§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 subsection.

(1) Except as provided in subparagraph (2), all sums paid pursuant to contracts authorized by this paragraph must accrue to the General Fund.

(2) Sums paid by the United States Department of Justice, United States Marshals Service pursuant to a contract authorized by this paragraph must accrue to the department for deposit into the client benefit welfare accounts at the department's correctional facilities. Sums accrued to the department under this paragraph may not exceed $250,000 each fiscal year. Any sums paid pursuant to contracts under this subparagraph in excess of $250,000 each fiscal year must accrue to the General Fund. [PL 2025, c. 388, Pt. Z, §1 (AMD).]

[PL 2025, c. 388, Pt. Z, §1 (AMD).]

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 Chief Procurement Officer.

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 2023, c. 516, Pt. B, §45 (AMD).]

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

[PL 2023, c. 516, Pt. B, §45 (AMD).]

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).]

14. Technology fee. The commissioner may establish a reasonable fee, as provided in this subsection, for the use of technology, including, but not limited to, computers, laptop computers and external storage devices, that is provided to residents of correctional facilities in connection with educational or vocational programs, remote work or other purposes. For each calendar month in which the technology is used by a resident, as defined in section 3015, subsection 1, paragraph B, the fee charged may not exceed 7% of the resident's earnings during the month after any deductions for court-ordered or statutory obligations, including, but not limited to, child support, court filing fees, victim restitution, fines, facility restitution, facility monetary sanctions, medical and dental services fees and room and board, or $35, whichever is less. The commissioner may not charge a fee under this subsection for:

A. Technology that is provided to a resident for the purpose of research related to a criminal case or civil lawsuit in which the resident is involved; or [PL 2025, c. 352, §2 (NEW).]

B. Technology that is provided to a resident who has earnings of less than $100 during the calendar month after any deductions that are provided for in this subsection. [PL 2025, c. 352, §2 (NEW).]

Money received by the resident and directly deposited into a telephone call account established by the department under section 3039, subsection 4 for the sole purpose of paying for use of the department's client telephone system is not subject to this subsection. Money received by the resident as a credit improvement loan in accordance with section 3039, subsection 6 is not subject to this subsection.

A correctional facility shall collect any fees received under this subsection and deposit them into the Resident Technology Fund established in section 1220.
[PL 2025, c. 352, §2 (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). PL 2023, c. 516, Pt. B, §45 (AMD). PL 2025, c. 352, §2 (AMD). PL 2025, c. 388, Pt. Z, §1 (AMD).

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