

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 2163

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H. P. 2142 House of Representatives, February 27, 1978  
Reported by Mr. Hughes from the Committee on Judiciary. Printed under Joint  
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EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

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AN ACT to Amend the Maine Juvenile Code.

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

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

Whereas, in the judgment 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-§ 3, as enacted by PL 1977, c. 520, § 1, is amended to read:

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~~ **or not to permit** the State ~~may~~ to proceed against ~~the~~ a juvenile as it would if he were an adult.

Sec. 3. 15 MRSA § 3003, sub-§ 11, as enacted by PL 1977, c. 520, § 1, is repealed.

Sec. 4. 15 MRSA § 3003, sub-§ 12, as enacted by PL 1977, c. 520, § 1, is amended to read:

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

Sec. 5. 15 MRSA § 3003, sub-§ 15, as enacted by PL 1977, c. 520 § 1, is amended to read:

15. **Juvenile court.** “Juvenile court” means the District Court exercising the jurisdiction conferred by ~~this Part~~ **section 3101**.

Sec. 6. 15 MRSA § 3101, sub-§ 2, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

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, **as defined in section 3103**.

Sec. 7. 15 MRSA § 3101, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 1, is repealed.

Sec. 8. 15 MRSA § 3101, sub-§ 4, ¶ A, first sentence, as enacted by PL 1977, c. 520, § 1, is amended to read:

When a petition alleges that a juvenile has committed an act which would be ~~a criminal homicide in the first or 2nd degree murder~~ 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.

Sec. 9. 15 MRSA § 3101, sub-§ 4, ¶ E, as enacted by PL 1977, c. 520, § 1, is amended to read:

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~~ **That** there is probable cause to believe that a juvenile crime has been committed **that would constitute murder or a Class A, B or C crime if the juvenile involved were an adult** and that the juvenile to be bound over committed it;

(2) ~~The~~ **By a preponderance of the evidence, that** the maturity of the juvenile indicates that the juvenile would be more appropriately prosecuted as if he were an adult; and

(3) ~~The~~ **By a preponderance of the evidence, that** the nature and seriousness of the alleged juvenile crime indicate that the protection of the community will require detention of the ~~child~~ **juvenile** in a facility which is more secure than those available as dispositional alternatives to the juvenile court.

Sec. 10. 15 MRSA § 3101, sub-§ 4, ¶ F, 2nd sentence, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**The juvenile court shall enter written findings supporting its order finding probable cause and waiving jurisdiction.**

Sec. 11. 15 MRSA § 3103, sub-§ 1, as enacted by PL 1977, c. 520, § 1, is amended to read:

1. **Definition.** The term “juvenile crime,” as used in this ~~Act~~ **Part**, means the following offenses:

A. **Conduct which, if committed by an adult, would be 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 provisions of Titles 12 and 29, not specifically excepted by section 3101, subsection 2, paragraph B included in paragraph E;~~**

B. **The possession of a useable amount of marijuana ~~and~~, as provided in Title 22, section 2383;**

C. **~~A violation of~~ Offenses involving intoxicating liquor, as provided in Title 28, section 303;**

D. **If a juvenile is adjudicated to have committed an action described in paragraph B or C, willful refusal to pay a resulting fine and willful violation of the terms of a resulting probation; and**

E. **Offenses involving the operation or attempted operation of any motor vehicle, snowmobile or watercraft while under the influence of intoxicating liquor or drugs, as defined in Title 29, section 1312, and in Title 12, section 1978, subsection 2 and section 2073, subsection 2, respectively.**

Sec. 12. 15 MRSA § 3105 is enacted to read:

**§ 3105. Statute of limitations**

**1. Limitations. Limitations upon the commencement of prosecution against a juvenile shall be the same as those provided for adults by Title 17-A, section 8.**

**A. A prosecution for an alleged juvenile crime, as defined by section 3103, subsection 1, paragraphs B, C, D or E, shall be commenced within one year after it is committed.**

