



State of Maine
129th Legislature, First Regular Session

**Joint Standing Committee on Criminal Justice
and Public Safety Study of the Stabilization of
Funding For The County and Regional Jails**

January 2020

Office of Policy and Legal Analysis



**STATE OF MAINE
129th LEGISLATURE
FIRST REGULAR SESSION**

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REPORT AND PROPOSED LEGISLATION

The 129th Maine Legislature passed a joint order directing the Joint Standing Committee on Criminal Justice and Public Safety to study the stabilization of funding for the county and regional jails.¹ In performing the study the committee invited various stakeholders to participate, including the Maine County Commissioners Association, the Maine Chiefs of Police Association, the Maine Sheriffs' Association, the Maine Municipal Association, the Department of Corrections and the State of Maine Judicial Branch.

This report contains background information on the work of the committee and proposals for a committee amendment to LD 973, An Act to Stabilize County Corrections, which was carried over to the Second Regular Session. As required by the joint order, this report is provided to the Second Regular Session of the 129th Legislature.

Study Process

To conduct the study the Criminal Justice and Public Safety Committee met four times, on October 22, November 5, November 19 and December 10, 2019.

October 22, 2019 Meeting

The first meeting of the committee was held on October 22, 2019. The meeting included the following speakers and discussion regarding current funding of county and regional jails:

- Sheriff Todd Brackett, Sheriff Joel Merry and Sheriff Kevin Joyce, representing the Maine Sheriffs' Association, reviewed for the committee recent funding levels and expenditures for the county jails and the one regional jail. Funding for the county jails from municipalities is governed by Title 30-A, Maine Revised Statutes, section 701, subsection 2-C, which requires the counties to collect annually no less than \$62,172,371 from the municipalities for the purpose of funding correctional services. This amount, the base assessment limit for correctional services as set by statute, acts as a minimum and also controls the maximum that the counties may collect for correctional purposes. Counties may collect more than this base assessment limit but the increase above the figure set for each county in Title 30-A M RSA, section 701, subsection 2-C is limited to an annual increase of 4% or the growth limitation factor set forth in Title 30-A, section 706-A, whichever is less.
- Charles Pray, representing the Maine County Commissioners Association; Greg Zinser, representing the Maine Association of County Clerks, Managers and Administrators; and Randall Liberty, Commissioner of Corrections, discussed the history of the Board of

¹ HP 1277, Joint Order, Requiring the Joint Standing Committee on Criminal Justice and Public Safety To Study the Stabilization of Funding for the County Jails and the Regional Jail, a copy of which is attached as Appendix A.

Corrections, its authority over and regulation of county jails and its repeal in state fiscal year 2015-2016. Information about jail populations included the following: overall, the county average daily inmate population for all of the jails totaled 1659 in 2018. The average daily population for each of the jails was below the capacity of the jail except for two counties, Penobscot County and Androscoggin County, which consistently exceeded their jail capacity.

- Lauren Metayer, Office of Fiscal and Program Review, and Scott Ferguson, the Director of the Corrections Service Center in the Department Administrative and Financial Services, discussed with the committee state funding for county jails for the state fiscal years 2009-2010 through 2019-2021. General Fund legislative appropriations for state fiscal year 2019-2020 is \$18,322,104 and for state fiscal year 2020-2021 is \$18,442,104.
- Sheriff Todd Brackett and Sheriff Joel Merry, representing the Maine Sheriffs' Association, provided an overview of funding for jails for state fiscal year 2018-19, in which General Fund funding totaled \$15,202,104 and county property taxes totaled \$66,387,142. In addition, miscellaneous revenues provided \$8,067,099. Sheriff Brackett and Sheriff Merry also discussed with the committee the cost drivers for the jails. These include: the number of pre-trial detainees in jails; best practice standards for jails; capital expenses, especially for the older facilities; inmate medical expenses; and the cost of overtime pay for correctional officers that is necessary because of the shortage of officers. Initiatives to control some of the cost drivers that the jails are implementing or examining for future use include: additional and expanded cooperative agreements for transportation regionalization efforts; alternative sentencing programs and community corrections programs; use of day reporting programs (currently being developed by Penobscot County); coordination with the Department of Corrections in areas such as shared training and mental health units; expansion of best practices, including pre-trial services; substance use disorder and mental health treatment; and management of medical services.

