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Public Law
123rd Legislature
First Regular Session

Chapter 377
H.P. 1327 - L.D. 1895

**An Act To Implement the Recommendations of
the Corrections Alternatives Advisory Committee**

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

Sec. 1. 4 MRSA §116, first ¶, as repealed and replaced by PL 2003, c. 20, Pt. R, §1 and affected by §10, is amended to read:

All revenue received by the Supreme Judicial or Superior Court, whether directly or pursuant to an agreement entered into with the Department of Administrative and Financial Services, Bureau of Revenue Services, from fines, forfeitures, penalties, fees and costs accrues to the State, except as otherwise provided under section 1057; Title 7, section 3910-A; Title 12, sections 3055 and 4508; Title 17, section 1015; Title 23, section 1653; Title 29-A, section 2602; ~~and former~~ Title 34-A, section 1210-A, subsection 9; and Title 34-A, section 1210-B, subsection 6.

Sec. 2. 4 MRSA §163, sub-§1, as repealed and replaced by PL 2003, c. 20, Pt. R, §2 and affected by §10, is amended to read:

1. District Court funds. Except as otherwise provided by law, all fines, forfeitures, surcharges, assessments and fees collected in any division of the District Court or by the violations bureau must be paid to the clerk of that District Court, who shall deposit them in a special account in a timely manner. Once each month, the clerk shall remit the sums to the Treasurer of State, who shall credit them to the General Fund. At the same time, the clerk shall remit the sums that have been collected in accordance with section 1057; Title 5, chapter 316-A; Title 7, section 3910-A; Title 17, section 1015; Title 29-A, section 2411, subsection 7; ~~and former~~ Title 34-A, section 1210-A, subsection 9; and Title 34-A, section 1210-B, subsection 6. Funds received by the clerk as bail in criminal cases must be deposited daily in a special account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost-effective to do so. Interest accrued in the account is the property of and accrues to the State. The forfeiture and setoff of bail is governed as otherwise provided by law.

The court shall file a monthly report with the State Auditor itemizing the amount of fines, surcharges and assessments imposed and to whom each is payable.

Sec. 3. 5 MRSA §12004-I, sub-§74-E is enacted to read:

74-E.

Sentencing

Expenses
Only

34-A MRSA
§1209-A

State
Sentencing and
Corrections
Practices
Coordinating
Council

Sec. 4. 15 MRSA §1026, sub-§2, as amended by PL 2001, c. 252, §1, is further amended to read:

2. Release on personal recognizance or unsecured appearance bond. The judicial officer shall order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond in an amount specified by the judicial officer, unless, after consideration of the factors listed in subsection 4, the judicial officer determines that the release will compromise the safety of the community, will not reasonably ensure the appearance of the defendant as required or will not otherwise reasonably ensure the integrity of the judicial process.

Sec. 5. 15 MRSA §1026, sub-§3, as amended by PL 2005, c. 449, §1, is further amended to read:

3. Release on conditions. Conditions that will reasonably ensure the safety of the community, the appearance of the defendant and ensure the integrity of the judicial process must be imposed as provided in this subsection.

A. If, after consideration of the factors listed in subsection 4, the judicial officer determines that the release described in subsection 2 will not reasonably ensure the safety of the community or the appearance of the defendant as required or will not otherwise reasonably ensure the integrity of the judicial process, the judicial officer shall order the pretrial release of the defendant subject to the least restrictive further condition or combination of conditions that the judicial officer determines will reasonably ensure the safety of the community and the appearance of the defendant as required and will otherwise reasonably ensure the integrity of the judicial process. These conditions may include that the defendant:

(1) Remain in the custody of a designated person or organization agreeing to supervise the defendant, including a public official, public agency or publicly funded organization, if the designated person or organization is able to reasonably ensure both the appearance of the defendant as required and the integrity of the judicial process. When feasible, the judicial officer shall impose the responsibility upon the defendant to produce the designated person or organization. The judicial officer may interview the designated person or organization to ensure satisfaction of both the willingness and ability required. The designated person or organization shall agree to notify immediately the judicial officer of any violation of release by the defendant;

(2) Maintain employment or, if unemployed, actively seek employment;

