

CHAPTER 1
GENERAL PROVISIONS
SUBCHAPTER 1
DEFINITIONS

§1001. Definitions

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 459, §6 (NEW).]

1. Chief administrative officer. "Chief administrative officer" means the head of a correctional facility or a detention facility.

A. [PL 1991, c. 314, §1 (RP).]

B. [PL 1991, c. 314, §1 (RP).]

C. [PL 1991, c. 314, §1 (RP).]

D. [PL 1991, c. 314, §1 (RP).]

[PL 1991, c. 314, §1 (AMD).]

1-A. Client. "Client" means any person in the custody or under the supervision of the department, including, but not limited to, a prisoner, juvenile client, contract client, probationer, parolee, juvenile detainee and an informally adjusted juvenile.

[PL 1991, c. 314, §2 (NEW).]

1-B. Adult developmental services. "Adult developmental services" has the same meaning as in Title 34-B, section 1001, subsection 1-A.

[PL 2011, c. 542, Pt. A, §57 (NEW).]

2. Commissioner. "Commissioner" means the Commissioner of Corrections or his designee, except that, when the term "commissioner and only the commissioner" is used, the term applies only to the person appointed Commissioner of Corrections and not to any designee.

[PL 1983, c. 459, §6 (NEW).]

3. Committed offender.

[PL 1991, c. 314, §3 (RP).]

4. Contract agency. "Contract agency" means a facility or program outside the jurisdiction of the department, providing services under contract to the department.

[PL 1983, c. 459, §6 (NEW).]

5. Contract client. "Contract client" means a client residing in a facility or participating in a program outside the jurisdiction of the department under an agreement between the department and the contract agency.

[PL 1991, c. 314, §4 (AMD).]

6. Correctional facility. "Correctional facility" means any facility that falls under the jurisdiction of the department, but does not include any facility for which the department is required to establish standards pursuant to section 1208 or 1208-A.

[PL 2003, c. 410, §9 (AMD).]

7. Correctional program. "Correctional program" includes, but is not limited to, probation and parole, court intake and jail inspection.

[PL 1983, c. 459, §6 (NEW).]

8. Department. "Department" means the Department of Corrections.

[PL 1983, c. 459, §6 (NEW).]

8-A. Detention facility. "Detention facility" means the Long Creek Youth Development Center and, to the extent it houses juveniles, the Mountain View Correctional Facility.

[PL 2017, c. 148, §5 (AMD).]

9. Holding facility. "Holding facility" means a facility or part of a building used for the detention of adult pretrial detainees prior to arraignment, release or transfer to another facility or authority for periods of up to 48 hours. "Holding facility" also means a county jail or part of a jail used for the detention of adult inmates, whether detained pending a trial or other court proceeding or sentenced for periods of up to 72 hours excluding Saturday, Sunday and legal holidays and excluding days during which the inmate is at court.

A. [PL 2009, c. 391, §8 (RP).]

B. [PL 2009, c. 391, §8 (RP).]

[PL 2009, c. 391, §8 (RPR).]

10. Informally adjusted juvenile. "Informally adjusted juvenile" means a juvenile participating in a program of informal adjustment, as defined in Title 15, section 3003, subsection 10.

[PL 1983, c. 459, §6 (NEW).]

10-A. Investigative officer. "Investigative officer" means an employee of the department designated by the commissioner as having the authority to conduct investigations of crimes or juvenile crimes relating to the security or orderly management of a facility administered by the department and engage in any other activity that is related to the administration of criminal justice as defined in Title 16, section 703, subsection 1 for the purposes of the Criminal History Record Information Act or as defined in Title 16, section 803, subsection 2 for the purposes of the Intelligence and Investigative Record Information Act or the administration of juvenile justice and who is certified by the Board of Trustees of the Maine Criminal Justice Academy as a full-time law enforcement officer.

[PL 2021, c. 365, §31 (AMD); PL 2021, c. 365, §37 (AFF).]

11. Juvenile client. "Juvenile client" means a juvenile committed to a juvenile correctional facility who is either residing at the facility or is on community reintegration status, or ordered confined in a juvenile correctional facility pursuant to Title 12, section 6004, 8004 or 10608; Title 15, section 3314, subsection 1, paragraph H; Title 15, section 3314, subsection 7; or Title 29-A, section 115.

[PL 2017, c. 148, §6 (AMD).]

11-A. Juvenile detainee. "Juvenile detainee" means a juvenile detained at a departmental juvenile facility pending a court proceeding or pursuant to Title 15, section 3312, subsection 3, paragraph D.

[PL 2005, c. 507, §19 (AMD).]

11-B. Likelihood of serious harm. "Likelihood of serious harm" means a:

A. Substantial risk of physical harm to a person, as manifested by that person's recent threats of, or attempts at, suicide or serious self-inflicted harm; [PL 2013, c. 434, §2 (NEW).]

B. Substantial risk of physical harm to other persons, as manifested by a person's recent homicidal or other violent behavior or recent conduct placing others in reasonable fear of serious physical harm; or [PL 2013, c. 434, §2 (NEW).]

C. Reasonable certainty that a person will suffer severe physical or mental harm as manifested by that person's recent behavior demonstrating an inability to avoid risk or to protect the person's self adequately from impairment or injury. [PL 2013, c. 434, §2 (NEW).]

[PL 2017, c. 147, §1 (AMD).]

12. Parking area. "Parking area" means land maintained by the State at the correctional facilities which may be designated as parking areas by the chief administrative officers of the correctional facilities.

[PL 1983, c. 459, §6 (NEW).]

12-A. Person with mental illness. "Person with mental illness" means a person who has attained 18 years of age and has been diagnosed as having a psychiatric or other illness that substantially impairs that person's mental health. An intellectual disability as defined in Title 34-B, section 5001, subsection 3 or a personality disorder is not a psychiatric or other illness for purposes of this subsection.

[PL 2017, c. 147, §2 (AMD).]

13. Prison. "Prison" means the Maine State Prison.

[PL 1983, c. 459, §6 (NEW).]

14. Prisoner. "Prisoner" means an adult person sentenced and committed to, transferred to or detained in the custody of the department, including a person on supervised community confinement.

[PL 2013, c. 133, §24 (AMD).]

15. Public way. "Public way" means a road or driveway on land maintained by the State at the correctional facilities.

[PL 1983, c. 459, §6 (NEW).]

15-A. Regional correctional administrator. "Regional correctional administrator" means the supervisor of adult probation and parole services or the supervisor of juvenile community corrections officer services for a region.

[PL 2013, c. 133, §25 (AMD).]

15-B. Restorative justice. "Restorative justice" means a practice in which offenders take responsibility for causing harm and engage in a facilitated process with victims, family members, community members, advocates and others impacted by the harm that focuses on repairing the harm, addressing needs and preventing future harm.

[PL 2021, c. 355, §1 (NEW).]

16. Segregation. "Segregation" means the separation of a prisoner from the general population of a correctional facility for administrative or punitive reasons.

[PL 1991, c. 314, §8 (AMD).]

17. Short-term detention area. "Short-term detention area" means a section of a building used for the detention of pretrial detainees for periods of up to 4 hours.

[PL 1983, c. 459, §6 (NEW).]

18. Written political material. "Written political material" means flyers, handbills or other nonperiodical publications, which are subject to the restrictions of Title 21-A, chapter 13.

[PL 1985, c. 161, §14 (AMD).]

19. Administration of criminal justice.

[PL 2015, c. 470, §15 (RP).]

20. Criminal justice agency. "Criminal justice agency" has the same meaning as in Title 16, section 703, subsection 4.

[PL 2013, c. 267, Pt. B, §26 (AMD).]

21. Administration of juvenile criminal justice.

[PL 2021, c. 365, §32 (RP); PL 2021, c. 365, §37 (AFF).]

22. Administration of juvenile justice. "Administration of juvenile justice" has the same meaning as in Title 15, section 3003, subsection 1-A.

[PL 2021, c. 365, §33 (AMD); PL 2021, c. 365, §37 (AFF).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1985, c. 161, §14 (AMD). PL 1987, c. 633, §1 (AMD). PL 1991, c. 314, §§1-8 (AMD). PL 1995, c. 462, §A63 (AMD). PL 1995, c. 462, §§A64,82,83 (AFF). PL 1997, c. 102, §1 (AMD). PL 1997, c. 464, §§7,8 (AMD). PL 1997, c. 752, §§31-33 (AMD). PL 1999, c. 401, §J6 (AMD). PL 2001, c. 439, §G8 (AMD). PL 2001, c. 667, §A50 (AMD). PL 2003, c. 410, §§9-12 (AMD). PL 2005, c. 507, §§18,19 (AMD). PL 2009, c. 142, §14 (AMD). PL 2009, c. 391, §8 (AMD). PL 2011, c. 542, Pt. A, §57 (AMD). PL 2013, c. 80, §5 (AMD). PL 2013, c. 133, §§24, 25 (AMD). PL 2013, c. 267, Pt. B, §26 (AMD). PL 2013, c. 434, §§2, 3 (AMD). PL 2015, c. 470, §§14-16 (AMD). PL 2017, c. 147, §§1, 2 (AMD). PL 2017, c. 148, §§5, 6 (AMD). PL 2021, c. 355, §1 (AMD). PL 2021, c. 365, §§31-33 (AMD). PL 2021, c. 365, §37 (AFF).

SUBCHAPTER 2

DEPARTMENT

§1201. Legislative intent

Recognizing the need to firmly control all of the State's correctional and detention facilities, provide for the safety of staff and clients, undertake appropriate programming for the classification, education, rehabilitation and maintenance of clients and assure an effective system for the supervision of parolees and probationers, it is the intent of the Legislature to create a Department of Corrections to improve the administration of correctional facilities, programs and services for clients. [PL 1991, c. 314, §9 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1991, c. 314, §9 (AMD).

§1202. Establishment

There is established a Department of Corrections to be responsible for the direction and general administrative supervision, guidance and planning of adult and juvenile correctional facilities and programs within the State. [PL 1983, c. 459, §6 (NEW).]

1. Cabinet level. The department is a cabinet-level department.
[PL 1983, c. 459, §6 (NEW).]

2. Commissioner. The department is under the control and supervision of the Commissioner of Corrections.
[PL 1983, c. 459, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW).

§1203. Office of Advocacy

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1987, c. 744, §10 (AMD). PL 1989, c. 925, §§14-16 (AMD). PL 1991, c. 314, §§10-13 (AMD). PL 2003, c. 205, §9 (AMD). PL 2003, c. 689, §B6 (REV). PL 2009, c. 1, Pt. S, §2 (RP).

§1204. Maine Correctional Advisory Commission

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1983, c. 581, §§8,59 (AMD). PL 1983, c. 812, §§256,257 (AMD). PL 1985, c. 666, §§1,2 (AMD). PL 1989, c. 503, §B158 (AMD). PL 1989, c. 808, §2 (RP).

§1204-A. Maine Correctional Advisory Commission**(REPEALED)**

SECTION HISTORY

PL 1989, c. 808, §3 (NEW). PL 1991, c. 314, §14 (AMD). PL 1993, c. 225, §2 (RP).

§1205. Statewide correctional program improvement**(REPEALED)**

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1987, c. 445, §1 (AMD). PL 1991, c. 314, §15 (AMD). PL 2001, c. 228, §1 (AMD). PL 2001, c. 386, §§8,9 (AMD). PL 2001, c. 667, §C19 (AMD). PL 2003, c. 510, §A31 (RP).

§1205-A. Correctional Medical Services Fund

This section establishes the Correctional Medical Services Fund to provide the means for the development, expansion, improvement and support of correctional medical services. [PL 2001, c. 386, §10 (NEW).]

1. Commissioner's powers. The commissioner may receive and use, for the purpose of this section, money appropriated by the State, grants from the United States and funds from other sources. [PL 2001, c. 386, §10 (NEW).]

