

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)

LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

K. J. Printing
Augusta, Maine
1979

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND EIGHTH LEGISLATURE
January 4, 1978 to April 6, 1978

§ 2301-A. Approval process

No coal or wood central heating equipment shall be sold or offered for sale in this State unless the equipment is approved by the Oil Burner Men's Licensing Board. Devices listed for a specific purpose by Underwriters Laboratories Inc., or any other nationally recognized testing facility may be considered as meeting the requirements of the standards of the board. All other equipment shall be submitted to the board for review. The board may require the equipment to be tested by the Southern Maine Vocational-Technical Institute.

Effective July 6, 1978

CHAPTER 664

AN ACT to Amend the Maine Juvenile Code.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there are certain amendments which must be made to the Maine Juvenile Code which takes effect on July 1, 1978; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 15 MRSA § 3002, sub-§ 1, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. To secure for each juvenile subject to these provisions such care and guidance, preferably in his own home, as ~~well~~ will best serve his welfare and the interests of society;

Sec. 2. 15 MRSA § 3003, sub-§ 3, as enacted by PL 1977, c. 520, § 1, is amended to read:

3. **Bind over hearing.** "Bind over hearing" means a hearing at which the juvenile court determines whether it ~~shall continue to exercise the jurisdiction given it by this Part over the juvenile alleged to have committed a juvenile crime~~

~~or to waive that jurisdiction in order that or not to permit~~ the State may to proceed against ~~the~~ a juvenile as it ~~would~~ if he were an adult.

Sec. 3. 15 MRSA § 3003, sub-§ 11, as enacted by PL 1977, c. 520, § 1, is repealed.

Sec. 4. 15 MRSA § 3003, sub-§ 12, as enacted by PL 1977, c. 520, § 1, is amended to read:

12. **Intake worker.** "Intake worker" means an agent of the Department of Mental Health and Corrections who is authorized to perform the intake functions established by this Part for a juvenile alleged to have committed a juvenile crime or for a juvenile taken into interim care.

Sec. 5. 15 MRSA § 3003, sub-§ 15, as enacted by PL 1977, c. 520 § 1. is amended to read:

15. **Juvenile court.** "Juvenile court" means the District Court exercising the jurisdiction conferred by this Part section 3101.

Sec. 6. 15 MRSA § 3101, sub-§ 2, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. The juvenile court shall have exclusive original jurisdiction, subject to waiver of jurisdiction as provided in subsection 4, of proceedings in which a juvenile is alleged to have committed a juvenile crime, as defined in section 3103.

Sec. 7. 15 MRSA § 3101, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 1, is repealed.

Sec. 8. 15 MRSA § 3101, sub-§ 4, ¶ A, first sentence, as enacted by PL 1977, c. 520, § 1, is amended to read:

When a petition alleges that a juvenile has committed an act which would be a ~~criminal homicide in the first or 2nd degree murder~~ or a Class A, B or C crime if committed by an adult, the court shall, upon request of the prosecuting attorney, continue the case for further investigation and for a bind-over hearing to determine whether the jurisdiction of the juvenile court over the juvenile should be waived.

Sec. 9. 15 MRSA § 3101, sub-§ 4, ¶ E, as enacted by PL 1977, c. 520, § 1, is amended to read:

E. The juvenile court shall bind a juvenile over to the Superior Court if, after consideration of the factors specified in paragraph D, it finds ~~that~~:

(1) ~~There~~ That there is probable cause to believe that a juvenile crime has been committed that would constitute murder or a Class A, B or C crime if

the juvenile involved were an adult and that the juvenile to be bound over committed it;

(2) ~~The~~ By a preponderance of the evidence, that the maturity of the juvenile indicates that the juvenile would be more appropriately prosecuted as if he were an adult; and

(3) ~~The~~ By a preponderance of the evidence, that the nature and seriousness of the alleged juvenile crime indicate that the protection of the community will require detention of the ~~child~~ juvenile in a facility which is more secure than those available as dispositional alternatives to the juvenile court.

Sec. 10. 15 MRSA § 3101, sub-§ 4, ¶ F, 2nd sentence, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

The juvenile court shall enter written findings supporting its order finding probable cause and waiving jurisdiction.

