

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

OMG
R O S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Date: 6/19/19

L.D. 1573
(Filing No. H-651)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1135, L.D. 1573, Bill, "An Act To Clarify Provisions of the Maine Juvenile Code Regarding Inspection, Disclosure and Dissemination of Juvenile Case Records and To Change Gender-specific Terms"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 15 MRSA §3003, sub-§3, as amended by PL 1979, c. 681, §38, is further amended to read:

3. Bind-over hearing. "~~Bind-over~~ Bind-over hearing" means a hearing at which the Juvenile Court determines whether ~~or not~~ to permit the State to proceed against a juvenile as if ~~he~~ the juvenile were an adult.

Sec. 2. 15 MRSA §3003, sub-§§4-C, 4-D and 5-A are enacted to read:

4-C. Court-generated information. "Court-generated information" means records, information and documents created by the Juvenile Court to document activity in a case, including docket entries and other similar records.

4-D. Disclosure. "Disclosure" means the transmission of information contained in juvenile case records by any means, including orally, in writing or electronically, upon request.

5-A. Dissemination. "Dissemination" means release of, transmission in any manner of and access to information contained in juvenile case records expressly authorized by statute, executive order, court rule, court decision or court order.

Sec. 3. 15 MRSA §3003, sub-§6, as enacted by PL 1977, c. 520, §1, is amended to read:

6. Emancipation. "Emancipation" means the release of a juvenile from the legal control of ~~his~~ the juvenile's parents.

Sec. 4. 15 MRSA §3003, sub-§8, as enacted by PL 1977, c. 520, §1, is amended to read:

COMMITTEE AMENDMENT

1 **8. Guardian.** "Guardian" means a person lawfully invested with the power, and
 2 charged with the duty, of taking care of ~~the~~ a person and managing the property and
 3 rights of ~~another~~ the person, who, because of age, is considered incapable of
 4 administering ~~his~~ the person's own affairs.

5 **Sec. 5. 15 MRSA §3003, sub-§10-A** is enacted to read:

6 **10-A. Inspection.** "Inspection" means access to and review of juvenile case records
 7 in a manner prescribed by the Supreme Judicial Court. "Inspection" does not include
 8 disclosure or dissemination of juvenile case records.

9 **Sec. 6. 15 MRSA §3003, sub-§14-C** is enacted to read:

10 **14-C. Juvenile case records.** "Juvenile case records" means all records, regardless
 11 of form or means of transmission, that comprise a juvenile court file of an individual
 12 case, including, but not limited to, court-generated information, information and
 13 documents filed by filers, transcripts of depositions, hearings, proceedings and
 14 interviews, documentary exhibits in the custody of the clerk of the court, electronic
 15 records, videotapes and records of other proceedings filed with the clerk of the court.
 16 "Juvenile case records" does not include administrative or operational records of the
 17 judicial branch.

18 **Sec. 7. 15 MRSA §3003, sub-§19-B** is enacted to read:

19 **19-B. Officer of the court.** "Officer of the court" means a judicial officer, including
 20 a judge, an attorney or an employee of the court including a clerk or a marshal.

21 **Sec. 8. 15 MRSA §3003, sub-§23**, as amended by PL 1979, c. 681, §2, is further
 22 amended to read:

23 **23. Probation.** "Probation" means a legal status created by court order in cases
 24 involving a juvenile adjudicated as having committed a juvenile crime, ~~which that~~
 25 permits the juvenile to remain in his the juvenile's own home or other placement
 26 designated by the Juvenile Court subject to revocation for violation of any condition
 27 imposed by the court.

28 **Sec. 9. 15 MRSA §3101, sub-§2, ¶D**, as amended by PL 1979, c. 681, §38, is
 29 further amended to read:

30 D. Juvenile Courts ~~shall~~ have exclusive original jurisdiction over proceedings in
 31 which an adult is alleged to have committed a juvenile crime before attaining ~~his 18th~~
 32 birthday 18 years of age. For purposes of ~~such proceedings such as a proceeding~~
 33 under this paragraph, the adult shall be is considered a juvenile.