2. Correctional Medical Services Fund. All funds appropriated for the purpose of this section and all grants and other funds received by the department for the purpose of this section must be credited to a special account in the department to be known as the Correctional Medical Services Fund. State funds appropriated to this special account that are unexpended at the end of the fiscal year for which the funds are appropriated do not lapse, but must carry forward into subsequent fiscal years to be expended for the purpose of this section.

[PL 2001, c. 386, §10 (NEW).]

SECTION HISTORY

PL 2001, c. 386, §10 (NEW).

§1206. Agreements with community agencies

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding document between 2 parties, including documents commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement or purchase of service. [PL 1983, c. 459, §6 (NEW).]

B. "Community agency" means a person, a public or private nonprofit organization or a firm, partnership or business corporation operated for profit, which:

(1) Operates a human service program at the community level; and

(2) Is not an administrative unit of the Federal Government or State Government. [PL 1983, c. 459, §6 (NEW).]

C. "Funds" means any and all general funds, dedicated funds, fees, special revenue funds, 3rd party reimbursements, vendor payments or other funds available for expenditure by the department in support of the provision of a human service. [PL 1983, c. 459, §6 (NEW).]

D. "Human service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, adult developmental, poverty, public assistance, rehabilitation, social, substance use disorder, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure for the department. [PL 2017, c. 407, Pt. A, §150 (AMD).]

E. "Nonprofit organization" means any agency, institution or organization which is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and which has a territory of operations that may extend to a neighborhood, community, region or the State. [PL 1983, c. 459, §6 (NEW).]

F. "State agency client" means the same as set out in Title 20-A, section 1, subsection 34-A. [PL 1985, c. 789, §§5, 9 (NEW).]
[PL 2017, c. 407, Pt. A, §150 (AMD).]

2. Commissioner's powers. The commissioner may disburse funds to a community agency for the purpose of financially supporting a human service, only if the disbursement is covered by a written agreement between the department and the agency, specifying at least the following:

A. The human service to be provided by the community agency; [PL 1983, c. 459, §6 (NEW).]

B. The method of payment by the department to the community agency; and [PL 1983, c. 459, §6 (NEW).]

C. The criteria for monitoring and evaluating the performance of the community agency in the provision of the human service. [PL 1983, c. 459, §6 (NEW).]
[PL 1983, c. 459, §6 (NEW).]

3. Commissioner's duties.
[PL 2005, c. 488, §9 (RP).]

4. Payment for state agency clients. The commissioner shall authorize payment of approved board, care and mental health treatment costs for all state agency clients in the care or custody of the department who are placed for other than educational purposes in residential placements, as defined in Title 20-A, section 1, subsection 24-A, to the extent of funds appropriated by the Legislature for this purpose. In no event may those payments be authorized in excess of funds appropriated for those costs. [PL 1987, c. 376 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1985, c. 789, §§5,6,9 (AMD). PL 1987, c. 376 (AMD). PL 2005, c. 488, §9 (AMD). PL 2011, c. 542, Pt. A, §58 (AMD). PL 2017, c. 407, Pt. A, §150 (AMD).

§1206-A. Certification of community intervention programs

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Community agency" means a person, a public or private nonprofit organization or a firm, partnership or business corporation operated for profit that:

- (1) Operates a community intervention program; and
- (2) Is not an administrative unit of the Federal Government or State Government. [PL 2009, c. 92, §1 (NEW).]

B. **(TEXT EFFECTIVE UNTIL 1/01/23)** "Community intervention program" means a program operated at the community level providing services designed to intervene in the risk factors for reoffending, including, but not limited to, mental health, sex offender treatment, social service and substance use disorder treatment programs, but not including a domestic violence intervention program under Title 19-A, section 4014. [PL 2021, c. 174, §13 (AMD).]

B. **(TEXT EFFECTIVE 1/01/23)** "Community intervention program" means a program operated at the community level providing services designed to intervene in the risk factors for reoffending, including, but not limited to, mental health, sex offender treatment, social service and substance use disorder treatment programs, but not including a domestic violence intervention program under Title 19-A, section 4116. [PL 2021, c. 647, Pt. B, §64 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

C. "Nonprofit organization" means any agency, institution or organization that is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and that has a territory of operations that extends to a neighborhood, community or region or the State. [PL 2009, c. 92, §1 (NEW).]

[PL 2021, c. 174, §13 (AMD); PL 2021, c. 647, Pt. B, §64 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

2. Rules establishing standards and procedures for certification. The department may adopt rules in consultation with other appropriate state agencies that establish standards and procedures for certification of community intervention programs. The department may review and certify programs that meet the standards and may require certification of programs providing services to clients of the department, regardless of whether the department disburses funds to the community agency. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2009, c. 92, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 92, §1 (NEW). PL 2017, c. 407, Pt. A, §151 (AMD). PL 2021, c. 174, §13 (AMD). PL 2021, c. 647, Pt. B, §64 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF).

§1207. Out-of-state prison-made goods

1. Purpose. The purpose of this section is to prohibit the sale within the State of any goods, wares or merchandise produced in penal institutions outside of the State and transported into the State.

[PL 1983, c. 581, §§ 9 and 59 (RPR).]

2. Prohibited acts; fines. Prohibited acts and fines under this section are governed as follows.

A. A person is guilty of a civil violation of sale of out-of-state prison-made goods if that person sells within this State any goods, wares or merchandise manufactured, produced or mined, wholly or in part, by nonparoled convicts or prisoners, or in any penal or reformatory institution, in another state and transported into this State. [PL 1983, c. 581, §§ 9 and 59 (RPR).]

B. Upon conviction of a civil violation of sale of out-of-state prison-made goods, a person shall pay a fine. The fine may be any amount which does not exceed twice the monetary value of the transaction. [PL 1983, c. 581, §§ 9 and 59 (RPR).]

[PL 1983, c. 581, §§ 9 and 59 (RPR).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1983, c. 581, §§9,59 (RPR).

§1208. Standards for county and municipal detention facilities

The commissioner 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. [PL 1983, c. 581, §§10, 59 (NEW).]

1. Establishment. The commissioner shall establish both mandatory and desirable standards for all county and municipal detention facilities, setting forth requirements for maintaining safe, healthful and secure facilities. Standards adopted pursuant to this subsection must be evidence-based, must take into consideration cost impact and must reflect best practices for the operation and administration of jails.

[PL 2021, c. 171, §1 (AMD).]

2. Inspections. Inspections of county and municipal detention facilities are governed as follows.

A. The commissioner shall conduct a comprehensive inspection of each county and municipal detention facility every 2 years, in order to provide the department with information, verified by on-site inspection, regarding compliance with all department standards. The commissioner may dispense with this inspection if, when it is due, the facility is accredited by a nationally recognized correctional accrediting body. [PL 2013, c. 27, §1 (AMD).]

B. The commissioner shall conduct every 2 years no fewer than 3 inspections of each county and municipal detention facility that are in addition to any comprehensive inspections conducted pursuant to paragraph A in order to determine continued compliance with standards. [PL 2013, c. 27, §2 (AMD).]

C. The commissioner may inspect a county or municipal detention facility at any time, without prior notice, to determine compliance with standards. [PL 1983, c. 581, §§10, 59 (NEW).]

C-1. As part of any inspection, the commissioner 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 in order to determine compliance with standards. [PL 2007, c. 102, §6 (NEW).]

D. The commissioner 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. [PL 1983, c. 581, §§10, 59 (NEW).]

E. The commissioner shall order the noncomplying county or municipality to respond to this report in accordance with subsection 3. [PL 1983, c. 581, §§10, 59 (NEW).]

[PL 2013, c. 27, §§1, 2 (AMD).]

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.

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 a written response listing the corrections made; or

(2) Offer a plan to correct those deficiencies for consideration by the department. [PL 1983, c. 581, §§10, 59 (NEW).]

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 is determined inadequate by the commissioner, the commissioner 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 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, the commissioner shall take the planned action. [PL 1983, c. 581, §§10, 59 (NEW).]

[PL 1983, c. 581, §§10, 59 (NEW).]

4. Emergency powers. The commissioner 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 action under this subsection shall expire within 90 days or upon compliance with the mandatory standard. [PL 1983, c. 581, §§10, 59 (NEW).]

B. After having taken action under this section, the commissioner shall send a written inspection report to the affected facility. [PL 1983, c. 581, §§10, 59 (NEW).]

C. The commissioner 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. [PL 1983, c. 581, §§10, 59 (NEW).]

[PL 1983, c. 581, §§10, 59 (NEW).]

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

A. The commissioner may grant a variance only when he 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. [PL 1983, c. 581, §§10, 59 (NEW).]

B. The commissioner may grant variances to counties and municipalities for periods of up to 2 years. [PL 1983, c. 581, §§10, 59 (NEW).]

C. County and municipal officials may request variances from mandatory department standards 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. [PL 1983, c. 581, §§10, 59 (NEW).]

D. The officials applying for a variance have the burden of showing clear justification for the variance. [PL 1983, c. 581, §§10, 59 (NEW).]

[PL 1983, c. 581, §§10, 59 (NEW).]

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

A. The committee shall consist of representatives of the Department of Corrections, Maine Sheriffs' Association, Maine County Commissioners' Association, Maine Chiefs of Police Association, Attorney General, Legislature and citizens. [PL 1983, c. 581, §§10, 59 (NEW).]

B. The terms of members of this committee shall be one year. [PL 1983, c. 581, §§10, 59 (NEW).]

C. Members of the county and municipal detention facility advisory committee are eligible for reappointment at the expiration of their term. [PL 1983, c. 581, §§10, 59 (NEW).]

D. The commissioner shall consult the committee when promulgating standards and may consult the committee when variances are sought, when actions are contemplated by the commissioner in response to a failure to comply with standards and when the commissioner determines that the consultation is necessary for other reasons. [PL 1983, c. 581, §§10, 59 (NEW).]

[PL 1983, c. 581, §§10, 59 (NEW).]

7. Technical assistance. The commissioner may provide technical assistance to county and municipal detention facilities to facilitate compliance with standards.

[PL 1983, c. 581, §§10, 59 (NEW).]

SECTION HISTORY

PL 1983, c. 581, §§10,59 (NEW). PL 2007, c. 102, §6 (AMD). PL 2013, c. 27, §§1, 2 (AMD). PL 2021, c. 171, §1 (AMD).

§1208-A. Standards for additional accommodations

The commissioner shall establish standards for facilities not covered by section 1208 that are used to house county prisoners, including secure detention facilities as defined in Title 15, section 3003, subsection 24-A and temporary holding resources as defined in Title 15, section 3003, subsection 26 and has the same power to determine compliance with and enforce those standards as provided under section 1208. [PL 2007, c. 102, §7 (AMD).]

SECTION HISTORY

PL 1989, c. 321, §2 (NEW). PL 1991, c. 314, §16 (AMD). PL 2007, c. 102, §7 (AMD).

§1208-B. Standards, policies and procedures applicable to jails

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Establishment. The commissioner shall establish mandatory standards, policies and procedures for jails. The standards, policies and procedures must be established by rule and must be evidence-based, must take into consideration cost impact and must reflect best practices for the administration and operation of jails. The rules must include policies and procedures for assisting jails to achieve compliance and for imposing penalties for noncompliance.

A. The standards, policies and procedures must address record keeping and reporting of financial data, capital improvement planning, jail staffing, administration and management of prisoners, transfer of inmates, notification to prisoners of prohibition on contact with victims and other persons, pretrial assessments and services, evidence-based programming, literacy programs, mental health and substance use disorder programs and correctional officer training. [PL 2017, c. 407, Pt. A, §152 (AMD).]

B. **(TEXT EFFECTIVE UNTIL 7/01/23)** In administering and distributing funding to the jails pursuant to section 1210-D, subsection 4, the commissioner shall:

(1) Require reporting of data that indicates average daily population of prisoners, that excludes federal prisoners, that indicates sending and receiving jails for transferred prisoners and that is useful in calculating the distributions to the counties pursuant to section 1210-D, subsection 4; and

(2) Consider the performance of each jail in meeting the standards established pursuant to this section. The commissioner shall work with the jails to assist them in achieving compliance

with the standards. The commissioner shall enforce the standards by imposition of monetary penalties upon a county for noncompliance by the county jail or regional jail. A monetary penalty imposed under this subsection may not in any fiscal year exceed the County Jail Operations Fund distribution payable to a county for a fiscal year pursuant to section 1210-D, subsection 4. [RR 2019, c. 2, Pt. A, §32 (COR).]

