

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1488

H. P. 1241

House of Representatives, March 28, 1979

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. D. Carter of Winslow.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Create a Pre-petition Settlement Phase in the Juvenile Justice System
by Utilizing a Panel of Juvenile Peers.**

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

Sec. 1. 15 MRSA § 3003, sub-§ 20-A is enacted to read:

20-A. Panel of juvenile peers. "Panel of juvenile peers" means a group of juveniles selected under section 3301.

Sec. 2. 15 MRSA § 3003, sub-§ 22-A is enacted to read:

22-A. Pre-petition settlement. "Pre-petition settlement" means a voluntary arrangement between a panel of juvenile peers and juvenile alleged to have committed a juvenile crime.

Sec. 3. 15 MRSA § 3301, sub-§ 5, ¶C, as enacted by PL 1977, c. 664, § 22, is amended to read:

C. If the intake worker determines that the facts are sufficient for the filing of a petition **concerning murder or for Class A, B or C offense**, he may request the prosecuting attorney to file a petition.

Sec. 4. 15 MRSA § 3301, sub-§ 5, ¶D is enacted to read:

D. If the intake worker determines that the facts are sufficient for the filing of a petition or a candidate for informal adjustment, he may offer to the juvenile who is alleged to have committed a Class D or E crime, as defined in section 3103, subsection 1, paragraphs B, C, D or E, the choice of appearing before a panel of juvenile peers for a pre-petition settlement session, instead of the prosecutor's filing a petition.

(1) If the juvenile and his parents, guardian or legal custodian decide that the juvenile will not enter into the pre-petition settlement, the intake worker shall request the prosecutor to file a petition in accordance with his prior decision.

(2) The panel of juvenile peers shall consist of 7 juveniles selected by the intake worker in his discretion from among a group of juvenile volunteers of ages 12 to 17. Each panel shall serve for a period to be discretionary with the intake worker.

(3) The terms of the pre-petition settlement shall be set by the panel of juvenile peers in an informal session under the supervision of an intake worker. The panel of juvenile peers sits during a pre-petition settlement session and determines what the terms of the pre-petition settlement will be.

(4) Pre-petition settlements shall not extend longer than 6 months and shall not be commenced 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 his constitutional rights, including the right to an adjudicatory hearing and the right to be represented by counsel under section 3306;

(b) The facts establish prima facie jurisdiction, except that any admission made in connection with this pre-petition settlement cannot be used in evidence against the juvenile if a petition based on the same set of facts is filed;

(c) Written consent to the pre-petition settlement is obtained from the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated;

(d) It has been determined that the juvenile alleged to have committed the juvenile crime has never before had a petition filed against him for allegedly committing a juvenile crime or who has been acquitted of any charges brought; and

(e) It has been determined that the juvenile alleged to have committed the juvenile crime has not previously entered an informal adjustment on this set of facts.

(5) After the intake worker has convened the pre-petition settlement session and has read to the panel of juvenile peers his report of the alleged juvenile

crime and the juvenile has been given an opportunity to present to the panel his version of the incident, orally or in writing, the panel of juvenile peers shall set the terms for the pre-petition settlement from among the following:

- (a) Restitution;
 - (b) Community service; and
 - (c) Any appropriate alternative or combination of divisions (a) and (b).
- (6) After the panel of juvenile peers has set the appropriate terms the intake worker shall set an appropriate time within which the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated, shall decide whether they will accept the pre-petition settlement.
- (7) If the juvenile, his parents, guardian or legal custodian decide that the juvenile will not enter into the pre-petition settlement the intake worker shall request the prosecutor to file a petition in accordance with his prior decision.
- (8) If the juvenile decides to enter the pre-petition settlement the intake worker shall monitor the arrangement to ensure that the juvenile abides by the terms of the pre-petition settlement.
- (9) If the juvenile enters the pre-petition settlement and does not abide by its terms the intake worker shall request the prosecutor to file a petition in accordance with his prior decision.

Sec. 5. 15 MRSA § 3306, sub-§ 3 is enacted to read:

3. Pre-petition settlement. The juvenile shall have no right to be represented by counsel at the pre-petition settlement session.

Sec. 6. Applicability. The provisions of this Act shall apply only to Intake Worker District Number 3 and be evaluated for inclusion in the 1982 annual departmental plan pursuant to the Revised Statutes, Title 34, section 262, subsection 2.

Sec. 7. Repeal. This Act is repealed on January 31, 1982.

STATEMENT OF FACT

The purpose of this bill is to provide another informal settlement alternative in the juvenile justice system by utilizing a panel of juvenile peers. A program is established whereby a juvenile alleged to have committed a Class D or E crime or one of the special juvenile crimes and who has never had a petition filed against him, has the option of entering a pre-petition settlement with a panel of juvenile peers. The option is only available when the intake worker decides that a petition should be filed and the juvenile has not previously entered an informal adjustment for the same set of facts.

The panel of juvenile peers sets the terms of the informal agreement. The settlement may be in the form of restitution, community service or any appropriate alternative and if the juvenile does not abide by his agreement with the panel of juvenile peers, a petition is filed against him.

This pre-petition settlement will provide juveniles who have never before had a petition filed against them another route out of the juvenile justice system.

The bill has a sunset provision whereby it is automatically repealed in 1982 unless reenacted.

The bill establishes an experimental program which will apply only to Intake Worker District Number 3.