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## Chapter 4. Petition, Adjudication and Disposition

### Section 401. Preliminary Investigation, Informal

Adjustment and Petition Initiation...(1) When a juvenile accused of delinquent behavior is referred to an intake officer by a law enforcement officer, a representative of the Department of \_\_\_\_\_, a probation officer or a juvenile court after a detention hearing held pursuant to Section 305 of this act, the intake officer shall conduct a preliminary investigation to determine whether the interests of the child or of the community require that further action be taken. On the basis of the preliminary investigation, the intake officer may:

- (a) Decide that no further action is required, either in the interests of the public or of the child;
- (b) Authorize a petition to be filed; or
- (c) Make whatever informal adjustment is practicable without a petition if:
  - (I) The child and his parents, guardian, or other legal custodian were informed of their constitutional and legal rights including being represented by counsel at every stage of the proceedings;

(II) The facts are admitted and establish prima facie jurisdiction, except that such admission shall not be used in evidence if a petition is filed; and

(III) Written consent is obtained from the parents, guardian or other legal custodian and also from the child, if of sufficient age and understanding.

(2) If the intake officer determines that the facts in the report prepared for him by the referring officer pursuant to Section 305(4) of this Act are sufficient to file a delinquency petition, but in his judgment the interest of the child and the public will be served best by providing the child care or other treatment voluntarily accepted by the child and his parents or legal custodians, he may refer the child for such care and treatment.

(3) If the intake officer refuses to request that a delinquency petition be filed, the complainant and victim shall be informed of the refusal and of the reasons therefor and shall be advised that they may submit the complaint to the district attorney for the county in which the alleged delinquent act

occurred for review. The district attorney, upon receiving a request for a review, shall consider the facts presented by the complainant, consult with the intake officer who made the initial decision, and then make the final decision as to whether the petition shall or shall not be filed.

(4) (a) Efforts to effect informal adjustment may extend no longer than six months.

(b) No child shall be handled by informal adjustment where the child referred to the intake officer by any person has had any sustained petition for delinquency in the preceeding twelve months or has been handled by informal adjustment for a delinquent act in the preceeding twelve months.

(5) If the intake officer determines that the facts are legally sufficient to file a delinquency petition, he may request the district attorney for the county where the alleged delinquent act occurred to file it.

Section 402. Delinquency Petition Form and Contents...(1) The petition and all subsequent court documents in any proceedings brought under Chapter 2 of this act shall be entitled "The People of the State of Maine versus...a child (or children). The petition shall be verified, and the statements made in the petition may be made upon information and belief.



(2) The petition shall set forth plainly the facts which bring the child within the jurisdiction of the juvenile court. The petition shall cite the law or municipal ordinance which the child is alleged to have violated. The petition shall also state the name, age and residence of the child and the names and residences of his parents, guardian or other legal custodian.

Section 403. Dismissal of Delinquency Petition With Prejudice... On motion made by or in behalf of a child, a petition alleging delinquency shall be dismissed with prejudice if it is not filed within 30 days from the date the complaint was referred to the intake officer.

Section 404. Summons, Issuance, Contents, Service...

(1) After a petition has been filed, the court shall promptly issue a summons reciting briefly the substance of the petition. The summons shall also set forth the constitutional and legal rights of the child, his parents or guardian, or any other respondent, including the right to have an attorney present at the hearing on the petition.

(2) No summons shall issue to any respondent who appears voluntarily, or who waives service, or who has promised in writing to appear at the hearing as

provided in Section 305(5), but any such person shall be provided with a copy of the petition and summons upon appearance or request.

(3) The summons shall be directed to, and shall be served upon, the following persons:

- (a) The child, alleged to be delinquent in the same manner as if he were an adult;
- (b) The parents; and
- (c) The legal custodians, actual custodians, and guardians ad litem, if there be any other than the parents.

(4) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. The time shall not be less than 24 hours after service of the summons. If the child is not detained by an order of the court, the summons shall require the custodian to produce the child at the said time and place. A copy of the petition shall be attached to the summons.

(5) If the person or persons to whom a summons is issued are not the parents or guardian of the child, then summons shall also be issued to the parents or guardian, or both, notifying them of the pendency of the case and of the time and place set for hearing.

(6) The court on its own motion or on the motion of any party may join as a respondent or require the appearance of any person it deems necessary to the action and authorize the issuance of a summons directed to such person. Any party to the action may request the issuance of compulsory process by the court requiring the attendance of witnesses on his own behalf or on behalf of the child.

(7) The court may authorize the payment of necessary travel expenses incurred by persons summoned or otherwise required to appear, which payments shall not exceed the amount allowed to witnesses for travel by the district court.

(8) Summons shall be served personally, pursuant to the Maine rules of civil procedure. If personal service is used, it shall be sufficient to confer jurisdiction if service is effected not less than two days before the time fixed in the summons for the appearance of the person served.