B. (TEXT EFFECTIVE 7/01/23) In administering and distributing funding to the jails pursuant to section 1210-E, subsection 5, the commissioner shall:

(1) Require reporting of data that indicates average daily population of prisoners, that excludes federal prisoners, that indicates sending and receiving jails for transferred prisoners and that is useful in calculating the distributions to the counties pursuant to section 1210-E, subsection 9; and

(2) Consider the performance of each jail in meeting the standards established pursuant to this section. The commissioner shall work with the jails to assist them in achieving compliance with the standards. The commissioner shall enforce the standards by imposition of monetary penalties upon a county for noncompliance by the county jail or regional jail. A monetary penalty imposed under this subparagraph may not in any fiscal year exceed the County Jail Operations Fund distribution payable to a county for a fiscal year pursuant to section 1210-E, subsection 5. [PL 2021, c. 732, Pt. D, §3 (AMD); PL 2021, c. 732, Pt. D, §7 (AFF).]

[PL 2021, c. 171, §2 (AMD); PL 2021, c. 732, Pt. D, §3 (AMD); PL 2021, c. 732, Pt. D, §7 (AFF).]

2. Rulemaking. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 171, §2 (AMD); PL 2021, c. 263, §1 (AMD).]

3. Gender affirmation. The standards, policies and procedures established pursuant to this section for the county jails and regional jail must require the jails to respect and acknowledge an incarcerated person's consistently held gender identity irrespective of anatomy or physique. Housing placements and search practices must be consistent with the person's consistently held gender identity except when such placement or search would present significant management or security problems to the jail or threaten the health and safety of the person. A person must have access to commissary items, clothing, personal property, programming and educational materials that are consistent with the person's consistently held gender identity. County and regional jail staff shall address a person in a manner that is consistent with the person's consistently held gender identity.

[PL 2021, c. 263, §2 (NEW).]

4. Requirements; rulemaking by commissioner. The jails shall operate in accordance with best practices applicable to facilities of their type and size, including the mandatory standards, policies and procedures established by rules adopted by the commissioner under subsection 1, and with the following requirements as set forth in rules adopted by the commissioner. In adopting rules under this subsection, the commissioner shall consider the advisory input of the County Corrections Professional Standards Council established pursuant to Title 5, section 12004-G, subsection 6-D.

A. Each jail shall participate in coordination of inmate transportation. Coordination of transportation may be provided by the jail at which the inmate resides, by another jail or correctional facility or by a person or entity working under a contract with the jail at which the inmate resides. [PL 2021, c. 732, Pt. C, §1 (NEW).]

B. Each jail shall provide access to substance use disorder screening, assessment, medication, treatment, recovery and reentry services, including at a minimum:

(1) Screening on intake using evidence-based tools to assess the risk of overdose or withdrawal and the person's history of substance use disorder and to determine initial treatment options;

- (2) Medically managed withdrawal treatment consistent with evidence-based medical standards;
- (3) All forms of medication for addiction treatment, including at least one of each formulation of each United States Food and Drug Administration-approved medication-assisted treatments for substance use disorder, including alcohol use disorder and opioid use disorder, to ensure that each person receives the particular formulation found to be the most effective at treating and meeting the person's individual needs. Medication under this subparagraph must be offered for the duration of the person's incarceration;
- (4) Behavioral treatment options, such as group and individual counseling, and clinical support;
- (5) Peer support services;
- (6) Reentry planning and transitional support such as coordination with community-based treatment and case management service providers and recovery organizations to ensure reentry and continuity of care after release, including appointments for services made prior to release; and
- (7) Assistance in obtaining health insurance prior to release.

Substance use disorder services required by this paragraph may be provided at the jail at which the person resides or at another jail or correctional facility or by a service provider or entity working under a contract with the jail at which the person resides. [PL 2021, c. 732, Pt. C, §1 (NEW).]

C. Each jail shall provide mental health treatment, including at a minimum providing a licensed clinician or licensed professional organization that will be available to assist an inmate who is a person receiving mental health treatment. Mental health treatment required by this paragraph may be provided at the jail at which the person resides or at another jail or correctional facility or by a service provider or entity working under a contract with the jail at which the person resides. [PL 2021, c. 732, Pt. C, §1 (NEW).]

D. Each jail shall provide community programs and services as required by this subchapter, including at a minimum pretrial or conditional release, alternative sentencing or housing programs and electronic monitoring. [PL 2021, c. 732, Pt. C, §1 (NEW).]

E. Each jail shall provide initial and ongoing training and technical assistance for facility staff and health care practitioners on screening, assessment, medication and treatment protocols for substance use disorder. [PL 2021, c. 732, Pt. C, §1 (NEW).]

[PL 2021, c. 732, Pt. C, §1 (NEW).]

5. Requirements; rulemaking by the council. The jails shall operate in accordance with rules adopted pursuant to this subsection. The County Corrections Professional Standards Council, established pursuant to Title 5, section 12004-G, subsection 6-D, shall adopt rules governing the collection and reporting of data by jails as necessary to implement this section. The rules may consider the cost impacts of policy decisions by jails and the State, best practices for the operation of jails, the cost-effective delivery of services by jails, program participation, categories of inmates and reasons for detention or incarceration. In adopting data collection rules, the council shall at minimum require jails to report the following data:

- A. The revenues and expenses associated with operating the jail; [PL 2021, c. 732, Pt. C, §2 (NEW).]
- B. The population of persons detained or committed to the custody of the sheriff. The rules must require population reporting on a daily basis and must provide data to the department on actual daily population of persons who are detained or incarcerated and persons on all forms of community

release. Population data must be reported in the format required by the rule; and [PL 2021, c. 732, Pt. C, §2 (NEW).]

C. The funds used for programs and services as required by section 1208-B, subsection 4, paragraph B. [PL 2021, c. 732, Pt. C, §2 (NEW).]

The council shall establish the rules, definitions and reporting requirements for a centralized data system for county jails.

[PL 2021, c. 732, Pt. C, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 335, §22 (NEW). PL 2017, c. 407, Pt. A, §152 (AMD). RR 2019, c. 2, Pt. A, §32 (COR). PL 2021, c. 171, §2 (AMD). PL 2021, c. 263, §§1, 2 (AMD). PL 2021, c. 732, Pt. C, §§1, 2 (AMD). PL 2021, c. 732, Pt. D, §3 (AMD). PL 2021, c. 732, Pt. D, §7 (AFF).

§1209. Juvenile Justice Advisory Group

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Act" means the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415. [PL 1983, c. 581, §§10, 59 (NEW).]

B. "Group" means the Juvenile Justice Advisory Group, as established by Executive Order 16 Fiscal Year 1981-82. [PL 1983, c. 581, §§10, 59 (NEW).]

[PL 1983, c. 581, §§10, 59 (NEW).]

2. Duties. The group shall:

A. Operate as the supervisory board for all planning, administrative and funding functions of the Act; [PL 1983, c. 581, §§10, 59 (NEW).]

B. Make subgrants for planning or for the improvement of juvenile justice consistent with the intent of applicable state and federal legislation; [PL 1983, c. 581, §§10, 59 (NEW).]

C. Develop, approve and implement the state's juvenile justice plan; [PL 1983, c. 581, §§10, 59 (NEW).]

D. Monitor state compliance with the requirements of the Act; [PL 1983, c. 581, §§10, 59 (NEW).]

E. Review and approve or disapprove all juvenile justice and delinquency prevention subgrant applications submitted to the group; [PL 1983, c. 581, §§10, 59 (NEW).]

F. Develop more effective education, training, research, prevention, diversion, treatment and rehabilitation programs in the area of juvenile delinquency and improvement of the juvenile justice system; [PL 1983, c. 581, §§10 and 59 (NEW).]

G. Submit to the Governor and Legislature, at least annually, recommendations with respect to matters related to its functions, including recommendations on state compliance with the requirements of the Act; [PL 1983, c. 581, §§10, 59 (NEW).]

H. Review the progress and accomplishments of juvenile justice and delinquency projects funded under the state plan; and [PL 1983, c. 581, §§10, 59 (NEW).]

I. Regularly seek comments and opinions from juveniles currently under the jurisdiction of the juvenile justice system. [PL 1983, c. 581, §§10, 59 (NEW).]

[PL 1983, c. 581, §§10, 59 (NEW).]

3. Membership. Membership of the group is governed as follows.

A. Regular membership of the group shall be in accordance with the requirements of the Act. [PL 1983, c. 581, §§10, 59 (NEW).]

B. Members are appointed by the Governor for a term of 4 years, or until a successor is appointed, and are eligible for reappointment at the discretion of the Governor. [PL 1983, c. 581, §§10, 59 (NEW).]

C. Members appointed to fill an unexpired term shall serve until the expiration date of that term or until a successor is appointed. [PL 1983, c. 581, §§10, 59 (NEW).]

D. The Commissioner of Corrections, Commissioner of Education, Commissioner of Health and Human Services and Commissioner of Public Safety are ex officio, voting members of the group. [RR 2003, c. 2, §99 (COR).]

E. Neither a majority of the members of the group, nor the chairman, may be full-time employees of the Federal Government, State Government or local government. [PL 1983, c. 581, §§10, 59 (NEW).]

F. [PL 2005, c. 328, §16 (RP).]
[PL 2005, c. 328, §16 (AMD).]

4. Departmental duties and powers. The duties and powers of the Department of Corrections are as follows.

A. The department shall have the powers necessary to an agency designated by the Governor as the sole agency responsible for supervising the group in the preparation and administration of the state plan within the meaning of the Act. [PL 1983, c. 581, §§10, 59 (NEW).]

B. The department shall serve as the fiscal agent of the group. [PL 1983, c. 581, §§10, 59 (NEW).]

C. The department may employ a full-time juvenile justice specialist, subject to the approval of the group, and such additional staff as necessary.

(1) The professional staff shall be unclassified.

(2) Clerical staff shall be employed subject to the Civil Service Law. [PL 1985, c. 785, Pt. B, §150 (AMD).]

D. The department, at the direction of the group, may make grants to state agencies, to units of general local government and to private not-for-profit organizations for the development of more effective education, training, research, prevention, diversion, treatment and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system. [PL 1983, c. 581, §§10, 59 (NEW).]

E. When the group directs that a grant be made to a department or agency of State Government, the department shall send to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs:

(1) A copy of the approved grant application;

(2) Information on the expected length of programs to be funded by the grant; and

(3) Information on restrictions or limitations placed on the grant application. [PL 1983, c. 581, §§10, 59 (NEW).]

F. The department may accept funds from the Federal Government, from any political subdivision of the State, or from any individual, foundation or corporation and may expend those funds for purposes consistent with this section. [PL 1983, c. 581, §§10, 59 (NEW).]
[PL 1985, c. 785, Pt. B, §150 (AMD).]

5. Funds not to lapse. Funds appropriated to carry out the purpose of this section shall not lapse, but shall carry from year to year.

[PL 1983, c. 581, §§10, 59 (NEW).]

SECTION HISTORY

PL 1983, c. 581, §§10,59 (NEW). PL 1985, c. 785, §B150 (AMD). PL 1989, c. 700, §A160 (AMD). RR 1995, c. 2, §81 (COR). PL 2001, c. 354, §3 (AMD). RR 2003, c. 2, §99 (COR). PL 2005, c. 328, §16 (AMD).

§1209-A. State Sentencing and Corrections Practices Coordinating Council

(REPEALED)

SECTION HISTORY

PL 2007, c. 377, §8 (NEW). PL 2007, c. 653, Pt. A, §§21-24 (AMD). PL 2013, c. 533, §24 (RP).

