

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2060

H. P. 1974 House of Representatives January 12, 1978
The Committee on Judiciary suggested. Approved for introduction by the
Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. Curran of South Portland.

Cosponsor: Mrs. Kane of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Revise the Maine Juvenile Code and Related Statutes.

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

Wheras, there are certain amendments which must be made to the Maine Juvenile Code which takes effect on July 1, 1978; and

Whereas, in the judgement 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. 15 MRSA § 3002, sub-§ 1, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

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

Sec. 2. 15 MRSA § 3003, sub-§ 12, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

12. Intake worker. "Intake worker" means a law enforcement officer, a juvenile officer in an established law enforcement agency within the State Government or any political subdivision thereof, or 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.

Sec. 3. 15 MRSA § 3203, sub-§ 1, as enacted by PL 1977, c. 520, § 1, is repealed as follows:

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

Sec. 4. 15 MRSA § 3301, as enacted by PL 1977, c. 520, § 1, is repealed.

Sec. 5. 15 MRSA § 3303, as enacted by PL 1977, c. 520, § 1, is amended to read:

3303. Dismissal of petition with prejudice

On motion made by or on behalf of a juvenile, **or by the court itself**, 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.

Sec. 6. 15 MRSA § 3312, sub-§ 3, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

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, **except that in the case of juveniles detained pending disposition, the continuations shall not exceed 2 weeks.**

Sec. 7. 15 MRSA § 3314, sub-§ 1, ¶ C, as enacted by PL 1977, c. 520, § 1, is amended to read:

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, **or for the provision of services to a juvenile in his own home.**

Sec. 8. 15 MRSA § 3314, sub-§ 1, ¶ H, as enacted by PL 1977, c. 520, § 1, is amended to read:

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~~ shall be ordered served in a county jail designated by the Department of Mental Health and Corrections as a place for the secure detention of juveniles or in a group care home or halfway house. The court may order such a sentence to be served with a period of probation.

Sec. 9. 15 MRSA § 3314, sub-§ 2, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

2. **Suspended sentence.** The court may impose any of the dispositional alternatives provided in subsection 1, and may suspend its sentence and sentence the juvenile to a period of probation which shall be subject to those provisions of Title 17-A, section 1204, which the court may order and the probation shall be administered pursuant to the provisions of Title 34, chapter 121, subchapter V.

Sec. 10. 15 MRSA § 3314-A is enacted to read:

§ 3314-A. **Period of probation; modification and discharge**

The period of probation of a juvenile, its modification and discharge, shall be as provided by Title 17-A, section 1202.

Sec. 11. 15 MRSA § 3315, sub-§ 1, 3rd sentence, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

A report of the review shall be made in writing to the juvenile's parents, guardian or legal custodian and to the juvenile upon his request. The department concerned shall advise the juvenile of his right to request a copy of the written report.

Sec. 12. 15 MRSA § 3316, sub-§ 2, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

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~~ 19th birthday unless the court expressly further limits or extends the commitment, **provided that no commitment shall extend beyond a juvenile's 21st birthday.**

Sec. 13. 15 MRSA § 3316, sub-§§ 3 and 4 are enacted to read:

3. **Duration of sentences of commitment.** The Commissioner of Mental Health and Corrections shall ensure that no commitment, including time in residence and time on entrustment, of a juvenile to his department shall exceed:

A. In the case of murder, the juvenile's 21st birthday, in accordance with subsection 2, paragraph A;

- B. In the case of a Class A or B offense, 3 years;
- C. In the case of a Class C offense, 2 years; and
- D. In the case of a Class D or E offense, one year.

4. Extension of duration of sentences of commitment. The limitations on duration of sentences provided in subsection 3 may be extended subsequent to a dispositional hearing only upon written application, to the court which originally had jurisdiction over the offense for which the juvenile concerned was committed, by the Commissioner of Mental Health and Corrections, who shall state the duration of the extension requested and the reasons therefor. An order of extension of a sentence of commitment originally imposed may be entered only after a judicial hearing at which the juvenile concerned shall have the right to be present, to have an attorney present to act in his behalf, including appointed counsel if requested and if the juvenile and his parents, guardian or legal custodian are found to be without sufficient financial means, and to cross-examine the commissioner or his representative at the hearing. A juvenile's parents, guardian or legal custodian shall have the right to be present at this hearing.

Sec. 14. 15 MRSA § 3501, sub-§ 2, as enacted by PL 1977, c. 520, § 1, is amended to read:

2. Limit. Under no circumstances shall any juvenile taken into interim care be held involuntarily for more than ~~6~~ 24 hours.