34 **Sec. 10. 15 MRSA §3101, sub-§4, ¶A**, as amended by PL 1979, c. 681, §38, is
 35 further amended to read:

36 A. When a petition alleges that a juvenile has committed an act ~~which that~~ would be
 37 murder or a Class A, B or C crime if committed by an adult, the court shall, upon
 38 request of the prosecuting attorney, continue the case for further investigation and for
 39 a bind-over hearing to determine whether the jurisdiction of the Juvenile Court over
 40 the juvenile should be waived. ~~In the event of such~~ If a continuance is granted under
 41 this paragraph, the court shall advise the juvenile and his the juvenile's parent or

ROFS

COMMITTEE AMENDMENT "A" to H.P. 1135, L.D. 1573

1 parents, guardian or legal custodian of the possible consequences of a bind-over
2 hearing, the right to be represented by counsel, and other relevant constitutional and
3 legal rights ~~in connection therewith.~~

4 **Sec. 11. 15 MRSA §3101, sub-§4, ¶G,** as enacted by PL 1979, c. 512, §2, is
5 amended to read:

6 G. In all prosecutions for subsequent crimes, any person bound over and convicted
7 as an adult ~~shall~~ must be proceeded against as if ~~he~~ the juvenile were an adult.

8 **Sec. 12. 15 MRSA §3301, sub-§6-A,** as amended by PL 2005, c. 487, §1, is
9 repealed.

10 **Sec. 13. 15 MRSA §3301, sub-§7,** as amended by PL 2005, c. 507, §9, is further
11 amended to read:

12 **7. Nonapplication of section.** ~~Except for subsection 6-A, the~~ The provisions of this
13 section do not apply to a juvenile charged with either of the juvenile crimes defined in
14 section 3103, subsection 1, paragraph E or F, and a petition may be filed without
15 recommendation by a juvenile community corrections officer. The provisions of section
16 3203-A apply in the case of a juvenile charged with either of the juvenile crimes defined
17 in section 3103, subsection 1, paragraph E or F.

18 **Sec. 14. 15 MRSA §3304, sub-§6,** as enacted by PL 1977, c. 520, §1, is amended
19 to read:

20 **6. Summons of necessary parties.** The court on its own motion or on the motion of
21 any party may require the appearance of any person ~~it deems~~ the court determines
22 necessary to the action and authorize the issuance of a summons directed to ~~such~~ that
23 person. Any party to the action may request the issuance of compulsory process by the
24 court requiring the attendance of witnesses on ~~his own~~ the party's behalf or on the behalf
25 of the juvenile.

26 **Sec. 15. 15 MRSA §3306, sub-§1,** as amended by PL 1977, c. 664, §25, is
27 further amended to read:

28 **1. Notice and appointment.**

29 A. At ~~his~~ a juvenile's first appearance before the court, the juvenile and ~~his~~ the
30 juvenile's parent or parents, guardian or legal custodian ~~shall~~ must be fully advised by
31 the court of their constitutional and legal rights, including the juvenile's right to be
32 represented by counsel at every stage of the proceedings. At every subsequent
33 appearance before the court, the juvenile ~~shall~~ must be advised of ~~his~~ the juvenile's
34 right to be represented by counsel.

35 B. If the juvenile requests an attorney and if ~~he~~ the juvenile and ~~his~~ the juvenile's
36 parent or parents, guardian or legal custodian are found to be without sufficient
37 financial means, counsel ~~shall~~ must be appointed by the court.

38 C. The court may appoint counsel without ~~such~~ a request under paragraph B if ~~it~~
39 ~~deems~~ the court determines representation by counsel necessary to protect the
40 interests of the juvenile.

ROFS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

Sec. 16. 15 MRSA §3307, sub-§1-A, as amended by PL 1999, c. 624, Pt. B, §17, is further amended to read:

1-A. Disclosure of identity. A law enforcement officer, officer of the court or juvenile community corrections officer or other representative of the Department of Corrections may not ~~release~~ disclose the identity of any juvenile until a petition is filed charging the juvenile with a juvenile crime described in subsection 2. This section does not preclude the ~~release~~ disclosure of the identity of a juvenile to a complainant or victim if a juvenile community corrections officer decides not to file a petition in accordance with section 3301, subsection 5, paragraph A or B or if the juvenile community corrections officer requests the prosecuting attorney to file a petition in accordance with section 3301, subsection 5, paragraph C.

