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Public Law
123rd Legislature
Second Regular Session

Chapter 536
H.P. 1391 - L.D. 1953

An Act To Amend the Laws Relating to the Department of Corrections

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

Sec. 1. 15 MRSA §891, as amended by PL 2007, c. 277, §1, is repealed and the following enacted in its place:

§ 891. Dismissal on satisfaction of private injury

1. General rule. When a person is charged with a Class D or Class E crime, or is the subject of a juvenile petition alleging a juvenile crime that would constitute a Class D or Class E crime if the juvenile involved were an adult, for which the party injured has a remedy by civil action, if the injured party appears before the court and in writing acknowledges satisfaction for the injury, the court, on payment of all costs, may dismiss the charge.

2. Exceptions. This section does not apply to the crime or juvenile crime of refusing to submit to arrest or detention as defined by Title 17-A, section 751-A, to any crime or juvenile crime in which the alleged victim is a family or household member as defined in Title 19-A, chapter 101 or to any juvenile who has previously been adjudicated of a juvenile crime or who has previously obtained relief under this section with respect to a juvenile petition.

Sec. 2. 15 MRSA §892, as corrected by RR 2007, c. 1, §7, is repealed and the following enacted in its place:

§ 892. Bar to civil action

An order of dismissal entered pursuant to section 891 bars all further remedy by civil action for such an injury.

Sec. 3. 15 MRSA §3314, sub-§7, as enacted by PL 2007, c. 196, §5, is amended to read:

7. Enforcement of a dispositional order or order to appear. After notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court may exercise its inherent contempt power by way of a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to enforce the disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. Any confinement imposed as a punitive or remedial sanction upon a person who has not attained 18 years of

age may not exceed 30 days and must be served in a facility approved or operated by the Department of Corrections exclusively for juveniles. Any confinement imposed as a punitive or remedial sanction upon a person who has attained 18 years of age, if to be served in a facility approved or operated by the Department of Corrections exclusively for juveniles, may not exceed 30 days. To enforce the disposition ordered following an adjudication for a juvenile crime defined in section 3103, subsection 1, paragraph B or C upon a person who has not attained 18 years of age, the court shall, at the time of the disposition, provide written notice to the juvenile of the court's authority to enforce the dispositional order through an exercise of its inherent contempt power and that a contempt order could include an order of confinement for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction. Nothing Except as explicitly set out in this subsection, nothing in this subsection affects the court's ability to exercise its contempt powers for persons who have attained 18 years of age.

Sec. 4. 34-A MRSA §3036-A, sub-§3, ¶A, as enacted by PL 1991, c. 845, §4, is amended to read:

A. The prisoner must be involved in a program of work or education that is approved by the commissioner together with any treatment program that the commissioner might require. The commissioner may waive the requirement of involvement in a program of work or education for a prisoner who is involved in an approved full-time treatment program.

Sec. 5. 34-A MRSA §3046, as amended by PL 2001, c. 386, §14, is repealed.

Sec. 6. 34-A MRSA §3046-A is enacted to read:

§ 3046-A. Funeral and deathbed visits

1. Family member. At the discretion of and under conditions prescribed by the commissioner, a client confined in a correctional or detention facility may attend the funeral of the client's spouse or domestic partner or the client's parent, child, sibling, grandparent or grandchild, whether the relationship is natural, adoptive, foster or through marriage, and may be permitted deathbed visits to any of those persons if the funeral or visit is held within the State.

2. Another person. At the discretion of and under conditions prescribed by the commissioner, a client confined in a correctional or detention facility may attend the funeral of or be permitted a deathbed visit to another person if the funeral or visit is held within the State. The commissioner may not delegate this authority.

3. Certification of terminal illness. Before a deathbed visit is permitted under this section, terminal illness must be certified to the commissioner by the attending physician.

4. Costs. The client, if able, shall pay the cost of transportation under this section and the per diem compensation of the accompanying officers if the officers are required by the commissioner.

Sec. 7. 34-A MRSA §3805, sub-§2, as amended by PL 2005, c. 507, §22, is further amended to read:

2. Limitations. ~~A person may not be detained or confined in or committed to the facility if that person is more appropriately a subject for intensive temporary out-of-home treatment services or for in-home treatment services provided by or through the Department of Health and Human Services as agreed upon by the commissioner and the Commissioner of Health and Human Services or their~~

designees, upon petition by the commissioner or the commissioner's designee and after hearing, the court finds by a preponderance of the evidence that the person is more appropriately a subject for intensive treatment services that are available and provided by or through the Department of Health and Human Services. Prior to the hearing, the court shall provide notice of the hearing in writing or orally to the juvenile, the juvenile's parents, the juvenile's guardian or legal custodian, the attorney for the State and the Department of Health and Human Services.

Sec. 8. 34-A MRSA §4104, sub-§2, as amended by PL 2005, c. 507, §26, is further amended to read:

2. Limitations. ~~A person may not be detained or confined in or committed to the facility if that person is more appropriately a subject for intensive temporary out-of-home treatment services or for in-home treatment services provided by or through the Department of Health and Human Services as agreed upon by the commissioner and the Commissioner of Health and Human Services or their designees, upon petition by the commissioner or the commissioner's designee and after hearing, the court finds by a preponderance of the evidence that the person is more appropriately a subject for intensive treatment services that are available and provided by or through the Department of Health and Human Services. Prior to the hearing, the court shall provide notice of the hearing in writing or orally to the juvenile, the juvenile's parents, the juvenile's guardian or legal custodian, the attorney for the State and the Department of Health and Human Services.~~

Sec. 9. 34-A MRSA §7003, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 10. 34-A MRSA §7005, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 11. 34-A MRSA §7006, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 12. 34-A MRSA §7007, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 13. 34-A MRSA §7008, as enacted by PL 1983, c. 459, §6, is repealed.

Effective June 30, 2008