November 5, 2019 Meeting

- Scott Ferguson, representing the Department of Administrative and Financial Services, provided historical information about daily in-house populations, expenditures and growth trends, and information about the base assessment limit for correctional services established in Title 30-A MRSA, section 701, subsection 2-C. The committee discussed information about jail populations' length of stay, jail capacities, and daily costs. The committee reviewed Title 22 MRSA, section 3104, subsection 17, which took effect September 19, 2019, which ensures that inmates may apply for Medicaid at any time before, during or after incarceration.
- Cullen Ryan, Executive Director of Community Housing of Maine, presented information regarding the Statewide Homeless Council of Maine Criminal Justice System

Blueprint for Ending and Preventing Homelessness. The report discusses efforts to address the populations most involved in repeated cycles of incarceration, hospitalization and homelessness in Maine. The report lists several ways to improve discharge planning from institutions, invigorate the existing intensive case management program, and further coordinate efforts with sheriffs, county jails, the judicial system and the Statewide Homeless Council.

- Jack Williams, Jay Davis and Dr. Tim Hughes, Restorative Justice Project of Maine, spoke about their organization's victim-offender and community focused approach to justice, an approach that focuses on the rehabilitation of offenders through reconciliation with harmed parties and the community at large. They discussed a new federal grant for community justice purposes that will provide expanded opportunities for using restorative justice processes.
- Anne Jordan, Judicial Branch Manager of Criminal Process & Specialty Dockets, Administrative Office of the Courts, discussed the usefulness of the weekly length of stay reports that the Judicial Branch receives from the jails. Ms. Jordan presented information about the pending recommendations of the Maine Judicial Branch's Pretrial Justice Reform Task Force. This task force was established in February, 2019 to review existing judicial procedures and programs and make recommendations to reduce the human and financial costs of pretrial incarceration and restrictions; to achieve fairness in the application of policies and laws; to provide for collecting reliable data; and to identify needed resources.
- Sheriff Troy Morton, Penobscot County, provided information on the operation of the jail and the weekly length of stay reports. Sheriff Morton discussed bail and pre-trial release, alternative sentencing, substance use disorder, initiatives to provide treatment to inmates and the use of validated screening tools to identify inmates with substance use disorder.

November 19, 2019 Meeting

- Johnathan Sahrbeck, District Attorney of Cumberland County, provided information about the costs of the drug court for one year for an individual (\$14,000), and the cost to incarcerate an individual for one year (\$44,000). District Attorney Sahrbeck discussed the prevalence of substance use disorder among criminal defendants and the connections between adverse childhood events and substance use disorder.
- Elizabeth Blackwell-Moore, public health consultant, discussed the main factors and pathways to opioid use disorder and current statistics about poverty and overdose deaths in Maine. Ms. Blackwell-Moore discussed adverse childhood events, some states' trauma informed focus in child welfare services and the Massachusetts children in need of services program that uses a civil court process to provide services to children engaged in self-destructive and dangerous behaviors.