Sec. 15. 15 MRSA § 3501, sub-§ 5, ¶¶ A and B, as enacted by PL 1977, c. 520, § 1, are repealed.

Sec. 16. 15 MRSA § 3501, sub-§ 5, ¶ C, as enacted by PL 1977, c. 520, § 1, is amended to read:

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

Sec. 17. 15 MRSA § 3502, sub-§ 2, ¶ A, 1st sentence, as enacted by PL 1977, c. 520, § 1, is amended to read:

~~Within the limits of available funding it~~ It shall be the responsibility of the Department of Human Services to provide for foster home, group care home, and other shelter and nonsecure detention placements necessary for the emergency placements described in section 1.

Sec. 18. 15 MRSA § 3502, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 1, is amended to read:

B. ~~Within the limits of available funding it~~ 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.

Sec. 19. 15 MRSA §§ 3503 and 3504, as enacted by PL 1977, c. 520, § 1, are repealed.

Sec. 20. 15 MRSA § 3505, as enacted by PL 1977, c. 520, § 1, is amended to read:

§ 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~~ **the law enforcement officer or agency taking the juvenile into custody** 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.

Sec. 21. 34 MRSA § 269, as enacted by PL 1977, c. 520, § 2, is repealed.

Sec. 22. 34 MRSA § 1682, sub-§ 5, is enacted to read:

5. Arrest powers. Juvenile probation officers shall have the same arrest powers as other sworn law enforcement officers.

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

STATEMENT OF FACT

This bill combines the recommendations of 2 legislators for revisions in the Maine Juvenile Code. The approaches of these 2 legislators differ at times.

The following sections of the bill embody the changes put forward by legislator #1:

Sec. 2. - Includes within the definition of “intake worker”, law enforcement officers and juvenile officers belonging to a law enforcement agency;

Sec. 3. - Deletes the requirement that every time a juvenile is arrested, the law enforcement officer shall notify an intake worker;

Sec. 4. - Deletes intake worker’s authority to conduct a preliminary investigation of the case of a newly arrested juvenile;

Sec. 14. - Increases the time a juvenile can be held in “interim care” from 6 hours to 24 hours;

Sec. 15 and 16. - Remove the intake worker from determining where the juvenile

shall be kept during interim care. Law enforcement officials would handle the task;

Sec. 17 and 18 - Delete the limiting language, "within limits of available funding" from interim care juvenile shelter and detention placement responsibilities of the Department of Human Services and the Department of Mental Health and Corrections;

Sec. 19 - Deletes responsibility of the State to provide transportation to the home of a juvenile released from interim care and deletes the family services "needs assessment" study by the Department of Human Services for runaway juveniles assigned to a shelter care facility, group home or foster home;

Sec. 20 - Has law enforcement officers rather than intake workers refer runaway juveniles to the Department of Human Services for the determination of whether a petition for protective custody is justified; and

Sec. 22. - Enacts a new section which states that juvenile probation officers shall have the same arrest powers as other sworn law enforcement officers.

The following sections of the bill embody the changes put forward by legislator #2:

Sec. 5. - Makes clear that the court is authorized, on its own motion, to dismiss petitions not timely filed;

Sec. 6. - Limits continuances of dispositional hearings to 2 weeks instead of one month in the case of juveniles detained pending hearings;

Sec. 7. - Makes clear that commitments to the Department of Human Services may be made for the purpose of providing services to a juvenile in his own home;

Sec. 8. - Authorizes the not-to-exceed 30-day sentences already provided for to be served in group care homes or halfway houses as well as in county jails;

Sec. 9. - Incorporates by references the conditions of probation provided in law for adults;

Sec. 10. - Incorporates by reference the adult provisions governing the duration of probation and modification of an discharge from probation;

Sec. 11. - Provides copies of written periodic review reports to legal custodians as well as to a juvenile's parents or guardian, and provides a copy to the juvenile upon his request.

Sec. 12. - Limits indeterminate commitments to the Department of Mental Health and Corrections to a juvenile's 19th birthday instead of his 21st, unless expressly limited by the court at the dispositional hearing;

Sec. 13. - Provides time limits, by class of offense, for indeterminate commitments to the Department of Mental Health and Corrections and a procedure for judicial review of any proposed extensions of those limits; and

Sec. 21. - Repeals the Maine Juvenile Code's provision authorizing the establishment of citizen conference committees.