

MAINE STATE LEGISLATURE

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New Draft of: H. P. 1244, L. D. 1581

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1894

H. P. 1794

House of Representatives, June 30, 1977

Reported by Mr. Norris of Brewer from the Committee on Judiciary and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Establish the Maine Juvenile Code.

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

Sec. 1. 15 MRSA Pt. 6 is enacted to read:

PART 6

MAINE JUVENILE CODE

CHAPTER 501

GENERAL PROVISIONS

§ 3001. Title

This Part shall be known and may be cited as the Maine Juvenile Code.

§ 3002. Purposes and construction

1. Purposes. The purposes of this Part are:

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

B. To preserve and strengthen family ties whenever possible, including improvement of home environment;

C. To remove a juvenile from the custody of his parents only when his welfare and safety or the protection of the public would otherwise be endangered or where necessary to punish a child adjudicated, pursuant to chapter 507, as having committed a juvenile crime;

D. To secure for any juvenile removed from the custody of his parents the necessary treatment, care, guidance and discipline to assist him in becoming a responsible and productive member of society;

E. To provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.

2. Construction. To carry out these purposes, the provisions of this Part shall be liberally construed.

§ 3003. Definitions

As used in this Part, unless the context otherwise indicates, the following words and phrases shall have the following meanings:

1. Adjudicatory hearing. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition under chapter 507 are supported by evidence beyond a reasonable doubt.

2. Adult. "Adult" means a person 18 years of age or over.

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 the State may proceed against the juvenile as it would if he were an adult.

4. Commit. "Commit" means to transfer legal custody.

5. Dispositional hearing. "Dispositional hearing" means a hearing to determine what order of disposition should be made concerning a juvenile who has been adjudicated as having committed a juvenile crime.

6. Emancipation. "Emancipation" means the release of a juvenile from the legal control of his parents.

7. Facility. "Facility" means any physical structure.

8. Guardian. "Guardian" means a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person, who, because of age, is considered incapable of administering his own affairs.

9. He. "He" means, where appropriate, "she" or an organization.

10. Informal adjustment. "Informal adjustment" means a voluntary arrangement between an intake worker and a juvenile referred to him which provides sufficient basis for a decision by the intake worker not to file a petition under chapter 507.

11. Intake. "Intake" means the acceptance of referrals and the screening of them to eliminate those which do not require action by the court, the disposition of the referral without court action when appropriate, the referral of the juvenile to another public or private agency when appropriate and the initiation of court action when necessary.

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

13. Interim care. "Interim care" means the status of temporary physical control of a juvenile by a person authorized by section 3501.

14. Juvenile. "Juvenile" means any person who has not attained the age of 18 years.

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

16. Juvenile crime. "Juvenile crime" has the meaning set forth in section 3103.

17. Law enforcement officer. "Law enforcement officer" means any person who by virtue of his public employment is vested by law with a duty to maintain public order, to prosecute offenders, to make arrests for crimes or to perform probation functions, whether that duty extends to all crimes or is limited to specific crimes.

18. Legal custodian. "Legal custodian" means a person who has legal custody of a juvenile.

19. Legal custody. "Legal custody" means the right to the care, custody and control of a juvenile and the duty to provide food, clothing, shelter, ordinary medical care, education and discipline for a juvenile, and, in an emergency, to authorize surgery or other extraordinary care.

20. Organization. "Organization" means a corporation, partnership or unincorporated association.

21. Parent. "Parent" means either a natural parent or the adoptive parent of a juvenile.

22. Person. "Person" means a human being or an organization.

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, subject to being returned to the court for a commission of a new juvenile crime or for violation of any general or specific condition imposed by the court.

24. Probation officer; juvenile probation officer. "Probation officer" or "juvenile probation officer" means an agent of the Department of Mental Health and Corrections who is authorized to perform the juvenile probation functions for a juvenile adjudicated as having committed a juvenile crime.

25. Shelter. "Shelter" means the temporary care of a juvenile in physically unrestricting facilities.

§ 3004. Severability

If any provision of this Part or the application thereof to any person or circumstance is held unconstitutional, the remainder of the Part and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this Part are declared to be severable.

§ 3005. Forms, other than court forms, reporting formats, and other standardized written materials

All forms, reporting formats, and other standardized written materials necessary to fulfill the requirements of this Part shall be uniform for all state and local agencies providing services according to the provisions of this Part; and such forms, reporting formats, and other standardized written materials shall be developed and approved jointly by the Department of Mental Health and Corrections and the Department of Human Services.

**CHAPTER 503
JURISDICTION****§ 3101. Jurisdiction**

1. District Court as juvenile court. The District Court shall exercise the jurisdiction conferred by this Part and, when exercising such jurisdiction, shall be known and referred to as the juvenile court.

2. Juvenile court jurisdiction.

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.

B. 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 ordinances, 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; Title 12, section 1978, subsection 2; or of Title 12, section 2073, subsection 2.

C. Juvenile courts shall have jurisdiction over all petitions brought under the Uniform Interstate Compact on Juveniles, Title 34, chapter 9, pertaining to juveniles who have been adjudicated as having committed juvenile crimes in other states, but who are found within the territorial jurisdiction of Maine.

D. Juvenile courts shall have exclusive original jurisdiction over proceedings in which an adult is alleged to have committed a juvenile crime before attaining his 18th birthday. For purposes of such proceedings such an adult shall be considered a juvenile.

3. Juveniles mistakenly tried as adults.

A. If, during the pendency of any prosecution for a violation of law, in any court in the State against any person charged as an adult, it is ascertained that the person is a juvenile, or was a juvenile at the time the crime was committed, the court shall forthwith dismiss the case.

B. When a dismissal is ordered pursuant to paragraph A, a petition under chapter 507, alleging the same violation of law for which the juvenile was charged as an adult may be filed in juvenile court.

4. Bind-over.

A. When a petition alleges that a juvenile has committed an act which would be a criminal homicide in the first or 2nd degree 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. In the event of such a continuance, the court shall advise the juvenile and his parents, guardian or legal custodian of the possible consequences of a bind-over hearing, the right to be represented by counsel, and other constitutional and legal rights in connection therewith.

B. Every bind-over hearing shall precede and shall be conducted separately from any adjudicatory hearing.

C. A verbatim record shall be kept in all bind-over proceedings.

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

- (1) The record and previous history of the juvenile; and
- (2) Whether the offense was committed in an aggressive, violent, premeditated or willful manner, greater weight being given to offenses against the person than against property; and
- (3) Whether the juvenile's emotional attitude and pattern of living indicate that it is unlikely that future criminal conduct will be deterred by the dispositional alternatives available to the juvenile court.