- Gordon Smith and Katherine Coutu, representing the Governor’s Office of Opioid Response, presented information about current state interagency work regarding the opioid epidemic and state initiatives to serve people with substance use disorder and mental illness within the jails, persons on pre-trial release, and persons after conviction and sentencing. Mr. Smith praised initiatives in the jails to provide substance use disorder treatment during and after incarceration, expressed concern regarding the shortage of treatment practitioners and stressed the need for prevention of substance use disorder and diversion from the criminal justice system.
- Winifred Tate, Associate Professor of Anthropology at Colby College, and Courtney Allen, Family Treatment Court Mentor, presented preliminary observations on substance use and incarceration from their research involving incarcerated women in recovery in central and northern Maine and Downeast Maine. Their presentation included a discussion by two women enrolled in the Criminogenic Addiction & Recovery Academy (CARA) program at the Kennebec County Jail regarding the supports they have needed while addressing addiction during and after incarceration.
- Sheriff Todd Brackett, Sheriff Troy Morton and Sheriff Kevin Joyce, representing the Maine Sheriffs’ Association, reviewed per capita/per day budgets at each jail, using November, 2019 data for average length of time prisoners spend in jail and the difference in numbers between populations awaiting trial and the populations serving sentences. Longer time spent in jail is attributed to: waiting for forensic mental health evaluations; drug addiction; prisoners’ complex cases, such as multiple charges in different counties; waiting for mental health or substance use residential settings; defense requests for continuances: prisoners’ requests for replacement of counsel; coordinated resolution of multiple cases; and delays for trials or sentencing in more serious crimes.
- Bruce Noddin, Maine Prisoner Re-Entry Network; Denise Black, Healthy Acadia; and Captain Tim Richardson, Hancock County Jail, discussed the existing coordination of community resources, case management and recovery coaching for incarcerated people. The Maine Prisoner Re-Entry Network is working to address recidivism rates among formerly incarcerated individuals through programs such as Re-Entry Maine, Rose's Room, and R4R Mentor Training. Through Maine Alliance for Recovery Coaching (Maine-ARC), Healthy Acadia and partners are collaborating with healthcare and treatment centers, jails, drug courts, pre-release sites, social service, law enforcement agencies and other community partners across five counties.
- Elizabeth Simoni, Maine Pretrial Services, discussed pretrial release across the state, alternative sentencing programs and the details of how those alternatives are utilized by the judicial system. Ms. Simoni discussed the need for detention when there is an unmanageable risk that the arrested person may abscond or re-offend pretrial. She presented for consideration the following elements of a high-functioning pretrial

detention or release system: more frequent use of summonses versus the use of arrests; seasoned prosecutors; zealous representation by defense attorneys; robust pretrial services; and infrequent arrests for technical violations. Ms. Simoni concluded that current practices in the use of pretrial release and bail overpredict risk and rely too heavily on monetary bail. She suggested increasing pretrial conditions of mandatory drug and alcohol monitoring and testing, increasing periodic reporting, close management and supervision and use of global positioning monitoring.

- Charles Pray, representing the Maine County Commissioners Association, and Robert Devlin and Gregory Zinser, representing the Maine Association of County Clerks, Administrators and Managers, provided information on law enforcement assisted diversion programs that are being operated by municipalities and counties and stressed the need for different levels of drug treatment services in the jails. Mr. Zinser discussed the challenge of producing savings in jail budgets since real savings on the operational level require closing an entire pod within the jail.
- Public comments included information from Dawn DiBlasi, Somerset County Administrator, and Carrie Kipfler, representing the Two Bridges Regional Jail Authority. Ms. DiBlasi and Ms. Kipfler spoke against raising or repealing the tax cap set in Title 30-A MRSA, section 701, subsection 2-C, due to already-high rates of county taxes. Ms. DiBlasi and Ms. Kipfler discussed the reality that the fixed costs of operating the jail do not decrease because a portion of the jail population is diverted from the jail. Douglas Dunbar of Bangor advocated for more mental health training for jail correctional officers and more treatment for inmates.

December 10, 2019 Meeting

- Rebecca Graham, legislative advocate representing the Maine Municipal Association, shared the organization's opposition to adjusting the existing base assessment limit for correctional services. The Maine Municipal Association believes that local jail administrators have no power to shape, drive, or influence incarceration spending, in part because 77% of those incarcerated are there for offenses with regard to which, if the officer finds probable cause, the officer is required to make an arrest.
- Peter Lehman, Maine Prisoner Advocacy Coalition, discussed the statewide issues of mental illness among imprisoned persons and the prevalence of homelessness and poverty. The Maine Prisoner Advocacy Coalition supports regularizing and increasing state support of jails.
- William Doyle, Regional Director, National Correctional Employees Union, spoke about the serious shortage of correctional officers throughout the state, which causes mandatory overtime work by correctional officers, leads to higher than usual labor costs and has the potential of jeopardizing safety in the jails. Mr. Doyle spoke to the need for predictable and adequate funding for county corrections.

