

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 616

H. P. 461

House of Representatives, February 4, 1971

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Simpson of Standish.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to the Commitment of Persons to Correctional Centers.

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

Sec. 1. R. S., T. 15, § 2611, sub-§ 4, ¶ A-1, additional. Subsection 4 of section 2611 of Title 15 of the Revised Statutes, as amended, is further amended by adding a new paragraph A-1 to read as follows:

A-1. Commit to the Men's Correctional Center or the Women's Correctional Center if the juvenile is of the proper age;

Sec. 2. R. S., T. 15, § 2611, sub-§ 5, repealed and replaced. Subsection 5 of section 2611 of Title 15 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

5. Dispositions after return to a juvenile court. In all cases in which a juvenile is returned to a juvenile court from the Boys Training Center or Stevens School, the juvenile court may make any of the dispositions otherwise provided in this section. When following commitment under this section to the Boys Training Center or Stevens School, the superintendent thereof considers the child to be incapable of benefiting from the program at the 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 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 redispotion 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 benefiting from the program at 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 redispotion of the case of any such juvenile shall not result in a period of confinement at the correctional center longer than the period of confinement applicable, had the juvenile been committed thereto originally.

Sec. 3. R. S., T. 15, § 2719, additional. Title 15 of the Revised Statutes is amended by adding a new section 2719 to read as follows:

§ 2719. Offenses while under commitment

Any person committed to the center who commits an assault or an assault and battery as defined in Title 17, section 201, upon any officer or employee of the center, or who is willfully absent from the center without leave in 3 or more instances, or willfully attempts to do so in 3 or more instances, or who commits any offense while under commitment to the center, may be subject to proceedings under this section.

Upon petition to the juvenile court if the person is under the age of 17 years, alleging that such person has committed an assault or assault and battery as defined in Title 17, section 201, upon any officer or employee of the center, or has been willfully absent from the center in 3 or more instances, or has attempted to do so in 3 or more instances, or has committed any offense while under commitment to the center, specifying the fact of commitment and the offense, the juvenile court after reasonable notice to all parties, and hearing, and following a finding and adjudication, based upon all relevant evidence, that an offense covered by this section has been committed by such person, shall commit such person as provided in this section.

Upon complaint to the District Court if the person is 17 years of age or older, charging that such person has committed an assault or assault and battery as defined in Title 17, section 201, upon any officer or employee of the center, or has been willfully absent without leave from the center in 3 or more instances, or has willfully attempted to do so in 3 or more instances, or has committed any offense while under commitment to the center, specifying the fact of commitment and the offense, the District Court after trial, or following a plea of guilty to the charge and conviction, shall sentence and commit such person as provided in this section.

Commitment following an adjudication or conviction under this section shall be to the Men's Correctional Center, if a male, and to the Women's Correctional Center, if a female.

As to any person committed under this section, commitment, if a male,

shall be as provided under Title 34, section 802, and if a female, as provided under Title 34, section 853.

Sec. 4. R. S., T. 34, § 801, sub-§ 1-A, additional. Section 801 of Title 34 of the Revised Statutes, as amended, is further amended by adding a new subsection 1-A to read as follows:

1-A. Males between the ages of 15 and 17 years. Males between the ages of 15 and 17 years committed thereto by the juvenile court after being adjudicated to have committed a juvenile offense;

Sec. 5. R. S., T. 34, § 801, sub-§ 2, amended. Subsection 2 of section 801 of Title 34 of the Revised Statutes, as repealed and replaced by section 5 of chapter 192 of the public laws of 1969, is amended to read as follows:

2. Males committed by juvenile court or District Court. Males committed thereto by the juvenile court after commitment to the Boys Training Center and redistribution of the case under Title 15, section 2611, subsection 5 and males committed thereto under Title 15, § 2719;

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 amended by section 6 of chapter 192 of the public laws of 1969, is further amended to read as follows:

All of the males specified in subsections 1-A, 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, § 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 8 of chapter 192 of the public laws of 1969, is amended to read as follows:

When any such male or any male adjudicated to have committed a juvenile offense under Title 15, section 2611, subsection 4, paragraph A-1 or any male adjudicated or convicted under Title 15, section 2719 is ordered committed to the center the court shall not fix the term of commitment to the center.

Sec. 8. R. S., T. 34, § 851, sub-§ 1-A, additional. Section 851 of Title 34 of the Revised Statutes, as amended, is further amended by adding a new subsection 1-A to read as follows:

1-A. Women between the ages of 15 and 17 years. Females between the ages of 15 and 17 years committed thereto by the juvenile court after being adjudicated to have committed a juvenile offense;

Sec. 9. R. S., T. 34, § 851, sub-§ 2, amended. Subsection 2 of section 851 of Title 34 of the Revised Statutes, as last repealed and replaced by section 10 of chapter 192 of the public laws of 1969, is amended to read as follows:

2. Females committed by juvenile court or District Court. Females committed thereto by the juvenile court after commitment to the Stevens School and redistribution of the case under Title 15, section 2611, subsection 5, and females committed thereto under Title 15, section 2719;

Sec. 10, R. S., T. 34, § 851, amended. The 2nd paragraph of section 851 of Title 34 of the Revised Statutes, as amended by section 11 of chapter 192 of the public laws of 1969, is further amended to read as follows:

All of the females specified in subsections 1-A, 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. 11. R. S., T. 34, § 853, amended. The first sentence of 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 and as amended by section 13 of chapter 192 of the public laws of 1969, is further amended to read as follows:

When any such woman or any female adjudicated to have committed a juvenile offense under Title 15, section 2611, subsection 4, paragraph A-1, or any female adjudicated or convicted under Title 15, section 2719 is ordered committed to the center the court shall not fix the term of commitment to the center.

STATEMENT OF FACT

Certain persons between 15 and 17 years of age appearing before juvenile courts, charged with juvenile offenses, are aggressive and sophisticated to an extent rendering commitment to a correctional center rather than to a training center more appropriate in the interest of the offender, the juvenile institution and the public. This Act will permit the juvenile courts in their discretion to commit such persons directly to correctional centers.

From time to time, juvenile offenders committed to training centers, commit new offenses, including offenses against the person, or repeatedly absent themselves without leave (escape) from the training center. No adequate procedure is currently available by which to judicially dispose of such cases by commitment to a correctional center, a facility more appropriately suited than a training center for handling and programing such persons. The existing redispotion statute, Title 15, section 2611, subsection 5, has proved to be poorly suited as a procedural device by which to effect such commitments. By this Act persons who commit new offenses while under commitment to a training center may be appropriately handled through the courts and redispotion procedures remain available in those cases wherein a person, although he or she has not committed new offenses, is determined to be incapable of benefiting from the training center but may reasonably be expected to benefit from the programs and facilities available at the correctional center.