§1210. Community corrections

(REPEALED)

SECTION HISTORY

PL 1985, c. 821, §18 (NEW). PL 1987, c. 335, §§1,2 (AMD). PL 1989, c. 127, §§1,2 (AMD). PL 1989, c. 887, §§5-9 (AMD). RR 1991, c. 2, §127 (COR). PL 1991, c. 622, §W (AMD). PL 1991, c. 690 (AMD). PL 1993, c. 410, §P1 (AMD). PL 1993, c. 431, §§1-3 (AMD). PL 1993, c. 517, §1 (AMD). PL 1995, c. 368, §K3 (AMD). PL 1995, c. 449, §1 (AMD). PL 1995, c. 449, §2 (AFF). PL 1995, c. 461, §§1,2 (AMD). PL 1995, c. 665, §§MM1,2 (AMD). PL 1995, c. 665, §MM3 (AFF). PL 1997, c. 533, §1 (AMD). PL 1997, c. 753, §1 (RP).

§1210-A. Community corrections

(REPEALED)

SECTION HISTORY

PL 1997, c. 753, §2 (NEW). PL 2001, c. 698, §§4,5 (AMD). PL 2001, c. 698, §7 (AFF). PL 2003, c. 20, §R9 (AMD). PL 2003, c. 711, §A20 (AMD). PL 2003, c. 711, §D2 (AFF). PL 2007, c. 377, §§9-11 (AMD). PL 2007, c. 653, Pt. A, §25 (AMD). MRSA T. 34-A §1210-A, sub-§11 (RP).

§1210-B. Community Corrections Fund and County Jail Prisoner Support Fund

(REPEALED)

SECTION HISTORY

PL 2007, c. 377, §12 (NEW). PL 2007, c. 377, §17 (AFF). PL 2007, c. 539, Pt. SSS, §1 (AMD). PL 2007, c. 653, Pt. A, §26 (RP).

§1210-C. Community Corrections Incentive Fund

(REPEALED)

SECTION HISTORY

PL 2007, c. 377, §13 (NEW). PL 2007, c. 653, Pt. A, §27 (RP).

§1210-D. County Jail Operations Fund

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 7/01/23)

1. County Jail Operations Fund. Notwithstanding any provision of law to the contrary, at least \$12,202,104 in state funding must be appropriated annually and used for the purposes of the County Jail Operations Fund, as established pursuant to this section and referred to in this section as "the fund." The department shall administer the fund and shall distribute funds to the jails in accordance with this section for the purposes set forth in subsections 2 and 3.

[PL 2015, c. 335, §23 (NEW).]

2. Community corrections. The fund must be used for the purpose of establishing and maintaining community corrections. For purposes of this subsection, "community corrections" means the delivery of correctional services for adults in the least restrictive manner that ensures the public safety by the county or for the county under contract with a public or private entity. "Community corrections" includes, but is not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing or housing programs, electronic monitoring, residential treatment and halfway house programs, community correctional centers and temporary release programs from a facility for the detention or confinement of persons convicted of crimes. The following provisions apply to community corrections funding.

A. Thirty percent of the funds distributed to the counties under this section must be used for the purpose of community corrections. [PL 2015, c. 335, §23 (NEW).]

B. The county treasurer shall deposit 30% of the funds received under subsection 4 into an account for community corrections purposes. [PL 2015, c. 335, §23 (NEW).]

C. Before distributing to a county that county's entire distribution under this section, the department shall require that county to submit appropriate documentation verifying that the county expended 30% of its prior distribution for the purpose of community corrections as required by this section. [PL 2015, c. 436, §11 (AMD).]

D. If a county fails to submit appropriate documentation verifying that the county expended 30% of its prior distribution for the purpose of community corrections under paragraph C, the department shall distribute to that county only 80% of its distribution. The department shall hold in escrow the 20% not distributed to a county to give the county jail an opportunity to comply with the requirement that 30% of the total distribution be used for community corrections purposes and qualify for disbursement of the withheld funds. [PL 2015, c. 335, §23 (NEW).]

[PL 2015, c. 436, §11 (AMD).]

2-A. Pretrial release or conditional release programs. Using community corrections funds distributed under this section, each county shall provide a program, directly or through contract with an organization, to supervise defendants subject to a pretrial release condition imposed pursuant to Title 15, section 1026, subsection 3, paragraph A, subparagraph (1) and such requirements as may be established by rule or order of the Supreme Judicial Court.

[PL 2015, c. 436, §12 (NEW).]

3. Prisoner support. The fund must be used to provide a portion of the counties' costs of the support of prisoners detained or sentenced to county jails. The following provisions apply to prisoner support funding.

A. Up to 70% of the funds distributed to a county under this section may be used for the purpose of support of prisoners detained or sentenced to county jails and for such other jail operations and correctional services purposes as the sheriff determines to be appropriate. [PL 2015, c. 335, §23 (NEW).]

B. The county treasurer shall deposit 70% of the funds received under subsection 4 into an account for prisoner support, jail operations and correctional services purposes. [PL 2015, c. 335, §23 (NEW).]

[PL 2015, c. 335, §23 (NEW).]

4. Formula; distribution. The department shall establish by rule a formula for the distribution of funds from the fund to the counties for jail operations. Beginning July 1, 2015 and annually thereafter, the department shall distribute to the counties from the fund amounts based on the formula. The formula must be based on the most recent fiscal year for which data is available and must:

- A. Take into consideration total statewide county jail prisoner days for all jails; [PL 2015, c. 335, §23 (NEW).]
- B. Take into consideration and assign to a jail the number of county jail prisoner days attributable to each prisoner who was charged with committing a crime in that county or was committed to the custody of or detained by the sheriff of that county; [PL 2015, c. 335, §23 (NEW).]
- C. Determine the proportion of statewide county jail prisoner days attributable to each county; [PL 2015, c. 335, §23 (NEW).]
- D. Determine the per diem per prisoner reimbursement amount; and [PL 2015, c. 335, §23 (NEW).]
- E. Determine the reimbursement amount for each county based on the county's proportion of statewide county jail prisoner days multiplied by the per diem per prisoner rate. [PL 2015, c. 335, §23 (NEW).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 335, §23 (NEW).]

5. Surcharge imposed. In addition to the 14% surcharge collected pursuant to Title 4, section 1057, an additional 1% surcharge must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected pursuant to this subsection are nonlapsing and must be deposited monthly in the fund.

[PL 2015, c. 335, §23 (NEW).]

SECTION HISTORY

PL 2015, c. 335, §23 (NEW). PL 2015, c. 436, §§11, 12 (AMD). PL 2021, c. 732, Pt. A, §2 (RP). PL 2021, c. 732, Pt. A, §5 (AFF).

§1210-D. County Jail Operations Fund

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT REPEALED 7/01/23 by PL 2021, c. 732, Pt. A, §2; §5)

SECTION HISTORY

PL 2015, c. 335, §23 (NEW). PL 2015, c. 436, §§11, 12 (AMD). PL 2021, c. 732, Pt. A, §2 (RP). PL 2021, c. 732, Pt. A, §5 (AFF).

§1210-E. County Jail Operations Fund

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE 7/01/23)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Community corrections" means the delivery of correctional services for adults in the least restrictive manner that ensures the public safety by the county or for the county under contract with a public or private entity. "Community corrections" includes, but is not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative

sentencing or housing programs, electronic monitoring, residential treatment and halfway house programs, community correctional centers, temporary release programs from a facility for the detention or confinement of persons convicted of crimes and programs and services as required by section 1208-B, subsection 4, paragraph D. [PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

B. "County Corrections Professional Standards Council" or "council" means the council established pursuant to Title 5, section 12004-G, subsection 6-D. [PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

C. "Fund" means the County Jail Operations Fund established pursuant to subsection 2. [PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

D. "Jail" means a county or regional jail for which the department is required to establish standards pursuant to section 1208, 1208-A or 1208-B. [PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

2. County Jail Operations Fund. The County Jail Operations Fund is established to provide funding for county jails and the regional jail. State funding must be appropriated annually for the fund in the amount of \$20,342,104 plus any additional amount the Legislature may appropriate. The department shall administer the fund and shall distribute funds to the jails in accordance with this section for the purposes set forth in subsections 3 and 4 and in accordance with the distribution formula set forth in subsection 9.

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

3. Community corrections; pretrial release program. At least 25% of all funding provided under this section must be used by the county jails and regional jail for establishing, providing and maintaining community corrections and programs and services required by section 1208-B, subsection 4, paragraph D. Jail programs and services must include a program, directly or through a contract with an organization, to supervise defendants subject to pretrial release conditions imposed pursuant to Title 15, section 1026, subsection 3, paragraph A, subparagraph (1) and such requirements as may be established by rule or order of the Supreme Judicial Court.

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

4. Prisoner support. The fund must be used to provide a portion of the counties' costs of the support of prisoners detained or sentenced to jail.

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

5. Quarterly payments to counties. The department shall distribute funding payable to the counties for operation of the jails quarterly if the jails have reported on a timely basis as required by subsection 6 and rules adopted pursuant to subsection 7. Failure to report as required may result in delayed payment of funds required to be paid by this section.

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

6. Required reporting. The county jails and the regional jail shall report to the department any data required by the council pursuant to section 1208-B, subsection 4, paragraph E, on the schedule and in the format required by the council. Failure of a jail to report as required may result in delayed quarterly payments to the counties as provided in subsection 5 and as set forth by rule.

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

7. Rulemaking. The council shall adopt rules to implement the financial accounting, reporting and data collection systems and requirements necessary for implementing this section, including any data required to be collected pursuant to section 1208-B, subsection 5. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

8. Surcharge. In addition to the 14% and 5% surcharges collected pursuant to Title 4, section 1057, an additional 1% surcharge must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected pursuant to this subsection are nonlapsing and must be deposited monthly in the fund.

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

9. Formula; distribution. The council shall establish a formula for the quarterly distribution described in subsection 5. The department shall distribute quarterly to each county from the fund the amount due to that county as determined according to the formula. The formula must be based on the most recent fiscal year for which data is available for the county and must:

A. Take into consideration total statewide county jail prisoner days for all jails; [PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

B. Take into consideration and assign to a jail the number of county jail prisoner days attributable to each prisoner who was charged with committing a crime in that county or who was committed to the custody of or detained by the sheriff of that county; and [PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

C. Determine the proportion of statewide county jail prisoner days attributable to each county. [PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]
[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

10. Annual reporting to legislative committee. By October 1st annually, the department in collaboration with a statewide association of county commissioners and a statewide association of sheriffs shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the following issues: county jail and regional jail funding through the General Fund, pursuant to Title 30-A, section 701 and from any other revenue sources; funding and operation of community corrections and programs and services required by section 1208-B, subsection 4, paragraph D and this section; distribution of funding to the county jails and regional jail; jail reporting of revenues, expenses and populations as required by this section; the experiences of the counties in setting their tax assessments for correctional services under Title 30-A, section 701; and the adoption and implementation of rules specifying best practices, including mandatory standards, policies and procedures, under section 1208-B.

[PL 2021, c. 732, Pt. A, §3 (NEW); PL 2021, c. 732, Pt. A, §5 (AFF).]

SECTION HISTORY

PL 2021, c. 732, Pt. A, §3 (NEW). PL 2021, c. 732, Pt. A, §5 (AFF).

§1210-F. County Corrections Professional Standards Council

The County Corrections Professional Standards Council, established in Title 5, section 12004-G, subsection 6-D and referred to in this section as "the council," is established to evaluate and advise the commissioner with regard to the composition of programs and services required pursuant to section 1208-B, subsection 4; to develop rules for reporting to the department the information required in section 1208-B, subsection 5 and, beginning July 1, 2023, as required in section 1210-E, subsection 6; to develop budget recommendations for the department related to the County Jail Operations Fund established in section 1210-E, the recommendations for which must be submitted to the commissioner and the Governor as part of the State's biennial budget process; to make supplemental county jail funding recommendations to the department related to the fund as may be needed from time to time to address shortfalls, emergencies or other needs; and to consider the need for legislation regarding required programs, services and reporting and to submit such legislation to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. [PL 2021, c. 732, Pt. A, §4 (NEW).]