Sec. 17. 15 MRSA §3308, as amended by PL 2013, c. 267, Pt. B, §6, is further amended to read:

§3308. Juvenile case records; inspection and sealing

~~1. **Inspection.** No person may inspect the records of juvenile proceedings except as provided in this section.~~

1-A. Confidentiality. Juvenile case records are confidential and may not be disclosed, disseminated or inspected except as expressly authorized by this Part.

2. Hearings open to public. In the case of a hearing open to the general public under section 3307, the petition, the record of the hearing and the order of adjudication are open to public inspection, provided that any court subsequently sentencing the juvenile after the juvenile has become an adult may consider only murder and Class A, Class B and Class C offenses committed by the juvenile. The petition, the record of the hearing and the order of adjudication ~~are open to inspection by the victim~~, regardless of whether the hearing is open to the general public under section 3307, are open to inspection by:

- A. The victim;
- B. If the victim is a minor, a parent or parents, guardian or legal custodian of the victim; and
- C. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or other reason, an immediate family member, guardian, legal custodian of the victim or a licensed professional investigator under Title 32, chapter 89.

3. Dissemination of juvenile case records. ~~Records of court proceedings and of the other records described in subsection 5~~ Juvenile case records must be open to inspection by and, upon request, be disseminated to the juvenile, the juvenile's parent or parents, guardian or legal custodian, the juvenile's attorney, the prosecuting attorney and to any agency to which legal custody of the juvenile was transferred as a result of adjudication. ~~These Juvenile case records may also be open to inspection by~~ and, upon request, be disseminated to the Department of Health and Human Services prior to adjudication if commitment to the Department of Health and Human Services is a proposed disposition.

R.O.F.S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

3-A. Disclosure of juvenile's identity to victims. ~~The name~~ Upon request, the identity of a juvenile subject to Juvenile Court proceedings ~~shall must be made known~~ disclosed by the Juvenile Court ~~to the victim of the juvenile crime on his request. to:~~

- A. The victim;
- B. If the victim is a minor, a parent or parents, guardian or legal custodian of the victim; or
- C. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or other reason, an immediate family member, guardian, legal custodian of the victim or a licensed professional investigator under Title 32, chapter 89.

4. Access to juvenile case records by other persons. With the consent of the court, and subject to reasonable limitations to protect the identity, privacy and safety of 3rd parties, including, but not limited to, victims and other accused or adjudicated juveniles, and the interests of justice, juvenile case records of court proceedings, excluding the names of the juvenile, his and the juvenile's parent or parents, guardian, or legal custodian, his the juvenile's attorney or any other parties, may be inspected by or disseminated to persons having a legitimate interest in the proceedings or by persons conducting pertinent research studies.

5. Access to other records. ~~Police records~~ Except as otherwise authorized under section 3307 or this section, juvenile intelligence and investigative record information as defined in section 3308-A, subsection 1, paragraph E, juvenile community corrections officers' records and all other reports of social and clinical studies contained in juvenile case records may not be open to inspection or disclosed or disseminated except with consent of the court or except to the extent that such records, reports and studies were made a part of the record of a hearing that was open to the general public under section 3307. The names and identifying information regarding any alleged victim and minors contained in the juvenile case records must be redacted prior to disclosure, dissemination or inspection.

The court may not order the disclosure, dissemination or inspection of juvenile case records unless the juvenile, the juvenile's attorney or, if the juvenile does not have an attorney, the juvenile's attorney of record and the prosecuting attorney are given notice of the request and an opportunity to be heard regarding the request. In deciding whether to allow the disclosure, dissemination or inspection of any portion of juvenile case records under this subsection, the court shall consider the purposes of this Part and the reasons for which the request is being made and may restrict the disclosure, dissemination or inspection of the juvenile case records in any manner the court determines necessary or appropriate. The names and identifying information regarding any alleged victims and minors contained in the juvenile case records must be redacted prior to disclosure, dissemination or inspection.

6. Records to Secretary of State. Whenever a juvenile has been adjudicated as having committed a juvenile crime involving the operation of a motor vehicle, the court shall forthwith transmit to the Secretary of State an abstract, duly certified, setting forth the name of the juvenile, the offense, the date of the offense, the date of the adjudicatory hearing and any other pertinent facts. These juvenile case records are admissible in

COMMITTEE AMENDMENT

ROFS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

evidence in hearings conducted by the Secretary of State or any of the Secretary of State's deputies and are open to public inspection.

