus ordering before it a prisoner confined in any penal or correctional institution under the control of the Department of Health and Human Services or the Department of Corrections, or confined in any county jail, its order as to the transportation of the prisoner to and from the court must be directed to the sheriff of the county in which the court is located. It is the responsibility of the sheriff or any one or more of the sheriff's authorized deputies pursuant to any such order to safely transport a prisoner to and from the court and to provide safe and secure custody of the prisoner during the proceedings, as directed by the court. At the time of removal of a prisoner from an institution, the transporting officer shall leave with the head of the institution an attested copy of the order of the court, and upon return of the prisoner shall note that return on the copy. This paragraph as it relates to the responsibility for transportation is applicable to transfers from the county jail to any other county jail or to a state correctional facility under Title 34A, section 14051803B, subsection 6.

Sec. 2. 30-A MRSA §101, sub-§6-B, as enacted by PL 2007, c. 653, Pt. A, §5, is amended to read:

6-B. Support the State Board of Corrections. Working with the ~~Commissioner~~Executive Director of the State Board of Corrections and sheriffs, support the State Board of Corrections, referred to in this subsection as "the board," in its efforts to accomplish its purpose and duties as defined in Title 34A, sections 1801 and 1803 by:

- A. Recommending a downsizing plan, a plan for capital construction and reinvestment strategies to the board;
- B. Recommending uniform policies and procedures for pretrial, probation revocation and reentry services to the board;
- C. Recommending a plan for the placement, housing and program development for inmates with mental illness in accordance with standards adopted by the board; and
- D. Within available resources, providing support staff for and expertise to the board; and

Sec. 3. 30-A MRSA §406, first ¶, as enacted by PL 2007, c. 653, Pt. A, §6, is amended to read:

In addition to other duties set out in this Title, the sheriffs, working with the ~~Commissioner~~Executive Director of the State Board of Corrections and the county commissioners, have the following duties to support the State Board of Corrections, referred to in this section as "the board," in its efforts to accomplish its purpose as defined in Title 34A, section 1801.

Sec. 4. 30-A MRSA §406, sub-§1, as enacted by PL 2007, c. 653, Pt. A, §6, is amended to read:

1. Managing jail and prison capacity and offender placement. Consistent with the board's determination of facility use and purpose under Title 34A, section 1803, subsection 2, paragraph A, the sheriffs shall assist the ~~Commissioner~~Executive Director of the State Board of Corrections with respect to the daily management of offender bed space throughout the ~~unified~~coordinated correctional system pursuant to Title 34A, section 1801, subsection 1. The sheriffs shall daily provide the following information to the ~~Commissioner~~Executive Director of the State Board of Corrections:

A. Facility population by gender; classification; legal status, including pretrial or sentenced; special needs; and any other parameters determined by the ~~Commissioner~~State Board of Corrections; and

B. Facility capacity and available bed space or bed space needs by the reportable parameters under paragraph A.

Sec. 5. 30-A MRSA §406, sub-§2, as enacted by PL 2007, c. 653, Pt. A, §6, is amended to read:

2. Coordinated correctional system plan. The sheriffs may recommend a downsizing plan, a plan for capital construction and ~~a reinvestment strategies~~strategy to the board.

Sec. 6. 30-A MRSA §709, as enacted by PL 2007, c. 653, Pt. A, §11, is amended to read:

§ 709. County correctional services budgets presented to State Board of Corrections

Notwithstanding any other provision of law, beginning July 1, 2008 and for all subsequent fiscal years, ~~4-8~~ months prior to the beginning of the state fiscal year ~~the county clerk~~ from each county shall submit ~~that county's~~ annual correctional services budget for the state fiscal year to the State Board of Corrections established in Title 5, section 12004G, subsection 6C. Beginning July 1, 2012, 8 months prior to the beginning of the state biennial budget period each county shall submit its biennial correctional services budget for the state fiscal biennium to the State Board of Corrections. The budget submitted must be signed by the chair of the county commissioners and attested to by the county commissioners' ~~clerk~~chief administrative officer. The budget must include specific amounts for each correctional services related expenditure.

