

MAINE STATE LEGISLATURE

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L.D. 1069

(Filing No. H- 406)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 746, L.D. 1069, Bill, "AN ACT to Amend and Clarify the Maine Juvenile Code."

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'Sec. 1. 15 MRSA §3003, sub-§2-A is enacted to read:

2-A. Attendant; attendant care. "Attendant" means an agent of a county sheriff or of the Department of Corrections who is authorized to provide temporary supervision of a juvenile alleged to have committed a juvenile crime. Supervision shall be exercised during that period beginning with receipt of the juvenile by the attendant and ending upon the release of the juvenile to his legal custodian or other responsible adult. This supervision constitutes "attendant care."

Sec. 2. 15 MRSA §3003, sub-§10, as enacted by PL 1977, c. 520, §1, is amended to read:

10. Informal adjustment. "Informal adjustment" means a voluntary arrangement between an intake worker a juvenile caseworker and a juvenile referred to him which provides sufficient basis for a decision by the intake worker juvenile caseworker not to file a petition under chapter 507.

Sec. 3. 15 MRSA §3003, sub-§12, as amended by PL 1981, c. 493, §2, is repealed.

Sec. 4. 15 MRSA §3003, sub-§§14-A and 14-B are enacted to read:

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1 14-A. Juvenile arrest. "Juvenile arrest" means
2 the taking of an accused juvenile into custody in
3 conformance with the law governing the arrest of per-
4 sons believed to have committed a crime.

5 14-B. Juvenile caseworker. "Juvenile casework-
6 er" means an agent of the Department of Corrections
7 authorized:

8 A. To perform juvenile probation functions;

9 B. To provide appropriate services to juveniles
10 committed to the Maine Youth Center who are on
11 leave or in the community on entrustment; and

12 C. To perform all caseworker functions estab-
13 lished by this Part for a juvenile alleged to
14 have committed a juvenile crime.

15 Sec. 5. 15 MRSA §3003, sub-§24, as amended by PL
16 1981, c. 493, §2, is repealed.

17 Sec. 6. 15 MRSA §3003, sub-§24-A is enacted to
18 read:

19 24-A. Secure detention facility. "Secure deten-
20 tion facility" means a facility characterized by
21 physically restrictive construction or procedures, or
22 both, that are intended to prevent a person who is
23 placed or admitted to the facility from departing at
24 will.

25 Sec. 7. 15 MRSA §3003, sub-§§26 and 27 are en-
26 acted to read:

27 26. Temporary holding resource. "Temporary
28 holding resource" means an area consisting of not
29 more than 2 rooms, with a capacity to serve no more
30 than 4 juveniles, which may be used to provide secure
31 or nonsecure shelter for a juvenile for a period not
32 to exceed 72 hours. The level of security provided

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1 is dependent on the intensity of personal supervision
2 employed rather than on the physical characteristics
3 of the facility.

4 27. Temporary supervision. "Temporary supervi-
5 sion" means that supervision provided by an attendant
6 delivering attendant care as defined in subsection
7 2-A.

8 Sec. 8. 15 MRSA §3203, as amended by PL 1983, c.
9 581, §1, is repealed.

10 Sec. 9. 15 MRSA §3203-A is enacted to read:

11 §3203-A. Arrested juveniles; release; detention; no-
12 tification

13 1. Notification of a juvenile caseworker. A ju-
14 venile caseworker shall receive notification under
15 the following circumstances.

16 A. When, in the judgment of a law enforcement
17 officer, Juvenile Court proceedings should be
18 commenced against a juvenile, but detention is
19 not necessary, the law enforcement officer shall
20 notify a juvenile caseworker as soon as possible
21 after such a determination is made; but if the
22 juvenile has been arrested, the law enforcement
23 officer shall notify the juvenile caseworker
24 within 12 hours following the arrest.

25 B. When, in the judgment of a law enforcement
26 officer, a juvenile should be detained prior to
27 his initial appearance in juvenile court, the law
28 enforcement officer shall immediately notify a
29 juvenile caseworker.