Conclusion

At the conclusion of the fourth interim meeting on the stabilization of jail funding the members of the Joint Standing Committee on Criminal Justice and Public Safety voted unanimously in favor of a proposal to amend LD 973, An Act to Stabilize County Corrections. The proposed committee amendment to LD 973 is attached as Appendix B. The proposed committee amendment does the following.

Defines as state-sanctioned inmates persons who:

- Are held on murder or a Class A, B or C offense;
- Are serving consecutive sentences that together exceed 9 months;
- Are held on probation violations in which on the underlying sentence they were sentenced to DOC custody;
- Are held beyond the date and time of court ordered mental health evaluation and treatment; or
- Are sentenced for contempt of court.

Requires state funding and provisions regarding funding as follows.

- For State FY 2019-2020, State must fund \$18,442,104 or 20% of total jail operating costs. Requires reporting of jail costs to DOC.
- Beginning State FY 2022, the State must fund at least 20% of the prior fiscal year's actual total jail costs or \$50 per day for all state-sanctioned inmates, whichever is greater.
- State must distribute funding to the jails based on the county where the crime is alleged to have been committed or the sheriff to whom the inmate is committed.
- Funding will be distributed to the recipient jail on a quarterly basis. Distribution of funding depends upon monthly updating of CRAS system and daily updating of the BARS system.
- The sheriffs and the DOC, along with DAFS Service Center, will define what constitutes failure to enter data in the CRAS system sufficient to cause delaying payments.
- The CRAS system will be updated to collect data allowing for actuals snapshots.
- A full 25% of state funding must be spent on "programs and services" (previously referred to as county corrections).

Requires county funding and provisions regarding funding as follows.

- Counties must report jail costs.
- Jail funding as set forth in Title 30-A MRSA, section 701, subsection 2-C, allows a county to re-set its base assessment limit for correctional services in state FY2021 and every 4 years thereafter.

Requires jails to adhere to best practices as follows:

- Counties must participate in coordination of inmate transportation;
- Counties must offer substance abuse-addiction recovery treatment, including at a minimum a licensed clinician or licensed professional organization to assist inmates;

- Medication assisted treatment for substance use disorder to the extent funded by the State;
- Mental health treatment, including at a minimum, a licensed clinician or licensed professional organization to assist inmates; and
- Community corrections programs, including at a minimum, pretrial or conditional release, alternative sentencing or housing programs and electronic monitoring.

Requires establishing the County Corrections Coordinating Council.

- Before FY 2022, the DOC Commissioner and sheriffs will decide upon construction of the County Corrections Coordinating Council.
- The County Corrections Coordinating Council will determine the make-up of the “programs and services” that require 25% of State funding.

The amendment also requires the Maine County Commissioners Association and the Maine Sheriffs’ Association to report annually by April 1 to the Criminal Justice and Public Safety Committee on jail funding and operations. Additionally, the new requirements imposed by this legislation will be reported to the Criminal Justice and Public Safety Committee on April 1, 2021

APPENDIX A

Authorizing Joint Order

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

**Joint Order, Requiring the Joint Standing Committee on
Criminal Justice and Public Safety To Study the Stabilization
of Funding for the County Jails and the Regional Jail**

ORDERED, the Senate concurring, that the Joint Standing Committee on Criminal Justice and Public Safety shall conduct a study of funding of Maine's county jails and the regional jail. In conducting the study the committee shall invite the participation of interested parties, including but not limited to representatives of the Maine County Commissioners' Association, the Maine Chiefs of Police Association, the Maine Sheriffs' Association, the Maine Municipal Association, NAMI Maine, the Department of Corrections and the Judicial Branch. The committee shall review sources and amounts of funding for the county jails and the regional jail and categories and amounts of expenses. The committee may request financial information from the counties through the county sheriffs and from the Department of Corrections and the Department of Administrative and Financial Services. The committee shall provide a report with recommendations to stabilize jail funding to the Second Regular Session of the 129th Legislature and may concurrently report out legislation related to that report.

