

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

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Legislative Document

No. 1422

H. P. 1104

House of Representatives, April 3, 1969

Reported by Mr. Soulas from Committee on Health and Institutional Services. Printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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AN ACT Relating to Incurrigibles at Juvenile Training Centers.

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

Whereas, the administrative transfer of juveniles from a training center to a correctional center has been judicially determined to be unconstitutional when effected pursuant to existing law; and

Whereas, the needs of certain juveniles committed to training centers and the necessity of orderly administration of juvenile training centers demand the availability of procedures permitting the removal of juveniles from training centers whose needs can be better met by a disposition other than commitment to a training center; and

Whereas, it is vitally necessary that procedures be available for such purpose; 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. R. S., T. 15, § 2611, sub-§ 4, ¶ A, repealed.** Paragraph A of subsection 4 of section 2611 of Title 15 of the Revised Statutes, as amended by section 1 of chapter 391 of the public laws of 1967, is repealed.

**Sec. 2. R. S., T. 15, § 2611, sub-§ 5, amended.** Subsection 5 of section 2611 of Title 15 of the Revised Statutes, as amended by section 42 of chapter 544 of the public laws of 1967, is further amended by adding at the end the following new paragraph:

When, following commitment under this section to the Boys Training Center or Stevens School, the superintendent thereof considers the child to be incapable of benefitting from the program at the center or that the child willfully and persistently refuses to obey the rules and regulations of the institution, and is in need of, and can reasonably be expected to benefit from, facilities and program available at the Men's Correctional Center, if the child is a male, or the Women's Correctional Center, if the child is a female, the superintendent may request a judicial review of disposition. Such request shall be filed with the juvenile court having territorial jurisdiction where the juvenile institution is located, and the juvenile court may order the child's record to be forwarded from the juvenile court having original jurisdiction of the case. A date and time shall be set for, and reasonable notice given of, a hearing at which the child shall have the right to counsel for the review of disposition of the case. The court at the hearing shall receive testimony bearing on the issue of the need for redistribution of the case and may receive any other relevant testimony. If the court finds from the testimony presented and from pertinent reports submitted, if any, that the child is incapable of benefitting from the program at the training center or willfully and persistently refuses to obey the rules and regulations of the training center, and is in need of, and can reasonably be expected to benefit from, facilities and program available at the Men's Correctional Center, if the child is a male, or the Women's Correctional Center, if the child is a female, the court may order commitment to such institution. Such redistribution of the case of any such juvenile shall not enlarge the period of commitment and the provisions of section 2716 and 2718 shall apply to the superintendent of the correctional center as to any juvenile ordered committed under this subsection. The case may be further reopened when at any time during the period of commitment to the correctional center, the superintendent thereof considers that the child has benefitted maximally from the correctional center program is not ready for return to the community, but can reasonably be expected to benefit from facilities and program available at the training center. In such case proceedings shall be conducted in the juvenile court, as in the case of proceedings for commitment to the correctional center under this subsection.

**Sec. 3. R. S., T. 15, § 2717, repealed.** Section 2717 of Title 15 of the Revised Statutes, as repealed and replaced by section 2 of chapter 391 of the public laws of 1967, is repealed.

**Sec. 4. R. S., T. 34, § 801, sub-§ 1, repealed.** Subsection 1 of section 801 of Title 34 of the Revised Statutes, as repealed and replaced by section 10 of chapter 391 of the public laws of 1967, is repealed.

**Sec. 5. R. S., T. 34, § 801, sub-§ 2, repealed and replaced.** Subsection 2 of section 801 of Title 34 of the Revised Statutes, as repealed and replaced by section 10 of chapter 391 of the public laws of 1967, is repealed and the following enacted in place thereof:

**2. Males committed by juvenile court. Males committed thereto by the juvenile court after commitment to the Boys Training Center and redispotion of the case under Title 15, section 2611, subsection 5 ;**

**Sec. 6. R. S., T. 34, § 801, amended.** The first sentence of the 2nd paragraph of section 801 of Title 34 of the Revised Statutes, as repealed and replaced by section 10 of chapter 391 of the public laws of 1967, is amended to read as follows :

All of the males specified in subsections  $\mp$  2 and 3 shall be detained and confined in accordance with the orders or sentences of the courts and rules and regulations of the center applicable to each such category.