Sec. 7. 30-A MRSA §710, sub-§1, as enacted by PL 2007, c. 653, Pt. A, §12, is amended to read:

1. Budget growth limitation and proposed budget. At least 612 months before the beginning of each state fiscal year, the State Board of Corrections, established in Title 5, section 12004G, subsection 6C and referred to in this section as "the board," shall set a growth limitation for the correctional services expenditures in the ~~new~~each fiscal year for each county biennial budget. The

county commissioners shall submit itemized correctional services budgets to the board in a format and by a date to be determined annually by the board, but no later than 8 months before the beginning of each state fiscal biennium.

Sec. 8. 30-A MRSA §1557-B is enacted to read:

§ 1557-B. Emergency transfer of inmates

The State Board of Corrections has control over and must authorize the transfer of inmates between a county or regional jail and a state correctional facility, except that a sheriff or regional jail administrator, in consultation with another sheriff or regional jail administrator, may transfer any inmate, pretrial or sentenced, between a county or regional jail and another county or regional jail when such transfer is necessary to protect that inmate, other inmates or correctional staff from an immediate threat directly related to the presence of the transferred inmate at the facility from which the inmate is transferred.

Sec. 9. 34-A MRSA §1208, as amended by PL 2007, c. 102, §6, is further amended to read:

§ 1208. Standards for county and municipal detention facilities

The commissionerState Board of Corrections, referred to in this section as "the board," shall establish standards, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for county and municipal jails, holding facilities and short-term detention areas, referred to in this section as county and municipal detention facilities, as follows and shall enforce them.

1. Establishment. The commissionerboard shall establish both mandatory and desirable standards for all county and municipal detention facilities, setting forth requirements for maintaining safe, healthful and secure facilities.

2. Inspections. Inspections of county and municipal detention facilities must be conducted by the executive director of the board or that person's designee in accordance with standards adopted by the board pursuant to this section and are governed as follows.

A. The commissionerboard shall ensure that a comprehensive inspection of each county and municipal detention facility is conducted every 2 years, in order to provide the departmentboard with information, verified by on-site inspection, regarding compliance with all departmentboard standards.

B. The commissionerboard shall ensure that no fewer than 3 additional inspections of each county and municipal detention facility are conducted during the period between each comprehensive inspection, in order to determine continued compliance with standards.

C. The commissionerexecutive director of the board may inspect a county or municipal detention facility at any time, without prior notice, to determine compliance with standards.

C-1. As part of any inspection, the ~~commissioner~~executive director of the board may access any records, including, but not limited to, the records of persons detained or committed in the facility, as considered necessary by the ~~commissioner~~executive director of the board in order to determine compliance with standards.

D. The ~~commissioner~~executive director of the board shall prepare a written report of each inspection and shall send a copy of the report to appropriate county or municipal officials within 15 days after the inspection.

(1) The report shall summarize inspection findings.

(2) The report shall list the standards with which the facility does not comply and set forth the reasons for noncompliance.

E. The ~~commissioner~~board shall order the noncomplying county or municipality to respond to this report in accordance with subsection 3.

3. Standards compliance. Each county and municipal detention facility shall, unless granted a variance pursuant to subsection 5, comply with the mandatory standards established by the ~~commissioner~~board.

A. Within 60 days from the receipt of an inspection report for each mandatory standard listed in subsection 2, paragraph D, subparagraph (2), the county or municipality shall either:

(1) Correct deficiencies listed in the report and submit to the ~~department~~board a written response listing the corrections made; or

(2) Offer a plan to correct those deficiencies for consideration by the ~~department~~board.

B. If a county or municipality fails to correct deficiencies and offers no plan of correction, or if the plan of correction offered to the ~~department~~board is determined inadequate by the ~~commissioner~~board, the ~~commissioner~~board shall determine an appropriate action to restrict or modify the operations of the facility, consistent with the nature of the uncorrected deficiencies, which action may include ordering an entire facility closed until the deficiencies have been corrected.

(1) Before any such action is taken, the ~~commissioner~~board shall notify the county or municipality in writing of the planned action and shall offer the opportunity to meet and discuss the planned action.

(2) If a meeting is not requested by the county or municipality within 15 days after the county or municipality receives notice of the planned action, or if a meeting is held and fails to produce a plan of correction acceptable to the ~~commissioner~~board, the ~~commissioner~~board shall take the planned action.