(9) If the parents, guardian, or other legal custodian of the child required to be summoned under subsection (4) of this section cannot be found within the state, the fact of the child's presence in the state shall confer jurisdiction on the court as to any absent parent, guardian, or legal custodian if due notice has been given in the following manner:

- (a) When the residence of the person to be served outside the state is known, a copy of the summons and petition shall be sent by certified mail with postage prepaid to such person at his place of residence with a return receipt requested. Service of summons shall be deemed complete within five days after return of the requested receipt.
- (b) When the person to be served has no residence within Maine and his place of residence is not known or when he cannot be found within the state after due diligence, service may be by publication.

Section 405. Contempt, Warrant...(1) Any person summoned or required to appear as provided in Section 404 of this act, who has acknowledged service and fails to appear without reasonable cause may be proceeded against for contempt of court.

(2) If after reasonable efforts the summons cannot be served, a bench warrant may be issued for the parents, guardian or other legal custodian of a child alleged to be delinquent or for the child himself.

(3) When a parent or other person who signed a written promise to appear and bring the child alleged

to be delinquent to an intake officer pursuant to Section 305(5) of this Act, or who has waived or acknowledged service of a summons pursuant to Section 404 of this Act fails to appear with the child on the date set in the summons or written promise, a bench warrant may be issued for the parent or other person, the child himself, or both.

Section 406. Answer... No answer to the petition or any other pleading need be filed by any child, parent, or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. An answer admitting the allegations of the petition may be filed by the child joined by the child's counsel. The answer must acknowledge that the child has been advised of his right to counsel, of his right to remain silent, and of the possible dispositions available to the court. It shall provide for a waiver of the adjudicatory hearing, a statement of consent to an order of adjudication, and an authorization for the court to proceed with a dispositional hearing. Upon the filing of such an order a dispositional hearing shall be set at the earliest practicable time that will allow for the completion of a predisposition study.

Section 407. Right to counsel...(1) (a) At his first appearance before the court, the child and his parents, guardian or other legal custodian shall be fully advised by the court of their constitutional and legal rights, including the right to be represented by counsel at every stage of the proceedings.

(b) If the child or his parents, guardian or other legal custodian requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court.

(c) The court may appoint counsel without such request if it deems representation by counsel necessary to protect the interests of the child or of other parties.

(2) The district attorney shall represent the state in all delinquency proceedings.

Section 408. Hearings, Publicity, Record...(1) Hearings shall be held before the court without a jury but in all other respects will be conducted in a formal manner as if the child were an adult accused of a crime.

(2) (a) The general public shall not be excluded from hearings on alleged delinquent behavior that would constitute a class A, class B or class C crime if the child were an adult.

(b) The general public shall be excluded from

hearings on alleged delinquent behavior that would constitute a class D or class E crime if the child were an adult and hearings about a juvenile's alleged sale, purchase, possession or transportation of alcohol or drugs.

(3)(a) The name, picture, place of residence or identity of any child appearing as a defendant at a delinquency hearing who would stand accused of a class A, class B or class C crime if he were an adult, may be published in any newspaper or in any other publication or given any other publicity.

(b) The name, picture, place of residence or identity of any other person appearing as a witness in proceedings pursuant to this chapter 4 of this act against any child who would stand accused of a class A, class B or class C crime if he were an adult, may be published in any newspaper or in any other publication or given any other publicity.

(c) The name, picture, place of residence or identity of any child appearing as a defendant or any parent, guardian, custodian or other person appearing as a witness at a delinquency hearing held pursuant to this chapter, when the child would stand accused of a class D or class E crime if he were an adult or who is alleged to have purchased, sold, possessed or transported alcohol or drugs

shall not be published in any newspaper or in any other publication nor given any other publicity unless for good cause shown and as is specifically permitted by order of the court.

(4) A verbatim record shall be taken of all proceedings which might result in a finding of delinquency.

Section 409. Court Records, Inspection, Expungement...(1) (a) Records of court proceedings shall be open to inspection by the child, his parents or guardian, attorneys, and other parties in proceedings before the court, and to any agency to which legal custody of the child has been transferred.

(b) With consent of the court, records of court proceedings may be inspected by persons having a legitimate interest in the proceedings and by persons conducting pertinent research studies.

(c) Intake officer's records and probation officer's records and all other reports of social and clinical studies shall not be open to inspection except by consent of the court.

(2) (a) Any juvenile who was the subject of a petition dismissed pursuant to sections 403 or 410(5) of this act may petition the court for expungement of his record and shall be so informed at the time of such dismissal.



(b) The court, on its own motion or on the motion of the intake officer, probation officer or juvenile parole officer, may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court.