Nothing in this Part may be construed to limit the authority of the Secretary of State, pursuant to Title 29-A, to suspend a person's license or permit to operate a motor vehicle, right to operate a motor vehicle or right to apply for or obtain a license.

7. Dissemination of information. The following provisions apply to the dissemination of information contained in the juvenile case records of ~~juvenile proceedings~~.

A. For purposes of this subsection the following terms have the following meanings.

(1) "Administration of criminal justice" has the same meaning as found in Title 16, section 703, subsection 1.

(2) "Administration of juvenile criminal justice" means activities related to the apprehension or summoning, detention, conditional or unconditional release, informal adjustment, initial appearance, bind over, adjudication, disposition, custody and supervision or rehabilitation of accused juveniles or adjudicated juvenile criminal offenders. It includes the collection, storage and dissemination of ~~juvenile crime information~~ juvenile case records.

(3) "Criminal justice agency" has the same meaning as found in Title 16, section 703, subsection 4.

~~(4) "Dissemination" has the same meaning as found in Title 16, section 703, subsection 6.~~

B. Nothing in this section precludes sharing of any information contained in the juvenile case records of court proceedings or other records described in subsection 5 by one criminal justice agency with another criminal justice agency for the administration of criminal justice or juvenile criminal justice or for criminal justice agency employment.

B-1. Nothing in this section precludes dissemination of any information contained in the juvenile case records of court proceedings and in the other records described in subsection 5, if:

(1) The juvenile has been adjudicated as having committed a juvenile crime;

(2) The information is disseminated by and to persons who directly supervise or report on the health, behavior or progress of the juvenile, the superintendent of the juvenile's school and the superintendent's designees, criminal justice agencies or agencies that are or might become responsible for the health or welfare of the juvenile as a result of a court order or by agreement with the Department of Corrections or the Department of Health and Human Services; and

(3) The information is relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into a school.

COMMITTEE AMENDMENT

ROFS

1 Any information received under this paragraph is confidential and may not be further
2 disseminated, except as otherwise provided by law.

3 C. Nothing in this section precludes dissemination of any information in the juvenile
4 case records in the possession of the Department of Corrections if the person
5 concerning whom the juvenile case records are sought, the person's legal guardian, if
6 any, and, if the person is a minor, the person's parent or legal parents, guardian or
7 legal custodian has given informed written consent to the disclosure dissemination
8 of the juvenile case records.

9 D. When a juvenile who is adjudicated of a juvenile crime that if committed by an
10 adult would be gross sexual assault under Title 17-A, section 253, subsection 1 is
11 committed to a Department of Corrections juvenile correctional facility or placed on
12 probation, the Department of Corrections shall provide, while the juvenile is
13 committed or on probation, a copy of the juvenile's judgment and commitment to the
14 Department of Health and Human Services, to all law enforcement agencies that have
15 jurisdiction in those areas where the juvenile may reside, work or attend school and to
16 the superintendent of any school system in which the juvenile attends school during
17 the period of commitment or probation. The Department of Corrections shall provide
18 a copy of the juvenile's judgment and commitment to all licensed and registered day-
19 care facility operators located in the municipality where the juvenile resides, works or
20 attends school during the period of commitment or probation. Upon request, the
21 Department of Corrections shall also provide a copy of the juvenile's judgment and
22 commitment to other entities that are involved in the care of children and are located
23 in the municipality where the juvenile resides, works or attends school during the
24 period of commitment or probation. The Department of Corrections may provide a
25 copy of the juvenile's judgment and commitment to any other agency or person whom
26 the Department of Corrections determines is appropriate to ensure public safety.
27 Neither the failure of the Department of Corrections to perform the requirements of
28 this paragraph nor compliance with this paragraph subjects the Department of
29 Corrections or its employees to liability in a civil action.