4. Emergency powers. The ~~commissioner~~executive director of the board may take immediate action in response to noncompliance with a mandatory standard, if the noncompliance is determined to endanger the safety of the staff, inmates or visitors of any county or municipal detention facility.

A. The ~~commissioner's~~executive director of the board's action under this subsection shall ~~expire~~expire within 90 days or upon compliance with the mandatory standard.

B. After having taken action under this section, the ~~commissioner~~executive director of the board shall send a written inspection report to the affected facility.

C. The ~~commissioner~~board shall decide what long-term action to take with respect to the affected facility on the basis of county or municipality response to the inspection report and subsequent meetings.

5. Variances. The ~~commissioner~~board shall establish written procedures to govern the submission and consideration of requests for variances from established departmental standards, including provisions for ~~department~~board consideration of appeals of decisions.

A. The ~~commissioner~~board may grant a variance only when ~~he~~the board determines that the variance will not result in diminishing the safety, health or security of staff, inmates or visitors of a county or municipal detention facility.

B. The ~~commissioner~~board may grant variances to counties and municipalities for periods of up to 2 years.

C. County and municipal officials may request variances from mandatory ~~department~~ standards adopted pursuant to this section if:

(1) Efforts are underway to achieve compliance and continued failure to comply is only temporary; or

(2) The intent and spirit of the standards may be attained through other means.

D. The officials applying for a variance have the burden of showing clear justification for the variance.

6. Advisory review. The ~~commissioner~~board shall create and maintain a county and municipal detention facility advisory committee.

A. The committee ~~shall consist~~consists of representatives of the Department of Corrections, Maine Sheriffs' Association, Maine County Commissioners' Association, Maine Chiefs of Police Association, Attorney General, Legislature and citizens.

B. The terms of members of this committee ~~shall be~~are one year.

C. Members of the county and municipal detention facility advisory committee are eligible for reappointment at the expiration of their term.

D. The ~~commissioner~~board shall consult the committee when promulgating standards and may consult the committee when variances are sought, when actions are contemplated by the ~~commissioner~~board in response to a failure to comply with standards and when the ~~commissioner~~board determines that the consultation is necessary for other reasons.

7. Technical assistance. The ~~commissioner~~board may provide technical assistance to county and municipal detention facilities to facilitate compliance with standards within available resources.

Sec. 10. 34-A MRSA §1404, as amended by PL 2009, c. 391, §9, is repealed.

Sec. 11. 34-A MRSA §1404-A is enacted to read:

§ 1404-A. Duties and powers of the commissioner in support of the State Board of Corrections

In addition to other duties and powers set out in this Title, the commissioner has the following duties and powers to support the State Board of Corrections, referred to in this section as "the board," in its efforts to accomplish its purpose as described in section 1801.

1. Emergency transfer of inmates. The board has control over and must authorize the transfer of inmates between a county or regional jail and a state correctional facility, except that the commissioner, in consultation with a sheriff or regional jail administrator, may transfer any inmate, pretrial or sentenced, between a county or regional jail and a state correctional facility when such transfer is necessary to protect that inmate, other inmates or correctional staff from an immediate threat directly related to the presence of the transferred inmate at the facility from which the inmate is transferred.

2. Coordinated correctional system plan. The commissioner may recommend a downsizing plan and a reinvestment strategy to the board.

3. Uniform policies and procedures. The commissioner may recommend uniform practices for pretrial, revocation and reentry services to the board.

4. Support of the board. The commissioner shall provide administrative staffing for the board and expertise as requested by the board and shall serve as the fiscal agent for the board.

Sec. 12. 34-A MRSA §1405, as amended by PL 2009, c. 391, §10, is repealed.

Sec. 13. 34-A MRSA §1801, sub-§1, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

1. Purpose of the board. The purpose of the board is to develop and implement a ~~unified~~coordinated correctional system that demonstrates sound fiscal management, achieves efficiencies, reduces recidivism and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities.

Sec. 14. 34-A MRSA §1801, sub-§2, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read

2. State goals. The board shall develop goals to guide the development of and evaluate the effectiveness of a ~~unified~~coordinated correctional system. The board shall present its goals for review and approval by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The goals must include benchmarks for performance in the following areas:

- A. Recidivism reduction;
- B. Pretrial diversion; and
- C. Rate of incarceration.