30 (1) Detention under this section shall be
31 requested by the law enforcement officer
32 within 2 hours after the juvenile's arrest
33 or the juvenile shall be released.

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1 (2) After the law enforcement officer noti-
2 fies the juvenile caseworker and requests
3 detention, the juvenile caseworker shall or-
4 der the conditional or unconditional release
5 or shall effect a detention placement within
6 12 hours following the juvenile's arrest.

7 (3) During the 12-hour period referred to
8 in subparagraph (2), any secure physical
9 confinement of the juvenile shall require
10 the approval of the juvenile caseworker.
11 The juvenile caseworker shall approve secure
12 physical confinement during the custody pe-
13 riod only when it is necessary to prevent
14 imminent escape or to prevent the juvenile
15 from harming himself or others. Secure
16 physical confinement exists when the juve-
17 nile is placed within a locked setting.

18 C. In cases under Title 5, section 200-A, the
19 law enforcement officer shall immediately notify
20 the Department of the Attorney General. The At-
21 torney General or any of his deputies or assist-
22 ants shall act as and shall possess all the pow-
23 ers and responsibilities of a juvenile caseworker
24 specified in this section.

25 2. Notification of legal custodian. A legal
26 custodian shall receive notification under the fol-
27 lowing circumstances.

28 A. When a juvenile is arrested, the law enforce-
29 ment officer or the juvenile caseworker shall no-
30 tify the legal custodian of the juvenile without
31 unnecessary delay and inform him of the
32 juvenile's whereabouts, the name and telephone
33 number of the juvenile caseworker who has been
34 contacted and, if a juvenile has been placed in a
35 detention facility, that a detention hearing will
36 be held within 48 hours following this placement,
37 except that this paragraph does not require any
38 such hearing to be held on a Saturday, Sunday or

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1 legal holiday.

2 B. Notification required by paragraph A may be
3 made to a person of sufficient maturity with whom
4 the juvenile is residing if the juvenile's legal
5 custodian cannot be located.

6 3. Law enforcement officer's report. An officer
7 who notifies a juvenile caseworker pursuant to sub-
8 section 1, paragraph A or B shall file a brief writ-
9 ten report with the juvenile caseworker, stating the
10 facts which led to the referral. The report shall
11 contain sufficient information to establish the ju-
12 risdiction of the Juvenile Court.

13 A report pursuant to subsection 1, paragraph A, must
14 be filed within 24 hours of the referral, excluding
15 nonjudicial days. A report pursuant to subsection 1,
16 paragraph B, must be filed within 24 hours of the re-
17 referral.

18 4. Release or detention ordered by juvenile
19 caseworker. The release or detention of a juvenile
20 may be ordered by a juvenile caseworker as follows.

21 A. A juvenile caseworker shall direct the re-
22 lease or detention of a juvenile pending his ini-
23 tial appearance before the court.

24 B. Release may be unconditional or conditioned
25 upon the juvenile's promise to appear for subse-
26 quent official proceedings or, if a juvenile can-
27 not appropriately be released on one of these 2
28 bases, upon the least onerous of the following
29 conditions, or combination of conditions, neces-
30 sary to ensure his appearance:

31 (1) Upon the written promise of his legal
32 custodian to produce the juvenile for subse-
33 quent official proceedings or at any place or
34 time when so ordered by the juvenile case-
35 worker or the Juvenile Court;

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1 (2) Upon the juvenile's voluntary agreement
2 to placement into the care of a responsible
3 person or organization;

4 (3) Upon prescribed conditions, reasonably
5 related to securing the juvenile's presence
6 at subsequent official proceedings or at any
7 place or time when so ordered by the juve-
8 nile caseworker or the court, restricting
9 the juvenile's activities, associations,
10 residence or travel; or

11 (4) Upon such other prescribed conditions
12 as may be reasonably related to securing the
13 juvenile's presence at subsequent official
14 proceedings or at any place or time when so
15 ordered by the juvenile caseworker or the
16 court.