1. Membership. The council consists of 7 members appointed by the commissioner as follows:

A. Two members selected from a list of nominations submitted by a statewide association of county commissioners; [PL 2021, c. 732, Pt. A, §4 (NEW).]

B. Two members selected from a list of nominations submitted by a statewide association of sheriffs; [PL 2021, c. 732, Pt. A, §4 (NEW).]

C. One member selected from a list of nominations submitted by a statewide association representing municipalities; and [PL 2021, c. 732, Pt. A, §4 (NEW).]

D. Two members appointed at the commissioner's discretion. [PL 2021, c. 732, Pt. A, §4 (NEW).]

[PL 2021, c. 732, Pt. A, §4 (NEW).]

2. Terms. Council members serve for 2-year terms and until their successors have been appointed. A vacancy must be filled in the same manner as the original appointment.

[PL 2021, c. 732, Pt. A, §4 (NEW).]

3. First meeting; chair. When all appointments have been made pursuant to subsection 1, the commissioner shall call the first meeting of the council. By a majority vote, the council shall select a chair from the members appointed under subsection 1, paragraphs A and B to serve a 2-year term.

[PL 2021, c. 732, Pt. A, §4 (NEW).]

4. Standards regarding failure to report. The council shall adopt rules specifying standards regarding reporting data as required by section 1210-E, subsection 6 to take effect beginning July 1, 2023 and shall adopt rules specifying standards for delaying payments to jails based on failure to report.

[PL 2021, c. 732, Pt. A, §4 (NEW).]

5. Rulemaking. The council shall adopt rules in accordance with this section, section 1210-E, subsection 7 and section 1208-B, subsection 5. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to this subsection may not take effect before July 1, 2023.

[PL 2021, c. 732, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 2021, c. 732, Pt. A, §4 (NEW).

§1211. Jail Industries Authority

(REPEALED)

SECTION HISTORY

PL 1989, c. 416 (NEW). PL 1989, c. 654, §§5-9,13 (AMD). PL 1999, c. 668, §121 (RP).

§1212. Confidential information

The following information pertaining to department employees and independent contractors is confidential and that part of any record of the department containing this information is not a public record, as defined in Title 1, section 402, subsection 3: [PL 1991, c. 281 (NEW).]

1. Addresses and telephone numbers. Nonbusiness addresses and telephone numbers; [PL 1991, c. 281 (NEW).]

2. Information regarding other persons. The existence, names, addresses and telephone numbers of family members, household members and persons to be notified in the event of an emergency; and

[PL 1991, c. 281 (NEW).]

3. Work schedules. Information pertaining to work schedules.

[PL 1991, c. 281 (NEW).]

SECTION HISTORY

PL 1991, c. 281 (NEW).

§1213. Contract to provide medical care

Any individual medical provider contracting with the department when providing medical care within a correctional or detention facility pursuant to section 3031, subsection 2 under a contract with the department is deemed for purposes of civil liability to be an employee of a governmental entity under the Maine Tort Claims Act, Title 14, chapter 741. [PL 1995, c. 248, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 248, §1 (NEW).

§1214. Office of Victim Services

1. Establishment. The Office of Victim Services, referred to in this section as the "office," is established within the department to advocate for compliance by the department, any correctional facility, any detention facility, community corrections as defined in section 1210-D, subsection 2 or any contract agency with all laws, administrative rules and institutional and other policies relating to the rights and dignity of victims.

A. [PL 2017, c. 128, §5 (RP).]

B. [PL 2017, c. 128, §5 (RP).]

[PL 2021, c. 676, Pt. B, §4 (AMD).]

2. Victim Services Coordinator. The Victim Services Coordinator shall direct and coordinate the office.

A. The Victim Services Coordinator shall report only to the commissioner or the commissioner's designee. [PL 2017, c. 128, §6 (AMD).]

B. The Victim Services Coordinator shall, with the approval of the commissioner or the commissioner's designee, select other victim advocates needed to carry out the intent of this section and who shall report only to the Victim Services Coordinator. [PL 2017, c. 128, §6 (AMD).]

[PL 2017, c. 128, §6 (AMD).]

3. Duties. The office, through the Victim Services Coordinator and other victim advocates, shall:

A. Receive or refer complaints made by victims; [PL 2001, c. 439, Pt. G, §1 (NEW).]

B. Intercede on behalf of victims with officials of the department, any correctional facility, any detention facility, community corrections as defined in section 1210-D, subsection 2 or any contract agency or assist these persons in the resolution of victim-related issues; [PL 2021, c. 676, Pt. B, §5 (AMD).]

C. Act as an information source regarding the rights of victims and keep informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of victims and about relevant legal decisions and other developments related to the field of corrections, both in this State and in other parts of the country; [PL 2001, c. 439, Pt. G, §1 (NEW).]

D. Ensure that victims who request notice of release receive it; [PL 2001, c. 439, Pt. G, §1 (NEW).]

E. Assist victims who are being harassed by persons in the custody or under the supervision of the department with obtaining protection from that harassment; [PL 2001, c. 477, §2 (AMD).]

F. Assist victims with obtaining victim compensation, restitution and other benefits of restorative justice; and [PL 2001, c. 477, §2 (AMD).]

G. Ensure the safety of clients who are also victims by advising the commissioner of information that may place a client at risk if disclosed pursuant to Title 1, section 402, subsection 3-A. [PL 2001, c. 477, §3 (NEW).]
[PL 2021, c. 676, Pt. B, §5 (AMD).]

4. Confidentiality. Requests for action by the office must be treated confidentially and may be disclosed only to a state agency if necessary to carry out the statutory functions of that agency or to a criminal justice agency if necessary to carry out the administration of criminal justice as defined in Title 16, section 703, subsection 1 or the administration of juvenile justice. In no case may a victim's request for notice of release be disclosed outside the department and the office of the attorney for the State with which the request was filed.
[PL 2021, c. 365, §34 (AMD); PL 2021, c. 365, §37 (AFF).]

5. Report regarding domestic violence intervention programs. Beginning January 2003 and annually thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters regarding the work of domestic violence intervention programs. The report must include information regarding: meeting program benchmarks and goals, developing and implementing new programs, measuring effectiveness of existing programs and communicating and coordinating efforts with providers of substance use disorder services, literacy support and other services with whom persons ordered to complete a domestic violence intervention program may need to work in order to participate meaningfully in a domestic violence intervention program.
[PL 2021, c. 174, §14 (AMD).]

REVISOR'S NOTE: §1214. Accreditation (As enacted by PL 2001, c. 458, § 3 is REALLOCATED TO TITLE 34-A, SECTION 1215)

SECTION HISTORY

RR 2001, c. 1, §43 (RAL). PL 2001, c. 439, §G1 (NEW). PL 2001, c. 458, §3 (NEW). PL 2001, c. 477, §§2,3 (AMD). PL 2001, c. 686, §D1 (AMD). PL 2007, c. 377, §§14, 15 (AMD). PL 2007, c. 377, §17 (AFF). PL 2015, c. 470, §17 (AMD). PL 2017, c. 128, §§5, 6 (AMD). PL 2017, c. 407, Pt. A, §153 (AMD). PL 2021, c. 174, §14 (AMD). PL 2021, c. 365, §34 (AMD). PL 2021, c. 365, §37 (AFF). PL 2021, c. 676, Pt. B, §§4, 5 (AMD).

§1214-A. Elder Victims Restitution Fund

The Elder Victims Restitution Fund, referred to in this section as "the fund," is established for the purpose of compensating elder victims of financial crimes. [PL 2011, c. 241, §3 (NEW).]

1. Definition. As used in this section, unless the context otherwise indicates, the term "elder victim" means a victim of a crime who is 65 years of age or older.
[PL 2011, c. 241, §3 (NEW).]

2. Administration. The Victim Services Coordinator under section 1214 shall administer the fund. All administrative costs of the fund must be absorbed by the department.
[PL 2011, c. 241, §3 (NEW).]

3. Funding. Money collected pursuant to Title 18-C, section 2-105 must be deposited into the fund.
[PL 2017, c. 402, Pt. C, §92 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Use. The fund may be used for the payment of claims of elder victims of financial crimes who are entitled to receive restitution from offenders as a result of the sentences for the crimes in cases in which those offenders are not meeting their restitution obligations.
[PL 2011, c. 241, §3 (NEW).]

5. Rules. The commissioner may adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, to carry out the purposes of this section. [PL 2011, c. 241, §3 (NEW).]

SECTION HISTORY

PL 2011, c. 241, §3 (NEW). PL 2017, c. 402, Pt. C, §92 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§1215. Accreditation

(REALLOCATED FROM TITLE 34-A, SECTION 1214)

The department shall seek accreditation of its correctional and detention facilities by a nationally recognized correctional accrediting body and shall maintain any accreditation obtained. The department shall report to the joint standing committees of the Legislature having jurisdiction over criminal justice matters and appropriations and financial affairs regarding its progress towards accreditation by January 1, 2005. [PL 2003, c. 451, Pt. K, §1 (AMD).]

SECTION HISTORY

RR 2001, c. 1, §43 (RAL). PL 2003, c. 451, §K1 (AMD).

§1216. Confidentiality of information

1. Limited disclosure. All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department must be kept confidential and may not be disclosed by any person, except that public records must be disclosed in accordance with Title 1, section 408-A; criminal history record information may be disseminated in accordance with Title 16, chapter 7; and documents other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated or pertaining to a victim's request for notice of release may, and must upon request, be disclosed:

A. To any person if the person receiving services, that person's legal guardian, if any, and, if that person is a minor, that person's parent or legal guardian give informed written consent to the disclosure of the documents referred to in this subsection after being given the opportunity to review the documents sought to be disclosed; [PL 2013, c. 588, Pt. A, §44 (RPR).]

B. To any state agency if necessary to carry out the statutory functions of that agency; [PL 2013, c. 588, Pt. A, §44 (RPR).]

C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503; [PL 2013, c. 588, Pt. A, §44 (RPR).]

D. To any criminal justice agency if necessary to carry out the administration of criminal justice as defined in Title 16, section 703, subsection 1, the administration of criminal justice as defined in Title 16, section 803, subsection 2 or the administration of juvenile justice as defined in Title 15, section 3003, subsection 1-A or for criminal justice agency employment; [PL 2021, c. 365, §35 (AMD); PL 2021, c. 365, §37 (AFF).]

E. To persons engaged in research if:

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

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

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

The commissioner and the person doing the research shall preserve the anonymity of the person receiving services from the department and may not disseminate data that refer to that person by name or number or in any other way that might lead to the person's identification; [PL 2013, c. 588, Pt. A, §44 (RPR).]

F. To persons who directly supervise or report on the health, behavior or progress of a juvenile, to the superintendent of a juvenile's school and the superintendent's designees and to agencies that are or might become responsible for the health or welfare of a juvenile if the information is relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into the school; or [PL 2013, c. 588, Pt. A, §44 (RPR).]

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

- (1) The plan for the statistical analysis is first submitted to and approved by the commissioner; and
- (2) The disclosure is approved by the commissioner.

The commissioner and the state agency requesting the information shall preserve the anonymity of the persons receiving services from the department and may not disseminate data that refer to any person by name or number or that in any other way might lead to a person's identification. [PL 2013, c. 588, Pt. A, §44 (RPR).]

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of persons receiving services from the department and, if applicable, eligibility numbers and the dates on which those persons received services to any state or federal agency for the sole purpose of determining eligibility and billing for services and payments under federally funded programs administered by the agency. The department may also release to the agency information required for and to be used solely for audit or research purposes, consistent with federal law, for those services provided by or through the department. Agency personnel shall treat this information as confidential in accordance with federal and state law and shall return the records when their purpose has been served.

[PL 2021, c. 365, §35 (AMD); PL 2021, c. 365, §37 (AFF).]