**B. A prosecution is commenced when a petition is filed.**

Sec. 13. 15 MRSA § 3203, sub-§ 1, as enacted by PL 1977, c. 520, § 1, is amended to read:

**1. Notification of intake worker. When a juvenile is arrested, in the judgment of a law enforcement officer, juvenile court proceedings should be commenced against a juvenile or a juvenile should be detained prior to his initial appearance in juvenile court, except in cases under Title 5, section 200-A, the law enforcement officer shall immediately notify an intake worker.**

Sec. 14. 15 MRSA § 3203, sub-§ 2, ¶ A, as enacted by PL 1977, c. 520 § 1, is amended to read:

**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 will be held within 48 hours ~~excluding Saturdays, Sundays and legal holidays~~ following this placement, except that this paragraph does not require any such hearing to be held on a Saturday, Sunday, or legal holiday.**

Sec. 15. 15 MRSA § 3203, sub-§ 3, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**3. Law enforcement officer's report. An officer who notifies an intake worker pursuant to subsection 1 shall, within 24 hours of the referral, file a brief written report with the intake worker stating the facts which led to the referral. The report shall contain sufficient information to establish jurisdiction of the juvenile court.**

Sec. 16. 15 MRSA § 3203, sub-§ 4, as enacted by PL 1977, c. 520 § 1, is repealed and the following enacted in its place:

**4. Release or detention ordered by intake worker.**

**A. An intake worker shall direct the release or detention of a juvenile pending his initial appearance before the court.**

B. Release may be unconditional or conditioned upon the juvenile's promise to appear for subsequent court proceedings, or, if a juvenile cannot appropriately be released on one of these 2 bases, then upon the least onerous of the following conditions, or combination thereof, necessary to ensure his appearance:

- (1) Upon the written promise of his parent, guardian or legal custodian to produce him in court for subsequent proceedings;
- (2) Upon placement into the care of a responsible person or organization;
- (3) Upon prescribed conditions, reasonably related to securing the juvenile's presence in court, restricting the juvenile's activities, associations, residence or travel; and
- (4) Upon such other prescribed conditions as may be reasonably related to securing the juvenile's presence in court.

C. Detention, if ordered, shall be in the least restrictive residential setting that will adequately serve the purpose of detention. Detention may be ordered only where it is necessary to:

- (1) Ensure the presence of the juvenile at subsequent court proceedings;
- (2) Provide physical care for a juvenile who cannot return home because there is no parent or other suitable person willing and able to supervise and care for him adequately;
- (3) Prevent the juvenile from harming or intimidating any witness, or otherwise threatening the orderly progress of the court proceedings;
- (4) Prevent the juvenile from inflicting bodily harm on others; or
- (5) Protect the juvenile from an immediate threat of bodily harm.

D. If an intake worker orders a juvenile detained, the worker shall, within 24 hours, petition the juvenile court for a review of the juvenile's detention.

Sec. 17. 15 MRSA § 3203, sub-§ 5, ¶ C, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

C. Following a detention hearing, a court shall order a juvenile's release, in accordance with subsection 4, unless it finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention provided in that subsection. The juvenile court shall ensure, by appropriate order, that any such continued detention is otherwise in accordance with the requirements of subsection 4.

Sec. 18. 15 MRSA § 3203, sub-§ 7, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**7. Restriction on place of detention.** The following restrictions are placed on the facilities in which a juvenile may be detained.

**A.** An intake worker or a juvenile court judge may direct the delivery of an arrested juvenile to a jail or other secure facility intended or used for the detention of adults only when the receiving facility contains a separate section for juveniles, is one in which the juvenile would have no regular contact with adult detainees or inmates and has an adequate staff to monitor and supervise the juvenile's activities at all times.

**B.** 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 when the intake worker, in the instance of a juvenile detention not yet reviewed by the court, or the judge, in the instance of a juvenile detention already judicially reviewed, determines, after consultation with the superintendent of the facility in which a juvenile is detained, that the juvenile is beyond the control of that facility's staff, a juvenile may be detained in jail or other secure facility intended or used for the detention of adults only when the conditions described in paragraph A are met by the receiving facility.