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 is probable cause to believe that a juvenile crime has been committed and that the juvenile to be bound over committed it;
- (2) The maturity of the juvenile indicates that the juvenile would be more appropriately prosecuted as if he were an adult; and
- (3) The nature and seriousness of the alleged juvenile crime indicate that the protection of the community will require detention of the child in a facility which is more secure than those available as dispositional alternatives to the juvenile court.

F. The juvenile court shall bind over a child by entering an order finding probable cause, waiving jurisdiction and certifying the case for proceedings

before the grand jury. The Superior Court shall have trial jurisdiction of proceedings concerning a juvenile who has been bound over to the Superior Court by the juvenile court. Proceedings concerning a juvenile who has been bound over to the Superior Court shall be conducted in the same manner and with the same powers and duties as if the juvenile were an adult.

§ 3102. Venue

Proceedings in cases brought under the provisions of section 3101 shall be commenced in accordance with Rules 18, 21 and 22 of the Maine District Court Criminal Rules.

§ 3103. Juvenile crimes

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

- A. Conduct 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 specifically excepted by section 3101, subsection 2, paragraph B;
- B. The possession of a useable amount of marijuana; and
- C. A violation of Title 28, section 303.

2. Dispositional powers. All of the dispositional powers of the juvenile court provided in section 3314 shall apply to a juvenile who is adjudicated to have committed a juvenile crime, except that no commitment to the Maine Youth Center or other detention may be imposed for conduct described in subsection 1, paragraphs B and C.

§ 3104. Jurisdiction conferred by general law

Nothing in this chapter shall be deemed to take away from the juvenile court any jurisdiction or duties conferred upon the court by general law, nor to take away from the District Court jurisdiction over offenses conferred on that court and not removed by this Part.

CHAPTER 505

ARREST AND DETENTION

§ 3201. Warrantless arrests

1. Warrantless arrests. Arrests without warrants of juveniles by law enforcement officers or private persons shall be made pursuant to the provisions of Title 17-A, sections 15 and 16.

2. Contact police or sheriff. Any private person who makes an arrest without a warrant pursuant to this section shall immediately contact the police or sheriff's department whose responsibility it shall be to immediately take charge of the juvenile.

§ 3202. Arrest warrants for juveniles

An arrest warrant for a juvenile shall be issued pursuant to Rule 4, Maine District Court Criminal Rules.

§ 3203. Arrested juveniles, release or detention, notification

1. Notification of intake worker. When a juvenile is arrested, the law enforcement officer shall immediately notify an intake worker.

2. Notification of parents, guardian or custodian.

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 within 48 hours, excluding Saturdays, Sundays and legal holidays.

B. Such notification may be made to a person of sufficient maturity with whom the juvenile is residing if the juvenile's parent, guardian or legal custodian cannot be located.

3. Arresting officer's report. The officer who arrests a juvenile shall, within 24 hours of the arrest, excluding Saturdays, Sundays and legal holidays, file a brief written report with the intake worker stating the facts which led to the arrest. The report shall contain sufficient information to establish jurisdiction of the juvenile court.

4. Release or detention ordered by intake worker.

A. An intake worker shall direct the release of all arrested juveniles, pending adjudication, to the juvenile's parents, or, if his parents cannot be located, to another responsible adult, unless, in the worker's opinion, the juvenile's immediate welfare or the protection of the community requires that he be detained.

B. If an intake worker orders a juvenile detained, the worker shall, within 24 hours, excluding Saturdays, Sundays and legal holidays, petition the juvenile court for a review of the juvenile's detention.

5. Detention hearing.

A. Upon petition by an intake worker, the juvenile court shall review the decision to detain a juvenile.

B. A detention hearing shall precede and shall be separate from a bind-over or adjudicatory hearing.

C. Following a detention hearing, a court shall order a juvenile's detention continued only if it finds, by a preponderance of the evidence, that such detention is required to secure the juvenile's presence at the next hearing.

6. Availability of judges. The Chief Judge of the District Court shall provide that a juvenile court judge, not necessarily a judge of the division where

a juvenile is being held, is available to preside at the detention hearings described in paragraph 5 on all days except Saturdays, Sundays and legal holidays.

7. Restriction on place of detention. An intake worker or a juvenile court judge may not direct the delivery of an arrested juvenile to a jail or other secure facility intended or used for the detention of adults except:

A. 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

B. When the judge or intake worker determines, after consultation with the superintendent of a juvenile detention facility, that the juvenile is beyond the control of the facility's staff; and

C. When the receiving facility contains a separate section for juveniles and has an adequate staff to supervise and monitor the juvenile's activities at all times.

§ 3204. Interrogation

1. No statements of a juvenile made as a result of interrogation, while in custody by a law enforcement officer or intake worker, concerning a juvenile crime alleged to have been committed by the juvenile shall be admissible in evidence against that juvenile unless a parent, guardian or legal custodian of the juvenile was present at such interrogation and the juvenile and his parent, guardian or legal custodian were advised of the juvenile's right to remain silent, the right to be advised by counsel, the right to have counsel appointed if indigent, and of the fact that any statements made may be used against him in a court of law, and unless, after having been so advised, the juvenile and his parents, guardian or legal custodian voluntarily waived these rights. If counsel representing the juvenile is present at such interrogation, such statements may be admissible in evidence even though the juvenile's parent, guardian or legal custodian was not present.

2. Notwithstanding the provisions of subsection 1, statements of a juvenile shall not be inadmissible in evidence by reason of the absence of a parent, guardian or legal custodian if the juvenile is emancipated.

CHAPTER 507

PETITION, ADJUDICATION AND DISPOSITION

§ 3301. Preliminary investigation, informal adjustment and petition initiation

1. Preliminary investigation. When a juvenile accused of having committed a juvenile crime is referred to an intake worker, the intake worker shall, except in cases in which an investigation is conducted pursuant to Title 5, section 200-A, conduct a preliminary investigation to determine whether the interests of the juvenile or of the community require that further action be taken.

On the basis of the preliminary investigation, the intake worker shall:

- A. Decide that no further action is required, either in the interests of the public or of the juvenile;**
 - B. Make whatever informal adjustment is practicable without a petition; or**
 - C. Request a petition to be filed.**
2. No further action. Where the circumstances warrant, the intake worker may take no action.
- A. Referral for voluntary services. 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 such care and treatment and not file a petition.

