

§1402. Duties

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).]

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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. The commissioner shall track data for all grievances filed by prisoners about their medical or mental health treatment and shall publish monthly on the department's publicly accessible website the data tracked pursuant to this subsection in a manner that does not violate the confidentiality requirements of section 1216 or any other provision of state or federal law.

[PL 2023, c. 659, §1 (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. 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. 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).]

14. Standards regarding attorney-client communications. The commissioner shall establish mandatory standards:

A. By January 1, 2024, for the protection of confidential attorney-client communications by each correctional facility. The standards must include, at a minimum:

(1) Processes to protect and ensure confidentiality of attorney-client communications, including but not limited to requirements that each correctional facility develop and maintain a registry of the names, telephone numbers and other contact information for attorneys who provide legal services to persons who are residents of the correctional facility and that the attorneys' names, telephone numbers and other contact information on the registry are confidential, except that each correctional facility must proactively and by request of the attorney or the attorney's client confirm the registration of an attorney's name, telephone number and other contact information; and

(2) Processes to be followed in the event that there is a breach of attorney-client confidentiality; and [PL 2023, c. 394, Pt. A, §14 (NEW).]

B. By January 1, 2024, requiring each correctional facility to designate space within the correctional facility for attorney-client meetings and the exchange of case materials and to make that space available to residents of the correctional facility and their attorneys on a timely basis. [PL 2023, c. 394, Pt. A, §14 (NEW).]

[PL 2023, c. 394, Pt. A, §14 (NEW).]

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). PL 2023, c. 394, Pt. A, §14 (AMD). PL 2023, c. 659, §1 (AMD).

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