Sec. 19. 15 MRSA § 3203, sub-§ 8, as enacted by PL 1977, c. 520, § 1, is repealed.

Sec. 20. 15 MRSA § 3204, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

§ 3204. Statements not admissible in evidence

No statement of a juvenile made to an intake worker shall be admissible in evidence against that juvenile.

Sec. 21. 15 MRSA § 3301, sub-§§ 2, 3 and 4, as enacted by PL 1977, c. 520, § 1, are repealed.

Sec. 22. 15 MRSA § 3301, sub §§ 5 and 6, are enacted to read:

**5. Intake worker alternatives.** On the basis of the preliminary investigation, the intake worker shall choose one of the following alternatives:

**A.** Decide that no further action is required either in the interests of the public or of the juvenile. 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 that care and treatment and not request that a petition be filed;

**B.** Make whatever informal adjustment is practicable without a petition. The

intake worker may effect whatever informal adjustment is agreed to by the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated. Informal adjustments shall extend no longer than 6 months and informal adjustments shall not be commenced unless:

- (1) 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 an adjudicatory hearing, the right to be represented by counsel and the right to have counsel appointed by the court if indigent;
- (2) The facts establish prima facie jurisdiction, except that any admission made in connection with this informal adjustment cannot be used in evidence against the juvenile if a petition based on the same facts is later filed;
- (3) Written consent to the informal adjustment is obtained from the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated; and
- (4) It has been determined that the juvenile within the preceding 12 months had not been adjudicated, or had not entered into another informal adjustment; or

C. If the intake worker determines that the facts are sufficient for the filing of a petition, he may request the prosecuting attorney to file a petition.

6. Review by prosecuting attorney. If the intake worker decides not to request the prosecuting attorney to file a petition, the complainant, the law enforcement officer and the victim shall be informed of the decision and of the reasons therefor as soon as practicable and shall be advised that they may submit their complaint to the prosecuting attorney for review.

The prosecuting attorney on his own motion or upon receiving a request for review by the law enforcement officer, the complainant or the victim, shall consider the facts of the case, consult with the intake worker who made the initial decision and then make a final decision as to whether the petition shall be filed.

Sec. 23. 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, unless the prosecuting attorney either before or after the expiration of the 6-month period files a motion for an extension of time for the filing of a petition, accompanied by the reasons for this extension. The court may for good cause extend the time for bringing a petition



for any period of time that is less than the limitation established in section 3105.

Sec. 24. 15 MRSA § 3304, sub-§ 5, as enacted by PL 1977, c. 520, § 1, is amended by adding at the end a new sentence to read:

**The court may waive this requirement if it finds that the service is not possible and explains this finding in writing.**

Sec. 25. 15 MRSA § 3306, sub-§ 1, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

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. **At every subsequent appearance before the court, the juvenile shall be advised of his right to be represented by counsel.**

Sec. 26. 15 MRSA § 3307, sub-§ 1, 1st sentence, as enacted by PL 1977, c. 520, § 1, is amended to read:

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.

Sec. 27. 15 MRSA § 3307, sub-§ 2, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

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 murder~~ 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.

Sec. 28. 15 MRSA § 3307, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**B. The general public shall be excluded from all other juvenile hearings and proceedings, except that a juvenile charged with a juvenile crime that would constitute murder or a Class A, Class B or Class C offense and with a juvenile crime that would constitute a Class D or Class E offense or with conduct described in section 3103 subsection 1, paragraphs B, C, D or E arising from the same underlying transaction may elect to have all charges adjudicated in one hearing, and where a juvenile does so elect, the general public shall not be excluded from that hearing.**

Sec. 29. 15 MRSA § 3307, sub-§ 3, as enacted by PL 1977, c. 520, § 1, is amended to read:

3. **Record.** A verbatim record shall be made of all ~~proceedings that might result in an adjudication that a juvenile crime was committed~~ detention, bind-over, adjudicatory and dispositional hearings.