B. Decision not to file petition. If the intake worker decides not to request that a petition be filed, the complainant and victim shall be informed of the decision and of the reasons therefor as soon as practicable and shall be advised that they may submit the complaint to the district attorney for the district in which the alleged juvenile crime occurred or to the attorney general for review.

The district attorney or the attorney general, upon receiving a request for a review, shall consider, the facts presented by the complainant and victim, consult with the intake worker who made the initial decision and then make a final decision as to whether the petition shall be filed.

3. Informal adjustment. The intake worker may attempt to effect whatever informal adjustment is agreed to by the juvenile and his parents, guardian or legal custodian, if the juvenile is not emancipated.

No informal adjustment shall be agreed to unless:

- A. 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 a hearing, the right to be advised by counsel and the right to have counsel appointed if indigent;
- B. The facts are admitted and established prima facie jurisdiction, except that any admission made in connection with such informal adjustment cannot be used in evidence against the juvenile if a petition based on the same facts is later filed;
- C. Written consent to the informal adjustment is obtained from the juvenile, if he has attained 15 years of age, and from the parents, guardian or legal custodian, if the juvenile is not emancipated.

No informal adjustment shall be attempted for any juvenile who has been adjudicated, within the preceding 12 months, to have committed a juvenile crime or for whom informal adjustment has been effected within the preceding 12 months.

Efforts to effect informal adjustment may extend no longer than 6 months.

4. Request for filing of petition. If the intake worker determines that the facts are sufficient for the filing of a petition, he may request the district attorney for the district where the alleged juvenile crime occurred or the attorney general to file a petition.

§ 3302. Petition, form and contents

The form and content of a petition in any proceeding brought under chapter 503 shall be substantially the same as the form and content of a complaint under Rule 3, Maine District Court Criminal Rules.

§ 3303. Dismissal of petition with prejudice

On motion made by or on behalf of a juvenile, 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.

§ 3304. Summons

1. Issuance and contents. After a petition has been filed, the court shall promptly issue a summons. The summons shall briefly recite the substance of the petition. The summons shall also include a statement of the constitutional rights of the juvenile, including the right to have an attorney present at the hearing on the petition and to have an attorney appointed, if indigent.

2. Voluntary appearance; waiver of service. No summons need issue to any person who appears voluntarily, or who waives service, but any such person shall be provided with a copy of the petition and summons upon appearance or request.

3. Service. The summons shall be directed to and shall be served, pursuant to Rule 4 (c) of the Maine District Court Criminal Rules, upon the following persons:

A. The juvenile; and

B. The juvenile's parents, guardian or legal custodian, if the juvenile is not emancipated.

4. Service at least 48 hours before appearance demanded. The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. The time shall not be less than 2 days after service of the summons. If the juvenile is not detained by an order of the court, the summons shall require the custodian to produce the juvenile at that time and place. A copy of the petition shall be attached to the summons.

5. Service on parents of juvenile. If the person or persons to whom a summons is served are not the parents or guardian of the juvenile, the sum-

mons shall also be issued to the parents or guardian or both notifying them of the pendency of the cause and of the time and place set for hearing.

6. Summons of necessary parties. The court on its own motion or on the motion of any party may require the appearance of any person it deems necessary to the action and authorize the issuance of a summons directed to such person. Any party to the action may request the issuance of compulsory process by the court requiring the attendance of witnesses on his own behalf or on the behalf of the juvenile.

7. Witness fees and travel expenses. The court may authorize the payment of necessary witness fees and travel expenses incurred by persons summoned or otherwise required to appear, which payments shall not exceed the amount allowed to witnesses for travel by the District Court.

§ 3305. Answer

No answer to a petition need be entered by a juvenile or by the juvenile's parents, guardian or legal custodian. A juvenile may enter an answer admitting the allegations of the petition, in accordance with Rule 11, Maine Rules of Criminal Procedure.

Upon the acceptance of such an answer, a dispositional hearing shall be set at the earliest practicable time that will allow for the completion of a pre-disposition study conducted pursuant to section 3311.

§ 3306. Right to counsel.

1. Notice and appointment.

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.

B. If the juvenile requests an attorney and if he and his parents, guardian or legal custodian are found to be without sufficient financial means, counsel shall be appointed by the court.

C. The court may appoint counsel without such request if it deems representation by counsel necessary to protect the interests of the juvenile.

2. State's attorney. The district attorney or the attorney general shall represent the State in all proceedings under this chapter.

§ 3307. Hearings, publicity, record

1. Juvenile hearings conducted as they would be for adults. 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.

The Maine Rules of Evidence shall apply in such hearings.

2. Certain hearings public.

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 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.

B. The general public shall be excluded from all other juvenile hearings and proceedings.

3. Record. A verbatim record shall be made of all proceedings that might result in an adjudication that a juvenile crime was committed.

§ 3308. Court records; inspection

1. Inspection. No person may inspect the records of juvenile proceedings except as provided in this section.

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.

3. Parties. Records of court proceedings and of the other records described in subsection 5 shall be open to inspection by the juvenile, his parents, guardian or legal custodian, his attorney, the prosecuting attorney and to any agency to which legal custody of the juvenile was transferred as a result of adjudication.

4. Other persons. With the consent of the court, records of court proceedings excluding the names of the juvenile, his parents, guardian, legal custodian, his attorney or any other parties may be inspected by persons having a legitimate interest in the proceedings or by persons conducting pertinent research studies.

5. Other records. Police records, intake workers' records, probation officers' records and all other reports of social and clinical studies shall not be open to inspection except with consent of the court or except to the extent that such records, reports and studies were made a part of the record of a hearing that was open to the general public under section 3307.

§ 3309. Motions

Motions in juvenile proceedings shall be in accordance with Rule 12, Maine District Court Criminal Rules.

§ 3310. Adjudicatory hearing, findings, adjudication

1. Evidence to be heard. At the adjudicatory hearing, evidence will be heard pursuant to the Maine Rules of Evidence.

2. Consideration of additional evidence

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 if all the parties consent.

B. In such event, the court, on the motion of any party or on its own motion, shall:

- (1) Order that the petition be amended to conform to the evidence; or
- (2) Order that hearing be continued if the amendment results in substantial surprise or prejudice to the juvenile; or
- (3) Request a separate petition alleging the additional facts be filed.

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, subsection 1 and section 2251, then subsection 2 shall not apply and the court shall proceed pursuant to section 3318.

4. Standard of proof. When the court finds that the elements of the juvenile crime are not supported by evidence beyond a reasonable doubt, the court shall order the petition dismissed and the juvenile discharged from any detention or restriction previously ordered. The juvenile's parents, guardian or other legal custodian shall also be discharged from any restriction or other temporary order.