Sec. 11. 15 MRSA § 3103, sub-§ 1, as enacted by PL 1977, c. 520, § 1, is amended to read:

1. **Definition.** The term "juvenile crime," as used in this ~~Act Part~~, means the following offenses:

A. Conduct **which, if committed by an adult, would be** defined as a criminal by Title 17-A, the Maine Criminal Code, or by any other criminal statute ~~private act or ordinance~~ outside that code, including any rule or regulation under a statute except for those ~~statutes~~ **provisions of Titles 12 and 29, not specifically excepted by section 3101, subsection 2, paragraph B included in paragraph E;**

B. The possession of a useable amount of marijuana ~~and~~, as provided in Title 22, section 2383;

C. ~~A violation of~~ Offenses involving intoxicating liquor, as provided in Title 28, section 303;

D. If a juvenile is adjudicated to have committed an action described in paragraph B or C, willful refusal to pay a resulting fine and willful violation of the terms of a resulting probation; and

E. Offenses involving the operation or attempted operation of any motor vehicle, snowmobile or watercraft while under the influence of intoxicating liquor or drugs, as defined in Title 29, section 1312, and in Title 12, section 1978, subsection 2 and section 2073, subsection 2, respectively.

Sec. 12. 15 MRSA § 3105 is enacted to read:

§ 3105. Statute of limitations

1. Limitations. Limitations upon the commencement of prosecution against a juvenile shall be the same as those provided for adults by Title 17-A, section 8.

A. A prosecution for an alleged juvenile crime, as defined by section 3103, subsection 1, paragraphs B, C, D or E, shall be commenced within one year after it is committed.

B. A prosecution is commenced when a petition is filed.

Sec. 13. 15 MRSA § 3203, sub-§ 1, as enacted by PL 1977, c. 520, § 1, is amended to read:

1. Notification of intake worker. When a juvenile is arrested, in the judgment of a law enforcement officer, juvenile court proceedings should be commenced against a juvenile or a juvenile should be detained prior to his initial appearance in juvenile court, except in cases under Title 5, section 200-A, the law enforcement officer shall immediately notify an intake worker.

Sec. 14. 15 MRSA § 3203, sub-§ 2, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. When a juvenile is arrested, the law enforcement officer or the intake worker shall notify a parent, guardian or legal custodian of the juvenile without unnecessary delay and inform him of the juvenile's whereabouts, the name and telephone number of the intake worker who has been contacted and, if a juvenile has been placed in a detention facility, that ~~all parties have a right to a~~ detention hearing will be held within 48 hours ~~excluding Saturdays, Sundays and legal holidays~~ following this placement, except that this paragraph does not require any such hearing to be held on a Saturday, Sunday or legal holiday.

Sec. 15. 15 MRSA § 3203, sub-§ 3, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

3. Law enforcement officer's report. An officer who notifies an intake worker pursuant to subsection 1 shall, within 24 hours of the referral, file a brief written report with the intake worker stating the facts which led to the referral. The report shall contain sufficient information to establish jurisdiction of the juvenile court.

Sec. 16. 15 MRSA § 3203, sub-§ 4, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

4. Release or detention ordered by intake worker.

A. An intake worker shall direct the release or detention of a juvenile pending his initial appearance before the court.

B. Release may be unconditional or conditioned upon the juvenile's promise to appear for subsequent court proceedings, or, if a juvenile cannot appropriately be released on one of these 2 bases, then upon the least onerous of the following conditions, or combination thereof, necessary to ensure his appearance:

- (1) Upon the written promise of his parent, guardian or legal custodian to produce him in court for subsequent proceedings;**
- (2) Upon placement into the care of a responsible person or organization;**
- (3) Upon prescribed conditions, reasonably related to securing the juvenile's presence in court, restricting the juvenile's activities, associations, residence or travel; and**
- (4) Upon such other prescribed conditions as may be reasonably related to securing the juvenile's presence in court.**

C. Detention, if ordered, shall be in the least restrictive residential setting that will adequately serve the purposes of detention. Detention may be ordered only where it is necessary to:

- (1) Ensure the presence of the juvenile at subsequent court proceedings;**
- (2) Provide physical care for a juvenile who cannot return home because there is no parent or other suitable person willing and able to supervise and care for him adequately;**
- (3) Prevent the juvenile from harming or intimidating any witness, or otherwise threatening the orderly progress of the court proceedings;**
- (4) Prevent the juvenile from inflicting bodily harm on others; or**
- (5) Protect the juvenile from an immediate threat of bodily harm.**

D. If an intake worker orders a juvenile detained, the worker shall, within 24 hours, petition the juvenile court for a review of the juvenile's detention.