(3) (a) A petition to initiate expungement proceedings shall be filed or such court order entered no sooner than two years after the date of termination of the court's jurisdiction over the juvenile or two years after his unconditional release from parole or probation supervision or two years after his discharge from any other placement to which he had been remanded by the court.

(b) Only by stipulation of all parties involved may expungement be applied for prior to the expiration of two years from the date of termination of the court's jurisdiction or termination of the court's supervision under an informal adjustment.

(c) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the district attorney and anyone else whom the court has reason to believe may have relevant information related to the expungement of the record.

(5) The court shall order expunged all records in the petitioner's case in the custody of the court

and any records in the custody of any other agency or official if at the hearing the court finds that:

- (a) the subject of the hearing has not been adjudicated a delinquent nor convicted of a crime since the termination of the court's jurisdiction or his unconditional release from parole or probation supervision or his discharge from any other placement to which he had been remanded by the court;
- (b) no proceeding concerning delinquent or criminal behavior is pending or being instituted against him;
- (c) upon the entry of an order to expunge the records, the proceedings in the case shall be deemed never to have occurred, and all index references shall be deleted, and the person and the court may properly reply that no record exists with respect to such person upon any inquiry in the matter; and
- (d) copies of the order shall be sent to each agency or official named therein.

Section 410. Adjudicatory hearing, Findings, Adjudication...(1) At the adjudicatory hearing, which shall be conducted as provided in section 408(1), the court shall consider whether the allegations of the petition are supported by evidence beyond a reasonable doubt, except that jurisdictional matters of age and residence of the child shall be deemed admitted by or on behalf of the child unless specifically denied prior to the adjudicatory hearing.

(2) (a) When it appears that the evidence presented at the hearing discloses facts not alleged in the petition, the court may proceed immediately to consider the additional or different matters raised by the evidence if the parties consent.

(b) In such event, the court, on the motion of any interested party or on its own motion, shall order the petition to be amended to conform to the evidence.

(c) If the amendment results in a substantial departure from the original allegations in the petition, the court shall continue the hearing on the motion of any interested party, or the court may grant a continuance on its own motion if it finds to be in the interests of the child or any other party to the proceeding.

(d) If it appears from the evidence that the child may be mentally ill or mentally retarded or otherwise developmentally disabled as those terms are defined in Title \_\_\_\_\_ M.R.S.A., paragraphs 2(a), 2(b) and 2(c) shall not apply and the court shall proceed under section \_\_\_\_\_ of this act.

(3) After making a finding as provided by subsection (6)(a) of this section but before making an adjudication, the court may continue the hearing from time to time, allowing the child to remain in his own home or in the temporary custody of another person or agency subject to such conditions of conduct and of visitation or supervision by a probation officer as the court may prescribe, if:

(a) Consent is given by the child and

his parent, guardian, or other legal custodian after being fully informed by the court of their rights in the proceeding, including their right to have an adjudication made either dismissing or sustaining the petition;

(b) Such continuation shall extend no

longer than six months without review by the court. Upon review the court may continue the case for an additional period not to exceed six months, after which the petition shall either be dismissed or sustained.

(4) When the petition alleges a child fourteen years of age or older to be a delinquent child as defined by section 102(b), by virtue of having committed an act which would constitute a class A, class B, or class C crime the court shall:

- (a) Proceed as otherwise provided in this section; or
- (b) Upon request of the district attorney, continue the case for further investigation and a transfer hearing to determine whether the jurisdiction of the juvenile court over the child should be waived, in which event the court shall advise the child and his parents, guardian, or legal custodian of the possible consequences of a transfer hearing, the right to be represented by counsel, and other constitutional and legal rights in connection therewith.

(5) When the court finds that the allegations of the petition are not supported by evidence beyond a reasonable doubt, the court shall order the petition dismissed and the child discharged from any detention or restriction previously ordered. His parents, guardian or other legal custodian shall also be discharged from any restriction or other temporary order.

(6) (a) When the court finds that the allegations of the petition are supported by evidence beyond a reasonable doubt in cases concerning delinquent children except when the case is continued as provided in the introductory paragraph of subsection (3) of this section, the court shall sustain the petition and shall make an order of adjudication setting forth whether the child is delinquent.

(b) The court shall then hold the dispositional hearing, but such hearing may be continued for up to two weeks on the motion of any interested party or on the motion of the court.

Section 411. Social Study and Other Reports...

(1) For the purpose of determining proper disposition of a child, written reports and other material relating to the child's mental, physical, and social history may be received and considered by the court along with other evidence; but the court, if so requested by the child, his parent or guardian, or other interested party, shall require that the person who write the report or prepared the material appear as a witness and be subject to both direct and cross-examination. In the absence of such request, the court may order the person who prepared the report or other material to appear if it finds that the interest of the child, his parent

or guardian, or other party to the proceedings so requires.