(3) Maintain or commence an educational program;

- (4) Abide by specified restrictions on personal associations, place of abode or travel;
- (5) Avoid all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;
- (6) Report on a regular basis to a designated law enforcement agency or other governmental agency;
- (7) Comply with a specified curfew;
- (8) Refrain from possessing a firearm or other dangerous weapon;
- (9) Refrain from use or excessive use of alcohol and from any use of drugs;
- (10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter and remain, as a voluntary patient, in a specified institution when required for that purpose;
- (10-A) Enter and remain in a long-term residential facility for the treatment of substance abuse;
- (11) Execute an agreement to forfeit, upon failing to appear as required, such designated property, including money, as is reasonably necessary to ensure the appearance of the defendant as required and to ensure the integrity of the judicial process and post with an appropriate court such evidence of ownership of the property or such percentage of the money as the judicial officer specifies;
- (12) Execute a bail bond with sureties in such amount as is reasonably necessary to ensure the appearance of the defendant as required and to ensure the integrity of the judicial process;
- (13) Return to custody for specified hours following release for employment, schooling or other limited purposes;
- (14) Report on a regular basis to the defendant's attorney;
- (15) Notify the court of any changes of address or employment;
- (16) Provide to the court the name, address and telephone number of a designated person or organization that will know the defendant's whereabouts at all times;

(17) Inform any law enforcement officer of the defendant's condition of release if the defendant is subsequently arrested or summoned for new criminal conduct; and

(18) Satisfy any other condition that is reasonably necessary to ensure the safety of the community and the appearance of the defendant as required and to otherwise reasonably ensure the integrity of the judicial process.

B. The judicial officer may not impose a financial condition that, either alone or in combination with other conditions of bail, is in excess of that reasonably necessary to ensure the safety of the community and the appearance of the defendant as required or to otherwise ensure the integrity of the judicial process.

C. Upon motion by the attorney for the State or the defendant and after notice and upon a showing of changed circumstances or upon the discovery of new and significant information, the court may amend the bail order to relieve the defendant of any condition of release, modify the conditions imposed or impose further conditions authorized by this subsection as the court determines will reasonably ensure the safety of the community and the appearance of the defendant as required and will otherwise reasonably ensure the integrity of the judicial process.

Sec. 6. 30-A MRSA §1658, 2nd ¶, as amended by PL 1999, c. 127, Pt. A, §44, is further amended to read:

The county commissioners may purchase, lease, contract or enter into agreements for the use of facilities to house minimum security prisoners who have been sentenced to the county jail. These prisoners must be involved in restitution, work or educational release, or rehabilitative programs. The funds to purchase, lease or contract for these facilities and to provide any programs in these facilities may be taken from the funds received by the counties pursuant to former Title 34-A, section 1210-A and Title 34-A, section 1210-B. Any facilities used to house prisoners pursuant to the authority granted by this section are subject to standards established by the Department of Corrections pursuant to Title 34-A, section 1208-A.

Sec. 7. 30-A MRSA c. 13, sub-c. 5 is enacted to read:

SUBCHAPTER 5

criminal justice planning committees

§ 1671. Criminal justice planning committees

1. Establishment. Each county, or each county working jointly with another county or other counties or with the Department of Corrections, may establish a local criminal justice planning committee, referred to in this subchapter as "the committee." Only a county that establishes or participates as a member of a criminal justice planning committee may apply for funds from the Community Corrections Incentive Fund distributed pursuant to Title 34-A, section 1210-C.

2. Membership. Each committee is composed of representatives of various criminal justice stakeholder groups, including, but not limited to:

A. County commissioners;

- B. Judges;
- C. Prosecutors;
- D. Sheriffs;
- E. Jail administrators;
- F. Adult probation officers;
- G. State and municipal law enforcement officers;
- H. Defense attorneys;
- I. The courts;
- J. Victim advocates; and
- K. Members of the public.

