

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

AT THE

**SECOND REGULAR SESSION**

January 2, 1980 to April 3, 1980

AND AT THE

**THIRD SPECIAL SESSION**

May 22, 1980

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
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Neither this chapter nor anything contained in this chapter is or shall be construed as a restriction or limitation upon any powers which the Maine Health and Higher Educational Facilities Authority might otherwise have under any laws of this State, and this chapter is cumulative of any such powers.

**Sec. 23. Funding.** This Act requires no appropriation from the General Fund. The authority is self-funding.

Effective July 3, 1980

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## CHAPTER 681

H. P. 1847 — L. D. 1951

### AN ACT Concerning Revisions in Maine's Juvenile Code and other Statutes Relating to Juveniles.

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

**Sec. 1.** 15 MRSA § 2712, as repealed and replaced by PL 1975, c. 756, § 6, is repealed and the following enacted in its place:

#### § 2712. Establishment; location; personnel

1. **Purposes.** The State shall maintain the institution located at South Portland, named the Maine Youth Center, for the following purposes:

- A. To detain juveniles prior to Juvenile Court appearances on court order that the juvenile be securely detained;
- B. To administer court-ordered diagnostic evaluations pursuant to section 3318; and
- C. To rehabilitate juveniles committed to it on being adjudicated as having committed a juvenile crime under section 3310, subsection 5.

2. **Disciplines.** To accomplish the purposes set out in subsection 1, the disciplines of education, casework, group work, psychology, psychiatry, medicine, nursing, vocational training and religion related to human relations and personality development shall be employed. The center shall be coeducational and shall fully separate the housing facilities for boys and girls.

3. **Hallowell facilities.** The Commissioner of Mental Health and Corrections may, with the approval of the Governor, authorize the use of any available facilities at the location in Hallowell, formerly known as the Stevens School and Women's Correctional Center.

4. **Superintendent.** The director of the center shall be called the superintendent. The superintendent of the center may appoint 2 assistant superintendents, subject to the Personnel Law. An assistant superintendent, designated by the superintendent in the event that there are no assistant superintendents, shall have the powers, perform the duties and be subject to all the obligations and liabilities of the superintendent when the superintendent is absent from the center or unable to perform the duties of the office or when the office of superintendent is vacant.

Sec. 2. 15 MRSA § 3003, sub-§ 23, as enacted by PL 1977, c. 520, § 1, is amended to read:

23. **Probation.** "Probation" means a legal status created by court order in cases involving a juvenile adjudicated as having committed a juvenile crime, which permits the juvenile to remain in his own home or other placement designated by an agent of the Department of Mental Health and Corrections the Juvenile Court subject to being returned to the court for a commission of a new juvenile crime or revocation for violation of any general or specific condition imposed by the court.

Sec. 3. 15 MRSA § 3101, sub-§ 4, ¶ B, as enacted by PL 1977, c. 520, § 1, is amended by adding at the end the following new paragraphs:

**The Maine Rules of Evidence shall apply only to the probable cause portion of the bind-over hearing.**

**For the purpose of making the findings required by paragraph E, subparagraphs (2) and (3), written reports and other material may be received by the court along with other evidence, but the court, if so requested by the juvenile, his parent or guardian or other party, shall require that the person or persons, who wrote the report or prepared the material, appear as witness and be subject to examination, and the court may require that the persons whose statements appear in the report appear as witnesses and be subject to examination.**

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

**D. The Juvenile Court shall consider the following factors in deciding whether to bind a juvenile over to Superior Court:**

- (1) **Seriousness of the crime:** The nature and seriousness of the offense, greater weight being given to offenses against the person than against property; whether the offense was committed in an aggressive, violent, premeditated or willful manner;
- (2) **Characteristics of the juvenile:** The record and previous history of the juvenile; his emotional attitude and pattern of living; and
- (3) **Dispositional alternatives:** Whether future criminal conduct by the juvenile will be deterred by the dispositional alternatives available to the

Juvenile Court; whether the dispositional alternatives available to the Juvenile Court would diminish the gravity of the offense; and whether the protection of the community requires commitment of the juvenile to a facility which is more secure than those available as dispositional alternatives to the Juvenile Court.