Sec. 30. 15 MRSA § 3308, sub-§ 6, is enacted to read:

6. **Records to Secretary of State.** Whenever a juvenile has been adjudicated as having committed a juvenile crime involving the operation of a motor vehicle, the court shall forthwith transmit to the Secretary of State an abstract, duly certified, setting forth the name of the juvenile, the offense, the date of the offense, the date of the adjudicatory hearing and any other pertinent facts. These records shall be admissible in evidence in hearings conducted by the Secretary of State or any of his deputies and shall be open to public inspection.

Sec. 31. 15 MRSA § 3310, sub-§ 3, as enacted by PL 1977, c. 520, § 1, is amended to read:

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~~ 2616, subsection 1 and section 2251, then subsection 2 shall not apply and the court shall proceed pursuant to section 3318.

Sec. 32. 15 MRSA § 3310, sub-§ 5, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

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

Sec. 33. 15 MRSA § 3311, sub-§ 1, last sentence, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**In the absence of the request, the court may order the person who prepared the report or other material to testify if it finds that the interests of justice require it. The parents, guardian or other legal custodian of the juvenile shall be informed that information for the report is being gathered.**

Sec. 34. 15 MRSA § 3314, sub-§ 1, ¶ A, as enacted by PL 1977, c. 520, § 1, is amended to read:

A. The court may ~~place~~ allow the juvenile to remain in the legal custody of his parents or a guardian under such conditions as the court may impose.

Sec. 35. 15 MRSA § 3314, sub-§ 1, ¶ B, sub-¶ (2), as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

(2) **The supervised work program is of a constructive nature designed to**

**promote rehabilitation and is appropriate to the age level and physical ability of the juvenile; and**

Sec. 36. 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. 37. 15 MRSA § 3314, sub-§ 1, ¶ H, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**H. The court may commit the juvenile to the Maine Youth Center and order that the sentence be suspended except for a period of detention which shall not exceed 30 days, which may be served intermittently as the court may order and which 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 nonsecure group care home or halfway house. The court may order such a sentence to be served as a part of, and with, a period of probation, which shall be subject to such provisions of Title 17-A, section 1204 as the court may order and which shall be administered pursuant to Title 34, chapter 121, subchapter V-A.**

Sec. 38. 15 MRSA § 3314, sub-§ 2, as enacted by PL 1977, c. 520, § 1, is amended to read:

**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~~ juvenile to a period of probation which shall be subject to such provisions of Title 17-A, section 1204 as the court may order and which shall be administered pursuant to the provisions of Title 34, chapter 121, subchapter ~~V~~ V-A.

Sec. 39. 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, except that the period of probation of a juvenile convicted of a juvenile crime as defined by section 3103, subsection 1, paragraphs B, C, D or E, shall not exceed one year.**

Sec. 40. 15 MRSA § 3315, sub-§ 1, 3rd sentence, as enacted by PL 1977, c. 520, § 1, is amended to read:

**A report of the review shall be made in writing to the juvenile's parents ~~or~~, guardian or legal custodian.**

Sec. 41. 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. 42. 15 MRSA § 3318, sub-§ 1, as enacted by PL 1977, c. 520, § 1, is amended to read:

1. **Suspension of proceedings.** If it appears that a juvenile may be mentally ill or incapacitated as defined in Title 34, section ~~2066~~ 2616, 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 ~~2151~~ 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 examination, 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.

Sec. 43. 15 MRSA § 3318, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 1, is amended to read:

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~~ 2616, subsection 1 and section ~~2251~~, subsection 5.

Sec. 44. 15 MRSA § 3401, sub-§ 2, ¶ C, as enacted by PL 1977, c. 520, § 1, is amended to read:

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

Sec. 45. 15 MRSA § 3402, sub-§ 3, ¶ C, as enacted by PL 1977, c. 520, § 1, is amended to read:

C. Any ~~pretrial~~ order which deprives the prosecution of evidence; or

Sec. 46. 15 MRS § 3405, as enacted by PL 1977, c. 520, § 1, is amended to read:

**§ 3405. Stays of orders and release pending appeal**

1. **Who may apply for stay and release.** 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 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. Any continued detention or release ordered by the court shall be pursuant to section 3203, subsection 4. If stay or release is denied, the juvenile may appeal for immediate review of that order to the Superior Court, which shall place the matter on an expedited docket.~~

~~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~~ release pending appeal is denied, the court shall place the ~~matter~~ appeal for review of the judgment of conviction on an expedited docket.