2. Release of certain information to victims. Notwithstanding subsection 1, upon the request of a person who was the victim of a crime for which a client was incarcerated, as verified by the department or the prosecuting attorney, the department shall disclose the following information to the victim:

- A. Whether the client has been charged with committing any crime while incarcerated and, if so, the crime with which the client has been charged; and [PL 2003, c. 205, §10 (NEW).]
- B. Whether the client has been disciplined while incarcerated and, if so, the offense for which the disciplinary action was taken and the type of disciplinary action taken. [PL 2003, c. 205, §10 (NEW).]

[PL 2003, c. 205, §10 (NEW).]

3. Civil violation. A person who discloses information in violation of this section commits a civil violation for which a fine not to exceed \$1,000 may be adjudged.

[PL 2003, c. 205, §10 (NEW).]

4. Disclosure of confidential information. The disclosure of confidential information as provided by this section is also governed by Title 5, section 9057, subsection 6.

[PL 2003, c. 205, §10 (NEW).]

5. Disclosure of information. Nothing in this section permits or requires the disclosure of information to the extent it is designated confidential by another provision of law.

[PL 2003, c. 205, §10 (NEW).]

6. Assessment tools. Documents in the possession of the department used to screen or assess clients, including, but not limited to, questionnaires and test materials, are not public records for purposes of Title 1, chapter 13, subchapter 1. The department shall release these documents on request to any other state agency if necessary to carry out the statutory functions of that agency and to any committee or study commission established by the Legislature with authority to examine issues related to mental health.

[PL 2003, c. 205, §10 (NEW).]

SECTION HISTORY

PL 2003, c. 205, §10 (NEW). PL 2003, c. 689, §B6 (REV). PL 2005, c. 487, §§2-4 (AMD). PL 2011, c. 515, §2 (AMD). PL 2011, c. 662, §22 (AMD). PL 2013, c. 267, Pt. B, §27 (AMD). PL 2013, c. 424, Pt. B, §13 (AMD). PL 2013, c. 588, Pt. A, §44 (AMD). PL 2015, c. 470, §18 (AMD). PL 2017, c. 432, Pt. F, §2 (AMD). PL 2021, c. 365, §35 (AMD). PL 2021, c. 365, §37 (AFF).

§1217. Prisoner Boarding Fund

The Prisoner Boarding Fund is established in the department to provide funding for the boarding of prisoners at county jail facilities. [PL 2009, c. 213, Pt. W, §1 (NEW).]

1. Commissioner's powers. The commissioner may receive and use, for the purpose of this section, money appropriated by the State.

[PL 2009, c. 213, Pt. W, §1 (NEW).]

2. Prisoner Boarding Fund. All funds appropriated for the purpose of this section must be credited to the Prisoner Boarding Fund. State funds appropriated to the Prisoner Boarding Fund that are unexpended at the end of the fiscal year for which the funds are appropriated do not lapse, but must carry forward into subsequent fiscal years to be expended for the purpose of this section.

[PL 2009, c. 213, Pt. W, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 213, Pt. W, §1 (NEW).

§1218. Electronic Monitoring Fund

(REPEALED)

SECTION HISTORY

PL 2011, c. 655, Pt. EEE, §1 (NEW). PL 2013, c. 227, §5 (RP).

§1219. Assistance with federal law compliance

Beginning November 1, 2017, the department shall offer technical assistance and advice to county and regional jails regarding audits for the purpose of achieving and maintaining compliance with the federal Prison Rape Elimination Act of 2003, Public Law 108-79, as requested by the county and regional jails. [PL 2017, c. 214, §3 (NEW).]

SECTION HISTORY

PL 2017, c. 214, §3 (NEW).

SUBCHAPTER 3

COMMISSIONER

§1401. Office

1. Appointment. The Governor shall appoint the Commissioner of Corrections, subject to review by the joint standing committee of the Legislature having jurisdiction over corrections matters and to confirmation by the Senate, to serve at the pleasure of the Governor.
[PL 1995, c. 3, §4 (AMD).]

2. Vacancy. Vacancies in the office of the commissioner shall be filled as follows.

A. Any vacancy in the office of commissioner shall be filled by appointment under subsection 1.
[PL 1983, c. 459, §6 (NEW).]

B. If the office of the commissioner is vacant or if the commissioner is absent or disabled, the associate commissioner shall perform the duties and have the powers provided by law for the commissioner. [PL 1983, c. 459, §6 (NEW).]
[PL 1983, c. 459, §6 (NEW).]

3. Qualifications. To qualify for appointment as commissioner, a person must have training and experience in correctional administration or satisfactory experience in the direction of work of a comparable nature.
[PL 1983, c. 459, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1995, c. 3, §4 (AMD).

§1402. Duties

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

In addition to other duties set out in this Title, the commissioner has the following duties. [PL 1983, c. 459, §6 (NEW).]

1. General. The commissioner has general supervision, management and control of the research and planning, grounds, buildings, property, officers, employees and clients of any correctional facility, detention facility or correctional program.
[PL 1991, c. 314, §17 (AMD).]

2. Enforcement of laws. The commissioner shall enforce all laws concerning correctional facilities, unless specific law enforcement duties are given by law to other persons.
[PL 1983, c. 459, §6 (NEW).]

3. Rules. Rules shall be established as follows.

A. The commissioner shall establish, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, such rules as he determines appropriate or necessary for the care and management of the property of all correctional facilities, for the production and distribution of industrial products of the correctional facilities and for the execution of the statutory purposes and functions of correctional facilities or correctional programs. [PL 1983, c. 459, §6 (NEW).]

B. The central principle underlying all rules, regulations, procedures and practices relating to clients is that the clients retain all rights of an ordinary citizen, except those expressly or by necessary implication taken from them by law. [PL 1991, c. 314, §18 (AMD).]
[PL 1991, c. 314, §18 (AMD).]

4. Career and technical education. Establishment of career and technical education shall be as follows.

A. The commissioner shall establish and maintain suitable courses for career and technical education in the correctional facilities.

(1) The commissioner shall install equipment necessary to carry out this duty.

(2) The commissioner shall employ suitable and qualified instructors necessary to carry out this duty, subject to the approval of the Department of Education. [PL 2005, c. 683, Pt. B, §25 (AMD).]

B. The expenses of carrying out this subsection shall be paid from the appropriations for the correctional facilities. [PL 1983, c. 459, §6 (NEW).]
[PL 2005, c. 683, Pt. B, §25 (AMD).]

5. Grievance procedures. The commissioner shall establish procedures for hearing grievances of clients. The commissioner shall establish a separate grievance process for addressing complaints by prisoners about their medical and mental health treatment as well as a separate grievance process for addressing complaints regarding compliance with the standards established pursuant to sections 1208, 1208-A and 1208-B.

[PL 2021, c. 620, §4 (AMD).]

6. County jail, holding facility and short-term detention area standards.
[PL 1983, c. 581, §§11,59 (RP).]

7. Abuse allegations in correctional and detention facilities. The commissioner is responsible for ensuring appropriate intervention and remediation in cases of substantiated abuse and neglect in correctional and detention facilities. The commissioner shall ensure, through inspection at least every 2 years, that all correctional and detention facilities meet applicable federal and state standards relating to the health and safety of clients of these facilities.

[PL 1991, c. 314, §20 (AMD).]

8. Allegations of child abuse or neglect in correctional and detention facilities. The commissioner is responsible for the investigation of all reports of suspected child abuse or neglect in correctional and detention facilities.

A. These investigations must be conducted with the Department of Health and Human Services, as appropriate, and, in cases where there are allegations or indications of criminal conduct, with the Department of the Attorney General, as appropriate. [PL 1991, c. 314, §20 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

B. The commissioner shall negotiate joint working agreements with the Department of Health and Human Services and the Department of the Attorney General concerning procedures and respective responsibilities for conducting investigations of allegations of child abuse or neglect in correctional and detention facilities. [PL 1991, c. 314, §20 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]
[PL 1991, c. 314, §20 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

9. Statement of correctional system impact. The commissioner shall prepare statements pertaining to the impact that proposed legislation has upon correctional system resources, including the cost that the correctional system would bear. The commissioner shall make inquiry of a statewide association of prosecuting attorneys, the judicial branch, a statewide association of county sheriffs and any other parties, as appropriate, in order to provide the most accurate estimates of the correctional system impact, including the number of additional probationers, the number of additional incarcerated individuals and the number of additional jail and prison beds that may reasonably be anticipated from enactment of the legislation, by fiscal year. Whenever practicable, the statements must also include the impact of such legislation in future biennia as well. For purposes of this subsection, the correctional system includes correctional facilities and services operated or funded by the State or by any county government. The statements must be furnished to the appropriate committee of the Legislature for the information of its members and to the legislative staff office designated to collect and assemble fiscal information for use of legislative committees under Title 3, section 163-A, subsection 10. The statements must be considered in the preparation of the fiscal note included in a committee amendment or other amendment if the legislation or amendment has a fiscal impact on the correctional system. A statement is not required for any legislation that has no impact upon the correctional system.

[PL 2007, c. 240, Pt. YYY, §2 (AMD).]

10. Rehabilitation programs. Within the limits of available resources, the commissioner shall establish and maintain programs, inside and outside of correctional facilities, that provide rehabilitation services and opportunities for clients.

[PL 1991, c. 355, §3 (NEW).]

10-A. Culturally informed treatment and recovery programs. The commissioner shall ensure that any residential or nonresidential treatment or recovery programs established by the commissioner and serving a juvenile who has been adjudicated of a juvenile crime and who has not attained 21 years of age provide for that juvenile culturally informed treatment plans and modalities and culturally informed community reintegration services and provide language services for that juvenile and the juvenile's family and support system.

[PL 2021, c. 339, §1 (NEW).]

10-B. Culturally informed prevention, diversion and restorative justice programs. The commissioner shall ensure that any prevention, diversion or restorative justice programs established by the commissioner and serving a juvenile who has been adjudicated of a juvenile crime and who has not attained 21 years of age provide for that juvenile culturally informed services, including, but not limited to, referrals to community based services and supports, housing, case management, education and employment resources, and provide language services for that juvenile and the juvenile's family and support system, as necessary.

[PL 2021, c. 339, §2 (NEW).]

11. Report requirement. The commissioner shall report annually, no later than January 4th of each year, 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 regarding recidivism information including, but not limited to:

A. The number of juvenile offenders in the correctional facilities and their reoffending rates; [PL 2003, c. 20, Pt. N, §1 (NEW).]

B. The number of incarcerated adults who were adjudicated as having committed a juvenile offense; and [PL 2003, c. 20, Pt. N, §1 (NEW).]

C. The recidivism rates of juvenile offenders as adults. [PL 2003, c. 20, Pt. N, §1 (NEW).]
[PL 2003, c. 20, Pt. N, §1 (NEW).]

12. (TEXT EFFECTIVE UNTIL 7/01/23) County and regional jails. The commissioner shall receive, administer and distribute to the county and regional jails funding provided through the General Fund, Other Special Revenue Funds and any federal and grant funds in accordance with section 1210-D and Title 30-A, section 1659-A. The department shall make distributions as required by section 1210-D to each jail on a quarterly basis and as may be adjusted pursuant to section 1208-B, subsection 1, paragraph B.

[PL 2015, c. 335, §24 (NEW).]

12. (TEXT EFFECTIVE 7/01/23) County and regional jails. The commissioner shall receive, administer and distribute to the county and regional jails funding provided through the General Fund, Other Special Revenue Funds and any federal and grant funds in accordance with section 1210-E and Title 30-A, section 1659-A. The department shall make distributions as required by section 1210-E, subsection 5 to each jail on a quarterly basis and as may be adjusted pursuant to section 1208-B, subsection 1, paragraph B.

[PL 2021, c. 732, Pt. D, §4 (AMD); PL 2021, c. 732, Pt. D, §7 (AFF).]