30 ~~E. When a juvenile is charged in a juvenile petition that alleges the use or threatened~~
31 ~~use of physical force against a person or when a juvenile is adjudicated as having~~
32 ~~committed one or more juvenile crimes that involve the use or threatened use of~~
33 ~~physical force against a person, the district attorney in the district where the charges~~
34 ~~were brought shall provide to the superintendent of the juvenile's school or the~~
35 ~~superintendent's designees:~~

- 36 ~~(1) The name of the juvenile;~~
- 37 ~~(2) The nature of the alleged offense or offense;~~
- 38 ~~(3) The date of the alleged offense or offense;~~
- 39 ~~(4) The date of the petition;~~
- 40 ~~(5) The date of the adjudication, if applicable; and~~
- 41 ~~(6) The location of the court where the case was brought, if applicable.~~

COMMITTEE AMENDMENT

ROFS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

~~All information provided under this paragraph is confidential and may not be further distributed, except as provided in Title 20 A, section 1055, subsection 11. Information provided pursuant to this paragraph to the superintendent of the juvenile's school or the superintendent's designees may not become part of the student's education record.~~

8. Juvenile case records sealed. This subsection governs the sealing of juvenile case records of a person adjudicated to have committed a juvenile crime.

A. A person adjudicated to have committed a juvenile crime may petition the court to seal from public inspection all juvenile case records pertaining to the juvenile crime and its disposition, and to any prior juvenile case records and their dispositions if:

- (1) At least 3 years have passed since the person's discharge from the disposition ordered for that juvenile crime;
- (2) Since the date of disposition, the person has not been adjudicated to have committed a juvenile crime and has not been convicted of committing a crime; and
- (3) There are no current adjudicatory proceedings pending for a juvenile or other crime.

B. The court may grant the petition if it finds that the requirements of paragraph A are satisfied, unless it finds that the general public's right to information substantially outweighs the juvenile's interest in privacy.

C. Notwithstanding subsections 3, 3-A, 4 and 5, the court order sealing the juvenile case records permits only the following persons to have access to the sealed records:

- (1) The courts and criminal justice agencies as provided by this section; and
- (2) The person whose juvenile case records are sealed or that person's designee.

D. If the petition is granted, the person may respond to inquiries from other than the courts and criminal justice agencies about that person's juvenile crimes, the juvenile case records of which have been sealed, as if the juvenile crimes had never occurred, without being subject to any sanctions.

8-A. Transmission of information about a committed juvenile. Information regarding a juvenile committed to the custody of the Department of Corrections or the custody of the Department of Health and Human Services must be provided as follows.

A. If a juvenile is committed to the custody of the Department of Corrections or the custody of the Department of Health and Human Services, the court shall transmit with the commitment order a copy of the petition, the order of adjudication, copies of any social studies, any clinical or educational reports and information pertinent to the care and treatment of the juvenile.

B. The Department of Corrections or the Department of Health and Human Services shall provide the court with any information concerning a juvenile committed to either department's custody that the court at any time may request.

ROFS

1 9. **Victims' Compensation Board.** Notwithstanding any other provision of this
2 section, juvenile case records of Juvenile Court proceedings and the police records and
3 other records described in subsection 5 must be open to inspection by or be disseminated
4 to the Victims' Compensation Board at any time if a juvenile is alleged to have committed
5 an offense upon which an application to the board is based.

6 **Sec. 18. 15 MRSA §3308-A, sub-§1, ¶C,** as enacted by PL 2013, c. 267, Pt. D,
7 §1, is repealed.

8 **Sec. 19. 15 MRSA §3308-A, sub-§2,** as enacted by PL 2013, c. 267, Pt. D, §1, is
9 amended to read:

10 2. **Information part of juvenile case records.** To the extent the juvenile
11 intelligence and investigative record information has been made part of the ~~court~~ juvenile
12 case records of a juvenile proceeding, dissemination of that juvenile intelligence and
13 investigative record information by a ~~Maine criminal justice agency~~ the court having
14 actual custody of the juvenile case records must be as provided by section 3307 and
15 section 3308.

16 **Sec. 20. 15 MRSA §3308-A, sub-§3, ¶B-1** is enacted to read:

17 B-1. A health care provider. "Health care provider" has the same meaning as in 45
18 Code of Federal Regulations, Section 160.103;

19 **Sec. 21. 15 MRSA §3308-A, sub-§3, ¶D,** as enacted by PL 2013, c. 267, Pt. D,
20 §1, is amended to read:

21 D. A juvenile crime victim or that victim's agent or attorney if authorized by:

- 22 (1) Statute; or
- 23 (2) A court order pursuant to section 3307 or 3308.