**Sec. 7. R. S., T. 34, § 801-A, sub-§ 2, repealed and replaced.** Subsection 2 of section 801-A of Title 34 of the Revised Statutes, as enacted by section 11 of chapter 391 of the public laws of 1967, is repealed and the following enacted in place thereof :

**2. Inmate. "Inmate" as used in this chapter shall mean any male sentenced and committed to the center, and males confined therein after being committed in accordance with Title 15, section 2611, subsection 5.**

**Sec. 8. R. S., T. 34, § 802, amended.** The first sentence of the 2nd paragraph of section 802 of Title 34 of the Revised Statutes, as repealed and replaced by section 12 of chapter 391 of the public laws of 1967, is repealed and the following enacted in place thereof :

**When any such male is ordered committed to the center the court shall not fix the term of commitment to the center.**

**Sec. 9. R. S., T. 34, § 851, sub-§ 1, repealed.** Subsection 1 of section 851 of Title 34 of the Revised Statutes, as repealed and replaced by section 15 of chapter 391 of the public laws of 1967, is repealed.

**Sec. 10. R. S., T. 34, § 851, sub-§ 2, repealed and replaced.** Subsection 2 of section 851 of Title 34 of the Revised Statutes, as repealed and replaced by section 15 of chapter 391 and as amended by section 86 of chapter 544, both of the public laws of 1967, is repealed and the following enacted in place thereof :

**2. Females committed by juvenile court. Females committed thereto by the juvenile court after commitment to the Stevens School and redispotion of the case under Title 15, section 2611, subsection 5 ;**

**Sec. 11. R. S., T. 34, § 851, amended.** The 2nd paragraph of section 851 of Title 34 of the Revised Statutes, as repealed and replaced by section 15 of chapter 391 of the public laws of 1967, is amended to read as follows :

All of the females specified in subsections  $\mp$  2, 3 and 4 shall be detained and confined in accordance with the orders or sentences of the courts and the rules and regulations of the center applicable to each such category.

**Sec. 12. R. S., T. 34, § 851-A, subsection 2, repealed and replaced.** Subsection 2 of section 851-A of Title 34 of the Revised Statutes, as enacted by

section 16 of chapter 391 and as amended by section 87 of chapter 544, both of the public laws of 1967, is repealed and the following enacted in place thereof:

2. Inmate. "Inmate" as used in this chapter shall mean any female sentenced and committed to the center, and females confined therein after being committed in accordance with Title 15, section 2611, subsection 5;

**Sec. 13. R. S., T. 34, § 853, amended.** The 2nd paragraph of section 853 of Title 34 of the Revised Statutes, as repealed and replaced by section 18 of chapter 391 of the public laws of 1967, is amended to read as follows:

When any such women, ~~or any juvenile offender over the age of 16 years and under the age of 17 years under Title 15, section 2611,~~ is ordered committed to the center the court shall not fix the term of commitment to the center. The duration of the commitment, including time spent on parole shall not exceed 3 years. Upon commitment of any such women, ~~or any juvenile offender under Title 15, section 2611~~ and upon sentencing any women to the Maine State Prison, if the officer to whom the judgment and order of commitment is addressed is not a woman, the judge shall, in all cases when feasible, designate a woman to be an attendant to accompany her to the center.

**Sec. 14. R. S., T. 34, § 864, amended.** The last sentence of the first paragraph of section 864 of Title 34 of the Revised Statutes, as enacted by section 24 of chapter 391 and as amended by section 88 of chapter 544, both of the public laws of 1967, is repealed and the following enacted in place thereof:

**Females committed to the center under Title 15, section 2611, subsection 5 may be authorized by the superintendent to participate in said program.**

**Sec. 15. R. S., T. 34, § 1673, sub-§ 1, amended.** The last sentence of the first paragraph of subsection 1 of section 1673 of Title 34 of the Revised Statutes, is repealed.

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