13. (TEXT EFFECTIVE UNTIL 7/01/23) Report on jails. Beginning January 15, 2016 and annually thereafter, the department, in collaboration with a statewide association of sheriffs and a statewide association of county commissioners, shall submit a report to the joint standing committee of

the Legislature having jurisdiction over criminal justice and public safety matters on the mandatory standards, policies and procedures for jails adopted pursuant to section 1208-B and the status of funding for the jails from the County Jail Operations Fund established in section 1210-D, county taxes and other sources. The department and representatives of the associations shall conduct a review of the funding provided to county jails pursuant to subsection 12 and section 1210-D and the distribution formula established by the department pursuant to section 1210-D, subsection 4. If the department and the associations find that changes are needed to the distribution method or procedures or the level of General Fund support, the department shall report that finding to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and shall recommend changes in the formula determined pursuant to section 1210-D, subsection 4 and the level of General Fund support. After reviewing the report, the joint standing committee is authorized to submit legislation to address issues raised by the report and to improve the funding and operation of the jails. [PL 2015, c. 335, §24 (NEW).]

13. (TEXT EFFECTIVE 7/01/23) Report on jails. Beginning October 1, 2023 and annually thereafter, the department, in collaboration with a statewide association of sheriffs and a statewide association of county commissioners, shall submit a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the mandatory standards, policies and procedures for jails adopted pursuant to section 1208-B and the status of funding for the jails from the County Jail Operations Fund established in section 1210-E, subsection 2, county taxes and other sources. The department and representatives of the associations shall conduct a review of the funding provided to county and regional jails pursuant to subsection 12 and section 1210-E, subsection 5 and the distribution formula established pursuant to section 1210-E, subsection 9. If the department and the associations find that changes are needed to the distribution method or procedures or the level of General Fund support, the department shall report that finding to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and shall recommend changes in the formula determined pursuant to section 1210-E, subsection 9 and the level of General Fund support. After reviewing the report, the joint standing committee is authorized to submit legislation to address issues raised by the report and to improve the funding and operation of the jails.

[PL 2021, c. 732, Pt. D, §5 (AMD); PL 2021, c. 732, Pt. D, §7 (AFF).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1983, c. 581, §§11,59 (AMD). PL 1987, c. 744, §11 (AMD). PL 1989, c. 925, §17 (AMD). PL 1991, c. 314, §§17-20 (AMD). PL 1991, c. 355, §3 (AMD). PL 2001, c. 659, §11 (AMD). PL 2003, c. 20, §N1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 397, §D3 (REV). PL 2005, c. 683, §B25 (AMD). PL 2007, c. 240, Pt. YYY, §2 (AMD). PL 2009, c. 1, Pt. S, §3 (AMD). PL 2015, c. 335, §24 (AMD). PL 2021, c. 339, §§1, 2 (AMD). PL 2021, c. 620, §4 (AMD). PL 2021, c. 732, Pt. D, §§4, 5 (AMD). PL 2021, c. 732, Pt. D, §7 (AFF).

§1403. Powers

In addition to other powers granted in this Title, the commissioner has the following powers. [PL 1983, c. 459, §6 (NEW).]

1. General powers. The commissioner may perform any legal act relating to the care, custody, treatment, relief and improvement of clients or may purchase residential services when the department's correctional and detention facilities do not provide the appropriate services for the client.

[PL 1991, c. 314, §21 (AMD).]

2. Appointments. The commissioner's appointment powers are as follows.

A. The commissioner may appoint, subject to the Civil Service Law and except as otherwise provided, any employees who may be necessary, including those intermittent employees as defined

in Title 5, section 7053 needed to offset the overtime costs related to unscheduled, unanticipated overtime. These intermittent positions in the institutional services unit may be used only at preidentified posts and work sites. [PL 2013, c. 491, §3 (AMD).]

B. The commissioner may appoint and set the salary for one deputy commissioner and 2 associate commissioners to assist in carrying out the responsibilities of the department.

(1) An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

(2) To be eligible for appointment as the deputy commissioner or an associate commissioner, a person must have training and experience in general management.

(3) The deputy commissioner has the powers, duties, obligations and liabilities of the commissioner when the commissioner is unable to perform the duties of the office. [PL 2013, c. 491, §3 (AMD).]

C. [PL 2013, c. 491, §3 (RP).]

D. [PL 2015, c. 494, Pt. A, §37 (RP).]

[PL 2015, c. 494, Pt. A, §37 (AMD).]

3. Delegation. The commissioner's delegation powers are as follows.

A. Unless a specific statute otherwise directs, the commissioner may delegate powers and duties given under this Title to the deputy commissioner, associate commissioners, chief administrative officers and regional correctional administrators. [PL 2013, c. 491, §4 (AMD).]

B. The commissioner may empower the deputy commissioner, associate commissioners, chief administrative officers and regional correctional administrators to further delegate powers and duties delegated to them by the commissioner. [PL 2013, c. 491, §4 (AMD).]

B-1. Unless a specific statute otherwise directs, the commissioner may empower chief administrative officers to delegate powers and duties given to them by chapter 3 and may empower regional correctional administrators to delegate powers and duties given to them by chapter 5. [PL 1995, c. 502, Pt. F, §19 (AMD).]

C. The deputy commissioner, an associate commissioner or associate commissioners may be designated to assist in the development of community correctional programs at the county level and to coordinate activities of the department with each county and any county correctional advisory groups. The deputy commissioner, associate commissioner or associate commissioners may appoint staff to assist in carrying out this paragraph. [PL 2013, c. 491, §4 (AMD).]

[PL 2013, c. 491, §4 (AMD).]

4. Funding sources. The commissioner may use the following funding sources.

A. The commissioner may accept for the State any federal funds appropriated under federal law relating to the juvenile offender and may do whatever is necessary to carry out the federal law. [PL 1983, c. 459, §6 (NEW).]

B. The commissioner may accept, from any other agency of government, person, group or corporation, any funds which may be available in carrying out this Title. [PL 1983, c. 459, §6 (NEW).]

C. The commissioner may apply for and receive federal funds under the United States Housing Act of 1954, Public Law 560, Title 7. [PL 1983, c. 459, §6 (NEW).]

[PL 1983, c. 459, §6 (NEW).]

5. Lease of unused buildings. The commissioner may, with the approval of the Director of the Bureau of General Services, lease unused buildings at the correctional and detention facilities for the purposes of providing services to clients.

A. The leases must be for a period not to exceed 2 years and may be extended, with the approval of the Director of the Bureau of General Services, for 3 more 2-year periods. [PL 1995, c. 111, §1 (AMD).]

B. The commissioner shall submit a plan of the proposed leases and their impact on the correctional and detention facilities and clients to the joint standing committee of the Legislature having jurisdiction over corrections no later than January 31st of each year. [PL 1991, c. 314, §24 (AMD).]

[PL 1995, c. 111, §1 (AMD).]

5-A. Lease of Long Creek Youth Development Center building. Notwithstanding subsection 5 and Title 5, chapter 154, the commissioner may, with the approval of the Director of the Bureau of General Services, lease any building that the commissioner determines is no longer needed to be a part of the Long Creek Youth Development Center for the purpose of providing services to clients under such terms as the commissioner and director determine appropriate.

[PL 1995, c. 502, Pt. F, §20 (NEW); PL 2001, c. 439, Pt. G, §6 (AMD).]

6. Acceptance or conveyance of donated personal property. The commissioner may accept donations of personal property to be used at a correctional or detention facility. If, at a later date, the donated property ceases to be useful to the correctional or detention facility, the commissioner may sell the property and use the proceeds for the benefit of the correctional or detention facility to which the property was originally donated.

[PL 1991, c. 314, §25 (AMD).]

7. Establishment of farm programs and gravel mining programs to support farm programs at correctional facilities. The commissioner may establish a farm program at each correctional facility for the purposes of producing agricultural and farm products and teaching prisoners and juvenile clients cultivation and gardening techniques. The commissioner may also establish a gravel mining program at any correctional facility sited on land that contains sufficient gravel for the purpose of supporting the farm programs.

A. Products from farm programs under this subsection must be used by correctional facilities. If a surplus exists, it may be:

- (1) Sold or distributed to other state, county or local governmental entities;
 - (2) Exchanged with other state, county or local governmental entities for services or other goods;
 - (3) Sold to or exchanged with private Maine businesses; or
 - (4) Sold to or exchanged with community agencies as defined in section 1206, subsection 1.
- [PL 2011, c. 340, §1 (AMD).]

B. The revenue generated by the sale of farm products under this subsection must be deposited in a special account. This account does not lapse at the end of a fiscal year but must be carried forward from year to year. [PL 2011, c. 340, §1 (AMD).]

C. The funds in the special account under paragraph B may be expended to implement and maintain farm programs in correctional facilities. These expenditures include, but are not limited to, the purchase of necessary materials and equipment, construction, administrative costs and employee salaries. [PL 2011, c. 340, §1 (AMD).]

D. The commissioner may establish, for the purpose of supporting farm programs at correctional facilities by generating additional revenue for the special account under paragraph B, a gravel

mining program at any correctional facility sited on land that contains sufficient gravel. The commissioner shall determine the amount of gravel to be mined. Gravel not used by correctional facilities may be sold, distributed or exchanged in the same manner as farm products pursuant to paragraph A. In addition to the expenditures allowed by paragraph C, the revenue generated from a gravel mining program may be expended to implement and maintain gravel mining programs in correctional facilities. [PL 2011, c. 340, §1 (NEW).]

[PL 2011, c. 340, §1 (AMD).]

8. Receipt of United States prisoners or adjudicated juveniles. The commissioner's power to accept United States prisoners or adjudicated juveniles is as follows.

A. The commissioner may receive in any correctional facility prisoners detained by the United States or convicted of an offense against the United States and committed for a term of imprisonment to the custody of the Attorney General of the United States if:

(1) The Attorney General of the United States designates a Maine correctional facility as the place of confinement for the prisoner; and

(2) The commissioner approves and agrees to accept and keep the prisoner in a Maine correctional facility. [PL 1989, c. 127, §3 (RPR).]

B. The commissioner may receive in any juvenile facility juveniles detained by the United States or adjudicated of an offense against the United States and committed for a term of institutionalization to the custody of the Attorney General of the United States if:

(1) The Attorney General of the United States designates a Maine juvenile facility as the place of confinement for the juvenile; and

(2) The commissioner approves and agrees to accept and keep the juvenile in a Maine juvenile facility. [PL 1989, c. 127, §3 (RPR).]

C. The commissioner may contract with the Attorney General of the United States or officer designated by the Congress for the care, custody, subsistence, education, treatment and training of any prisoner or juvenile accepted under this section. All sums paid pursuant to contracts authorized by this section shall accrue to the General Fund. [PL 1989, c. 127, §3 (NEW).]

[PL 1989, c. 127, §3 (RPR).]

9. Industries programs. The commissioner may establish career and technical training, work and industries programs, including those permitted under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761.

A. The program may make services and goods available for use by correctional facilities or for purchase by other state, county or local governmental entities, private businesses in the State, community agencies, as defined in section 1206, subsection 1, or the public. The program may also donate services or goods to other state, county or local governmental entities for the purpose of promoting prison industries or to public or private nonprofit organizations. [PL 2011, c. 515, §3 (AMD).]

B. The commissioner may authorize any person or business entity purchasing goods manufactured at a correctional facility to resell those articles if that person or entity requests, in writing, authority from the commissioner at the time the initial purchase is made. [PL 1985, c. 821, §21 (NEW).]

C. All goods manufactured at a correctional facility for sale shall be distinctly labeled or branded with the words "Manufactured at a Maine State Correctional Facility", except those goods produced under a program certified by the United States Department of Justice under the United States Code, Title 18, Section 1761. [PL 1989, c. 127, §4 (AMD).]

D. All revenues from direct sales of goods and services produced by prisoners at correctional facilities and all amounts received from a private sector industry participating with the Department

of Corrections in an industries program certified by the United States Department of Justice under the United States Code, Title 18, Section 1761, in consideration of lease of industry space, provision of utilities, trash removal and other services provided to the private industry that are related to the use of industry space at correctional facilities must be deposited into the department's industries enterprise account, which does not lapse. All revenues generated from career and technical training programs must be deposited into Other Special Revenue Funds accounts, which do not lapse and must be used to support the costs of vocational training programs. [PL 2013, c. 368, Pt. ZZZ, §1 (AMD).]