(2) The court shall inform the child, his parent or legal guardian, or other interested party of the right of cross-examination concerning any written report or other material as specified in subsection (1) of this section.

(3) Unless waived by the court, the Department of Mental Health and Corrections shall make a social study and report in writing in all children's cases prior to their dispositional hearing.

Section 412. Dispositional Hearing...(1) After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the child and the public. Such evidence shall include, but not necessarily be limited to, the social study and other reports as provided in section 411.

(2) The court may have the child examined by a physician, psychiatrist, or psychologist, and the court may place the child in a hospital or other suitable facility or non-residential program for this purpose.

(3) (a) The court may continue the dispositional hearing, either on its own motion or on the motion of any interested party, for a reasonable period not

to exceed one month to receive reports or other evidence.

(b) If the hearing is continued, the court shall make an appropriate order for detention of the child or for his release in the custody of his parents, guardian, or other responsible person or agency under such conditions of supervision as the court may impose during continuance.

(c) In scheduling investigations and hearings, the court shall give priority to proceedings concerning a child who is in detention or who has otherwise been removed from his home before an order of disposition has been made.

Section 413. Disposition...(1) When a child has been adjudicated as being a delinquent, the court shall enter a decree of disposition containing one or more of the following provisions which the court finds appropriate:

- (a) The court may place the child on probation or under protective supervision in the legal custody of one or both parents or a guardian under such conditions as the court may impose.
- (b) The court may place the child in the legal custody of a relative or other suitable person under such conditions as



the court may impose, which may include placing the child on probation.

(c) The court may require as a condition of probation that the child report for assignment to a supervised work program or place such child in a child care facility which shall provide a supervised work program, if:

(I) The child is not deprived of the schooling which is appropriate to his age, needs, and specific rehabilitative goals;

(II) The supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the child, and is combined with counseling from a probation counselor or other guidance personnel;

(III) The supervised work program assignment is made for a period of time not exceeding one hundred eighty days.

(d) The court may place legal custody in the Department of Mental Health and Corrections or the Department of Human Services or a child placement agency for placement in a foster home, group care

home or halfway houses.

(e) The court may order that the child be examined or treated by a physician, surgeon, psychiatrist, or psychologist, or that he receive other special care, and may place the child in a hospital or other suitable facility for such purposes.

(f) The court may require the child to pay for any damage done to persons or property, upon such conditions as the court may deem best, when such payment can be enforced without serious hardship or injustice to the child.

(2) The court may grant a new hearing as provided in section 417 of this act.

(3) The court may place the child in the Maine Youth Center.

(4)(a) The court may commit a person over the age of eighteen years to the Department of Mental Health and Corrections or to the Department of Human Services if he is adjudicated delinquent for an act committed prior to his eighteenth birthday or upon revocation of probation.

(b) The court may sentence a person who is eighteen years of age or over on the date of a dispositional hearing to the county jail for a period not to exceed an aggregate total of one hundred eighty days, which may be served consecutively or

in intervals, if he is adjudicated delinquent for an act committed prior to his eighteenth birthday.

(5) The court may impose a fine of not more than \_\_\_\_\_ dollars.

Section 414. Criteria for Withholding an Institutional Disposition...(1) The court shall deal with a juvenile who has been adjudicated delinquent without imposing placement in a secure institution as disposition unless, having regard to the nature and circumstances of the crime and the history, character and condition of the juvenile, it is of the opinion that his confinement is necessary for protection of the public because:

- (a) there is undue risk that during the period of a suspended sentence or probation the juvenile will commit another crime; or
- (b) the juvenile is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or
- (c) a lesser sentence will depreciate the seriousness of the juvenile's delinquent conduct.

(2) The following grounds, while not controlling the discretion of the court, shall be accorded weight in favor of withholding placement in a secure institution:

- (a) the juvenile's delinquent conduct  
neither caused nor threatened  
serious harm;
- (b) the juvenile did not contemplate  
that his delinquent conduct would  
cause or threaten serious harm;
- (c) the juvenile acted under a strong  
provocation;
- (d) there were substantial grounds tending  
to excuse or justify the juvenile's  
delinquent conduct, though failing to  
establish a defense;
- (e) the victim of the juvenile's delinquent  
conduct induced or facilitated its  
commission;
- (f) the juvenile has compensated or will  
compensate the victim of his delinquent  
conduct for the damage or injury that  
he sustained;
- (g) the juvenile has no history of prior  
delinquency or has led a law-abiding  
life for a substantial period of time  
before the commission of the present  
delinquent act;
- (h) the juvenile's delinquent conduct was  
the result of circumstances unlikely to  
recur;

- (i) the character and attitudes of the juvenile indicate that he is unlikely to commit another delinquent act;
- (j) the juvenile is particularly likely to respond affirmatively to probationary treatment;
- (k) the confinement of the juvenile would entail excessive hardship to himself or his dependents.