3. Duties. Each committee shall collaborate with each other and coordinate efforts to educate, update and increase the use of evidence-based community corrections practices at the local level. The duties of each committee include:

- A. Developing and adopting a mission statement consistent with the purposes of the State Sentencing and Corrections Practices Coordinating Council established in Title 34-A, section 1209-A;
- B. Regularly assessing county correctional needs and determining what community correctional programs best meet those needs;
- C. Establishing policy and directing the planning, funding, development, implementation and evaluation of recommended community corrections programs determined to meet the intent of the State Sentencing and Corrections Practices Coordinating Council, established in Title 34-A, section 1209-A, and the principles of evidence-based correctional practices;
- D. Receiving, reviewing and submitting to the county commissioners any applications for a grant for a community corrections initiative from the Community Corrections Incentive Fund, established in Title 34-A, section 1210-C, that meets standards and community needs as determined by the committee. Upon receipt of the committee's recommendations, the county commissioners shall forward the grant application to the State Sentencing and Corrections Practices Coordinating Council, established in Title 34-A, section 1209-A; and
- E. Monitoring and overseeing community corrections investments and programming, tracking outcomes and making necessary recommendations for change to ensure efficient and effective evidence-based community corrections programming.

4. Reports . Each county shall establish a dedicated county community corrections program account to account for the use of all funds received from the State pursuant to this section. Each county shall report to its committee on the use of community corrections funds and each committee in turn shall report on the use of community corrections funds to the State Sentencing and Corrections Practices Coordinating Council, established in Title 34-A, section 1209-A.

5. Collaboration. Regardless of how a criminal justice planning committee is established pursuant to subsection 1, a county may collaborate with another county or counties with which it has not formed a committee to work together to seek grants or establish community corrections programs or initiatives.

Sec. 8. 34-A MRS §1209-A is enacted to read:

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

1. Council established. The State Sentencing and Corrections Practices Coordinating Council, established in Title 5, section 12004-I, subsection 74-E and referred to in this section as "the council," is created for the purpose of conducting continuous study and coordination of corrections and sentencing practices. The council shall promote the use of the most effective criminal interventions necessary to protect public safety, administer punishment and rehabilitate offenders; enhance and increase support of state and county partnerships in the management of offenders; and promote and support the use of evidence-based correctional practices for managing the risks and needs of offenders and pretrial defendants.

2. Membership. The council is composed of the following members:

A. The commissioner and 2 state corrections officials designated by the commissioner;

B. The Commissioner of Public Safety or the commissioner's designee;

C. A representative of a statewide association of county commissioners nominated by the association and appointed by the Governor;

D. A representative of a statewide association of county sheriffs nominated by the association and appointed by the Governor;

E. A representative of a statewide association of county jails nominated by the association and appointed by the Governor;

F. A representative of a statewide association of prosecutors nominated by the association and appointed by the Governor;

G. A representative of a statewide association of criminal defense attorneys nominated by the association and appointed by the Governor;

H. A representative of a statewide municipal association nominated by the association and appointed by the Governor; and

I. A representative of a statewide organization for victims of crime appointed by the Governor.

The Governor also shall ask the Chief Justice of the Supreme Judicial Court to serve as or to name a designee to serve as a member of the council and to appoint one trial judge or another designee to serve as a member of the council.

3. Chair; terms; vacancies. The Governor shall appoint a member to serve as chair. Members of the council serve for terms of 2 years and may be reappointed. If a member cannot serve for any reason, the vacancy for the member's unexpired term must be filled by the appointing authority.

4. Meetings. The council shall meet at least 4 times a year and keep minutes and records of the meetings. By January 15th of each year, the council shall submit a report of its activities for the preceding year to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

5. Duties. The council shall coordinate criminal justice information and collaborate with persons who work in the criminal justice fields. Specifically, the council shall:

A. Establish strategic goals and outcomes to guide the investment in and expenditures on corrections programs and facilities;

B. Monitor sentencing practices and review ongoing data collection on recidivism and programming, in consultation with research organizations and universities, to make informed decisions regarding sentencing practices, corrections funding and programming;

C. Develop recommended correctional and sentencing standards based on evidence-based correctional practices and promote and support the use of evidence-based correctional practices for managing the risks and needs of offenders and pretrial defendants;

D. Provide information and assistance to county and state corrections officials regarding current evidence-based correctional practices and provide a forum for sharing information on evidence-based correctional practices that are used throughout the State;