APPENDIX B

LD 973, An Act To Stabilize County Corrections



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

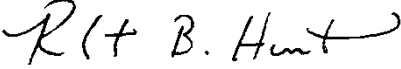
No. 973

H.P. 728

House of Representatives, February 26, 2019

An Act To Stabilize County Corrections

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative WARREN of Hallowell.

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

2 **CONCEPT DRAFT**

3 **SUMMARY**

4 This bill is a concept draft pursuant to Joint Rule 208.

5 This bill proposes to stabilize the funding for county corrections.

APPENDIX C

Draft Committee Amendment to LD 973

Drafter: JO
Date: Dec 23, 2019
File: Draft amendment to 973 12-19-19
Draft amendment to LD 973, An Act to Stabilize County Corrections

Draft Committee Amendment to LD 973, An Act to Stabilize County Corrections

PART A (County Jail Operations Fund)

Sec. A-1. 34-A MRSA §1210-D is amended to read:

34-A MRSA §1210-D. County Jail Operations Fund

1. County Jail Operations Fund. Notwithstanding any provision of law to the contrary, for state fiscal years up to and including state fiscal years 2019-20 and 2020-21 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." Notwithstanding any provision of law to the contrary, for state fiscal years 2019-2020 and 2020-2021 at least \$18,442,104 in state funding or 20% of total jail operating costs for the prior fiscal year, whichever is higher, must be appropriated annually and used for the purposes of the fund. Notwithstanding any provision of law to the contrary, beginning with state fiscal year 2021-2022 at least 20% of total jail operating costs for the prior fiscal year or \$50 per day per state-sanctioned prisoner during the prior fiscal year, whichever is greater, must be appropriated annually and used for the purposes of 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, 2-A, 2-B and 3.

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.
- B. The county treasurer shall deposit 30% of the funds received under subsection 4 into an account for community corrections purposes.
- 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.

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.

This subsection is repealed June 30, 2021.

2-A. Pretrial release or conditional release programs. Using community corrections funds distributed under this section through June 30, 2021, and programs and services funds distributed under this section beginning July 1, 2021, 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.

2-B. Programs and services. Beginning July 1, 2021, at least 25% of all funding provided under this section must be used by the county jails and regional jail for pretrial release or conditional release programs under subsection 2 and programs and services as determined by the County Corrections Coordinating Council pursuant to subsection 7.

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.~~

~~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.~~

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;
- 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;
- C. Determine the proportion of statewide county jail prisoner days attributable to each county;
- D. Determine the per diem per prisoner reimbursement amount; and

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.

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

5. Quarterly payments to counties. Beginning July 1, 2021, the department shall distribute the funding payable to the counties for operation of the jails on a quarterly basis if the jails have reported on a timely basis the revenues, expenses and populations information as required by subsection 6. Failure to report revenues, expenses and populations as required by rule adopted pursuant to subsection 6 may result in delayed payment of funds required to be paid by this section.

6. Required reporting. Beginning July 1, 2021, the jails shall report revenues, expenses and populations of persons committed to the custody of the sheriff to the department as provided in this subsection and in rules adopted by the department to implement this subsection. Failure of a jail to report as required by the department may result in delayed quarterly payments to the counties as provided in subsection 5 as set forth in rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. Each jail shall report its revenues and budgeted expenses in the format and on the schedule required by the department. The rules must require revenue and expense reporting on a monthly basis.

B. Each jail shall report its population of persons committed to the custody of the sheriff in the format and on the schedule required by the department. 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 incarcerated and persons on all forms of community release.

7. County Corrections Coordinating Council. By January 1, 2021, the Commissioner of Corrections and sheriffs of the counties shall determine the structure of the County Corrections Coordinating Council and the manner in which the members must be selected. Within 30 days of making that determination, the commissioner and sheriffs must notify the joint standing committee having jurisdiction over criminal justice and public safety matters of their determination and must recommend legislation if they determine that legislation is needed. By March 1, 2021, the County Corrections Coordinating Council shall determine the make-up of programs and services to be required pursuant to 34-A MRSA section 1210-D, subsection 2-B and shall propose to the joint standing committee having jurisdiction over criminal justice and public safety matters legislation to codify the required programs and services.