Sec. 17. 15 MRSA § 3203, sub-§ 5, ¶C, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

C. Following a detention hearing, a court shall order a juvenile's release, in accordance with subsection 4, unless it finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention provided in that subsection. The juvenile court shall ensure, by appropriate order, that any such continued detention is otherwise in accordance with the requirements of subsection 4.

Sec. 18. 15 MRSA § 3203, sub-§ 7, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

7. **Restriction on place of detention.** The following restrictions are placed on the facilities in which a juvenile may be detained.

A. An intake worker or a juvenile court judge may direct the delivery of an arrested juvenile to a jail or other secure facility intended or used for the detention of adults only when the receiving facility contains a separate section for juveniles, is one in which the juvenile would have no regular contact with adult detainees or inmates and has an adequate staff to monitor and supervise the juvenile's activities at all times.

B. When the jurisdiction of the matter as a juvenile case has been waived and the juvenile has been bound over pursuant to section 3101, subsection 4, or when the intake worker, in the instance of a juvenile detention not yet reviewed by the court, or the judge, in the instance of a juvenile detention already judicially reviewed, determines, after consultation with the superintendent of the facility in which a juvenile is detained, that the juvenile is beyond the control of that facility's staff, a juvenile may be detained in jail or other secure facility intended or used for the detention of adults only when the conditions described in paragraph A are met by the receiving facility.

Sec. 19. 15 MRSA § 3203, sub-§ 8, as enacted by PL 1977, c. 520, § 1, is repealed.

Sec. 20. 15 MRSA § 3204, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

§ 3204. **Statements not admissible in evidence**

No statements of a juvenile made to an intake worker shall be admissible in evidence against that juvenile.

Sec. 21. 15 MRSA § 3301, sub-§§ 2, 3 and 4, as enacted by PL 1977, c. 520, § 1, are repealed.

Sec. 22. 15 MRSA § 3301, sub-§§ 5 and 6, are enacted to read:

5. **Intake worker alternatives.** On the basis of the preliminary investigation, the intake worker shall choose one of the following alternatives:

A. Decide that no further action is required either in the interests of the public or of the juvenile. If the intake worker determines that the facts in the report prepared for him by the referring officer pursuant to section 3203, subsection 3, are sufficient to file a petition, but in his judgment the interest of the juvenile and the public will be served best by providing the juvenile with services voluntarily accepted by the juvenile and his parents, guardian or legal custodian

if the juvenile is not emancipated, the intake worker may refer the juvenile for that care and treatment and not request that a petition be filed;

B. Make whatever informal adjustment is practicable without a petition. The intake worker may effect whatever informal adjustment is agreed to by the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated. Informal adjustments shall extend no longer than 6 months and informal adjustments shall not be commenced unless:

(1) The intake worker determines that the juvenile and his parents, guardian or legal custodian, if the juvenile is not emancipated, were advised of their constitutional rights, including the right to an adjudicatory hearing, the right to be represented by counsel and the right to have counsel appointed by the court if indigent;

(2) The facts establish prima facie jurisdiction, except that any admission made in connection with this informal adjustment cannot be used in evidence against the juvenile if a petition based on the same facts is later filed;

(3) Written consent to the informal adjustment is obtained from the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated; and

(4) It has been determined that the juvenile within the preceding 12 months had not been adjudicated, or had not entered into another informal adjustment; or

C. If the intake worker determines that the facts are sufficient for the filing of a petition, he may request the prosecuting attorney to file a petition.

6. Review by prosecuting attorney. If the intake worker decides not to request the prosecuting attorney to file a petition, the complainant, the law enforcement officer and the victim shall be informed of the decision and of the reasons therefor as soon as practicable and shall be advised that they may submit their complaint to the prosecuting attorney for review.