E. Monitor the status of the state and local correctional systems, project future facility needs and develop recommendations for new or expanded facilities and programs;

F. Monitor and evaluate county use of state jail subsidies and recommend changes to the correctional system if necessary;

G. Monitor and evaluate the use of community corrections funds by the counties and make recommendations for the use and allocation of these funds as necessary;

H. Regarding the Community Corrections Incentive Fund established in section 1210-C, provide standards and guidance to fund applicants, receive and review applications for grants from the fund, approve applications that meet the standards and administer the grants;

I. Monitor and evaluate the use of awards from the Community Corrections Incentive Fund, established in section 1210-C, and recommend changes or modifications to the use of these funds as necessary;

J. Review laws and policies and monitor proposed legislation and policies that affect the state and county criminal justice and correctional systems and make recommendations to the legislative, executive and judicial branches regarding these proposals; and

K. Identify current and proposed policies that unnecessarily burden the criminal justice and correctional systems and develop recommendations to appropriately remedy these burdens.

6. Report. At the beginning of the first regular session of each Legislature and no later than January 15th, the council shall submit a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and to the Governor. The report must include recommendations and any necessary implementing legislation with respect to matters related to the council's duties and accomplishments, including recommendations on state compliance.

7. Departmental duties and powers. The duties and powers of the department with regard to this section are as follows.

A. The department shall serve as the fiscal agent of the council.

B. The department may contract for and employ staff members, subject to approval of the council, to assist in the research, administration and delivery of services required in connection with the duties of the council.

C. 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.

D. The department shall provide technical assistance to counties and criminal justice planning committees, as established in Title 30-A, section 1671, to aid them in the planning and development of community corrections.

8. Funds not to lapse. Funds appropriated to carry out the purposes of this section do not lapse but must be carried forward from year to year.

9. Reimbursement of expenses. The members of the council must be compensated according to the provisions of Title 5, chapter 379.

Sec. 9. 34-A MRS §1210-A, sub-§1, ¶A, as enacted by PL 1997, c. 753, §2, is amended to read:

A. "Community corrections" means the delivery of correctional services for ~~juveniles or~~ 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 ~~or adjudicated delinquents.~~

Sec. 10. 34-A MRS §1210-A, sub-§5, as repealed and replaced by PL 2003, c. 711, Pt. A, §20 and affected by Pt. D, §2, is amended to read:

5. Community corrections program account. Each county treasurer shall place 20% of the funds received from the department pursuant to this section into a separate community corrections program account. A county may use funds placed in this account only for adult ~~or juvenile~~ community corrections as defined in subsection 1.

Before distributing to a county that county's entire distribution from the County Jail Prisoner Support and Community Corrections Fund, the department shall require that county to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections as defined in subsection 1. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the department shall distribute to that county only 80% of its distribution from the County Jail Prisoner Support and Community Corrections Fund. The department shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The department shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

Sec. 11. 34-A MRSA §1210-A, sub-§11 is enacted to read:

11. Repeal. This section is repealed July 1, 2008.

Sec. 12. 34-A MRSA §1210-B is enacted to read:

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

1. Establishment of Community Corrections Fund. The Community Corrections Fund is established for the purpose of providing state funding for 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. Twenty percent of the funds collected from surcharges under Title 4, section 1057 that are appropriated pursuant to subsection 3 must be dedicated to the purpose of community corrections and deposited in the Community Corrections Fund.

2. Establishment of County Jail Prisoner Support Fund. The County Jail Prisoner Support Fund is established for the purpose of providing state funding for a portion of the counties' costs of the support of prisoners detained or sentenced to county jails. Eighty percent of the funds collected from surcharges under Title 4, section 1057 that are appropriated pursuant to subsection 3 must be dedicated to the purpose of subsidizing the counties' costs of the support of prisoners detained or sentenced to county jails and deposited in the County Jail Prisoner Support Fund.