Sec. 5. 15 MRSA § 3101, sub-§ 4, ¶ E, as amended by PL 1977, c. 664, § 9, is repealed and the following enacted its place:

**E. The Juvenile Court shall bind a juvenile over to the Superior Court if it finds:**

(1) That there is probable cause to believe that a juvenile crime has been committed that would constitute murder or a Class A, Class B or Class C crime if the juvenile involved were an adult and that the juvenile to be bound over committed it; and

(2) By a preponderance of the evidence that, after a consideration of the seriousness of the crime, the characteristics of the juvenile and the dispositional alternatives available to the Juvenile Court, as specified in paragraph D, it is appropriate to prosecute the juvenile as if he were an adult.

Sec. 6. 15 MRSA § 3103, sub-§ 1, ¶ D, as enacted by PL 1977, c. 664, § 11, is amended to read:

**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 or willful violation of the terms of a resulting probation; and**

Sec. 7. 15 MRSA § 3201, sub-§ 1, as enacted by PL 1977, c. 520, § 1, is amended to read:

**1. Warrantless arrests. Arrests without warrants of juveniles for juvenile crimes defined by section 3103, subsection 1, paragraphs A, D and E, by law enforcement officers or private persons shall be made pursuant to the provisions of Title 17-A, sections 15 and 16. For purposes of this section, a juvenile crime defined under section 3103, subsection 1, paragraph D, shall be deemed a Class D or Class E crime.**

Sec. 8. 15 MRSA § 3201, sub-§ 3 is enacted to read:

**3. Enforcement of other juvenile crimes. A law enforcement officer who has probable cause to believe that a juvenile crime, as defined by section 3103, subsection 1, paragraphs B or C, has been committed may request that the juvenile provide the officer with reasonably credible evidence of his name, address and age. The evidence may consist of oral representations by the juvenile. If the juvenile furnishes the officer with evidence of his name, address and age and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the**

period the verification is being attempted, the officer may require the juvenile to remain in his presence for a period not to exceed 2 hours.

After informing the juvenile of the provisions of this subsection, the officer may arrest the juvenile for a crime defined in section 3103, subsection 1, paragraph B or C, if the juvenile intentionally refuses to furnish any evidence of his name, address and age, or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the juvenile has intentionally failed to provide reasonably credible evidence of his name, address and age.

Sec. 9. 15 MRSA § 3202, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**§ 3202. Arrest warrants for juveniles**

An arrest warrant for a juvenile shall be issued in the manner provided by Rule 4, Maine District Court Criminal Rules, provided that affidavits alone shall be presented and a petition shall not be necessary. Following arrest, the juvenile shall be subject to the procedures specified in section 3301.

Sec. 10. 15 MRSA § 3203, sub-§ 2, ¶ A, as amended by PL 1977, c. 664, § 14, is further 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 detention hearing will be held within 48 hours following this placement ~~except that this paragraph does not require any such hearing to be held on a Saturday, Sunday or legal holiday or within 24 hours following Saturdays, Sundays and legal holidays which have occurred after the placement.~~

Sec. 11. 15 MRSA § 3203, sub-§ 4, ¶ B, as repealed and replaced by PL 1977, c. 664, § 16, is amended by adding at the end the following new sentence:

Upon imposition of any condition of release described in subparagraph (2), (3) or (4), the intake worker shall inform the juvenile of the right to have the condition reviewed by the Juvenile Court pursuant to subsection 5-A.

Sec. 12. 15 MRSA § 3203, sub-§ 5-A is enacted to read:

5-A. Juvenile Court to review for abuse of discretion. Upon the request of a juvenile or his parent, guardian or legal custodian, the Juvenile Court shall, at the juvenile's first appearance or within 7 days, review for abuse of discretion, any condition or release imposed pursuant to subsection 4, paragraph B, subparagraphs (2), (3) and (4).