Section 415. Right to Periodic Review and Redisposition...

(1) Every child for whom a disposition is fashioned pursuant to section 413 of this act shall be reviewed not less than once in every \_\_ months by a representative of the Department of Mental Health and Corrections who shall report in writing to the juvenile court that ordered the disposition. The written report shall be prepared in accordance with the provisions of subsection (3) of this section.

(2) On the basis of the review, the court may order the child's disposition continued if it is appropriate, order a new disposition or order the child to be discharged from juvenile court supervision.

(3) The facility or program in which a child resides or is participating shall maintain a record of each review under this section, which record shall include:

- (a) a report of the review;
- (b) a brief description of the services provided to the juvenile during the

period preceeding the review and the results of those services;

- (c) an individualized plan for the provision of services to the child for the next period;
- (d) an explanation why such plan imposes the least restrictive alternative consistent with adequate care of the child and protection of the community; and
- (e) a certification that the services recommended are available and will be afforded to the child.

Section 416. Commitment to the Department of Mental Health and Corrections or the Department of Human Services...(1) (a) When a child is committed to the Department of Mental Health and Corrections or the Department of Human Services, the court shall transmit, with the commitment order, a copy of the petition, the order of adjudication, copies of the social study, any clinical or educational reports, and other information pertinent to the care and treatment of the child.

(b) the Department of Mental Health and Corrections or the Department of Human Services shall provide the court with any information concerning a child committed to its care which the court at any time may require.

(2) A commitment of a child to the Department of Mental Health and Corrections or to the Department of Human Services pursuant to sections 413, 414 and 415 of this act shall be for an indeterminate period not to exceed \_\_ years except that the committing court may review the commitment for an additional period not to exceed \_\_ years upon petition of the department to which the child was committed. Such petition shall set forth specifically the reasons why such an extension is necessary.

(3) Notwithstanding subsection (2) of this section, institutional placement of a child committed to the Department of Mental Health and Corrections or to the Department of Human Services shall not exceed \_\_ years unless the court, on petition of the department which has custody of the child, shall:

- (a) set a hearing to determine whether the petition should be granted or denied;
- (b) notify all interested parties;
- (c) determine from a preponderance of the evidence presented at such a hearing that continued institutional placement is necessary for the protection of the community or the child.

Section 417. New Hearing Authorized...(1) A parent, guardian, custodian, or attorney of any child adjudicated under this chapter, or any person affected by a decree in a proceeding under this chapter, may petition the court for a new hearing on the grounds specified Rule \_\_\_\_ of the Maine rules of criminal procedure.

(2) If it appears to the court that the motion should be granted, it shall order a new hearing and shall make such disposition of the case as warranted by all the facts and circumstances.

Section 418. Mentally Ill, Mentally Retarded, or Otherwise Developmentally Disabled Children...(1) If it appears from the evidence presented at an adjudicatory hearing that a child may be mentally ill or mentally retarded or otherwise developmentally disabled, as these terms are defined in Title \_\_\_\_ M.R.S.A, the court shall suspend the hearing on the petition and shall either:

- (a) order that the child be examined by a physician, psychiatrist or psychologist and refer the child to a suitable facility or program for the purpose of examination; or
- (b) transfer the child to the probate court for proceedings under Title \_\_\_\_ M.R.S.A. (citation will be to the title



on voluntary and involuntary  
commitments for mental health care.)

(2) If the report of the examination made pursuant to subsection (1)(a) of this section states that the child is mentally ill, mentally retarded or otherwise developmentally disabled to the extent that short-term or long-term hospitalization or institutional confinement is required, the court shall transfer jurisdiction to the probate court for proceedings under Title \_\_\_\_ M.R.S.A. (Same citation as in (1)(b)).

(3) The court shall dismiss the original petition when a child is committed to a hospital or other institution pursuant to Title \_\_\_\_ M.R.S.A. (same citation as in (1)(b)).

(4) The court shall set a time for resuming the hearing on the original petition when:

(a) the report of the examination made pursuant to subsection (1)(a) of this section states that the child is not mentally ill, mentally retarded or developmentally disabled to the extent that short-term or long-term hospitalization or institutional confinement is required; or

(b) the child is not found by the  
probate court to be mentally ill,  
mentally retarded or developmentally  
disabled under Title \_\_\_\_ M.R.S.A.  
(same citation as in (1)(b)).

## Chapter 5. Modification of Juvenile Court Judgments and Orders.

Section 501. Changing, Modifying, or Setting  
Aside Orders; Procedural Requirements...Any order  
made by the court in the case of any person subject  
to its jurisdiction may at any time be changed,  
modified, or set aside, as the judge deems proper,  
subject to such procedural requirements as are im-  
posed by this chapter.

Section 502. Notice of Application...No order  
changing, modifying, or setting aside a previous  
order of the juvenile court shall be made either in  
chambers, or otherwise, unless prior notice of the  
application therefor has been given by the judge or  
the clerk of the court to the probation officer and  
to minor's counsel of record and the juvenile's parent,  
guardian, or custodian and unless a hearing on such  
application is held pursuant to the provisions of  
Chapter 4.

Section 503. Changing, Modifying, or Setting Aside Order of Commitment to the Department of Mental Health and Corrections, the Department of Human Services or the Maine Youth Center...The court committing a juvenile to the Department of Mental Health and Corrections, the Department of Human Services or the Maine Youth Center may thereafter change, modify or set aside the order of commitment. Ten days notice of the hearing of the application therefor shall be served by United States mail on the Commissioner of the department having custody of the child or upon the superintendent of the Maine Youth Center. The hearing shall be conducted in accordance with the provisions of Chapter 4 of this act.

Chapter 6. Appeals.

Section 601. Jurisdiction, Goals of Juvenile Appellate Structure...(1) Juvenile appeals shall be heard by the Superior Court in the same manner as criminal appeals except that juveniles shall not be afforded a trial de novo.

(2) The goals of the juvenile appellate structure are:

- (a) to insure substantial uniformity of treatment to persons in like situations;

- (b) to correct errors in the application and interpretation of law and in the finding of facts;
- (c) to provide for limited growth in keeping with the legislatively defined goals of the juvenile justice system as a whole.

Section 602. Appeal as a Right; Who May

Appeal... (1) Upon claim properly filed review shall be had of any final order of the juvenile court. A "final order" includes but is not limited to:

- (a) any order finding presence or absence of jurisdiction over the matter in question;
- (b) any order which terminates juvenile court jurisdiction in favor of another court;
- (c) any order terminating or modifying custodial rights;
- (d) any order of disposition after adjudication;
- (e) any order modifying any of the above;
- (f) any order denying a stay of judgment or release on bond.

(2) An appeal may be taken by any of the following aggrieved parties:

- (a) the juvenile;

(b) his parents, custodian, guardian, attorney or next friend;

(c) the state to the extent permitted by subsection (3) of this section.

(3) The state may appeal only the following orders:

(a) an order adjudicating a state statute unconstitutional;

(b) an order finding an absence of juvenile court jurisdiction;

(c) any pre-trial order which by depriving the prosecution of evidence, results in dismissal of juvenile court delinquency charges.

(4) Any party who may appeal to the appellate court may request the juvenile court to review any of its orders pursuant to section 4 of this act.

(5) An appeal of right may be taken from any final order by filing a claim of appeal with the appellate court within 30 days. Further appeals shall be by leave of the superior court.

Section 603. Procedure for Appeals...(1) It shall be the duty of the juvenile court judge to inform the parties immediately after judgment and/or disposition orally and in writing of the right to appeal, the time limits and manner in which that appeal must be taken, and the right to court appointed

counsel and a copy of the transcript in the case of indigency.

(2) The appellant shall file his brief on appeal in the superior court within 30 days after the filing of the claim of appeal or the entry of the order granting leave to appeal.

(3) The appellee shall file his response to appellant's brief within 20 days after the filing of appellant's brief.

(4) The appellant is entitled to a copy of the transcript of the adjudication and dispositional hearings and any matter appearing in the court file, upon the filing of a request for same.

(5) Upon a determination of indigency, the above material shall be provided appellant at public expense.

(6) A copy of the transcript shall be provided by the court reporter within \_\_ days of the filing of the request for same.

Section 604. Counsel on Appeal...(1) Any juvenile alleged to come within the provisions of this chapter is entitled to the appointment of counsel at public expense upon a determination of indigency.

(2) Where a parent of the juvenile desires to affect an appeal against the wishes of the child, that parent is entitled to the appointment of counsel at public expense upon a determination of indigency.

Section 605. Stays of Orders and Release

on Bond...(1) The juvenile or his representative may, after the filing of a claim of appeal or the entry of an order granting leave to appeal, request the juvenile court to stay the effect of its order and/or release the juvenile on bond pending appeal.

(2) Upon application, a stay of judgment and disposition and releasing appellant on bond shall issue in every case unless the juvenile court orders otherwise.

(3) In making a determination under this section, the court shall consider the following factors on the record:

- (a) whether stay and release to his family or guardian would be beneficial to the juvenile;
- (b) whether the appeal is taken in good faith with substantial issues, or is taken as a delaying or avoidance tactic;
- (c) whether the stay or release of the juvenile would endanger the lives or safety of others;
- (d) the likelihood that the juvenile would appear before any court as ordered.

In those cases where a stay of judgment or disposition is denied, the superior court shall place the matter on an expedited docket.

(4) No person who attains the age of eighteen years during the pendency of an appeal other than from a grant of waiver to adult criminal court may thereafter be criminally prosecuted as an adult for any conduct arising from the same transaction which was the cause of juvenile court intervention.

Chapter 7. The Department of Mental Health and Corrections.

Section 701. Responsibility of the Department of Mental Health and Corrections for Children's Services...(1) The Department of Mental Health and Corrections is hereby charged with responsibility for:

- (a) ensuring the provision of all services necessary to--
  - (I) prevent children and youth from coming into contact with the juvenile court system; and
  - (II) support and rehabilitate those children and youth who do come into contact with the juvenile court;



- (b) gathering standardized information on the present and past services needs of children who have come into contact with the juvenile court;
- (c) gathering standardized information on the extent to which such services needs are being met;
- (d) making proposals for meeting the services needs which are not being addressed; and
- (e) coordinating with all other existing agencies that gather data on the services needs of Maine's children and youth.

Section 702. Functions of the Department of Mental Health and Corrections with Respect to Children's Services...The Department of Mental Health and Corrections shall perform the following functions:

- (1) provide direct services to children and their families including but not limited to:
  - (a) administering, supervising and ensuring the provision of correctional programs for delinquent offenders;
  - (b) assisting communities to establish and provide necessary local services through technical assistance and additional financial resources in establishing the necessary range of comprehensive evaluation and

treatment services for children and their families;

- (c) using to best advantage the available resources of both the income maintenance and social service programs in appropriate titles of the Social Security Act and other federal statutes;
- (d) using other public and voluntary agencies as resources for the purchase of care and services;
- (e) stimulating the creation of voluntary services; and
- (f) intervening if local agencies fail to provide adequate services for which they are responsible.

(2) Provide leadership in statewide program planning for services to children and families, including, but not limited to:

- (a) collecting and reporting all pertinent data on services recipients, programs, and unmet needs;
- (b) analyzing needs of children and families;
- (c) promoting the development of comprehensive child welfare services systems based on needs;
- (d) ensuring effective utilization not only of social services, but of all existing services and resources for children and their

families, under both public and private auspices, and, when necessary, encouraging their development and expansion;

- (e) promoting a teamwork approach and bringing together the various fields interested in developing services for children and their families;
- (f) providing planning grants for local communities; and
- (g) seeing that state planning is implemented and that comprehensive services are available in all communities.

(3) Regulate agencies that provide services to children and their families, including but not limited to:

- (a) setting standards and minimum requirements;
- (b) licensing voluntary agencies and others in the private sector;
- (c) approving program agencies as meeting the minimum requirements of the licensing authority; and
- (d) supervising public agencies and providing consultation to assist voluntary agencies and others in the private sector to improve services.

(4) Evaluate agencies, individuals, and institutions that provide services to children and their families

including but not limited to:

- (a) ensuring compliance with the regulations for use of public funds;
- (b) evaluating quality and cost effectiveness of services; and
- (c) monitoring and assisting local agencies and service contractors, including proprietary agencies, to assure that they are carrying out their service responsibilities appropriately and effectively.

(5) Provide structure for appeals, fair hearings and a review of grievances about service provision by children and their families, including, but not limited to protecting the rights of individuals to appeal against denials of or exclusion from the services to which they are entitled, actions that negate the individual's right of choice to specific programs, or actions that force involuntary participation in a service program.

(6) Develop and train department staff, including, but not limited to:

- (a) meeting the need for professional personnel for public child welfare services, through inservice training, institutes, conferences,

and educational leave grants;

(b) upgrading education and competence of professional and other personnel and volunteers; and

(c) making staff and training facilities available for training of staff and volunteers in contractor agencies or facilities to assure effective provision of purchased services.

(7) Conduct research and demonstration projects, including but not limited to entering into contracts with other agencies and making grants for research, including basic research into the causes of social problems of children and their parents, evaluation of methods of service delivery in use, and development of new approaches.

(8) In regard to individual children for whom the department has accepted responsibility, it should:

(a) make appropriate services available to them, either directly or by purchase of or payments for such services provided by another agency;

(b) assume responsibility, to the extent that parents are unable to do so, for payment for services;

- (c) assume legal custody of children or legal guardianship when vested by the court;
- (d) take necessary action for the appointment of a guardian of the person of children who do not have a parent to exercise effective guardianship;
- (e) carry continuing responsibility for seeing that the children and parents are receiving appropriate services in accordance with their needs.

Section 703. Establishment of a Bureau (Assistant Commissionership?) for Children's Services in the Department of Mental Health and Corrections... To effect the intent of this chapter and to provide an identifiable locus of responsibility for identifying, evaluating and meeting the service needs of children and their families, the Department of Mental Health and Corrections shall establish a Bureau (Assistant Commissionership?) of Children's Services by \_\_\_\_\_. The director of this bureau (or the assistant commissioner) shall be responsible directly to the Commissioner of Mental Health and Corrections.

Section 704. Authority...(1) The Department of Mental Health and Corrections through its Bureau of Children's Services (or its Assistant Commission for Children's Services) shall establish and operate facilities necessary for the care, education, training, treatment, and rehabilitation of those children legally committed to its custody. As necessary, such facilities may include but shall not be limited to:

- (a) Group care facilities and homes, including half-way houses;
- (b) Training schools;
- (c) Foster homes; and
- (d) Diagnostic and evaluation centers

(2) The department shall cooperate with other governmental units and agencies, including appropriate local units of government, state departments and institutions, and agencies of the federal government in order to facilitate the training and rehabilitation of youth.

Section 705. Transfers...(1) The Director of the Bureau of Children's Services (or the Assistant Commissioner for Children's Services) may transfer any child committed to its care from one facility

or program to another; except that before any child is transferred, he shall be examined and evaluated and such evaluation shall be reviewed by the director (or Assistant Commissioner) before he approves the transfer.

(2) When the director (or Assistant Commissioner) finds that the welfare and protection of a child or of others requires the child's immediate transfer to another facility, he shall make the transfer prior to having the child examined and evaluated.

(3)(a) Notwithstanding the provisions of subsections (1) and (2) of this section, the transfer of any juvenile from a less restrictive placement to a more restrictive placement shall be reviewed by the court having continuing jurisdiction over that juvenile within 48 hours of the transfer, excluding Sundays and legal holidays.

(b) In order to continue the more restrictive placement, a court must find:

(I) that it is necessary to:

(i) protect the juvenile;

(ii) protect the community; and

(II) no other available less restrictive placement will protect the juvenile or the community.



(c) Notwithstanding the provisions of subsection (3) (a) of this section, the director (or Assistant Commissioner shall not have the authority to place any child committed to the department in a penal institution.

Section 706. Contracts and agreements with public and private agencies...(1) The director of the bureau (or the Assistant Commissioner of the department) may enter into agreements or contracts with any governmental unit or agency or private facility or program cooperating or willing to cooperate in a program to carry out the purposes of this act. Such contracts or agreements may provide, among other things, for the type of work to be performed, for the rate of payment for such work, and for other matters relating to the care and treatment of children.

(2) Placement of children by the department in any public or private facility or program not under the jurisdiction of the department shall not terminate the legal custody of the department.

(3) The department shall have the right to inspect all facilities used by it and to examine and consult with persons in its legal custody who have been placed in any such facility.

Section 707. Directors of programs...A director of a facility or program run by the Department of Mental Health and Corrections or a facility or program with which the department contracts for services shall:

(1) Report to the director of the bureau (or Assistant Commissioner) at such times and on such matters as the director (or Commissioner) may require:

(2) Receive, subject to limitations on physical capacity and programs, all children committed to the custody of the department and placed in his care under the provisions of this act and to keep them for rehabilitation, education, and training until discharged by law or under the rules of the department or released on parole;

(3) To secure a careful and thorough evaluation of every child placed under his care at intervals no greater than six months, such evaluation to ascertain whether the child's program should be modified, whether his transfer to another facility should be recommended to the said director or whether his release should be recommended to the juvenile parole board.

Section 708. Rules and Regulations...(1) It is the duty of the Department of Mental Health and Corrections to develop and promulgate by \_\_\_\_\_ such rules and regulations as may be necessary for imparting instruction, preserving health, and enforcing discipline of children pursuant to this chapter.

(2) The academic courses of study and vocational training and instruction provided to juveniles committed to the Department of Mental Health and Corrections shall be equal to those approved by the Department of Education for the instruction of pupils in primary and secondary schools of the state. Full credit shall be given by school districts in this state for completion of any semester, term, or year of study instruction by any child who has earned credit therefor.

(3) The department will cooperate with the Department of Education which has responsibility for providing education to court-related children to effect the intent of this section.

(4) The school boards of the school districts which a juvenile detention facility serves or in which the juvenile detention facility is located shall furnish teachers and any books or equipment

needed for the proper education of such children as may be present in the juvenile detention facility. The expenses of such activities shall be shared and paid by each school district served in the proportion which the school enrollment of each school district bears to the total school enrollment of all the districts served.

Section 709. Fees for transporting children...

The Department of Mental Health and Corrections shall pay any expenses incurred for transporting a juvenile pursuant to the provisions of the act to:

- (a) an intake officer;
- (b) a placement directed by the intake officer;
- (c) juvenile court;
- (d) a representative of the Department of Mental Health and Corrections.

Section 710. Transfer of Officers and Employees...

Effective\_\_\_\_, such officers and employees who were engaged prior to said date in the performance of powers, duties and functions related to the obligations and powers transferred pursuant to the provisions of this act shall become officers and