5. Adjudication.

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

B. The court shall then hold the dispositional hearing, but such hearing may be continued for not more than 2 weeks on the motion of any interested party on the motion of the court.

6. Adjudication not deemed conviction. An adjudication of the commission of a juvenile crime shall not be deemed a conviction of a crime.

§ 3311. Social study and other reports

1. Reports as evidence. 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. In the absence of such request, the court may order the person who prepared the report or other material to testify if it finds that the interest of the juvenile, his parents, guardian, other legal custodian or other party to the proceedings so require.

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

3. Requirement for dispositional hearing. Unless waived by the court, the Department of Mental Health and Corrections shall make a social study and prepare a written report on every juvenile adjudicated as having committed a juvenile crime and shall present that report to the juvenile court

prior to that juvenile's dispositional hearing. The person who prepared the report may be ordered to appear, as provided in subsection 1.

§ 3312. Dispositional hearing

1. Evidence of proper disposition. After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the juvenile and the public. If not waived by the court, such evidence shall include, but not necessarily be limited to, the social study and other reports as provided in section 3311.

2. Examination of adjudicated juvenile. The court may have the juvenile examined by a physician or psychologist, and may place the juvenile in a hospital or other suitable facility or nonresidential program for this purpose. The cost of such examinations and placements shall be paid by the court ordering them.

3. Continuation of dispositional hearing.

A. The court may continue the dispositional hearing, either on its own motion or on the motion of any interested party, for a reasonable period not to exceed one month to receive reports or other evidence.

B. If the hearing is continued, the court shall make an appropriate order for detention of the juvenile or for his release in the custody of his parents, guardian, legal custodian or other responsible person or agency under such conditions of supervision as the court may impose during the continuance.

C. In scheduling investigations and hearings, the court shall give priority to proceedings concerning a juvenile who is in detention or who has otherwise been removed from his home before an order of disposition has been made.

§ 3313. Criteria for withholding an institutional disposition

1. Standard. The court shall enter an order of disposition for a juvenile who has been adjudicated as having committed a juvenile crime without imposing placement in a secure institution as disposition unless, having regard to the nature and circumstances of the crime and the history, character and condition of the juvenile, it finds that his confinement is necessary for protection of the public because:

A. There is undue risk that, during the period of a suspended sentence or probation, the juvenile will commit another crime; or

B. The juvenile is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or

C. A lesser sentence will depreciate the seriousness of the juvenile's conduct.

2. Additional consideration. The following grounds, while not controlling the discussion of the court, shall be accorded weight against ordering placement in a secure institution:

A. The juvenile's conduct neither caused nor threatened serious harm;

- B. The juvenile did not contemplate that his conduct would cause or threaten serious harm;
- C. The juvenile acted under a strong provocation;
- D. There were substantial grounds tending to excuse or justify the juvenile's conduct, though failing to establish a defense;
- E. The victim of the juvenile's conduct induced or facilitated its commission;
- F. The juvenile has made or has agreed to make restitution to the victim of his conduct for the damage or injury that the victim sustained;
- G. The juvenile has not previously been adjudicated to have committed a juvenile crime or has led a law-abiding life for a substantial period of time prior to the conduct which formed the basis for the present adjudication;
- H. The juvenile's conduct was the result of circumstances unlikely to recur;
- I. The character and attitudes of the juvenile indicate that he is unlikely to commit another juvenile crime;
- J. The juvenile is particularly likely to respond affirmatively to probation;
- K. The confinement of the juvenile would entail excessive hardship to himself or his dependents.

§ 3314. Disposition

1. Dispositional alternatives. 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:

- A. The court may place the juvenile in the legal custody of his parents or a guardian under such conditions as the court may impose.
- B. The court may require a juvenile to participate in a supervised work or service program. Such a program may provide restitution to the victim by requiring the juvenile to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. Such a supervised work service program may be required as a condition of probation if:
 - (1) The juvenile is not deprived of the schooling which is appropriate to his age, needs and specify rehabilitative goals;
 - (2) The supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the juvenile, and is combined with counseling from a probation counselor, court worker or other guidance personnel; and
 - (3) The supervised work program assignment is made for a period of time not exceeding 180 days.

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.

D. The court may commit a person over the age of 18 years to the Department of Mental Health and Corrections if he is adjudicated as having committed a juvenile crime prior to attaining 18 years of age or upon revocation of probation.

E. The court may require the juvenile to make restitution for any damage to persons or property, upon such reasonable conditions as the court deems appropriate.

F. The court may commit the juvenile to the Maine Youth Center.

G. The court may impose a fine.

H. The court may sentence the juvenile to a period of detention which shall not exceed 30 days, which may be served intermittently as the court may order and which may be served in a county jail designated by the Department of Mental Health and Corrections as a place for the secure detention of juveniles. The court may order such a sentence to be served with a period of probation.

I. The court may order the juvenile unconditionally discharged.

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 to a period of probation which shall be administered pursuant to the provisions of Title 34, chapter 121, subchapter V.

§ 3315. Right to periodic review

1. Right to review. Every disposition pursuant to section 3314, other than unconditional discharge, and every disposition made pursuant to the law in effect prior to July 1, 1978 shall be reviewed not less than once in every 12 months until the juvenile is discharged. The review shall be made by a representative of the Department of Mental Health and Corrections unless the juvenile was committed to the Department of Human Services, in which case such review shall be made by a representative of the Department of Human Services. A report of the review shall be made in writing to the juvenile's parents or guardian. A copy of the report shall be forwarded to the program or programs which were reviewed, and the department whose personnel made the review shall retain a copy of the report in their files. The written report shall be prepared in accordance with subsection 2.

2. Contents of review. The written report of each periodic review shall contain the following information:

A. A brief description of the services provided to the juvenile during the period preceding the review and the results of those services;

B. An individualized plan for the provision of services to the juvenile for the next period;

C. A statement showing that the plan imposes the least restricting alternative consistent with adequate care of the juvenile and protection of the community; and

D. A certification that the services recommended are available and will be afforded to the juvenile.

§ 3316. Commitment to the Department of Mental Health or the Department of Human Services

1. Sharing of information about a committed juvenile.

A. When a juvenile is committed to the Department of Mental Health and Corrections or the Department of Human Services, the court shall transmit, with the commitment order, a copy of the petition, the order of adjudication, copies of the social study, any clinical or educational reports and other information pertinent to the care and treatment of the juvenile;

B. The Department of Mental Health and Corrections or the Department of Human Services shall provide the court with any information concerning a juvenile committed to its care which the court at any time may require.