The prosecuting attorney on his own motion or upon receiving a request for review by the law enforcement officer, the complainant or the victim, shall consider the facts of the case, consult with the intake worker who made the initial decision and then make a final decision as to whether the petition shall be filed.

Sec. 23. 15 MRSA § 3303, as enacted by PL 1977, c. 520, § 1, is amended to read:

§ 3303. Dismissal of petition with prejudice

On motion made by or on behalf of a juvenile, or by the court itself, a petition shall be dismissed with prejudice if it was not filed within 6 months from the date

the juvenile was referred to the intake worker, unless the prosecuting attorney either before or after the expiration of the 6-month period files a motion for an extension of time for the filing of a petition, accompanied by the reasons for this extension. The court may for good cause extend the time for bringing a petition for any period of time that is less than the limitation established in section 3105.

Sec. 24. 15 MRSA § 3304, sub-§ 5, as enacted by PL 1977, c. 520, § 1, is amended by adding at the end a new sentence to read:

The court may waive this requirement if it finds that the service is not possible and explains this finding in writing.

Sec. 25. 15 MRSA § 3306, sub-§ 1, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. At his first appearance before the court, the juvenile and his parents, guardian or ~~other~~ legal custodian shall be fully advised by the court of their constitutional and legal rights, including the juvenile's right to be represented by counsel at every stage of the proceedings. At every subsequent appearance before the court, the juvenile shall be advised of his right to be represented by counsel.

Sec. 26. 15 MRSA § 3307, sub-§ 1, 1st sentence, as enacted by PL 1977, c. 520, § 1, is amended to read:

Hearings under this Part shall be held without a jury but in all other respects shall be conducted ~~in a formal manner~~ as if the juvenile were an adult accused of a crime.

Sec. 27. 15 MRSA § 3307, sub-§ 2, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. The general public shall not be excluded from adjudicatory hearings on a juvenile crime that would constitute ~~criminal homicide in the first or 2nd degree murder~~ or a Class A, Class B or Class C crime if the juvenile involved were an adult or from any subsequent dispositional hearings in such cases.

Sec. 28. 15 MRSA § 3307, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

B. The general public shall be excluded from all other juvenile hearings and proceedings, except that a juvenile charged with a juvenile crime that would constitute murder or a Class A, Class B or Class C offense and with a juvenile crime that would constitute a Class D or Class E offense or with conduct described in section 3103, subsection 1, paragraphs B, C, D or E, arising from the same underlying transaction may elect to have all charges adjudicated in one hearing, and, where a juvenile does so elect, the general public shall not be excluded from that hearing.

Sec. 29. 15 MRSA § 3307, sub-§ 3, as enacted by PL 1977, c. 520, § 1, is amended to read:

3. **Record.** A verbatim record shall be made of all ~~proceedings that might result in an adjudication that a juvenile crime was committed~~ detention, bind over, adjudicatory and dispositional hearings.

Sec. 30. 15 MRSA § 3308, sub-§ 6, is enacted to read:

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 records shall be admissible in evidence in hearings conducted by the Secretary of State or any of his deputies and shall be open to public inspection.

Sec. 31. 15 MRSA § 3310, sub-§ 3, as enacted by PL 1977, c. 520, § 1, is amended to read:

3. **Evidence of mental illness or incapacity.** If it appears from the evidence that the juvenile may be mentally ill or incapacitated, as defined in Title 34, section ~~2066-2616~~, subsection 1 and section 2251, then subsection 2 shall not apply and the court shall proceed pursuant to section 3318.

Sec. 32. 15 MRSA § 3310, sub-§ 5, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. When the court finds that the allegations of the petition are supported by evidence beyond a reasonable doubt, the court ~~shall~~ may adjudge that the juvenile committed a juvenile crime and shall, in all such adjudications, issue an order of adjudication setting forth the basis for its findings.

Sec. 33. 15 MRSA § 3311, sub-§ 1, last sentence, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

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 parents, guardian or other legal custodian of the juvenile shall be informed that information for the report is being gathered.

Sec. 34. 15 MRSA § 3314, sub-§ 1, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. The court may ~~place~~ allow the juvenile to remain in the legal custody of his parents or a guardian under such conditions as the court may impose.