8. Definition. As used in this section, unless the context otherwise indicates, the “state-sanctioned prisoner” means a person committed to the custody of the sheriff and held in a county jail or regional jail because the person:

A. Is being held as a result of an arrest, indictment or conviction of murder or a Class A, B or C crime;

B. Is being held for the purposes of a mental examination or treatment pursuant to Title 15, section 101-D with regard to:

(1) Competency to proceed pursuant to Title 15, section 101-D, subsection 1 and has been held beyond the date and time set by that subsection or the court for the mental health examination and treatment;

(2) Insanity or abnormal condition of the mind pursuant to Title 15, section 101-D, subsection 2 and has been held beyond the date and time set by that subsection or the court for the mental health examination and treatment;

(3) Mental condition relevant to other issues pursuant to Title 15, section 101-D, subsection 3 and has been held beyond the date and time set by that subsection or the court for the mental health examination and treatment;

(4) Commitment for observation pursuant to Title 15, section 101-D, subsection 4 and has been held beyond the date and time set by that subsection or the court for the mental health examination and treatment; or

(5) Court ordered bail for a person found incompetent to stand trial pursuant to Title 15, section 101-D, subsection 5, paragraph B;

C. Is being held pursuant to probation revocation proceedings or hearings under Title 17-A, section 1809, 1810, 1811 or 1812 with regard to a preceding conviction as a result of which the person was committed to the custody of the Department of Corrections;

D. Is being held pursuant to an order of the court finding the person in contempt of court pursuant to Maine Rules of Court, Rules of Civil Procedure, Rule 66 or Maine Rules of Court, Rules of Unified Criminal Procedure, Rule 42; or

E. Is in execution of consecutive sentences that together exceed 9 months in duration.

Sec. A-2. Development of standards regarding failure to report data. The Commissioner of Corrections, Department of Administrative and Financial Services service center staff assigned to the Department of Corrections and representatives of the county sheriffs chosen by the Maine Sheriffs' Association shall work together to develop standards regarding failure to report data as required by 34-A MRSA, section 1210-D, subsection 6. Following the work required by this section the Department of Corrections shall adopt a rule specifying standards for delaying payments to jails based on failure to report as required by rule. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

PART B (Annual assessments for county taxes)

Sec. B-1. 30-A MRS §701 is amended to read:

30-A MRS §701. Annual estimates for county taxes

Except as otherwise provided, the county commissioners shall make the county estimates and cause the taxes to be assessed as follows.

1. Forms. The county estimates must be made in the manner approved by the Office of the State Auditor.

2. Preparation of estimates. In order to assess a county tax, the county commissioners, in accordance with the schedule established in the county charter or, if the county does not have a charter, by the end of the state fiscal year, shall prepare estimates of the sums necessary to pay the expenses that have accrued or may probably accrue for the coming year for correctional services. The estimates must be drawn so as to authorize the appropriations to be made for correctional services.

2-A. Tax assessment for correctional services. Repealed

2-B. Retirement of fiscal year 2007-08 county jail debt. Repealed

2-C. Tax assessment for correctional services beginning July 1, 2015. Beginning July 1, 2015, the counties shall annually collect no less than \$62,172,371 from municipalities for the provision of correctional services in accordance with this subsection. The counties may collect an amount that is more than the base assessment limit established in this subsection, except that the additional amount each year may not exceed the base assessment limit as adjusted by the growth limitation factor established in section 706-A, subsection 3 or 4%, whichever is less. If a county collects in a year an amount that is more than the base assessment limit established for that county pursuant to this subsection, the base assessment limit in the succeeding year is the amount collected in the prior year. For the purposes of this subsection, "correctional services" includes management services, personal services, contractual services, commodity purchases, capital expenditures and all other costs, or portions thereof, necessary to maintain and operate correctional services. "Correctional services" does not include county jail debt unless there is a surplus in the account that pays for correctional services at the end of the state fiscal year.

