

Maine

WOMEN IN PRISON: 65 (12/99)ⁱ

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

17-A § 253(2) e – *Gross Sexual Assault*¹.

Maine’s law is contained in a provision in the sexual offenses chapter of its criminal code. It prohibits a person with “supervisory or disciplinary authority” from engaging in sexual acts with those in official custody.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	No	The law specifies that sexual contact is not included in the prohibited acts.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The law is part of Maine’s statutory rape law, and does not allow an officer to avoid prosecution with a claim that the inmate consented.
Does the statute cover all custodians and staff in contact with inmates?	No	The law only covers those with “supervisory or disciplinary authority” over the victim.
Does the statute cover all places where inmates might be abused?	Yes	The law is not concerned with the location of the abuse.
Is the penalty a felony?	Yes	Violation is a class B crime.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ⁱⁱ	The Maine Attorney General’s Office does not compile such information. ⁱⁱⁱ	
Incidents reported in select media since 10/98	<ul style="list-style-type: none"> - Androscoggin County Jail: A female claimed the supervising officer forced her to have sexual relations over a weeklong period. <i>AP 08/16/00</i> - Cumberland County Jail: A guard charged with having sex with a female inmate pled guilty and resigned from the sheriff’s department. <i>Bangor Daily News 02/15/99</i> 	

Custodial Sexual Misconduct – Policies, Procedures and Practices of Guarding Specific to Women

The following data is based on surveys performed by the National Institute of Corrections in 1996 and 2000, except in cases when further details have been available to AI from alternative sources.

Is the current Department of Corrections policy on custodial sexual misconduct language explicit?	Yes	Policy includes direct and specific language about the nature of the sexual behaviors prohibited. ^{iv}
Allow cross-gender pat-down searches?	Yes	Searches are predominantly same-sex. Cross-sex done only in emergency - “emergency” not defined. ^v
Restrictions on the duties of male guards?		Not known.

¹ The relevant portion of Maine’s law is excerpted at the end of this section

Was there staff training on sexual misconduct in 1996?		Not known. ^{vi}
Has staff training been developed 1996-2000?	No	Maine Department of Corrections has introduced no new initiatives. ^{vii}
Were there special procedures for investigating allegations of sexual misconduct in 1996?	No	Maine is not specifically mentioned in the National Institute of Corrections report. However, it is noted that most DOCs use standard investigatory procedures with no special considerations for the nature of the complaint. ^{viii}
Have new investigation procedures been introduced 1996-2000?	No	No new initiatives. ^{ix}
Were inmates informed of agency policies on sexual misconduct in 1996?		Not known. ^x
Have procedures on informing inmates about sexual misconduct been revised 1996-2000?	No	No new initiatives. ^{xi}

Custodial Sexual Misconduct –Legislative Proposals 2000-01

None

Parenting and Pregnancy in Custody

Pregnancy - Relevant Statutes/Administrative Rules

Legislation banning shackling in the third trimester or during labor	No	Maine has no legislation limiting the use of shackling on pregnant inmates.
Administrative rules concerning pregnancy and delivery	No	There are no administrative rules according to Maine DOC. ^{xii}

Pregnancy and Parenting: Policies, Procedures and Practices

Procedures and practices concerning pregnancy and delivery	Yes	According to Maine DOC, a pregnant woman will often be sentenced to a county jail so she can be closer to her family. Very few pregnant women are sent to the state prison. ^{xiii}
Use of restraints in third trimester	Yes	An inmate may be restrained; Maine DOC has no specific policy for pregnant women. ^{xiv}
Restraints during transport	Yes	See above.
Restraints during labor	Yes	See above.
Officer in delivery room		Not known. ^{xv}
Parenting programs specific for women	No	Maine DOC has no parenting programs specifically for women. ^{xvi}
Special visitation rights for women	No	Maine DOC has no special visitation rights for women with children. ^{xvii}
State Mother and Child Residency Program	No	Maine DOC has no residential program for inmate mothers and their infants/children. ^{xviii}

Contact information

MAINE DEPARTMENT OF CORRECTIONS

<p>Director: Martin A. Magnusson 111 State House Station Augusta, ME 04333-0111 Phone: (207) 287-2711, Fax: (207) 287-4370 Email: marty.magnusson@state.me.us Director of Policy: Denise Lord denise.v.lord@state.me.us</p>	<p>Website: http://janus.state.me.us/corrections/</p>
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MAINE DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

<p>Maine Correctional Center <i>Female inmates: 27^{xi}</i> Superintendent: James R. Clemons P.O.Box 260 Windham, ME 04082 Phone: (207) 893-7000 Email: jim.clemons@state.me.us Medium/minimum security co-ed facility.</p>	<p>Charleston Correctional Facility <i>Female inmates: 30^{xx}</i> Warden: Eric Hansen 1202 Dover Road Charleston, ME 04422 (207) 285-0816 Fax (207) 285-0815 Email: eric.hansen@state.me.us Minimum security co-ed facility.</p>
<p>Maine Youth Center <i>Female inmates: 18^{xi}</i> Warden: Lars Olsen 675 Westbrook Street South Portland, ME 04106 Tel (207) 822-0000 Fax (207) 822-0042 Email: lars.olsen@state.me.us Co-ed juvenile facility.</p>	<p>Northern Maine Juvenile Detention Facility <i>Inmate capacity: 40 juveniles</i> Warden: Larry Austin 1182 Dover Road Charleston, ME 04422 Phone: (207) 285-0880 Fax: (207) 285-0881 Email: Larry.austin@state.me.us http://janus.state.me.us/corrections/Juvenile/nmjdf.htm Co-ed juvenile facility – includes shock sentences.</p>