24 As used in this paragraph, "agent" means a licensed professional investigator or an
25 immediate family member if, due to death, age, physical or mental disease, disorder
26 or intellectual disability or autism, the victim cannot realistically act on the victim's
27 own behalf;

28 **Sec. 22. 15 MRSA §3308-A, sub-§§4 to 6** are enacted to read:

29 **4. Dissemination of juvenile intelligence and investigative record information**
30 **subject to reasonable limitations.** The dissemination of juvenile intelligence and
31 investigative record information by a criminal justice agency pursuant to subsection 3 is
32 subject to limitations to reasonably ensure that dissemination of the information will not:

- 33 A. Interfere with law enforcement proceedings relating to crimes;
- 34 B. Result in public dissemination of prejudicial information concerning an accused
35 person or concerning the prosecution's evidence that will interfere with the ability of
36 a court to impanel an impartial jury;
- 37 C. Constitute an unwarranted invasion of personal privacy, including, but not limited
38 to, the personal privacy of juveniles and victims;
- 39 D. Disclose the identity of a confidential source;

REVIS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

- E. Disclose confidential information furnished only by a confidential source;
- F. Disclose investigative techniques and procedures or security plans and procedures not known by the general public;
- G. Endanger the life or physical safety of any individual, including law enforcement personnel;
- H. Disclose information designated confidential by statute; and
- I. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office.

To comply with this subsection a criminal justice agency may deny access in whole or in part to records that contain or constitute juvenile intelligence and investigative record information. A criminal justice agency also may prepare and provide redacted copies of such records to a person or public or private entity authorized to receive the information under this section.

5. Secondary dissemination of confidential juvenile intelligence and investigative record information restricted. A person or public or private entity authorized to receive juvenile intelligence and investigative record information under this section may not further disseminate such information unless expressly authorized to do so by statute, court decision or court order. "Express authorization" means language in the statute, court decision or court order that specifically speaks of juvenile intelligence and investigative record information or specifically refers to a type of juvenile intelligence or investigative record.

6. Confirming existence or nonexistence of confidential juvenile intelligence and investigative record information prohibited. A criminal justice agency may not confirm the existence or nonexistence of juvenile intelligence and investigative record information that is confidential under this section to any person or public or private entity that is not eligible to know of or receive the information itself.

Sec. 23. 15 MRSA §3308-B is enacted to read:

§3308-B. Mandatory notice to schools

1. Mandatory notice to school administrative unit. When a juvenile is charged in a juvenile petition that alleges the use or threatened use of physical force against a person or when a juvenile is adjudicated as having committed one or more juvenile crimes that involve the use or threatened use of physical force against a person, the prosecuting attorney in the district where the charges were brought shall disseminate to the superintendent of the juvenile's school administrative unit or the superintendent's designee:

- A. The name of the juvenile;
- B. The offense alleged or adjudicated;
- C. The date of the offense;
- D. The date of the petition;

R OF S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

E. The date of the adjudication, if applicable; and

F. The location of the court where the case was brought, if applicable.

2. Confidentiality. Information provided under subsection 1 is confidential, may not be distributed except as provided in subsection 1 and in Title 20-A, section 1055, subsection 11 and may not be included in the juvenile's education record.

Sec. 24. 15 MRSA §3311, sub-§1, as amended by PL 1979, c. 681, §26, is further amended to read:

1. Reports as evidence. For the purpose of determining proper disposition of a juvenile who has been adjudicated as having committed a juvenile crime, written reports and other material relating to the juvenile's mental, physical and social history may be received by the court along with other evidence, but the court, if so requested by the juvenile, ~~his~~ the juvenile's parent or parents, guardian, or legal custodian or other party, shall require that the person who wrote the report or prepared the material appear as a witness and be subject to examination by the court and any party. In the absence of the request, the court may order the person who prepared the report or other material to testify if it finds that the interests of justice require it. The parent or parents, guardian or other legal custodian of the juvenile ~~shall~~ must be informed that information for the report is being gathered.

Sec. 25. 15 MRSA §3311, sub-§2, as amended by PL 1979, c. 681, §27, is further amended to read:

2. Notice of right to inspect. The court shall inform the juvenile or ~~his~~ the juvenile's parent or parents, guardian or legal custodian of the right of ~~examination concerning to inspect~~ any written report or other material specified in subsection 1.