Sec. 47. 15 MRS § 3501, sub-§ 9, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

9. **Interim care, identification of juvenile.** No fingerprints of a juvenile taken into interim care pursuant to this section may be obtained from the juvenile. Solely for the purpose of restoring a juvenile to his residence, the juvenile's name, address, photograph and other reasonably necessary information may be obtained and transmitted to any appropriate person or agency.

Sec. 48. 15 MRS § 3503, as enacted by PL 1977, c. 520, § 1, is repealed and the following enacted in its place:

**§ 3503. 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 legal custodian agree to the juvenile's return home, the parents, guardian or legal custodian shall cause the juvenile to be transported home as soon as practicable. If the parents, guardian or legal custodian fail to arrange for the transportation of the juvenile, he shall be transported at the expense of the parents, guardian or legal custodian.

Sec. 49. 34 MRSA § 262, sub-§ 2, 1st ¶, last sentence, as enacted by PL 1977, c. 520, § 2, is amended to read:

The plan shall be submitted to the Governor and, Legislature and Judicial Department.

Sec. 50. 34 MRSA § 262, sub-§ 2, ¶ B, as enacted by PL 1977, c. 520, § 2, is amended to read:

~~B. To the best of the department's ability, the~~ The plan shall include projected numbers of juveniles to be served by type of service, including 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 alteration or remodeling of existing facilities.

Sec. 51. 34 MRSA § 269, 1st sentence, as enacted by PL 1977, c. 520, § 2, is amended to read:

In any district where an intake worker is established, ~~he the Commissioner of Mental Health and Corrections~~ may appoint a community conference committee, composed of citizen volunteers.

Sec. 52. 34 MRSA § 1682, sub-§ 5, is enacted to read:

5. Arrest powers. As to juveniles placed under their supervision, 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

Section 1 merely corrects a typographical error.

Section 2 clarifies that the responsibility of the juvenile court is to decide whether or not to permit the State to proceed against the juvenile as if he were an adult.

Section 3 deletes the definition of intake.

Section 4 makes more specific the definition of "intake worker."

Section 5 makes more specific the definition of “juvenile court.”

Section 6 adds an internal cross reference.

Section 7, for more simplified reference, deletes the listing of offenses over which the juvenile court has jurisdiction and redesignates succeeding paragraphs appropriately. The listing is, by section 11 of this bill, moved to Title 15, section 3103, subsection 1.

Section 8 conforms the wording of the affected section to that of the Maine Criminal Code.

Section 9 specifies the juvenile crimes which may result in the juvenile court’s binding over a juvenile to the Superior Court and applies the “preponderance of the evidence” standard to the requisite judicial findings regarding “the maturity of the juvenile” and “the nature and seriousness of the alleged juvenile crime.” This section also conforms the affected paragraph to the Maine Juvenile Code’s usage, by changing the word “child” to “juvenile.”

Section 10 removes a superfluous sentence and requires that if a District Court binds over a juvenile to Superior Court that his order be accompanied by written reasons supporting his finding of probable cause and the waiving of jurisdiction.