Sec. 13. 15 MRSA § 3203, sub-§ 7, ¶ A, as repealed and replaced by PL 1977, c. 664, § 18, is repealed and the following enacted in its place:

**A. A juvenile may be detained in a jail or other security facility intended or used primarily for the detention of adults only when the receiving facility:**

- (1) Contains a separate section for juveniles;**
- (2) Provides for no regular contact between the juveniles with the adult detainees or inmates; and**
- (3) Has adequate staff to monitor and supervise the juvenile's activities at all times.**

**Juveniles detained in the adult receiving facilities shall be placed only in the separate juvenile sections.**

Sec. 14. 15 MRSA § 3204, as repealed and replaced by PL 1977, c. 664, § 20, is amended to read:

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

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

Sec. 15. 15 MRSA § 3301, sub-§ 5, ¶ B, 2nd sentence, as enacted by PL 1977, c. 664, § 22, is amended to read:

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, **including a restitution contract with the victim of the crime.**

Sec. 16. 15 MRSA § 3304, sub-§ 3, ¶ B, as enacted by PL 1977, c. 520, § 1, is amended by adding at the end the following new sentence:

**Service upon a parent, guardian or legal custodian who is out of state may be by a reasonable method ordered by the court.**

Sec. 17. 15 MRSA § 3304, sub-§ 6-A is enacted to read:

**6-A. Effect of nonappearance of parent or custodian. The failure of a parent, guardian or legal custodian to appear in response to the summons or for a later hearing, or the inability to serve such a party, shall not prevent the court from continuing with the proceedings against a juvenile who is before the court.**

Sec. 18. 15 MRSA § 3307, sub-§ 1, as amended by PL 1977, c. 664, § 26, is repealed.

Sec. 19. 15 MRSA § 3307, sub-§ 2, ¶ C, as enacted by PL 1979, c. 233, § 1, is repealed.



**Sec. 20. 15 MRSA § 3308, sub-§ 2**, as enacted by PL 1977, c. 520, § 1, is amended to read:

**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 shall be open to public inspection, **provided that any court subsequently sentencing the juvenile after he has become an adult may consider only murder and Class A, Class B and Class C offenses committed by the juvenile.**

**Sec. 21. 15 MRSA § 3308, sub-§ 3-A** is enacted to read:

**3-A. Victims.** The name of a juvenile subject to Juvenile Court proceedings shall be made known by the Juvenile Court to the victim of the juvenile crime on his request.

**Sec. 22. 15 MRSA § 3310, sub-§ 1**, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**1. Evidence and fact-finding.** The Maine Rules of Evidence shall apply in the adjudicatory hearing. There shall be no jury.

**Sec. 23. 15 MRSA § 3310, sub-§ 2, ¶ A**, as enacted by PL 1977, c. 520, § 1, is amended to read:

**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 **without amendment of the petition** if all the parties consent.

**Sec. 24. 15 MRSA § 3310, sub-§ 2, ¶ B, first ¶**, as enacted by PL 1977, c. 520, § 1, is amended to read:

In such the event all of the parties do not consent as provided in paragraph A, the court, on the motion of any party or on its own motion, shall:

**Sec. 25. 15 MRSA § 3310, sub-§ 5, ¶ A**, as amended by PL 1979, c. 373, § 4, is further amended to read:

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

**Sec. 26. 15 MRSA § 3311, sub-§ 1, first sentence**, as enacted by PL 1977, c. 520, § 1, is amended to read:

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 parent or guardian, or other party, shall require that the person who wrote the report or prepared the material appear as a witness and be subject to ~~both direct and cross examination~~ **examination by the court and any party.**

**Sec. 27. 15 MRSA § 3311, sub-§ 2**, as enacted by PL 1977, c. 520, § 1, is amended to read:

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

**Sec. 28. 15 MRSA § 3312, sub-§ 1**, as enacted by PL 1977, c. 520, § 1, is amended by adding at the end the following new sentence:

**The Maine Rules of Evidence shall not apply in dispositional hearings.**

**Sec. 29. 15 MRSA § 3314, sub-§ 1, first sentence**, as amended by PL 1979, c. 233, § 2, is further amended to read:

When a juvenile has been adjudicated as having committed a juvenile crime, the court shall enter a dispositional order containing one or more of the following alternatives ~~with special attention to paragraphs B and E.~~