17 Upon imposition of any condition of release de-
18 scribed in subparagraph (2), (3) or (4), the ju-
19 venile caseworker shall provide the juvenile with
20 a copy of the condition imposed and inform the
21 juvenile of the right to have the condition re-
22 viewed by the Juvenile Court pursuant to subsec-
23 tion 10 of the consequences applicable to viola-
24 tion of any condition.

25 C. Detention, if ordered, shall be in the least
26 restrictive residential setting that will serve
27 the purposes of the Maine Juvenile Code as pro-
28 vided in section 3002 and one of the following
29 purposes of detention:

30 (1) To ensure the presence of the juvenile
31 at subsequent court proceedings;

32 (2) To provide physical care for a juvenile
33 who cannot return home because there is no
34 parent or other suitable person willing and
35 able to supervise and care for him adequate-

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1 ly;

2 (3) To prevent the juvenile from harming or
3 intimidating any witness or otherwise
4 threatening the orderly progress of the
5 court proceedings;

6 (4) To prevent the juvenile from inflicting
7 bodily harm on others; or

8 (5) To protect the juvenile from an immedi-
9 ate threat of bodily harm.

10 D. Detention of a juvenile in a detention facil-
11 ity may be ordered by the Juvenile Court or a ju-
12 venile caseworker when there is probable cause to
13 believe the juvenile:

14 (1) Has committed an act which would be
15 murder or a Class A, Class B or Class C
16 crime if committed by an adult;

17 (2) Has refused to participate voluntarily
18 in a conditional release placement;

19 (3) Has intentionally or knowingly violated
20 a condition imposed as part of conditional
21 release on a pending offense or has commit-
22 ted an offense subsequent to that release,
23 which would be a crime if committed by an
24 adult;

25 (4) Has committed the juvenile crime which
26 would be escape if the juvenile was an
27 adult;

28 (5) Has escaped from a facility to which
29 the juvenile had been committed pursuant to
30 an order of adjudication or is absent with-
31 out authorization from a prior placement by
32 a juvenile caseworker or the Juvenile Court;
33 or

1 (6) Has a prior record of failure to appear
2 in court when so ordered or summonsed by a
3 law enforcement officer, juvenile caseworker
4 or the court or has stated his intent not to
5 appear.

6 Nonetheless, when, in the judgment of the juve-
7 nile caseworker or the Juvenile Court, it is not
8 necessary or appropriate to detain a juvenile who
9 satisfies the criteria for detention, the juve-
10 nile caseworker or the Juvenile Court may order
11 the placement of the juvenile in the juvenile's
12 home or in an alternative facility or service,
13 such as a temporary holding resource, group home,
14 emergency shelter, foster placement or attendant
15 care, subject to specific conditions, including
16 supervision by a juvenile caseworker or a desig-
17 minated supervisor. Such a placement shall be con-
18 sidered a conditional release.

19 E. If a juvenile caseworker orders a juvenile
20 detained, the juvenile caseworker shall, within
21 24 hours, petition the Juvenile Court for a re-
22 view of the detention, unless the juvenile case-
23 worker has ordered the release of the juvenile
24 prior to the expiration of the 24-hour period.

25 5. Detention hearing. Upon petition by a juve-
26 nile caseworker, the Juvenile Court shall renew the
27 decision to detain a juvenile.

28 A. A detention hearing shall precede and shall
29 be separate from a bind-over or adjudicatory
30 hearing.

31 B. Following a detention hearing, a court shall
32 order a juvenile's release, in accordance with
33 subsection 4, unless it finds, by a preponderance
34 of the evidence, that continued detention is nec-
35 essary to meet one of the purposes of detention
36 provided in that subsection. The Juvenile Court