3. Distribution. Beginning July 1, 2008 and annually thereafter, the department shall distribute to the counties amounts to be dedicated to the Community Corrections Fund under subsection 1 and to the County Jail Prisoner Support Fund under subsection 2. The department shall distribute amounts to each county based on each county's percentage of statewide jail inmate days, which must be calculated for the last fiscal year for which data is available. If a county's percentage results in a lower subsidy than it received pursuant to former section 1210-A, that county may not receive a reduction. If the county's percentage results in a subsidy higher than it received pursuant to former section 1210-A, that county must receive an increase in funding in proportion to available funding to move the entire county jail system toward greater equity.

4. Cost-of-living adjustment for equitable distribution. In addition to funds received pursuant to subsection 3, a 3% cost-of-living adjustment on the annual appropriation for the community corrections county jail prisoner support funds must be dedicated to the County Jail Prisoner Support Fund until each county has achieved the appropriate subsidy in this fund based on its percentage of statewide jail inmate days. Once equity has been achieved, the cost-of-living adjustment must be distributed between the Community Corrections Fund and County Jail Prisoner Support Fund pursuant to subsections 1 and 2.

5. County community corrections fund. Each county treasurer shall place the funds received from the department pursuant to subsection 1 into a separate community fund. A county may use funds placed in this account only for adult community corrections as defined in subsection 1.

Before distributing to a county that county's entire distribution from the collection of surcharges pursuant to Title 4, section 1057, the department shall require that county to submit appropriate documentation to the State Sentencing and Corrections Practices Coordinating Council established in section 1209-A verifying that the county expended 20% of its prior distribution for the purpose of community corrections as defined in subsection 1. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the department shall distribute to that county only 80% of its distribution. The department shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The department shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

6. 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 County Jail Prisoner Support Fund under subsection 2 and the Community Corrections Fund under subsection 1.

Sec. 13. 34-A MRSA §1210-C is enacted to read:

§ 1210-C. Community Corrections Incentive Fund

There is established the nonlapsing Community Corrections Incentive Fund. Pursuant to section 1209-A, the State Sentencing and Corrections Practices Coordinating Council shall approve applications and award and administer to counties competitive grants from the fund. Grants must be used for initiatives to expand community corrections, regional programs and other efforts to improve the efficiency and effectiveness of the correctional system. Awards must be made in correctional areas that include but are not limited to pretrial diversion, pretrial release, transition, specialty jails, regional cooperation and deferred disposition programs. Grants must also be awarded based on considerations of improved efficiency, offender and court docket reduction, consolidation of resources, reduced recidivism and improved methods for the delivery of services. When applicable, grant applications and awards must be based on established evidence-based correctional practices. Only a county that establishes or participates as a member of a criminal justice planning committee under Title 30-A, section 1671 may apply for grants distributed pursuant to this section.

Sec. 14. 34-A MRSA §1214, sub-§1, as enacted by PL 2001, c. 439, Pt. G, §1, is amended to read:

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 former section 1210-A or in section 1210-B or any contract agency with all laws, administrative rules and institutional and other policies relating to the rights and dignity of victims.

A. The Victim Services Coordinator shall report only to the commissioner or an associate commissioner.

B. The Victim Services Coordinator shall, with the approval of the commissioner or an associate commissioner, select other victim advocates needed to carry out the intent of this section and who shall report only to the Victim Services Coordinator.

Sec. 15. 34-A MRSA §1214, sub-§3, ¶B, as enacted by PL 2001, c. 439, Pt. G, §1, is amended to read:

B. Intercede on behalf of victims with officials of the department, any correctional facility, any detention facility, community corrections as defined in former section 1210-A or in section 1210-B or any contract agency or assist these persons in the resolution of victim-related issues;

Sec. 16. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS, DEPARTMENT OF

Community Corrections Incentive Fund N028

Initiative: Provides a base allocation to establish the nonlapsing Community Corrections Incentive Fund to be administered by the Department of Corrections.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$500	\$500
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

Sec. 17. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 34-A, section 1210-B takes effect July 1, 2008. Those sections of this Act that amend Title 4, section 116; Title 4, section 163, subsection 1; Title 30-A, section 1658; and Title 34, section 1214, subsection 1 and subsection 3, paragraph B take effect July 1, 2008.

See title page for effective date, unless otherwise indicated.