The assessment to municipalities within each county may not be less than the base assessment limit, which is:

- A. A sum of \$4,287,340 in Androscoggin County;
- B. A sum of \$2,316,666 in Aroostook County;
- C. A sum of \$11,575,602 in Cumberland County;
- D. A sum of \$1,621,201 in Franklin County;
- E. A sum of \$1,670,136 in Hancock County;
- F. A sum of \$5,588,343 in Kennebec County;
- G. A sum of \$3,188,700 in Knox County;
- H. A sum of \$2,657,105 in Lincoln County;

- I. A sum of \$1,228,757 in Oxford County;
- J. A sum of \$5,919,118 in Penobscot County;
- K. A sum of \$878,940 in Piscataquis County;
- L. A sum of \$2,657,105 in Sagadahoc County;
- M. A sum of \$5,363,665 in Somerset County;
- N. A sum of \$2,832,353 in Waldo County;
- O. A sum of \$2,000,525 in Washington County; and
- P. A sum of \$8,386,815 in York County.

2-D. Adjustment of the tax assessment for correctional services and the base assessment limits for each county. The Department of Corrections shall adopt rules, after consultation with the statewide association of county commissioners and the statewide association of county treasurers, managers and administrators, providing a mechanism for each county to adjust its base assessment limit once every 4 years beginning July 1, 2024. Beginning July 1, 2021, the adjusted base assessment limit for each county applies as the limit for each county pursuant to subsection 2-C. When the adjusted base assessment limit for each county is established on July 1, 2024, and every four years thereafter, the department shall tabulate the total of the base assessment limits for all counties, which must serve as the tax assessment for correctional services applicable to the counties pursuant to subsection 2-C. When the adjusted base assessment limit and adjusted tax assessment for correctional services is established by the department the department shall adopt rules establishing the adjusted base assessment limit and adjusted tax assessment for correctional services, which must then be effective until further adjustment by the department once every 4 years beginning July 1, 2028.

3. Public hearing. The county commissioners shall hold a public hearing in the county on these estimates before the end of the county's fiscal year. They shall publish a notice of the hearing at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the estimates must be sent by mail or delivered in person to the clerk of each municipality in the county at least 10 days before the hearing. The municipal clerk shall notify the municipal officers of the receipt of the estimates.

4. Meeting with legislative delegation. (Repealed)

PART C (Jail operating standards)

Sec. C-1. 34-A MRSA §1208-B is amended to read:

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

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 and 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. The rules must include reporting requirements to standardize reporting by the jails and provide for verification of compliance with this section.

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.

B. 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 1201-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.

2. Requirements. Beginning June 1, 2021, the jails shall operate in accordance with best practices applicable to their facilities of their type and size including the mandatory standards, policies and procedures established under subsection 1 and the following requirements as set forth in rules adopted by the department:

A. All jails shall participate in coordination of inmate transportation;

B. All jails shall provide substance use disorder treatment and recovery services, including at a minimum providing a licensed clinician or licensed professional organization available to assist inmates;

C. All jails shall provide medication assisted treatment for substance use disorder to the extent that funding is provided by the General Fund;

D. All jails shall provide mental health treatment, including at a minimum providing a licensed clinician or licensed professional organization available to assist inmates;

E. All jails shall provide community programs and services pursuant to section 1210-D, subsection 2-B, including at a minimum pretrial or conditional release, alternative sentencing or housing programs and electronic monitoring.

2. 3. Rulemaking. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to this section must take effect January 1, 2016.

PART D (Annual reporting on jail funding)

Sec. D-1. Annual reporting. Beginning April 1, 2021, the Maine County Commissioners Association and the Maine Sheriffs' Association 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, Title 30-A, section 701 and any other revenue sources; funding and operation of community corrections and programs and services required by Title 34-A, section 1210-D; distribution of funding to the county jails and regional jail; jail reporting of revenues, expenses and populations as required by Title 34-A, section 1210-D; the experiences of the jails and the Department of Corrections in adopting reporting and fund distribution systems that incorporate the concept of state-sanctioned inmates; 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 new rules specifying mandatory best practices and mandatory standards, policies and procedures under Title 34-A, section 1208-B.