Section 11 more clearly describes the relation of juvenile crimes to the Maine Criminal Code (Title 15, section 3103, subsection 1, paragraph A), deletes private acts or ordinances as reference sources for conduct which, if committed by an adult, would be defined as criminal (Title 15, section 3103, subsection 1, paragraph A), lists the included and excluded offenses deleted from another section of the Maine Juvenile Code by section 7 of the bill (Title 15, section 3103, subsection 1, paragraphs A and E), makes section 3103, subsection 1, paragraphs B and C conform to each other stylistically, and establishes a new juvenile offense. The reason this new offense is needed is to provide the court with adequate powers to enforce its orders. Currently, if a juvenile is adjudicated to have committed either the illegal possession of marijuana (see Title 15, section 3103, subsection 1, paragraph B) or the illegal purchase or consumption of intoxicating liquor (see Title 15, section 3103, subsection 1, paragraph C), then the Maine Juvenile Code limits the court’s dispositional powers and prevents it from ordering the juvenile detained. Thus, this section seeks to increase the court’s dispositional powers by adding the following new offense to the category of “juvenile crime:” It shall be a juvenile crime if a juvenile, having been adjudicated to have committed either a marijuana or liquor offense described in Title 15, section 3103, subsection 1, paragraphs B and C, willfully refused to pay a resulting fine or willfully violates the terms of a resulting probation. If such an offense was committed, the court could then order detention.

Section 12 incorporates by reference the statute of limitations applicable to

adult crimes, and adds to it a one-year limitation for possession of marijuana or intoxicating liquor and for operating motor vehicles, snowmobiles or watercraft under the influence of intoxicating liquor or drugs.

Section 13 makes clear that not only arrested, but also unarrested juveniles may be referred to intake workers, but that, of these, only those against whom a law enforcement officer believes juvenile court proceedings should be commenced should be referred to intake workers; and exempts from this requirement juveniles accused of a major crime such as homicide, the investigation of which is the responsibility of the Attorney General.

Section 14 clarifies that a parent, guardian, etc., will be informed that a detention hearing will be held; and shortens the maximum permissible duration of a juvenile detention which has not been judicially reviewed.

Section 15 conforms the affected subsection to section 13 of the bill which in part makes clear that unarrested as well as arrested juveniles may be referred to an intake worker; and deletes weekends and legal holidays from the time within which law enforcement officers must provide a brief written report of a matter referred to an intake worker.

Section 16 makes clear that any release or detention of a juvenile is not merely for the interim pending adjudication, but also pending an intake decision not to refer a juvenile for prosecution (Title 15, section 3203, subsection 4, paragraph A); adds to the Maine Juvenile Code several forms of conditional release (Title 15, section 3203, subsection 4, paragraph B); makes more specific the permissible grounds for detention (Title 15, section 3203, subsection 4, paragraph C); and deletes from the Maine Juvenile Code the exclusion of weekends and legal holidays from the time within which an intake worker must petition the juvenile court for a review of an intake detention decision.

Section 17 adds a standard (preponderance of the evidence) for judicial review of an intake worker's detention decision, and provides to the court all the forms of release and all the grounds of detention provided to intake workers by section 16 of the bill.

Section 18, for clarity, rearranges the paragraphs of Title 15, section 3203, subsection 7 and adds to the requisites of a "receiving facility" a requirement that arrested juveniles have "no regular contact" with adult arrestees or convicts.

Section 19 repeals the Maine Juvenile Code's provision of bail for juveniles pending adjudication.

Section 20 deletes subsections 1 and 2 from Title 15, section 3204 so as to allow current case law standards to prevail on questions of the admissibility in court of statements made by a juvenile while in custody; and specifies that any statements



of a juvenile to an intake worker shall not be admissible in evidence against that juvenile.

Section 21 repeals Title 15, section 3301, subsections 2, 3 and 4.

Section 22 clarifies the existing provision for an appeal from an intake worker's decision not to request that a petition be filed, in order to make clear that a decision to take no action, to refer for voluntary services, or to adjust a complaint informally are all subject to appeal; and makes clearer that either a victim or a complainant may appeal, acting alone; allows the prosecuting attorney, on his own motion, to review the intake worker's decision; uses the phrase "prosecuting attorney" to refer to both a district attorney and the Attorney General.

Section 23 makes clear that the court is authorized, on its own motion, to dismiss petitions not timely filed; and allows the prosecuting attorney to seek from the court an extension of the 6-month time limit for the filing of a petition.

Section 24 allows the court to waive the requirement that parents of a juvenile be served with a summons; the court may do this only if it finds that this service is impossible and explains why in writing.