2. Indeterminate sentence.

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 birthday unless the court expressly further limits the commitment.

B. A commitment of a juvenile to the Department of Human Services pursuant to section 3314 shall be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits the commitment.

§ 3317. Disposition after return to juvenile court

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. In all cases in which a juvenile is returned to a juvenile court from the Maine Youth Center, the juvenile court may make any of the dispositions otherwise provided in section 3314.

§ 3318. Mentally ill or incapacitated juveniles

1. Suspension of proceedings. If it appears that a juvenile may be mentally ill or incapacitated as defined in Title 34, section 2066, 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 ex-

amination, 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.

2. Resumption of proceedings. The court shall set a time for resuming the proceeding when:

A. The report of the examination made pursuant to subsection 1, paragraph B states that the child is not mentally ill or incapacitated to the extent that short-term or long-term hospitalization or institutional confinement is required; or

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, subsection 1 and section 2251, subsection 5.

CHAPTER 509

APPEALS

§ 3401. Jurisdiction, goals of juvenile appellate structure; rules

1. Jurisdiction of juvenile appeals.

A. Judgments of the juvenile court in juvenile matters shall be reviewable by the Superior Court.

B. Judgments of the Superior Court in juvenile matters shall be reviewable by the Law Court.

C. Where there is a record below, the appeal shall be on the record only and shall be on matters of law.

2. Goals of juvenile appellate structure. The goals of the juvenile appellate structure are:

A. To correct errors in the application and interpretation of law;

B. To insure substantial uniformity of treatment to persons in like situations;

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

3. No right to jury trial. There shall be no right to a jury trial on appeal.

4. Rules. The District Court civil rules shall apply to appeals to the Superior Court under this chapter, except when inconsistent with the provisions of this chapter.

§ 3402. Appeals

1. Final orders. Upon claim properly filed, review shall be had of any final order of the court. A "final order" includes but is not limited to:

- A. Any order finding presence or absence of jurisdiction over the matter in question;
 - B. Any order which terminates juvenile court jurisdiction in favor of another court;
 - C. Any order terminating or modifying custodial rights;
 - D. Any order of disposition after adjudication;
 - E. Any order modifying any of the above;
 - F. Any order denying a stay of judgment or release on bail; or
 - G. An order of adjudication.
2. Who may appeal. An appeal may be taken by any of the following parties:
- A. The juvenile;
 - B. The juvenile's parents, guardian, or legal custodian, if the juvenile is not emancipated; and
 - C. The State, to the extent permitted by subsection 3.
3. Appeals by the State. The State may appeal only the following orders:
- A. An order adjudicating a state statute unconstitutional;
 - B. An order finding an absence of juvenile court jurisdiction;
 - C. Any pretrial order which deprives the prosecution of evidence; or
 - D. An order refusing to waive jurisdiction and bind a juvenile over for proceedings before the grand jury.
4. Request for review of court orders. Any party who may appeal, according to the provisions of this chapter, may request the juvenile court or Superior Court to review any of its orders issued pursuant to chapter 507.
5. Time for appeals. An appeal of right may be taken from any final order to the Superior Court within and for the same county by giving written notice of appeal to the juvenile court within 5 days after the entry of the judgment or order.
6. Record on appeal. When notice is given of an appeal from a juvenile court's adjudication that a juvenile has committed a juvenile crime, the juvenile court shall deliver the record of proceedings in the juvenile court to the Superior Court in the same manner and form as in appeals from the Superior Court in criminal cases.

§ 3403. Rules for appeals

The Supreme Judicial Court shall have the power and authority to prescribe, repeal, add to, amend or modify rules of pleading, practice and procedure with respect to appeals from the juvenile court or from the Superior Court in juvenile matters.

Such rules shall take effect on July 1, 1978. After their promulgation the Supreme Judicial Court may repeal, amend, modify or add to such rules from time to time without a waiting period. After the effective date of the rules as promulgated or amended, all laws in conflict therewith shall be of no further force or effect.

§ 3404. Counsel on appeal

1. Counsel for indigents. A juvenile is entitled to appointment of counsel on appeal at court expense upon a determination that the juvenile and his parents, guardian or legal custodian are indigent.

2. Parent's right to appeal. When a parent of the juvenile desires to effect an appeal, against the wishes of the juvenile, that parent is entitled to the appointment of counsel at court expense upon a determination that the parent is indigent.

§ 3405. Stays of orders and release on bail

1. Who may apply for stay and bail. 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 on bail 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.

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 pending appeal is denied, the court shall place the matter on an expedited docket.

§ 3406. Disposition of appeals

The Superior Court, on an appeal from the juvenile court, may affirm the order of adjudication of commission of a juvenile crime and any other orders or the Superior Court may reverse such orders and remand the matter for further proceedings or direct an acquittal in the matter or order the proceedings dismissed. If the Superior Court should find that the juvenile court

abused its discretion in making an order of disposition, the Superior Court may affirm the adjudication of commission of a juvenile crime but modify any order of disposition made by the juvenile court, in which case the Superior Court shall have the same powers of disposition as are conferred on the juvenile court by chapter 507.

§ 3407. Appeals to the Law Court

Appeals, for the purpose only of raising questions of law, from decisions of the Superior Court rendered in juvenile cases before the Superior Court on appeal from orders of juvenile courts, may be taken to the Law Court in the same manner and form as appeals in adult criminal actions.

Whenever an appeal is taken in any juvenile case from the Superior Court to the Law Court, the Superior Court shall have the same powers to provide for the custody or detention of the juvenile pending disposition of the appeal by the Law Court as are conferred upon the juvenile court in regard to juvenile appeal cases pending before the Superior Court.

CHAPTER 511

INTERIM CARE; RUNAWAYS

§ 3501. Interim care.

1. Interim care. A juvenile may be taken into interim care by a law enforcement officer without order by the court when the officer has reasonable grounds to believe that:

A. The juvenile is abandoned, lost or seriously endangered in his surroundings and that immediate removal is necessary for his protection; or

B. The juvenile has left the care of his parents, guardian or legal custodian without the consent of such person.

2. Limit. Under no circumstances shall any juvenile taken into interim care be held involuntarily for more than 6 hours.

3. Interim care, police record. The taking of a juvenile into interim care pursuant to this section is not an arrest and shall not be designated in any police records as an arrest.

4. Notification of parents, guardian or custodian. When a juvenile is taken into interim care, the law enforcement officer or the intake worker shall, as soon as possible, notify the juvenile's parent, guardian, or legal custodian of the juvenile's whereabouts and of the name and telephone number of the intake worker who has been contacted. If a parent, guardian or legal custodian cannot be located, such notification shall be made to a person with whom the juvenile is residing.