MAINE EXECUTIVE

<p>Governor Angus S. King Jr. [I] Office of the Governor 1 State House Station Augusta, Me 04333-0001 Phone: (207) 287-3531 (207) 287-6548 (TTY) Fax: (207) 287-1034</p>	<p>Homepage: http://www.state.me.us/governor/</p> <p>Contact page: governor@state.me.us</p>
<p>Attorney General G. Steven Rowe Water Street, Key Bank Building, 4th floor Augusta, ME. Mailing Address: 6 State House Station, Augusta, ME 04333 Phone: (207) 626-8800 TTY (207) 626-8865</p>	<p>Homepage: http://www.state.me.us/ag/homepage.htm</p> <p>Email: andrew.ketterer@state.me.us</p>

MAINE LEGISLATIVE INFORMATION

<p>Legislative Session: The Legislature convenes in regular session on the first Wednesday in December in the first year of the biennium and on the first Wednesday after the first Tuesday of January in the second year. The First Regular Session must adjourn no later than the third Wednesday in June, and the Second Regular Session must adjourn no later than the third Wednesday in April. The Legislature may meet in special session if called in by the Governor or if called in by the presiding officers.</p> <p>House: 151 members, 2-year term (8-year limit) Senate: 35 members, 2-year term (8-year limit)</p>	<p>Legislature Homepage: http://janus.state.me.us/legis/</p> <p>Legislative information Maine http://janus.state.me.us/legis/lio/</p> <p>Bill search: http://janus.state.me.us/legis/session</p>
<p>Senate Senate of Maine 3 State House Station, Augusta, Maine 04333-0003 Phone: (207) 287-1540; (In state): (800) 423-6900</p>	<p>Home page: http://janus.state.me.us/senate/homepage.htm</p>
<p>House Of Representatives House of Representatives 2 State House Station Augusta, Maine 04333-0002 Phone: (207) 287-1400 Phone: (800) 423-2900 (In state)</p>	<p>Home page: http://janus.state.me.us/house/reprs.htm http://www.house.state.me.us/</p>

WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

<p>Maine-CURE 842 Prince Point Yarmouth, ME 04096</p>
<p>Victory Gardens RFD1 Box 6025 Athens ME 04912 Phone: (207) 858-5842 <i>Categories: Prisoner Support.</i></p>
<p>ACLU of Maine 233 Oxford Street, Suite 32K Portland, ME 04101 Phone: (207) 774-5444</p>

Maine's Custodial Sexual Misconduct Statute

§ 253. Gross sexual assault
excerpt

2. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

...

E. The other person, not the actor's spouse, is in official custody as a probationer or a parolee, or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person; [1989, c. 401, Pt. A, §4 (rpr).]

...

5. Violation of subsection 2, paragraph A, B, C, D, E or H is a Class B crime. Violation of subsection 2, paragraph F, G, J or I is a Class C crime. [1993, c. 687, §3 (and).]

ⁱ Prisoners in 1999, Bureau of Justice Statistics Bulletin, August 2000 NCJ 183476.

ⁱⁱ The information does not reflect prosecutions or convictions under rape statutes.

ⁱⁱⁱ Letter from Department of the Attorney General, N. Paul Gauvreau, Deputy Attorney General, June 30, 2000

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- ^{iv} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^v Facsimile from the Maine Department of Corrections, Ellis King, Correctional Planning Analyst, 02/26/01
- ^{vi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996
- ^{vii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^{viii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996
- ^{ix} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^x US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996
- ^{xi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^{xii} Facsimile from the Maine Department of Corrections, Ellis King, Correctional Planning Analyst, 02/26/01
- ^{xiii} Phone conversation, Maine Department of Corrections, Denise Lord, Associate Commissioner, 02/07/01
- ^{xiv} Phone conversation, Maine Department of Corrections, Denise Lord, Associate Commissioner, 02/07/01
- ^{xv} Phone conversation, Maine Department of Corrections, Denise Lord, Associate Commissioner, 02/07/01
- ^{xvi} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998
- ^{xvii} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998
- ^{xviii} General Accounting Office, "Managing Female Inmate Populations," GAO/GGD-00-22, 2000
- ^{xix} Maine Department of Corrections, 10/13/2000, <http://janus.state.me.us/corrections/test/Facilities/myc.htm>
- ^{xx} Maine Department of Corrections, 10/13/2000, <http://janus.state.me.us/corrections/test/Facilities/myc.htm>
- ^{xxi} Maine Department of Corrections, 10/13/2000, <http://janus.state.me.us/corrections/test/Facilities/myc.htm>