**Sec. 30. 15 MRSA § 3314, sub-§ 1, ¶ G**, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**G. Except for a violation of section 3103, subsection 1, paragraph D, the court may impose a fine, subject to Title 17-A, sections 1301 to 1305. For the purpose of this section, juvenile offenses defined in section 3103, subsection 1, paragraphs B and C, shall be deemed Class E crimes.**

**Sec. 31. 15 MRSA § 3314, sub-§ 1, ¶ H**, as repealed and replaced by PL 1977, c. 664, § 37, is amended by adding at the end the following new sentence:

**Revocation of probation shall be governed by the procedure contained in subsection 2.**

**Sec. 32. 15 MRSA § 3314, sub-§ 2**, as amended by PL 1977, c. 664, § 38, is further amended to read:

**2. Suspended disposition.** The court may impose any of the dispositional alternatives provided in subsection 1, and may suspend its ~~sentence and sentence disposition and~~ **place** the juvenile ~~to~~ **on** a **specified** 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-A.

Revocation of probation shall be governed by the procedure contained in Title 17-A, sections 1205, 1205-A and 1206, except that Title 17-A, section 1206, subsection 7-A, shall not apply, provided that a disposition under subsection 1, paragraph F, may be modified to a disposition under subsection 1, paragraph H.

Sec. 33. 15 MRSA § 3405, sub-§ 1, as repealed and replaced by PL 1979, c. 512, § 12, is amended by adding at the end the following new sentences:

The Superior Court may affirm, reverse or modify any order of the Juvenile Court or remand for further proceedings. The Superior Court shall enter a new order of disposition if it finds that the Juvenile Court's disposition was an abuse of discretion.

Sec. 34. 15 MRSA § 3407, sub-§ 2, ¶ A, as enacted by PL 1979, c. 512, § 14, is amended to read:

A. Decisions of the Superior Court on appeal from the Juvenile Court, as to matters described in section 3402, subsection 1, ~~paragraphs A and B~~ paragraph A only, may be appealed to the Law Court by an aggrieved party. An appeal by the State under this paragraph shall be subject to section 2115-A, subsections 5 and 8.

Sec. 35. 15 MRSA § 3407, sub-§ 2, ¶ C, as enacted by PL 1979, c. 512, § 14, is amended to read:

C. Appeals pursuant to this subsection shall be taken in the same manner as appeals from following a judgment of conviction of an adult in Superior Court, except as otherwise provided by rule promulgated by the Supreme Judicial Court.

Sec. 36. 34 MRSA § 186-A is enacted to read:

§ 186-A. Rendition amendment — Article VI-A

All provisions and procedures of Articles V and VI of the Uniform Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law, shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

This provision shall apply regardless of whether the requesting state has also adopted it.

Sec. 37. 34 MRSA § 1683, as enacted by PL 1977, c. 520, § 3, is repealed.

Sec. 38. **Revision clause.** Wherever in the Revised Statutes the words "juvenile court" appear they shall be amended to read and mean "Juvenile Court."

Effective July 3, 1980

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## CHAPTER 682

### H. P. 1945 — L. D. 1993

#### **AN ACT to Assist Schools Receiving Tuition Students in Complying with Federal Handicapped Laws on Program Accessibility.**

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

Whereas, all programs receiving funds from the United States Department of Health, Education and Welfare which include schools must comply by June 3, 1980, with the United States Vocational Rehabilitation Act of 1973, Section 504, making the program accessible to handicapped students; and

Whereas, schools will not be able to take advantage of the provisions of this Act in the next fiscal year unless this legislation is passed as an emergency; 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:**

20 MRSA § 1292, as last amended by PL 1977, c. 690, §§ 9 and 10 is further amended by adding at the end a new paragraph:

Notwithstanding the other limitations of this section, public and private schools are authorized to adjust their legal tuition rate for the express purpose of complying with the requirements of United States Vocational Rehabilitation Act of 1973, Section 504, Public Law 93-112. Projects, costs and the methods of financing to bring the facilities into compliance must receive prior approval of the commissioner. The cost adjustment per pupil shall be calculated by dividing the lesser of the actual compliance costs or debt retirement payments of the year immediately prior to the year for which the tuition charge is computed by the average number of pupils attending the school on October 1st and April 1st of the same year. The adjustment of the legal tuition rate and the period of time the