

# MAINE STATE LEGISLATURE

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

(Filing No. H-1106)

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

Amend the Bill by inserting after the enacting clause the following:

'Sec. 1. 15 MRSA §2716, 3rd ¶, is repealed.

Sec. 2. 15 MRSA §2721 is enacted to read:

§2721. Discharge from entrustment

1. Termination of entrustment. The superintendent may, either on his own initiative or on application of a juvenile on entrustment, or his parent, guardian, legal custodian or counsel, terminate a period of entrustment and discharge the convicted juvenile at any time earlier than that provided in the sentence made pursuant to section 3314, subsection 1, paragraph F, if the discharge is warranted by the conduct of that juvenile. No hearing or other process is necessary prior to the superintendent reaching this decision and the juvenile shall be notified by the superintendent of the discharge as soon as is practicable after the decision is made.

2. Right of appeal. Whenever the superintendent denies an application for termination of entrustment pursuant to subsection 1, the juvenile or his parent, guardian or legal custodian shall have a right to appeal from that decision to the District Court, sitting as a juvenile court, in the district where the juvenile resides. The superintendent shall notify in

writing the juvenile or his parent, guardian or legal custodian of the denial of the application and, shall at that time, also advise him of this right of appeal. An appeal may be taken by filing, with the appropriate court, a notice of appeal within 20 days of the date on which the juvenile or his parent, guardian or legal custodian was notified of the denial.

3. Hearing. When a notice of appeal is filed pursuant to subsection 2, the court shall, as soon as practicable, hold a judicial hearing to determine if the denial of the application by the superintendent was unreasonable. The juvenile shall bear the burden of proving, by clear and convincing evidence, that the decision of the superintendent was unreasonable. At the hearing, the juvenile 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 by the court to be without sufficient financial means, and to cross-examine the superintendent, 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. 3. 15 MRS §2722 is enacted to read:

§2722. Cancellation of entrustment and return to the center

Cancellation of entrustment by the superintendent and return of a juvenile to the center shall be in accordance with guidelines and regulations promulgated by the Commissioner of Mental Health and Corrections. Filing of motions with the court for cancellation of entrustment shall be made pursuant to the provisions of Title 17-A, section 1205-A, subsection 4, and the judicial hearing on the cancellation shall be held pursuant to the provisions of

Title 17-A, section 1206, except as follows.

1. Entrustment cancelled. An entrustment may only be cancelled when the superintendent has shown, by clear and convincing evidence, that cancellation of entrustment and return of the juvenile to the center is :

Necessary in order to  
A. /Protect an individual or the public from an immediate threat of bodily harm from the juvenile;

Necessary in order to  
B. /Protect the juvenile from an immediate threat of bodily harm; or

C. For violation of a condition of entrustment.

2. Filing of fact; reasons. The court ruling on the cancellation shall make all its findings of fact in writing and shall set out its reasons for granting or denying the cancellation of entrustment.

3. Duration of cancellation. Where an entrustment is cancelled and a juvenile returned to the center for the reason set out in subsection 1, paragraph B, the cancellation and the return shall be only for so long as that threat of harm persists.

Further amend the bill by renumbering section 1 to 52 to be 4 to 55.

Statement of Fact

This amendment provides a procedure for discharge from entrustment and for cancellation of entrustment.

Filed by Mrs. Kane of Augusta.

Reproduced and distributed under the direction of the Clerk  
of the House.  
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