5. Interim care, placement.

A. When a law enforcement officer takes a juvenile into interim care, the officer shall contact an intake worker who shall designate a place where the juvenile will be held.

B. The law enforcement officer shall take the juvenile to the intake worker or to the placement specified by the intake worker without unnecessary delay.

C. An intake worker shall refer juveniles taken into interim care only to a shelter care facility duly licensed by the Department of Human Services.

7. Interim care, restriction on placement and transportation

A. A child taken into interim care shall not be placed in a jail or other secure correctional facility intended or used to detain adults accused or convicted of crimes or juveniles accused or adjudicated of juvenile crimes.

B. Notwithstanding paragraph A, a juvenile taken into interim care may be held, if no other appropriate placement is available, in the public sections of a jail or other secure correctional facility if there is an adequate staff to supervise the juvenile's activities at all times.

C. To the extent practicable, a juvenile taken into interim care shall not be placed or transported in any police or other vehicle which at the same time contains an adult under arrest.

8. Interim care, voluntary services. An intake worker shall offer, and encourage the juvenile and his family, guardian or legal custodian to voluntarily accept, social services.

9. Interim care, identification of child. No fingerprint, photograph, name, address or other information concerning the identity of a child taken into interim care pursuant to this section may be transmitted to the Federal Bureau of Investigation or any other person or agency.

§ 3502. The Department of Mental Health and Corrections; 24-hour referral services

1. Emergency placement decisions. The Department of Mental Health and Corrections shall provide for a placement referral service, staffed by intake workers for 24 hours a day. This referral service shall make emergency placement decisions pursuant to the provisions of this Part for all juveniles referred to it by law enforcement officers.

2. Provision of shelter and detention placements.

A. Within the limits of available funding it shall be the responsibility of the Department of Human Services to provide the foster home, group care home, and other shelter and non-secure detention placements necessary for the emergency placements described in subsection 1. Such emergency placements will be arranged by intake workers and Department of Human Services personnel according to procedures and standards jointly adopted by the Department of Mental Health and Corrections and the Department of Human Services, pursuant to Title 34, section 267.

B. Within the limits of available funding it shall be the responsibility of the Department of Mental Health and Corrections to ensure the provision of the secure detention placements necessary for the emergency placements described in subsection 1.

§ 3503. Runaway 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 custodian agree to the juvenile's return home, the juvenile shall be transported as soon as practicable to the residence of the parent, guardian or custodian at the latter's expense, unless indigent.

§ 3504. Runaway juveniles, shelter and family services needs assessment

If the juvenile refuses to return home and is under the age of 16 years, and if no other living arrangements agreeable to the juvenile and to the parent, guardian or custodian can be made, an intake worker shall offer the juvenile shelter in a licensed emergency shelter care facility, licensed group home or licensed foster home which is located as close as possible to the residence of the parent, guardian or custodian. The intake worker shall also refer the minor and his family to the Department of Human Services for a family services needs assessment.

Nothing in this section shall be interpreted as interfering with the right of a parent, guardian or legal custodian to exercise control over and take custody of his child.

§ 3505. Runaway juveniles, neglect petition

If the parent, guardian or custodian refuses to allow the juvenile to return home, and no other living arrangements agreeable to the juvenile and the parent, guardian or custodian can be made, an intake worker shall refer the juvenile to the Department of Human Services, which shall determine whether a petition for protective custody, pursuant to Title 22, chapter 1055, should be filed.

§ 3506. Runaway juveniles, emancipation

1. Filing of petition. Notwithstanding the provisions of section 3505, if the juvenile is 16 years of age or older, and the juvenile refuses to return home and the parents, guardian or custodian refuse to permit the juvenile to remain away from home, counsel shall be appointed for the juvenile and the juvenile may file with the District Court a petition for emancipation. The court shall schedule a hearing date and shall notify the parent, guardian or custodian of the date for the hearing, the legal consequences of an order of emancipation, and their rights to be represented by legal counsel and to present evidence at the hearing. The court shall grant an order of emancipation if it finds that the juvenile is sufficiently mature to assume responsibility for his own care and that it is in the juvenile's best interests for him to do so.

2. Plan for care. Before the court grants a petition for emancipation it must review and approve the juvenile's plans for room, board, health care and education, vocational training or employment. The plan must identify the community resources and agencies necessary to assist in the juvenile's emancipated life and must demonstrate that these agencies have agreed to provide such support.

3. Denial of petition. If the court denies the petition, it may recommend that the Department of Human Services provide continued services and counseling to the family.

§ 3507. Runaway juveniles returned from another state

When a juvenile who has left the care of his parents, guardian or legal custodian without that person's consent, is returned to Maine from another state, he shall be referred immediately to an intake worker and shall be processed according to the provisions of this chapter.

§ 3508. Responsibility of the Department of Human Services

1. General services responsibility. Within the limits of available funding, the Department of Human Services shall have responsibility for providing substitute care placements and offering necessary supportive and rehabilitative services to runaway juveniles and their families.

2. Protective services. All runaway cases referred to the Department of Human Services shall be reviewed by the department to determine whether a petition for protective custody, pursuant to Title 22, chapter 1055, should be filed.

3. Interagency responsibility. Referrals for services required by this section will be arranged by intake workers and Department of Human Services personnel according to procedures and standards jointly adopted by the Department of Mental Health and Corrections and the Department of Human Services, pursuant to Title 34, section 267.

4. Licensure responsibility. The Department of Human Services shall have responsibility for licensure of facilities for children and adults in accordance with Title 22, chapter 1661.

Sec. 2. 34 MRSA c. 11-A is enacted to read:

CHAPTER 11-A

JUVENILE DELINQUENCY PREVENTION

AND REHABILITATION

§ 261. Responsibility of the Department of Mental Health and Corrections

The Department of Mental Health and Corrections is charged with responsibility for:

1. Services. Within the limits of available funding, ensuring the provision of all services necessary to:

A. Prevent juveniles from coming into contact with the juvenile court; and

B. Support and rehabilitate those juveniles who do come into contact with the juvenile court.

2. Information. Gathering standardized information on the characteristics of and the present and past services needs of juveniles who have come

into contact with the juvenile court and gathering standardized information on the extent to which such needs are being met; and

3. **Proposals.** Making proposals for meeting the prevention and rehabilitation services needs which are not being addressed.

In discharging this responsibility, the Department of Mental Health and Corrections shall coordinate its efforts with those of other state or local agencies in order to effectively use existing resources to the maximum extent possible to achieve the purposes of this chapter and of Title 15, Part 6.