Sec. 15. 34-A MRSA §1802, sub-§1, as amended by PL 2009, c. 89, §1, is further amended to read:

1. Appointments. The board consists of 9 members who are appointed by the Governor. Each appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and to confirmation by the Senate, except those members appointed pursuant to paragraph C. The following provisions govern member qualifications:

- A. ~~One member~~Two members must be a sitting ~~sheriff~~sheriffs selected from a list of 3 nominations submitted to the Governor by a statewide organization representing sheriffs;
- B. ~~One member~~Two members must be a sitting county ~~commissioner~~commissioners selected from a list of 3 nominations submitted to the Governor by a statewide organization representing county commissioners;
- C. ~~Two members~~One member must be ~~representatives of the executive branch and at least one of the 2 must be from the department~~the commissioner or the commissioner's designee;
- D. One member must be a municipal official selected from a list of 3 nominations submitted to the Governor by a statewide organization representing elected and appointed municipal officers and officials; and
- E. ~~Four members~~One member must be broadly representative of the public ~~and the geographical regions of the State. One of the 4 members appointed under this paragraph must be selected from a list of 3 nominations submitted to the Governor by a statewide organization representing county commissioners.~~ AThe member appointed under this paragraph may not be an elected state or county official or municipal officer and may not derive income in substantial portion from work as an employee of a state, county or municipal government or in the field of corrections;

F. One member must be a sitting county administrator selected from a list of 3 nominations submitted to the Governor by a statewide organization representing county administrators; and

G. One member must be a sitting county or regional jail administrator selected from a list of 3 nominations submitted to the Governor by a statewide organization representing county or regional jail administrators.

Of the 9 members, one must be a person with expertise in issues relating to mental illness.

Sec. 16. 34-A MRSA §1803, first ¶, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

TheIn addition to other duties and powers set out in this Title, the board is charged with the following responsibilities and duties.

Sec. 17. 34-A MRSA §1803, sub-§1, as amended by PL 2009, c. 391, §§11 to 13, is further amended to read:

1. Manage the cost of corrections. The board shall develop a plan to achieve systemic cost savings and cost avoidance throughout the ~~unified~~coordinated correctional system with the goal of operating efficient correctional services. Additionally, the board shall:

A. Set and enforce a yearly growth limitation for the correctional services expenditures in each county budget under Title 30A, section 710;

B. Develop reinvestment strategies within the ~~unified~~coordinated correctional system to improve services and reduce recidivism;

C. Establish boarding rates for the ~~unified~~coordinated correctional system, except boarding rates for federal inmates; and

D. Review department biennial and supplemental budget proposals affecting adult correctional and adult probation services and submit recommendations regarding these budget proposals to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs; and

E. Develop parameters for facility population, including but not limited to gender; classification; legal status, including pretrial or sentenced; and special needs.

Sec. 18. 34-A MRSA §1803, sub-§3, ¶C, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

C. Coordinate transportation of inmates in the ~~unified~~coordinated correctional system.

Sec. 19. 34-A MRSA §1803, sub-§10, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

10. Reporting. The board shall make initial reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009 and by April 1, 2009. Thereafter, the board shall report at least annually, beginning January 15, 2010, and as requested. Reports must include any recommendations for amending laws relating to the unifiedcoordinated correctional system or the board.

Sec. 20. 34-A MRSA §1803-A is enacted to read:

§ 1803-A. Office of executive director

1. Appointment. The State Board of Corrections shall appoint the Executive Director of the State Board of Corrections, referred to in this section as "the executive director," to serve at its pleasure.

2. Qualifications. To qualify for appointment as executive director, a person must have training and experience in correctional administration or satisfactory experience in the direction of work of a comparable nature.

Sec. 21. 34-A MRSA §1803-B is enacted to read:

§ 1803-B. Duties and powers of executive director

In addition to other duties and powers set out in this Title, the Executive Director of the State Board of Corrections, referred to in this section as "the executive director," has the following duties and powers to support the State Board of Corrections, referred to in this section as "the board," in its efforts to accomplish its purpose as described in section 1801. The executive director shall perform the following duties and exercise the following powers consistent with policies established by the board.