SUMMARY

This committee amendment was developed during the interim study meetings of the Joint Standing Committee on Criminal Justice and Public Safety on jail funding pursuant to Joint Order H.P. 1277.

Part A amends the law on the County Jail Operations Fund, establishing requirements for state fiscal years 2019-2020 and 2020-2021 and different requirements for state fiscal years 2021-2022 and later years. Beginning with state fiscal year 2021-2022 the amendment requires the State to fund the County Jail Operations Fund to at least 20% of total jail operating costs for the prior fiscal year or \$50 per day per state-sanctioned prisoner for the prior fiscal year, whichever is greater. The amendment repeals current law on community corrections on June 30, 2021, and establishes a new requirement that at least 25% of County Jail Operations Fund funding be spent on programs and services as determined by the County Corrections Coordinating Council. The amendment requires payments to the counties on a quarterly basis if the jails have reported on a timely basis as required by the department regarding jail revenues, expenses and populations of persons committed to the custody of the sheriff. The amendment provides a definition of the term "state-sanctioned inmate." The amendment requires the Commissioner of Corrections, Department of Administrative and Financial Services service center staff assigned to the Department of Corrections and representatives of the county sheriffs chosen by the Maine Sheriffs' Association to work together to develop standards regarding failure to report data. The amendment requires the Department of Corrections to adopt a rule specifying standards for delaying payments to jails based on failure to report as required by routine technical rule. The amendment requires that by January 1, 2021, the Commissioner of Corrections and sheriffs of the counties must determine the structure of the County Corrections Coordinating Council and the manner in which the members must be selected. Within 30 days of making that determination, the Commissioner and sheriffs must notify the joint standing committee having jurisdiction over criminal justice and public safety matters of their

determination and must recommend legislation if they determine that legislation is needed. By March 1, 2021, the County Corrections Coordinating Council must determine the make-up of programs and services to be required pursuant to 34-A MRSA section 1210-D, subsection 2-B and shall propose to the joint standing committee having jurisdiction over criminal justice and public safety matters legislation to codify the required programs and services. The amendment provides that by January 1, 2021, the Commissioner of Corrections and sheriffs of the counties must determine the structure of the County Corrections Coordinating Council and the manner in which the members must be selected. Within 30 days of making that determination, the Commissioner and sheriffs are required to notify the joint standing committee having jurisdiction over criminal justice and public safety matters of their determination and must recommend legislation if they determine that legislation is needed. By March 1, 2021, the County Corrections Coordinating Council must determine the make-up of programs and services to be required pursuant to 34-A MRSA section 1210-D, subsection 2-B and propose to the joint standing committee having jurisdiction over criminal justice and public safety matters legislation to codify the required programs and services.

Part B amends the law on base tax assessment for correctional services. The amendment provides rulemaking in the Department of Corrections to establish a mechanism for adjustment of each county's base assessment limit and the total of those, the tax assessment for correctional services. The Department of Corrections must adopt rules establishing the adjusted base assessment limit for each county and the adjusted tax assessment for correctional services and funding requirement applicable to the counties. The first adjustment may take place on July 1, 2024 and adjustments may be made once every 4 years thereafter.

Part C amends the law on standardized reporting by the jails and verification of compliance. The amendment requires jails to operate in accordance with new best practices beginning June 1, 2021 with regard to coordination of inmate transportation, substance use disorder treatment and recovery services, medication assisted treatment for substance use disorder, mental health treatment and programs and services.

Part D of the amendment provides that beginning April 1, 2021, the Maine County Commissioners Association and the Maine Sheriffs' Association must 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, Title 30-A, section 701 and any other sources of revenue to the jails; funding and operation of community corrections and programs and services required by Title 34-A, section 1210-D; distribution of funding to the county jails and regional jail; jail reporting of revenues, expenses and populations as required by Title 34-A, section 1210-D; the experiences of the jails and the Department of Corrections in adopting reporting and fund distribution systems that incorporate the concept of state-sanctioned inmates; 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 new rules specifying mandatory best practices and mandatory standards, policies and procedures under Title 34-A, section 1208-B.