§ 262. **Functions of the Department of Mental Health and Corrections**

The Department of Mental Health and Corrections shall perform the following functions, as necessary to carry out the responsibility defined in section 2511.

1. **Services.** The department shall provide directly or through purchase or contract, services to children and their families including, but not limited to:

A. Administering, supervising, and ensuring the provision of correctional programs for juveniles adjudicated as having committed juvenile crimes;

B. Providing technical assistance and additional financial resources to assist communities to establish and provide necessary preventive and rehabilitative services for juveniles;

C. Coordinating its efforts with those of other state and local agencies in order to effectively use all existing resources to the maximum extent possible;

D. Working with other public and voluntary agencies as resources for the purchase of care and services; and

E. Stimulating the creation of voluntary services.

2. **Planning.** The department shall prepare an annual plan for identifying, evaluating and meeting the service needs for prevention of juvenile crime and rehabilitation of juveniles adjudicated as having committed juvenile crimes. The plan shall be submitted to the Governor and Legislature.

A. **Shelter and detention services.** Included in the annual plan shall be plans for shelter and detention services to be developed with the advice of the Department of Human Services, the Department of Educational and Cultural Services, representatives of the District Court Judges and Superior Court Justices, representatives of the Maine Criminal Justice Planning and Assistance Agency and the State Court Administrator, for juveniles:

(1) Referred to intake workers;

(2) Pending court action; and

(3) Following adjudication.

B. **Contents.** To the best of the department's ability, the plan shall include projected numbers of juveniles to be served by type of service, in-

cluding 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 alternation or remodeling of existing facilities.

3. Evaluation. The department shall evaluate prevention and rehabilitation services with regard to, among other things:

A. Compliance with all regulations for the use of funds for such services; and

B. Quality and cost of effectiveness of such services.

4. Appeals. The department shall provide structure for appeals, fair hearings and a review of grievances by children and their parents, guardian or legal custodian regarding provision of services for which the Department of Mental Health and Corrections has been given responsibility under this chapter, including, but not limited to protecting the rights of individuals to appeal from denials of or exclusion from the services to which they are entitled, actions that preclude the individual's right of choice to specific programs, or actions that force involuntary participation in a service program.

5. Training. The department shall train personnel to perform the functions necessary to implement this chapter, including but not limited to:

A. Meeting the need for professional personnel for juvenile services, through inservice training, institutes, conferences and educational leave grants;

B. Upgrading education and competence of professional and other personnel and volunteers; and

C. Making staff and training facilities available for training of staff and volunteers in contracting agencies or facilities to assure effective provision of purchased services.

6. Research and demonstration. The department may conduct research and demonstration projects, including but not limited to entering into contracts with other agencies and making grants for research, including basic research into the causes of juvenile crime, evaluation of methods of service delivery in use, and development of new approaches.

7. Wards. In regards to individual juveniles for whom the department has accepted responsibility, it may take necessary action for the appointment of a guardian of juvenile who does not have a parent to exercise effective guardianship, and it shall:

A. Assure that appropriate services are made available to them, either directly or by purchase of such services;

B. Assume responsibility, to the extent that parents are unable to do so, for payment for services; and

C. Assume legal custody of children or legal guardianship when vested by the court.

§ 263. Administrative plan for juvenile crime prevention and rehabilitation of adjudicated juveniles

To further effect the intent of this chapter to clearly specify a locus of responsibility for identifying, evaluating and meeting the service needs for prevention of juvenile crime and rehabilitation of adjudicated juveniles, the Commissioner of Mental Health and Corrections shall prepare an administrative plan which delineates the division of responsibilities for performing the functions of the department described in this chapter. The plan shall describe both supervisory and line responsibilities. The initial plan shall be submitted to the Governor and the Legislature in January of 1979. Revised plans shall be submitted to the Legislature in January of each subsequent year.

§ 264. Transfer

1. Approval. The Department of Mental Health and Corrections may transfer any juvenile committed to its care from one facility or program to another, except that before any juvenile is transferred, he shall be examined and evaluated and such evaluation shall be reviewed and approved by the commissioner or his designee.

2. Emergency exception. When the commissioner finds that the welfare and protection of a juvenile or of others requires the juvenile's immediate transfer to another facility, he shall make the transfer prior to the examination and evaluation of the juvenile.

3. Restrictive placements.

A. Notwithstanding subsections 1 and 2, the transfer of any juvenile from a less restrictive placement to a more restrictive placement shall be reviewed by the juvenile court that originally ordered the juvenile's placement within 48 hours of the transfer, excluding Saturdays, Sundays and legal holidays.

B. In order to continue the more restrictive placement, a court must find:

(1) That it is necessary to:

(a) Protect the juvenile; or

(b) Protect the community; and that

(2) No other available less restrictive placement will protect the juvenile or the community.

C. Notwithstanding paragraph A, the commissioner shall not have the authority to place any juvenile committed to the department in an adult penal institution.

§ 265. Contracts and agreements with public and private agencies

1. Purpose. The Commissioner of Mental Health and Corrections may enter into agreements or contracts with any governmental unit or agency or private facility or program cooperating or willing to cooperate in a program to carry out the purposes of this chapter and of Title 15, part 6. Such con-

tracts or agreements may provide, among other things, for the type of work to be performed, for the rate of payment for such work and for other matters relating to the care and treatment of juveniles.

2. **Custody.** Placement of juveniles by the department in any public or private facility or program not under the jurisdiction of the department shall not terminate the legal custody of the department.

3. **Inspection.** The department shall have the right to inspect all facilities used by it and to examine and consult with persons in its legal custody who have been placed in any such facility.

§ 266. Directors of programs

A director of a facility or program operated by the Department of Mental Health and Corrections or a facility or program with which the department contracts for services shall:

1. **Reports.** Report to the Commissioner of Mental Health and Corrections at such times and on such matters as the commissioner may require;

2. **Responsibilities.** Receive, subject to limitations on physical capacity and programs, all juveniles committed to the custody of the department and placed in his care under the provisions of Title 15, part 6 and to keep them for rehabilitation, education and training until discharged by law or under the rules of the department or released on probation; and

3. **Evaluations.** Secure a careful and thorough evaluation of every juvenile placed under his care at intervals no greater than 6 months, such evaluation to ascertain whether the juvenile should be released, whether his program should be modified or whether his transfer to another facility should be recommended.

§ 267. Rules and Regulations

The Department of Mental Health and Corrections shall develop and promulgate, by January, 1979, such rules and regulations as may be necessary to enable the department to carry out its responsibilities as prescribed in this chapter. Those portions of these rules and regulations which relate to staff or services administered by another state agency shall be developed and approved jointly with that other agency.