Sec. 35. 15 MRSA § 3314, sub-§ 1, ¶ B, sub-¶ (2), as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

(2) The supervised work program is of a constructive nature designed to promote rehabilitation and is appropriate to the age level and physical ability of the juvenile; and

Sec. 36. 15 MRSA § 3314, sub-§ 1, ¶ C, as enacted by PL 1977, c. 520, § 1, is amended to read:

C. The court may commit a juvenile to the Department of Mental Health and Corrections or the Department of Human Services for placement in a foster home, group care home or halfway house, or for the provision of services to a juvenile in his own home.

Sec. 37. 15 MRSA § 3314, sub-§ 1, ¶ H, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

H. The court may commit the juvenile to the Maine Youth Center and order that the sentence be suspended except for a period of detention which shall not exceed 30 days, which may be served intermittently as the court may order and which shall be ordered served in a county jail designated by the Department of Mental Health and Corrections as a place for the secure detention of juveniles, or in a nonsecure group care home or halfway house. The court may order such a sentence to be served as a part of, and with, a period of probation, which shall be subject to such provisions of Title 17-A, section 1204 as the court may order and which shall be administered pursuant to Title 34, chapter 121, subchapter V-A.

Sec. 38. 15 MRSA § 3314, sub-§ 2, as enacted by PL 1977, c. 520, § 1, is amended to read:

2. **Suspended sentence.** The court may impose any of the dispositional alternatives provided in subsection 1, and may suspend its sentence and sentence the ~~child~~ juvenile to a period of probation which shall be subject to such provisions of Title 17-A, section 1204 as the court may order and which shall be administered pursuant to the provisions of Title 34, chapter 121, subchapter ~~V~~V-A.

Sec. 39. 15 MRSA § 3314-A is enacted to read:

§ 3314-A. Period of probation; modification and discharge

The period of probation of a juvenile, its modification and discharge, shall be as provided by Title 17-A, section 1202, except that the period of probation of a juvenile convicted of a juvenile crime as defined by section 3103, subsection 1, paragraphs B, C, D or E, shall not exceed one year.

Sec. 40. 15 MRSA § 3315, sub-§ 1, 3rd sentence, as enacted by PL 1977, c. 520, § 1, is amended to read:

A report of the review shall be made in writing to the juvenile's parents or guardian or legal custodian.

Sec. 41. 15 MRSA § 3316, sub-§ 2, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. A commitment of a juvenile to the Department of Mental Health and Corrections, including a commitment to the Maine Youth Center, pursuant to section 3314 shall be for an indeterminate period not to extend beyond the juvenile's ~~21st~~ 18th birthday unless the court expressly further limits or extends the commitment, **provided that no commitment shall extend beyond a juvenile's 21st birthday. Nothing in this Part shall be construed to prohibit the provision to a juvenile following the expiration of his term of commitment of services voluntarily accepted by the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated; except that these services shall not be extended beyond the juvenile's 21st birthday.**

Sec. 41-A. 15 MRSA § 3317, 1st sentence, as enacted by PL 1977, c. 520, § 1, is amended to read:

In instances of commitment of a juvenile to the Maine youth Center, the superintendent thereof following such commitment may for good cause petition the juvenile court having original jurisdiction in the case for a judicial review of the disposition, **including extension of the period of commitment.**

Sec. 42. 15 MRSA § 3318, sub-§ 1, as enacted by PL 1977, c. 520, § 1, is amended to read:

1. Suspension of proceedings. If it appears that a juvenile may be mentally ill or incapacitated as defined in Title 34, section ~~2066~~ 2616, subsection 1 and section ~~2251~~, subsection 5, the court shall suspend the proceedings on the petition and shall either:

A. Initiate proceedings for voluntary or involuntary commitments as provided in Title 34, sections ~~2152~~ 2290 and 2333; or

B. Order that the juvenile be examined by a physician or psychologist and refer the juvenile to a suitable facility or program for the purpose of examination, the costs of such examination to be paid by the court. If the report of such an examination is that the juvenile is mentally ill or incapacitated to the extent that short-term or long-term hospitalization or institutional confinement is required, the juvenile court shall initiate proceedings for voluntary or involuntary commitment as provided in section 101 and in Title 34, sections ~~2152~~ 2290 and 2333. The court shall continue the proceedings when a juvenile is voluntarily or involuntarily committed.