Sec. 26. 15 MRSA §3313, as amended by PL 1995, c. 690, §5, is further amended to read:

§3313. Criteria for withholding an institutional disposition

1. Standard. The court shall enter an order of disposition for a juvenile who has been adjudicated as having committed a juvenile crime 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 finds that ~~his~~ the confinement of the juvenile 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;
- B. The juvenile is in need of correctional treatment that can be provided most effectively by ~~his~~ the juvenile's commitment to an institution; or
- C. A lesser sentence will depreciate the seriousness of the juvenile's conduct.

2. Additional consideration. The following grounds, while not controlling the discretion of the court, ~~shall~~ must be accorded weight against ordering placement in a secure institution:

- A. The juvenile's conduct neither caused nor threatened serious harm;

R O F S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

- B. The juvenile did not contemplate that ~~his~~ the juvenile's 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 conduct, though failing to establish a defense;
- E. The victim of the juvenile's conduct induced or facilitated ~~its~~ the commission of the conduct;
- F. The juvenile has made or has agreed to make restitution to the victim of ~~his~~ the juvenile's conduct for the damage or injury that the victim sustained;
- G. The juvenile has not previously been adjudicated to have committed a juvenile crime or has led a law-abiding life for a substantial period of time prior to the conduct ~~which~~ that formed the basis for the present adjudication;
- H. The juvenile's conduct was the result of circumstances unlikely to recur;
- I. The character and attitudes of the juvenile indicate that ~~he~~ the juvenile is unlikely to commit another juvenile crime;
- J. The juvenile is particularly likely to respond affirmatively to probation; and
- K. The confinement of the juvenile would entail excessive hardship to ~~himself~~ the juvenile or ~~his~~ the juvenile's dependents.

3. Statement of reasons accompanying disposition for juvenile adjudicated of murder or a Class A, Class B or Class C crime. In a disposition for a juvenile crime that if committed by an adult would be murder or a Class A, Class B or Class C crime, the court shall state on the record and in open court the court's reasons for ordering or not ordering placement of the juvenile in a secure institution.

Sec. 27. 15 MRSA §3314, sub-§1, ¶A, as amended by PL 1987, c. 400, §2, is further amended to read:

- A. The court may allow the juvenile to remain in the legal custody of ~~his~~ the juvenile's parent or parents or a guardian or legal custodian under such conditions as the court may impose. Conditions may include participation by the juvenile, ~~his~~ or the juvenile's parent or parents or legal guardian or legal custodian in treatment services aimed at the rehabilitation of the juvenile and improvement of the home environment.

Sec. 28. 15 MRSA §3316, sub-§1, as repealed and replaced by PL 1999, c. 127, Pt. B, §6 and amended by PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. 29. 15 MRSA §3501, sub-§1, as enacted by PL 1977, c. 520, §1, is amended to read:

- 1. Interim care.** A juvenile may be taken into interim care by a law enforcement officer without order by the court when the officer has reasonable grounds to believe that:
 - A. The juvenile is abandoned, lost or seriously endangered in ~~his~~ the juvenile's surroundings and that immediate removal is necessary for ~~his~~ the juvenile's protection; or

COMMITTEE AMENDMENT

R O F S

1 B. The juvenile has left the care of ~~his~~ the juvenile's parent or parents, guardian or
2 legal custodian without the consent of ~~such person~~ the parent or parents, guardian or
3 legal custodian.

4 **Sec. 30. 15 MRSA §3501, sub-§8**, as repealed and replaced by PL 1981, c. 619,
5 §9 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

6 **8. Interim care; voluntary services.** The Department of Health and Human
7 Services shall inform the juvenile and ~~his family~~ the juvenile's parent or parents, guardian
8 or legal custodian of social services and encourage them to voluntarily accept social
9 services.

10 **Sec. 31. 15 MRSA §3503**, as repealed and replaced by PL 1977, c. 664, §48, is
11 amended to read:

12 **§3503. Juveniles; voluntary return home**

13 If a juvenile who has been taken into interim care under the provisions of section
14 3501 and ~~his~~ the juvenile's parent or parents, guardian or legal custodian agree to the
15 juvenile's return home, the parent or parents, guardian or legal custodian shall cause the
16 juvenile to be transported home as soon as practicable. If the parent or parents, guardian
17 or legal custodian ~~fail~~ fails to arrange for the transportation of the juvenile, ~~he shall~~ the
18 juvenile must be transported at the expense of the parent or parents, guardian or legal
19 custodian.