Section 25 deletes an unnecessary word and adds a requirement that a juvenile shall be advised of his right to be represented by counsel not only at his first appearance before the court, but at every subsequent appearance.

Section 26 removes an unnecessary phrase.

Section 27 conforms the wording of the affected paragraph to that of the Maine Criminal Code.

Section 28 provides that, where a juvenile is charged with an offense subject to a public hearing and with one which is not, he may elect to have them tried together in a single, public hearing.

Section 29 adds to the kinds of proceedings at which a verbatim record must be made.

Section 30 provides an exception to the Maine Juvenile Code's provisions regarding confidentiality of records, to permit transmission of abstracts of juvenile cases involving the operation of a motor vehicle to the Secretary of State.

Section 31 corrects a statutory reference.

Section 32 confirms the court's traditional discretion in making adjudications.

Section 33 simplifies the wording of this subsection and adds the requirements that the parents, guardian or custodian of the juvenile be informed that information for a disposition report is being gathered.

Section 34 affirms that a juvenile is in the legal custody of his parents or guardian until the court changes this status.

Section 35 deletes “counseling” as a requirement of a supervised work program.

Section 36 makes clear that commitments to the Department of Human Services may be for the purpose of providing services to a juvenile in his own home.

Section 37 adds an underlying but suspended sentence of commitment to the Maine Youth Center to the Maine Juvenile Code’s existing provision for “split” or “shock” sentences; and adds nonsecure juvenile facilities as places in which these sentences may be served.

Section 38 changes a word to make the Maine Juvenile Code’s vocabulary consistent and incorporates by reference the conditions of probation provided for adults by the Maine Criminal Code.

Section 39 incorporates by reference the Maine Criminal Code’s provisions regarding the duration of probation and modification of and discharge from probation and provides a one-year limit on probation following conviction of possession of marijuana or intoxicating liquor or operation of motor vehicles, snowmobiles or watercraft while under the influence of intoxicating liquor or drugs.

Section 40 adds a phrase to make the Maine Juvenile Code’s vocabulary internally consistent.

Section 41 limits indeterminate commitments to the Department of Mental Health and Corrections to a juvenile’s 19th birthday instead of his 21st, unless expressly limited or extended by the court at the dispositional hearing.

Section 42 corrects 4 statutory references.

Section 43 corrects 2 statutory references.

Section 44 changes a word to make the Maine Juvenile Code’s vocabulary internally consistent.

Section 45 allows the State to appeal any order (rather than any pretrial order) which deprives the prosecution of evidence.

Section 46 deletes from the Maine Juvenile Code’s provisions for appeals from denials of stays of orders and release the present authorization of bail, makes available to the court at this stage the same conditions of release and grounds for detention provided elsewhere by this bill for intake worker decisions of release or detention and for judicial review of those decisions, and provides that appeals

from denials of stay and release, as well as appeals from the underlying adjudication, shall be placed on expedited dockets.

Section 47 changes a word to make the Maine Juvenile Code's vocabulary consistent and forbids fingerprints to be obtained from a juvenile taken into interim care, but permits the juvenile's photograph, name, address and other "reasonably necessary information" to be obtained and transmitted to others where this is done solely for the purpose of returning the juvenile to his home. (The Maine Juvenile Code's present provision permits all of the above to be obtained and specifies no purpose, but forbids their transmission.)

Section 48 adds a word to make the Maine Juvenile Code's vocabulary internally consistent and clarifies the Maine Juvenile Code to make clear that the primary responsibility for transportation of a juvenile from interim care to his home lies with the juvenile's parents, guardian or legal custodian.

Section 49 adds the Judicial Department to whom the Department of Mental Health and Corrections must submit an annual plan, in addition to the Legislature and Governor.

Section 50 removes an unnecessary phrase.

Section 51 shifts from the intake worker to the Commissioner of Mental Health and Corrections the authority to appoint members of community conference committees.

Section 52 gives juvenile probation officers the police power to arrest juveniles placed under their supervision.