E. Funds from these industries accounts may be used to pay for materials, supplies, equipment, salaries and other costs of establishing and operating career and technical training, work and industrial programs. For industries programs certified by the United States Department of Justice under the United States Code, Title 18, Section 1761, mandatory contributions for crime victim services must be made from these industries accounts and transferred to the control of the Office of Victim Services, as established in section 1214. [PL 2001, c. 439, Pt. G, §2 (AMD); PL 2003, c. 545, §6 (REV).]

F. The commissioner shall, in consultation with the Maine Apprenticeship Program established in Title 26, section 3202, develop policies concerning job displacement and safety and policies to develop opportunities in the prison industries programs. [PL 2011, c. 491, §16 (AMD).]
[PL 2013, c. 368, Pt. ZZZ, §1 (AMD).]

10. Client benefit welfare account. The commissioner shall provide an accounting of all client benefit welfare accounts each fiscal year to the joint select committee of the Legislature having jurisdiction over corrections matters. The annual accounting must include total income for the year, total expenditures for the year, anticipated capital and operating expenditures from these accounts in the next fiscal year and balances in the accounts. Nothing in this subsection may change the nature of these accounts as internal management tools.
[PL 1999, c. 583, §3 (AMD).]

11. Contracting agent. The chief administrative officer is the contracting agent for all sales of articles from a correctional facility and for all other contracts made on behalf of the correctional facility except those made by the State Purchasing Agent.

A. All contracts must be made in the manner prescribed by the commissioner. [PL 1999, c. 583, §4 (NEW).]

B. A contract may not be accepted by the chief administrative officer, unless the contractor gives satisfactory security for its performance. [PL 1999, c. 583, §4 (NEW).]

C. An employee of the correctional facility may not be directly or indirectly interested in any contract. [PL 1999, c. 583, §4 (NEW).]

[PL 1999, c. 583, §4 (NEW).]

12. Transfer of funds. Notwithstanding Title 5, section 1585 or any other provision of law, the commissioner, upon recommendation of the State Budget Officer and approval of the Governor, is authorized to transfer by financial order All Other funding between accounts within the same fund for the purposes of paying food, heating and utility expenses.
[PL 2011, c. 380, Pt. AA, §1 (NEW).]

13. Personal Services balances authorized to carry to Capital Expenditures. Notwithstanding any other provision of law, beginning at the close of fiscal year 2017-18, the department is authorized to carry all fiscal-year-end balances in the Personal Services line category of General Fund accounts, after the deduction of all allocations, financial commitments, other designated funds or any other transfers authorized by statute, to the Capital Expenditures line category in the Capital

Construction/Repairs/Improvements - Corrections program, General Fund account in the department to be used for the purpose of making capital improvements to correctional facilities.

[PL 2017, c. 284, Pt. JJJ, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1983, c. 581, §§12,59 (AMD). PL 1983, c. 724 (AMD). PL 1983, c. 729, §6 (AMD). PL 1985, c. 67, §1 (AMD). PL 1985, c. 785, §B151 (AMD). PL 1985, c. 821, §§19-21 (AMD). PL 1987, c. 589 (AMD). PL 1989, c. 127, §§3,4 (AMD). RR 1991, c. 2, §128 (COR). PL 1991, c. 314, §§21-25 (AMD). PL 1991, c. 716, §6 (AMD). PL 1993, c. 682, §1 (AMD). PL 1995, c. 111, §1 (AMD). PL 1995, c. 502, §§F18-20 (AMD). PL 1999, c. 401, §J4 (AMD). PL 1999, c. 459, §1 (AMD). PL 1999, c. 583, §§3,4 (AMD). PL 1999, c. 731, §G2 (AMD). PL 2001, c. 386, §11 (AMD). PL 2001, c. 439, §§G2,6 (AMD). PL 2003, c. 545, §6 (REV). PL 2011, c. 340, §§1, 2 (AMD). PL 2011, c. 380, Pt. AA, §1 (AMD). PL 2011, c. 491, §16 (AMD). PL 2011, c. 515, §3 (AMD). PL 2013, c. 368, Pt. ZZZ, §1 (AMD). PL 2013, c. 491, §§3, 4 (AMD). PL 2015, c. 267, Pt. VVV, §1 (AMD). PL 2015, c. 291, §3 (AMD). PL 2015, c. 494, Pt. A, §37 (AMD). PL 2017, c. 284, Pt. JJJ, §1 (AMD).

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

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §28 (NEW). PL 2009, c. 391, §9 (AMD). PL 2011, c. 374, §6 (AMD). PL 2013, c. 598, §7 (AMD). PL 2015, c. 335, §25 (RP).

§1405. Transfer from county jails or correctional facilities

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §29 (NEW). PL 2009, c. 142, §15 (AMD). PL 2009, c. 391, §10 (AMD). PL 2015, c. 335, §26 (RP).

§1406. Authority to review financial records of counties as those records relate to corrections

1. County jail records. Notwithstanding any other provision of law to the contrary, the commissioner may inspect, review and take custody of records of the counties as those records relate to the funding and operation of the county jails. Upon the request of the commissioner, a county jail within 15 days of the request shall supply complete and accurate information. The commissioner shall work with the jails to assist them in achieving compliance with the requirements of this subsection. The commissioner shall enforce the standards of this subsection by imposition of monetary penalties pursuant to policies and procedures under section 1208-B, subsection 1, paragraph B. This subsection must be liberally construed to effect the purpose of this section.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

2. Violation. A state government agency or local government entity whose officer or employee violates subsection 1 commits a civil violation for which a fine of not more than \$5,000 may be adjudged.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

3. Appeal. If the commissioner is aggrieved by a refusal or denial to inspect or copy a record or a failure to allow the inspection or copying of a record under this section, the commissioner may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to the Superior Court for the county where the person refusing, failing or denying the inspection or copying resides or the agency employing that person has its principal office. The agency or official shall file a statement of position explaining the basis for denial within 14 calendar days of

service of the appeal. If a court, after a review, and taking of testimony and other evidence as determined necessary, determines the refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

4. Proceedings not exclusive. The proceedings authorized by this section are not exclusive of any other civil remedy provided by law.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

5. Attorney's fees. In an appeal under subsection 3 or another civil proceeding, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed pursuant to subsection 3 or in another civil proceeding if the court determines that the illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

6. Subpoena power. The commissioner may, in connection with the performance of the commissioner's duties, apply to the Superior Court for a subpoena to compel the attendance of witnesses and the production of books, papers, records and documents of individuals, firms, associations and corporations and all officers, boards, commissions and departments of county government. The court, before issuing the subpoena, shall provide adequate opportunity for the commissioner and the party against whom the subpoena is requested to be heard. The court may issue the subpoena only on a showing by the commissioner and specific findings of fact by the court that the attendance of the witness or the production of the books, papers, records or documents is reasonably necessary to carry out specific duties of the commissioner that are related to the operations and finances of the county jails and that the commissioner has made reasonable efforts to secure the attendance or the books, papers, records or documents without recourse to compulsory process.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 284, Pt. SSSSS, §1 (NEW).

SUBCHAPTER 4

NEGOTIATIONS WITH MUNICIPALITIES IN WHICH CORRECTIONAL FACILITIES ARE LOCATED

§1601. Negotiations with municipalities

The Commissioner of Corrections, or the commissioner's designee, shall negotiate with officials of the municipality in which correctional facilities for both juveniles and adults constructed after the effective date of this section are located to provide state reimbursement to that municipality for the net increased costs that a new correctional facility imposes on that municipality. Negotiations shall commence only upon request of municipal officials and only within 6 months after the net increased costs arise. As used in this section, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 591, §1 (NEW).]

1. Correctional facility. "Correctional facility" means those facilities outlined in section 1001, subsection 6.

[PL 1989, c. 591, §1 (NEW).]

2. Net increased costs. "Net increased costs" means the costs of those services rendered to the facility by the municipality and the costs of any adverse impact proximately caused by the operation of

the facility, subtracted from the fair market value of those services rendered by the facility to the municipality.

[PL 1989, c. 591, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 591, §1 (NEW).

SUBCHAPTER 5

STATE BOARD OF CORRECTIONS

§1801. State Board of Corrections

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §30 (NEW). PL 2009, c. 213, Pt. GGG, §2 (AMD). PL 2009, c. 213, Pt. GGG, §7 (AFF). PL 2011, c. 374, §§7, 8 (AMD). PL 2013, c. 598, §§8-10 (AMD). PL 2015, c. 335, §27 (RP).

§1802. Board membership

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §30 (NEW). PL 2009, c. 89, §1 (AMD). PL 2011, c. 374, §§9, 10 (AMD). PL 2013, c. 598, §11 (AMD). PL 2015, c. 335, §27 (RP).

§1803. Board responsibilities and duties

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §30 (NEW). PL 2009, c. 213, Pt. GGG, §§3, 4 (AMD). PL 2009, c. 213, Pt. GGG, §7 (AFF). PL 2009, c. 391, §§11-14 (AMD). PL 2011, c. 374, §§11-14 (AMD). PL 2013, c. 533, §25 (AMD). PL 2013, c. 598, §§12-22 (AMD). PL 2015, c. 16, Pt. I, §1 (AMD). PL 2015, c. 267, Pt. V, §1 (AMD). PL 2015, c. 335, §27 (RP).

§1803-A. Office of executive director

(REPEALED)

SECTION HISTORY

PL 2011, c. 374, §15 (NEW). PL 2013, c. 598, §§23, 24 (AMD). PL 2015, c. 335, §27 (RP).

§1804. Corrections working group

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §30 (NEW). PL 2011, c. 374, §16 (AMD). PL 2015, c. 335, §27 (RP).

§1805. State Board of Corrections Operational Support Fund program

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §30 (NEW). PL 2009, c. 213, Pt. GGG, §5 (AMD). PL 2009, c. 213, Pt. GGG, §7 (AFF). PL 2009, c. 391, §15 (AMD). RR 2013, c. 2, §41 (COR). PL 2013, c. 598, §25 (AMD). PL 2015, c. 335, §27 (RP).

§1806. Community corrections funds distributed by board

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §30 (NEW). PL 2009, c. 213, Pt. GGG, §6 (AMD). PL 2009, c. 213, Pt. GGG, §7 (AFF). PL 2013, c. 598, §26 (AMD). PL 2015, c. 335, §27 (RP).

§1807. Electronic Monitoring Fund

(REPEALED)

SECTION HISTORY

PL 2013, c. 227, §6 (NEW). PL 2015, c. 335, §27 (RP).

§1808. Financial data

(REPEALED)

SECTION HISTORY

PL 2013, c. 598, §27 (NEW). PL 2015, c. 335, §27 (RP).

§1809. Application for other funds

(REPEALED)

SECTION HISTORY

PL 2013, c. 598, §27 (NEW). PL 2015, c. 335, §27 (RP).

§1810. Budget format

(REPEALED)

SECTION HISTORY

PL 2013, c. 598, §27 (NEW). PL 2015, c. 335, §27 (RP).

§1811. County Corrections Capital Improvement Fund

(REPEALED)

SECTION HISTORY

PL 2013, c. 598, §27 (NEW). PL 2015, c. 335, §27 (RP).

§1812. Use of funds

(REPEALED)

SECTION HISTORY

PL 2013, c. 598, §27 (NEW). PL 2015, c. 335, §27 (RP).

§1813. Monitoring performance

(REPEALED)

SECTION HISTORY

PL 2013, c. 598, §27 (NEW). PL 2015, c. 335, §27 (RP).

§1814. Enforcement authority

(REPEALED)

SECTION HISTORY

PL 2013, c. 598, §27 (NEW). PL 2015, c. 335, §27 (RP).

§1815. Program incentives

(REPEALED)

SECTION HISTORY

PL 2013, c. 598, §27 (NEW). PL 2015, c. 335, §27 (RP).

§1816. Discharge of duties of board by commissioner

(REPEALED)

SECTION HISTORY

PL 2015, c. 16, Pt. I, §2 (NEW). PL 2015, c. 267, Pt. V, §2 (AMD). PL 2015, c. 335, §27 (RP).

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