20 **Sec. 32. 15 MRSA §3506-A, sub-§1**, as enacted by PL 1981, c. 619, §12, is
21 amended to read:

22 **1. Petition for emancipation.** If a juvenile is 16 years of age or older and refuses to
23 live in the home provided by ~~his~~ the juvenile's parent or parents, guardian or legal
24 custodian, ~~he~~ the juvenile may request the District Court in the division in which ~~his~~ the
25 juvenile's parent or parents, guardian or legal custodian resides to appoint counsel for ~~him~~
26 the juvenile to petition for emancipation.

27 **Sec. 33. 15 MRSA §3506-A, sub-§2, ¶C**, as enacted by PL 1981, c. 619, §12, is
28 amended to read:

29 C. The name and residence of ~~his~~ the juvenile's parent or parents, guardian or legal
30 custodian.

31 **Sec. 34. 15 MRSA §3506-A, sub-§4**, as enacted by PL 1981, c. 619, §12, is
32 amended to read:

33 **4. Order of emancipation.** The court shall order emancipation of the juvenile if it
34 determines that:

35 A. The juvenile has made reasonable provision for ~~his~~ the juvenile's room, board,
36 health care and education, vocational training or employment; and

37 B. The juvenile is sufficiently mature to assume responsibility for ~~his~~ the juvenile's
38 own care and it is in ~~his~~ the juvenile's best interest to do so.

39 **Sec. 35. 20-A MRSA §1055, sub-§11**, as amended by PL 2003, c. 190, §2, is
40 further amended to read:

R.O.P.S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

18

19
20
21
22

23
24
25
26
27

28
29
30
31

32
33
34

11. Notification teams. Within 10 days after receiving notice from a district attorney of an alleged juvenile offense or juvenile offense, pursuant to Title 15, section ~~3308~~ 3308-B, subsection ~~7~~, ~~paragraph E~~ 1 or after receiving notice from a law enforcement officer of credible information that indicates an imminent danger to the safety of students or school personnel pursuant to Title 15, section 3301-A, the superintendent shall convene a notification team. The notification team must consist of the administrator of the school building or the administrator's designee, at least one classroom teacher to whom the student is assigned, a parent or guardian of the student and a guidance counselor. The notification team is entitled to receive the information described in Title 15, section ~~3308~~ 3308-B, subsection ~~7~~, ~~paragraph E~~, ~~subparagraphs (1) to (6)~~ 1, ~~paragraphs A to F~~ and in Title 15, section 3301-A. The notification team shall also determine on the basis of need which school employees are entitled to receive that information.

Confidentiality of this criminal justice information regarding juveniles must be ensured at all times, and the information may be released only under the conditions of this subsection. The superintendent shall ensure that confidentiality training is provided to all school employees who have access to the information.'

SUMMARY

The bill requires juvenile case records to be kept confidential and only disclosed, disseminated, inspected or obtained by certain parties or certain agencies or by court order. This amendment clarifies the disclosure, dissemination and inspection of juvenile case records.

The amendment provides that when juvenile case records are inspected by or disseminated to anyone other than parties to the juvenile's case or victims, the court may impose reasonable limitations to protect the identity and safety of 3rd parties, including, but not limited to, victims and other accused or adjudicated juveniles, and the interests of justice.

The amendment provides that the dissemination of juvenile intelligence and investigative record information is subject to limitations. It prohibits the further dissemination of juvenile intelligence and investigative record information unless such further dissemination is authorized.

The amendment prohibits a criminal justice agency from confirming the existence or nonexistence of juvenile intelligence and investigative record information that is confidential.



129th MAINE LEGISLATURE

LD 1573

LR 900(02)

An Act To Clarify Provisions of the Maine Juvenile Code Regarding Inspection, Disclosure and Dissemination of Juvenile Case Records and To Change Gender-specific Terms

Fiscal Note for Bill as Amended by Committee Amendment *A(H-651)*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor revenue increase - General Fund

Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fee revenue will increase General Fund and dedicated revenue by minor amounts.