

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
SECOND REGULAR SESSION

(Filing No. H-1105)

HOUSE AMENDMENT "D" to H.P. 2142, L.D. 2163, Bill,
"AN ACT to Amend the Maine Juvenile Code."

Amend the Bill by striking out all of section 41 and
inserting in its place the following:

'Sec. 41. 15 MRSA §3316, sub-§2, ¶A, as enacted by PL 1977,
c. 520, §1, is repealed.

Sec. 41-A. 15 MRSA §3316, sub-§§ 3, 4 and 5, are enacted to read
3. Duration of sentences of commitment. 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:

- A. In the case of murder, the juvenile's 21st birthday;
- B. In the case of a Class A offense, 4 years;
- C. In the case of a Class B offense, 3 years;
- D. In the case of a Class C offense, 2 years;
- E. In the case of a Class D offense, 18 months; and
- F. In the case of a Class E offense, 1 year;

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

Notwithstanding the provisions of paragraphs A to F, no term of
commitment, including time in residence and time on entrustment,
of a juvenile shall exceed any period of time set by the court
ordering the commitment which is shorter than that specified in
any of those paragraphs.

Unless extended pursuant to subsectio

4. Expiration of term on entrustment. / the entrustment term of any juvenile shall automatically terminate following that juvenile reaching the maximum duration period set out in subsection 3 for the offense for which the juvenile was committed.

5. 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 petition filed prior to the expiration of the maximum duration of commitment for that period pursuant to subsection 3 with the court which originally had jurisdiction over the offense for which the juvenile concerned was committed, by the Commissioner of Mental Health and Corrections. The petition shall set out the juvenile's name and location at the time of the petition, the offense and class of offense for which the juvenile was committed, the maximum commitment for that offense pursuant to subsection 3, the length of extension being requested, the reasons therefor and the facts supporting the request. The court may dismiss a petition without a hearing or may hold a judicial hearing thereof. An order dismissing a petition shall be in writing. If a hearing is held, a verbatim record thereof shall be made.

An order granting a requested extension of a sentence of commitment originally imposed, or any part thereof, may be entered only in writing and 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 is 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. The court may order an extension of a sentence of commitment only upon a finding, based on clear and convincing evidence, that release of the juvenile in question would constitute an immediate threat of bodily harm to an individual or the public at large.

Sec. 41-B. 15 MRSA §3316-A is enacted to read:

§3316-A. Multiple sentences of commitment

1. Concurrent or consecutive terms. When multiple sentences of commitment are imposed on a juvenile at the same time, or when such a sentence is imposed on a juvenile who is already subject to an undischarged term of commitment, the sentences shall run concurrently, or, subject to the provisions of this section, consecutively, as determined by the court. When multiple fines are imposed on a juvenile, the court may, subject to the provisions of this section, sentence the juvenile to pay the cumulated amount or the highest single fine. Sentences shall run concurrently and fines shall not be cumulated unless otherwise specified by the court pursuant to subsections 2 and 3.

2. Restrictions. Unless the court sets forth in detail for the record the findings described in subsection 3, it shall not either:

A. Impose consecutive terms of commitment or cumulative

finer which exceed the maximum term or the highest fine authorized for the most serious offense involved; or

B. Impose consecutive terms of commitment or cumulative fines at all.

3. Findings. The finding referred to in subsection 2 are the reason why, having regard to the nature and circumstances of the offense, and the history and character of the juvenile, the court is of the opinion that there are exceptional features to the case which require the sentence of commitment imposed.

4. Juvenile; sentences. A juvenile may not be sentenced to consecutive terms of commitment or cumulative fines for more than one offense when:

A. One offense is an included offense of the other;

B. One offense consists only of a conspiracy, attempt, solicitation or other form of preparation to commit, or facilitation of, the other;

C. The offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of that conduct; or

D. In separate hearings, inconsistent findings of fact are required to establish the commission of the offenses.'

Further amend the Bill by inserting after section 43 the following:

'Sec. 43-A. 15 MRSA §3319 is enacted to read:

§3319. Continuation of voluntary services

Nothing in this Part shall be construed to prohibit the

provision to a juvenile following the expiration of his term of entrustment of services voluntarily accepted by the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated; except that these services shall not be extended beyond the juvenile's 21st birthday.'

Statement of Fact

The purposes of this amendment are as follows.

1. It repeals the section of the Juvenile Code which provides that commitments shall be for an indeterminate time but not longer than the juvenile's 19th birthday and replaces it with a schedule of maximum durations of commitments.
2. It provides that terms of entrustment shall automatically terminate when the maximum term has been reached unless it is extended by the court.
3. It provides a procedure for extension of terms of entrustment.
4. It provides for multiple sentences of commitment and limits the imposition of consecutive terms.
5. It provides for the continuation of voluntary services following the expiration of a juvenile's term of entrustment.

Filed by Mrs. Kane of Augusta.

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of the House.
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