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Juvenile Court Records: Uses
15 M.R.S.A. § 2606

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January 20, 1978

To: Markham L. Gartley, Secretary of State
From: Joseph E. Brennan, Attorney General
Re: Use of Juvenile Court Records in Motor Vehicle Cases

You have asked certain questions pertaining to the use of juvenile court records in cases of operating under the influence of intoxicating liquor or drugs. Because of the statutory policy of confidentiality of juvenile records, you have indicated that it is unclear whether such records are available to the Secretary of State in motor vehicle cases and whether, after receiving such records, the Secretary of State is authorized to suspend drivers licenses of juveniles under the "OUI" law. We answer both of your questions in the affirmative and will discuss each of them in turn.

QUESTION #1:

Must the juvenile courts transmit to the Secretary of State juvenile court records pertaining to cases of operating under the influence?

ANSWER:

Maine law does require the juvenile court to transmit to the Secretary of State records pertaining to OUI violations committed by juveniles.

REASON:

15 M.R.S.A. § 2606, pertaining to proceedings in juvenile cases, provides in part:

No record of, and no testimony concerning, any proceeding under chapters 401 to 409 shall be competent evidence in any proceeding other than proceedings under chapters 401 to 409, except that juvenile court records pertaining to motor vehicle violations by

juveniles shall be transmitted by juvenile courts, together with a summary of the pertinent facts of the motor vehicle violation, to the Secretary of State, and shall be admissible in evidence in hearings conducted by the Secretary of State or any Deputy Secretary of State regarding motor vehicle violations or motor vehicle licenses and registrations.

15 M.R.S.A. § 2552 establishes the jurisdiction of the juvenile court. After listing those offenses over which juvenile courts have exclusive original jurisdiction, § 2552 states:

Juvenile courts shall have no jurisdiction over offenses in which any juvenile is charged with the violation of any provision of Title 29, Title 28, chapter 25, Title 38, chapter 1, subchapter VI, and Title 12, chapters 304 and 308, or over any other traffic law or ordinance, if such offense is a misdemeanor or traffic infraction, except that juvenile courts shall have exclusive, original jurisdiction over offenses in which any juvenile is charged with a violation of Title 29, section 1312 and Title 12, section 1978, subsection 2, or of Title 12, section 2073, subsection 2. (emphasis added)

Thus, the only Title 29 motor vehicle violation treated as a juvenile offense under current law is a violation of § 1312, the OUI statute. 15 M.R.S.A. § 2606 therefore explicitly requires the court to transmit records in OUI cases to the Secretary of State.

QUESTION #2:

Upon receipt of records from the juvenile court pertaining to violations of 29 M.R.S.A. § 1312, what actions may be taken by the Secretary of State?

ANSWER #2:

The Secretary of State should apply the same suspension procedures to juvenile offenders as to adult offenders. However, the actual records received by the Secretary of State may be utilized only in hearings conducted by the Secretary of State or any Deputy Secretary of State and must be kept otherwise confidential in accordance with 15 M.R.S.A. § 2606.

REASONS:

29 M.R.S.A. § 1312(10) (A), 2d paragraph, requires that the Secretary of State suspend a person's license immediately upon receipt of an attested copy of the court record of that person's "conviction" of operating or attempting to operate while under the influence of intoxicating liquor or drugs. However, 15 M.R.S.A. § 2502(1) states that an adjudication of a juvenile offense shall not "be deemed to constitute conviction of crime." A violation of 29 M.R.S.A. § 1312, as stated previously, is a juvenile offense when committed by a person under the age of eighteen. The question therefore arises whether the Legislature, by the use of the word "conviction" in § 1312, intended to exclude juveniles from the regulatory sanctions authorized by 29 M.R.S.A. § 1312(10). We think that this statute, read in conjunction with 15 M.R.S.A. § 2606, does authorize the Secretary of State to suspend the license of a juvenile adjudicated to have committed a violation of 29 M.R.S.A. § 1312, for the suspension periods enumerated in § 1312(10).

To read the suspension provisions of § 1312 strictly so as to exclude juveniles would be illogical in view of the clear intent of 15 M.R.S.A. § 2606, specifically authorizing the use of juvenile records by the Secretary of State in administrative hearings involving motor vehicle violations. As stated previously, § 1312 violations are the only Title 29 motor vehicle violations to which § 2606 applies. If the Secretary of State could not use these records in OUI hearings, the express language of § 2606 would be rendered a nullity. We therefore conclude that the Legislature did intend the administrative sanctions of § 1312 to apply to juveniles. Moreover, since it would defeat the purposes of § 1312 to allow juveniles to retain their driver's licenses while requiring suspension for adults, we think this interpretation is consistent with sound legislative policy and the public safety goals of our motor vehicle laws. In re Belgrade Shores, Inc., 359 A.2d 59 (Me. 1976); Finks v. Maine State Highway Commission, 328 A.2d 791 (Me. 1974).

We emphasize, however, that the records of the Secretary of State receives from juvenile courts attesting to juvenile adjudications of violations of 29 M.R.S.A. § 1312 are not public records and are to be kept confidential in accordance with 15 M.R.S.A. § 2606. Points may be assessed to the license of a juvenile based on those records, but the records themselves and the reason for the point assessment must be kept confidential. Only the juvenile, his parents, guardian or legal custodian, or his attorney may be allowed access to those records.

Joseph E. Brennan

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11