1. Managing facility capacity and inmate placement. Consistent with the board's determination of facility use and purpose under section 1803, subsection 2, paragraph A, the executive director is responsible for the daily management of inmate bed space throughout the coordinated correctional system and shall direct the transfer of inmates between facilities in order to fulfill this responsibility. The executive director shall develop a process for information sharing between the correctional facilities and the county jails, which must include at a minimum:

A. Daily reporting to the board by county jails of:

(1) Facility population by gender; classification; legal status, including pretrial or sentenced; special needs; and any other parameters determined by the board; and

(2) Facility capacity and available bed space or bed space needs by the reportable parameters under subparagraph (1); and

B. Regular consultation with sheriffs.

2. Coordinated correctional system plan. The executive director may recommend a downsizing plan and a reinvestment strategy to the board.

3. Uniform policies and procedures. The executive director may recommend uniform practices for pretrial, revocation and reentry services to the board.

4. Inspections and investigation. The executive director shall inspect county facilities consistent with sections 1208 and 1208A.

5. Inmates with mental illness. The executive director shall determine the placement, housing and program development for inmates with mental illness within correctional facilities and county jails in accordance with standards adopted by the board.

6. Transfer of inmates. Except in the case of an emergency transfer of an inmate by the commissioner pursuant to section 1404A, subsection 1, or by a sheriff or regional jail administrator pursuant to Title 30A, section 1557B, the executive director has the authority to transfer any inmate, pretrial or sentenced, from one county or regional jail to another or between a county or regional jail and a state correctional facility.

7. Transferee subject to rules. A sentenced person transferred under this section is subject to the general rules of the facility to which the person is transferred, except that:

A. The term of the original sentence remains the same unless altered by the court;

B. The person becomes eligible for good time or deductions as provided in Title 17A, section 1253 for a person sentenced to imprisonment in a county or regional jail or in a state correctional facility, whichever is applicable;

C. The person becomes eligible for release and discharge as provided in Title 17A, section 1254 for a person sentenced to imprisonment in a county or regional jail or in a state correctional facility, whichever is applicable;

D. The person is entitled to have the time served in the facility under this section deducted from the sentence; and

E. The person becomes eligible for furloughs, work or other release programs, participation in public works and charitable projects and community confinement monitoring as authorized by Title 30A, sections 1556, 1605, 1606 and 1659-A for a person sentenced to imprisonment in a county or regional jail or work or other release programs, furloughs and supervised community confinement for a person sentenced to a state correctional facility as authorized by sections 3033, 3035 and 3036A, whichever is applicable, and may apply pursuant to the rules governing the sending facility.

8. Return of inmate. The executive director may return an inmate transferred pursuant to this section to the sending facility.

Sec. 22. 34-A MRSA §1804, last ¶, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

The corrections working group shall meet as needed and as requested by either one or both cochairs to engage in information sharing and to discuss and resolve any issues or problems experienced in daily operation of the ~~unified~~coordinated correctional system, including the placement of inmates. The group shall advise and assist the board in the ongoing improvement of the ~~unified~~coordinated correctional system. In carrying out this function, the working group may consult with experts and stakeholders, including but not limited to prosecutors, defense attorneys, judges, victim advocates, providers and advocates for persons with mental illness and other interested parties. If an issue arises that cannot be responded to by the working group, the board shall meet to review the issue. The working group shall report to the board.

SUMMARY

This bill makes the following changes to the laws governing the State Board of Corrections.

1. It revises the membership of the State Board of Corrections to include the following:

- A. Two sheriffs;
- B. Two county commissioners;
- C. One county administrator;
- D. One administrator of a county or regional jail;
- E. The Commissioner of Corrections or the commissioner's designee;
- F. One municipal official; and
- G. One public member.

2. It revises the provisions of law governing the submission of jail budgets to the State Board of Corrections by making those submissions on a biennial basis and by providing sufficient time before the beginning of the biennium for preparation and submission.

3. It creates a full-time position of Executive Director of the State Board of Corrections to replace a limited-period position established by financial order and enumerates the powers and duties of that position, including developing parameters for jail populations and standards for jails, transferring inmates between correctional facilities and inspecting the jails.

4. It allows the Commissioner of Corrections and the sheriffs and regional jail administrators the authority to make emergency transfers of inmates to protect against an immediate threat to the safety of inmates or correctional staff without prior authorization from the State Board of Corrections.

5. It changes references to "unified correctional system" to "coordinated correctional system" to more accurately reflect the role of the board.