Sec. 43. 15 MRSA § 3318, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 1, is amended to read:

B. The child is not found by the appropriate court to be mentally ill or incapacitated as defined in section 101 and in Title 34, section ~~2066~~ 2616, subsection 1 and section ~~2251~~, subsection 5.

Sec. 44. 15 MRSA § 3401, sub-§ 2, ¶ C, as enacted by PL 1977, c. 520, § 1, is amended to read:

C. To provide for review of juvenile court decisions so that the legislatively defined ~~goals~~ **purposes** of the juvenile justice system as a whole are realized.

Sec. 45. 15 MRSA § 3402, sub-§ 3, ¶ C, as enacted by PL 1977, c. 520, § 1, is amended to read:

C. Any ~~pretrial~~ order which deprives the prosecution of evidence; or

Sec. 46. 15 MRSA § 3405, as enacted by PL 1977, c. 520, § 1, is amended to read:

§ 3405. Stays of orders and release pending appeal

1. **Who may apply for stay and release.** The juvenile or his parent, guardian, or legal custodian may, after the filing of a notice of appeal, request the court to stay the effect of its order and release the juvenile ~~on bail~~ pending appeal.

2. **When stay or release shall issue.** Upon application, an order granting a stay of judgment and disposition and an order releasing the juvenile ~~on bail~~ shall issue in every case unless the court orders otherwise. ~~If bail is denied, the juvenile may appeal for review of that order by the Superior Court. Any continued detention or release ordered by the court shall be pursuant to section 3203, subsection 4. If stay or release is denied, the juvenile may appeal for immediate review of that order to the Superior Court, which shall place the matter on an expedited docket.~~

~~3. Factors to be considered for stay of judgment and bail pending appeal. In making a determination under this section, the court shall consider the following factors on the record:~~

~~A. Whether release pending appeal 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 release of the juvenile pending appeal would endanger the lives or safety of others; and~~

~~D. The likelihood that the juvenile would appear before any court as ordered.~~

4. **Expedited docket.** In those cases where a stay of judgment or ~~bail~~ release pending appeal is denied, the court shall place the ~~matter~~ appeal for review of the judgment of conviction on an expedited docket.

Sec. 47. 15 MRSA § 3501, sub-§ 9, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

9. **Interim care, identification of juvenile.** No fingerprints of a juvenile taken into interim care pursuant to this section may be obtained from the juvenile. Solely for the purpose of restoring a juvenile to his residence, the juvenile's name, address, photograph and other reasonably necessary information may be obtained and transmitted to any appropriate person or agency.

Sec. 48. 15 MRSA § 3503, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

§ 3503. Juveniles, voluntary return home

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

Sec. 49. 34 MRSA § 262, sub-§ 2, 1st ¶, last sentence, as enacted by PL 1977, c. 520, § 2, is amended to read:

The plan shall be submitted to the Governor ~~and~~, Legislature and Judicial Department.

Sec. 50. 34 MRSA § 262, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 2, is amended to read:

~~B. To the best of the department's ability, the~~ The plan shall include projected numbers of juveniles to be served by type of service, including diagnosis, evaluation and location; recommend the content and scope of shelter services; and set forth the estimated cost of services and facilities which are recommended, including any alteration or remodeling of existing facilities.

Sec. 51. 34 MRSA § 269, 1st sentence, as enacted by PL 1977, c. 520, § 2, is amended to read:

In any district where an intake worker is established, ~~he~~ the Commissioner of Mental Health and Corrections may appoint a community conference committee, composed of citizen volunteers.

Sec. 52. 34 MRSA § 1682, sub-§ 5, is enacted to read:

5. Arrest powers. As to juveniles placed under their supervision, juvenile probation officers shall have the same arrest powers as other sworn law enforcement officers.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 21, 1978

CHAPTER 665

AN ACT Relating to the Installation of Smoke, Heat or Fire Detection Systems in Certain Hotels.

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

25 MRSA § 2463, as last amended by PL 1971, c. 622, § 85, is repealed and the following enacted in its place: