

MAINE STATE LEGISLATURE

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AUGUSTA, MAINE

L.D. 1376

DATE: 5.31.05

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S.P. 474, L.D. 1376, Bill, "An Act To Amend the Laws Governing the Right to Periodic Review under the Maine Juvenile Code"

Amend the bill by striking out the title and substituting the following:

'Resolve, Directing the Department of Corrections To Establish a Pilot Project at the Department's Juvenile Correctional Facilities'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Sec. 1. Pilot project established. Resolved: That the Commissioner of Corrections, referred to in this resolve as "the commissioner," shall establish a pilot project to determine the need for judicial review of the services provided to at-risk juveniles committed to a juvenile correctional facility of the Department of Corrections, referred to in this resolve as "the department"; and be it further

Sec. 2. Criteria for participation in pilot project. Resolved: That the commissioner shall determine criteria for participation in the pilot project in section 1 for juveniles committed to a department juvenile correctional facility under the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraph F on or after January 1, 2006. The criteria must be designed to identify up to 15 juveniles at each of the department's juvenile correctional facilities who are in special need of intensive services. The criteria may include, but need not be limited to, such factors as young age, serious mental health needs and low level of parental involvement; and be it further

COMMITTEE AMENDMENT

2 **Sec. 3. Long Creek Youth Development Center. Resolved:** That
3 the commissioner shall appoint a selection committee, consisting
4 of the Associate Commissioner for Juvenile Services or the
5 associate commissioner's designee, a juvenile prosecutor and a
6 juvenile defense attorney. The selection committee shall
7 recommend an appropriate guardian ad litem for each juvenile
8 committed to the Long Creek Youth Development Center who is
9 chosen for participation in the pilot project in section 1. The
10 juvenile court shall give great weight to the recommendation of
11 the selection committee in making its appointment of the guardian
12 ad litem. The guardian ad litem selected must be on the current
13 Maine District Court roster of guardians ad litem but may not be
14 a member of the selection committee or the defense attorney for
15 the juvenile. A person serving as a guardian ad litem under this
16 resolve acts as the court's agent and is entitled to
17 quasi-judicial immunity for acts performed within the scope of
18 the duties of the guardian ad litem. In consultation with the
19 selection committee, the department shall develop and provide
20 orientation and training specific to the role of a guardian ad
21 litem for a juvenile committed to a juvenile correctional
22 facility prior to the guardian ad litem's assuming the guardian's
23 responsibilities, and the department may offer ongoing training.
24 At least quarterly, the selection committee shall review the
25 guardian ad litem's performance. If the selection committee
26 determines at any time that a guardian ad litem is not performing
27 the guardian's responsibilities appropriately, the selection
28 committee may recommend the removal of the guardian ad litem and
29 recommend a replacement. The juvenile court shall give great
30 weight to the recommendations of the selection committee to
31 remove and replace a guardian ad litem. The recommendations of
32 the selection committee to select, remove and replace a guardian
33 ad litem must be made by at least majority vote, and the court's
34 decisions to accept or reject those recommendations are not
35 appealable; and be it further

36 **Sec. 4. Mountain View Youth Development Center. Resolved:** That
37 the chief advocate of the department shall, with the approval of
38 the commissioner, select an advocate for the Mountain View Youth
39 Development Center. In addition to the provisions of the Maine
40 Revised Statutes, Title 34-A, section 1203 that apply to the
41 advocate, the advocate has the duties set out in this resolve
42 with respect to the juveniles at the Mountain View Youth
43 Development Center who are chosen for participation in the pilot
44 project in section 1; and be it further

46 **Sec. 5. Duties. Resolved:** That for each juvenile chosen for
47 participation in the pilot project in section 1 the selected
48 guardian ad litem or the advocate shall meet with the juvenile at
49 the facility and with the juvenile's parents, guardian or legal
50 custodian within 7 days of being assigned to

2 the juvenile's case and at least once every 3 months thereafter.
3 Within 30 days of being assigned to the juvenile's case and at
4 least every 3 months thereafter, the guardian ad litem or the
5 advocate shall review the following documents if generated by or
6 for the department since the juvenile's commitment: the
7 integrated assessment, or its equivalent; the resident case plan,
8 or its equivalent; any modifications to the case plan; any
9 psychological evaluation, including any sexual behavior treatment
10 assessment, if applicable; any sexual behavior treatment plan, if
11 applicable; any psychiatric evaluation; any assessment of the
12 juvenile prepared by a treatment provider under contract with the
13 department; and, with the juvenile's written consent, any
14 substance abuse treatment assessment and treatment plan, if
15 applicable. The guardian ad litem or advocate shall attend all
16 classification committee meetings regarding the juvenile and must
17 have access to minutes of the classification committee meetings
18 and unit treatment team meetings or their equivalents. Access
19 includes being provided copies of the documents upon reasonable
20 notice. Any information obtained by the guardian ad litem or the
21 advocate must be kept confidential except to the extent necessary
22 to perform the duties set out in this resolve; and be it further

23 **Sec. 6. Report. Resolved:** That, within 12 months of a
24 juvenile's commitment, the guardian ad litem or advocate shall
25 prepare a written report regarding the services being provided to
26 the juvenile, including any recommendations for additional or
27 different services. A copy must be provided to the juvenile
28 court and be reviewed by the court at the judicial review
29 provided for in the Maine Revised Statutes, Title 15, section
30 3315, subsection 3. A copy of the report must also be provided
31 to the superintendent of the facility, the juvenile and the
32 juvenile's parents, guardian or legal custodian at least 2 weeks
33 prior to the review. The guardian ad litem or advocate may
34 request a separate judicial review of the report and, if such a
35 review is requested, a copy of the report must be provided to the
36 superintendent, the juvenile and the juvenile's parents, guardian
37 or legal custodian at least 2 weeks prior to the review. A
38 separate judicial review may be requested by the guardian ad
39 litem only while the juvenile continues to reside in a juvenile
40 correctional facility and not more than once in a 6-month period;
41 and be it further

42 **Sec. 7. Judicial review. Resolved:** That the superintendent of
43 the facility, the juvenile and the juvenile's parents, guardian
44 or legal custodian must be notified of the review of the report
45 of the guardian ad litem or advocate at least 2 weeks prior to
46 the review date. The guardian ad litem or advocate shall attend
47 the review. The superintendent or the superintendent's designee
48 may attend the review. The juvenile's parents, guardian or legal

COMMITTEE AMENDMENT 'A' to S.P. 474, L.D. 1376

2 to at-risk juveniles committed to a Department of Corrections
juvenile facility. The commissioner shall determine criteria for
4 participation of the juveniles in the pilot project by up to 15
juveniles at each facility. The pilot project must include
6 guardians ad litem at the Long Creek Youth Development Center
recommended by a selection committee, appointed by the juvenile
8 court and trained by the department. The pilot project must also
include an advocate to work with selected juveniles at the
10 Mountain View Youth Development Center. The advocate and
guardians ad litem shall meet and work regularly with the
12 juveniles, the parents, guardians or legal custodians and shall
review the juveniles' assessments and treatment plans. Within 12
14 months the advocate and guardians ad litem shall prepare written
reports regarding the services being provided to the juveniles.
16 These reports must be provided to the juvenile court, the
superintendents of the facilities and the parents, guardians or
18 legal custodians of the juveniles. The resolve provides for
judicial review of the reports and potential recommendations for
20 amended services for juveniles, which the department may
implement as it determines appropriate. The resolve also
22 requires an evaluation of the pilot project with a report to the
joint standing committee of the Legislature having jurisdiction
24 over criminal justice and public safety matters by January 15,
2008. The pilot project terminates on April 1, 2008 unless
26 further legislative action is taken.

28 **FISCAL NOTE REQUIRED**
(See attached)



Approved: 05/24/05 *MAC*

122nd MAINE LEGISLATURE

LD 1376

LR 0724(02)

An Act To Amend the Laws Governing the Right to Periodic Review under the Maine Juvenile Code

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

The additional costs associated with this legislation can be absorbed by the Department of Corrections, the Judicial Department and the Department of the Attorney General utilizing existing budgeted resources.