§ 268. Expenses for transporting children long distances

The Department of Mental Health and Corrections shall pay any expenses incurred by local agencies for transporting a juvenile more than 100 miles, pursuant to the provisions of Title 15, part 6, of this chapter to an intake worker, to a placement directed by the intake worker or to a juvenile court.

§ 269. Community conference committee

In any district where an intake worker is established, he may appoint a community conference committee, composed of citizen volunteers. The committee shall consist of no more than 15 members and no less than 10, of whom 5 shall constitute a quorum. Members shall serve without compensation. The

committee shall serve as an alternative diversionary resource for juvenile offenders.

The Commissioner of the Department of Mental Health and Corrections shall promulgate guidelines for the functioning of community conference committees.

Nothing in this section shall prohibit the appointment of more than one community conference committee within an intake district by the intake worker, with the approval of the Commissioner of Mental Health and Corrections.

Sec. 3. 34 MRSA, c. 121, sub-c. V-A is enacted to read:

CHAPTER 121

SUBCHAPTER V-A

JUVENILE PROBATION SERVICES

§ 1681. Department of Mental Health and Corrections Probation Services

1. Juvenile Probation officers. Juvenile probation officers shall be employees of the Department of Mental Health and Corrections.

2. Interagency agreements.

A. The department is authorized to enter into agreements with state agencies, other public agencies, and private nonprofit agencies to provide supervision or other services to juveniles placed on probation by the juvenile court.

B. The conditions and terms of any such agreements shall be set forth in writing, including any payments to be made by the department for the services provided.

C. Any agreement made under this subsection may be terminated upon 90 days' written notice by either party thereto.

§ 1682. Juvenile probation officers, powers and duties

1. Investigations. Juvenile probation officers appointed under the provisions of this chapter shall make such investigations and keep written records thereof as the juvenile court may direct.

2. Written statement of probation terms. When any juvenile is placed on probation, the juvenile probation officer shall give the juvenile a written statement of the terms and conditions of his probation and shall explain fully such terms and conditions to him.

3. Activities and report of activities.

A. Each juvenile probation officer shall keep informed as to the condition and conduct of each juvenile placed under his supervision and shall report thereon to the court and to the department as they may direct.

B. Each juvenile probation officer shall use all suitable methods including counseling to aid each juvenile under his supervision and shall perform such duties in connection with the care and custody of juveniles as the court may direct.

C. He shall keep complete records of all work done.

4. Change of residence. Before a juvenile who is on probation may change his residence, he must obtain the permission of his probation officer.

A. When a juvenile probation officer learns that a juvenile under his supervision has changed his residence to another district, he shall immediately notify the court.

B. The court may then transfer the probation records of such juvenile to the juvenile court of the district to which the juvenile has moved, together with a request that such court direct the probation supervision of the juvenile. The juvenile court of the district to which the juvenile has moved shall then place the juvenile under probation supervision.

§ 1683. Violation of probation

1. Preliminary hearing on violation of conditions of probation. If a probation officer has probable cause to believe that a juvenile has violated a condition of his probation, he shall proceed according to the provisions of Title 17-A, section 1205.

2. Court hearing on probation revocation. If as a result of proceedings held under subsection 1, there is a determination of probable cause, the Director of Probation and Parole shall proceed according to the provisions of Title 17-A, section 1206.

Sec. 4. 15 MRSA § 2501 is repealed.

Sec. 5. 15 MRSA § 2502, as amended by PL 1975, c. 62, sections 1 and 2, is repealed.

Sec. 6. 15 MRSA § 2503 is repealed.

Sec. 7. 15 MRSA § 2551 is repealed.

Sec. 8. 15 MRSA § 2552, as last amended by PL 1975, c. 731, § 15, is repealed.

Sec. 9. 15 MRSA § 2553 is repealed.

Sec. 10. 15 MRSA § 2554 is repealed.

Sec. 11. 15 MRSA § 2555, as enacted by PL 1975, c. 499, § 4-A, is repealed.

Sec. 12. 15 MRSA §§ 2601-2605 are repealed.

Sec. 13. 15 MRSA § 2606, as amended by PL 1971, c. 528, § 1, is repealed.

Sec. 14. 15 MRSA § 2607, as last amended by PL 1973, c. 625, § 289, is repealed.

Sec. 15. 15 MRSA § 2608, as repealed and replaced by PL 1975, c. 538, § 1, is repealed.

Sec. 16. 15 MRSA §§ 2609 and 2610 are repealed.

- Sec. 17.** 15 MRSA § 2611, as last amended by PL 1975, c. 756, §§ 2-4, is repealed.
- Sec. 18.** 15 MRSA § 2661, as last amended by PL 1975, c. 538, § 8, is repealed.
- Sec. 19.** 15 MRSA § 2662, as enacted by PL 1967, c. 389, is repealed.
- Sec. 20.** 15 MRSA §§ 2663-2665 are repealed.
- Sec. 21.** 15 MRSA § 2666, as amended by PL 1973, c. 625, § 86, is repealed.
- Sec. 22.** 15 MRSA § 2667 is repealed.
- Sec. 23.** 15 MRSA § 2719, as repealed and replaced by PL 1975, c. 538, § 12, is repealed.
- Sec. 24. Effective date.** This Act shall take effect on July 1, 1978, except that Title 15, § 3403 shall take effect 90 days after adjournment of this session of the Legislature.

STATEMENT OF FACT

This bill provides for a new, comprehensive Juvenile Code. These provisions are the result of the work of the Maine Commission to Revise Statutes Relating to Juveniles, which was established by the 107th Legislature.

This new code provides for a central point of state responsibility for services to juveniles adjudicated as having committed juvenile crimes and for prevention of juvenile crimes. It clarifies responsibilities for services to runaways and juveniles who are beyond the control of their parents. It also provides detailed procedures for focusing the resources of the juvenile justice system on juvenile crime in a manner which is respectful of considerations of public safety and individual constitutional rights.

In preparing this code, the commission consulted extensively with representatives of the judiciary, state administrative agencies, the Legislature, law enforcement officials, lawyers, educators, family and children's services workers, parents, youth and other interested members of the public. The commission held 2 rounds of public hearings throughout the State. Individual members met with numerous groups and committees. Staff conducted extensive research as background for commission deliberations. A final report of this 18-month process will be available to the Legislature, along with considerable additional supporting documentation of analysis and recommendations.

The new draft revises the wording and organization of the bill.