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- 1 shall ensure, by appropriate order, that any such
2 continued detention is otherwise in accordance
3 with the requirements of subsection 4.
- 4 C. No continued detention may be ordered unless
5 the Juvenile Court shall determine that there is
6 probable cause to believe that the juvenile has
7 committed a juvenile crime. That determination
8 shall be made on the basis of evidence, including
9 reliable hearsay evidence, presented in testimony
10 or affidavits.
- 11 6. Availability of judges. The Chief Judge of
12 the District Court shall provide that a Juvenile
13 Court Judge, not necessarily a judge of the division
14 where a juvenile is being held, is available to pre-
15 side at the detention hearing, described in subsec-
16 tion 5, on all days except Saturdays, Sundays and le-
17 gal holidays.
- 18 7. Restriction on place of detention. The fol-
19 lowing restrictions are placed on the facilities in
20 which a juvenile may be detained.
- 21 A. A juvenile may be detained in a jail or other
22 security facility intended for use or primarily
23 used for the detention of adults only when the
24 receiving facility:
- 25 (1) Contains a separate section for juve-
26 niles;
- 27 (2) Provides for no regular contact between
28 the juveniles with the adult detainees or
29 inmates; and
- 30 (3) Has an adequate staff to monitor and
31 supervise the juvenile's activities at all
32 times.
- 33 Juveniles detained in the adult receiving facili-
34 ties shall be placed only in the separate juve-

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1 nile sections.

2 B. A juvenile may be held in custody or deten-
3 tion in any detention facility approved or oper-
4 ated by the Department of Corrections exclusively
5 for juveniles, pending his release or hearing in
6 the Juvenile Court.

7 C. Upon the request of the Commissioner of Cor-
8 rections or his designee, a judge may approve the
9 transfer of a juvenile, who is detained at the
10 Maine Youth Center, to any jail or to another se-
11 ecure facility intended for use or used for the
12 detention of adults:

13 (1) If the judge finds, by clear and con-
14 vincing evidence, that:

15 (a) Jurisdiction of the matter as a
16 juvenile case has been waived and the
17 juvenile has been bound over pursuant
18 to section 3101, subsection 4; or

19 (b) A prosecutor has requested the
20 court to bind over the juvenile, pursu-
21 ant to section 3101, subsection 4, be-
22 cause he is accused of having committed
23 a subsequent offense, while committed
24 to the center;

25 (2) If the judge finds, by clear and con-
26 vincing evidence, that the juvenile's behav-
27 ior:

28 (a) Presents an imminent danger of
29 harm to himself or to others; or

30 (b) Presents a substantial likelihood
31 that the juvenile will absent himself
32 from the center; and

33 (3) If the judge finds, by clear and con-

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1 vincing evidence that there is no less re-
2 strictive alternative to detention in an
3 adult facility which will meet the purposes
4 of detention.

5 8. Detention. In the event that the court or-
6 ders detention, after detention hearing in accordance
7 with subsection 5, paragraph B, a petition shall be
8 filed within 10 days from the date of detention, un-
9 less the time therefore is extended by the court by
10 further order. In the event a petition is not so
11 filed, then detention shall be terminated and the ju-
12 venile discharged from detention.

13 9. Violation of conditions of release. Upon no-
14 tification that a juvenile has intentionally or know-
15 ingly violated a condition of his release, a juvenile
16 caseworker or a law enforcement officer may apply to
17 the Juvenile Court for a warrant of arrest.

18 A law enforcement officer having probable cause to
19 believe that a juvenile has violated a condition of
20 release in his presence may arrest the juvenile with-
21 out a warrant.

22 Following the arrest of a juvenile for violation of a
23 condition of his release, the law enforcement officer
24 shall immediately notify the juvenile caseworker.
25 The juvenile caseworker shall either direct the re-
26 lease of the juvenile with or without imposing dif-
27 ferent or additional conditions for release of the
28 juvenile or shall revoke release and order the juve-
29 nile detained for reasons set forth in subsection 4,
30 paragraph D.

31 If different or additional conditions of release are
32 imposed, the juvenile may request the Juvenile Court
33 to review the conditions pursuant to subsection 10.
34 The review of additional or different conditions
35 shall include a hearing to determine if the prepon-
36 derance of the evidence indicates that the juvenile
37 intentionally or knowingly violated a condition of

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1 release.

2 10. Juvenile Court to review for abuse of dis-
3 cretion. Upon the request of a juvenile or legal
4 custodian, the Juvenile Court shall, at the
5 juvenile's first appearance or within 7 days, review
6 for abuse of discretion, any condition of release im-
7 posed pursuant to subsection 4, paragraph B, subpara-
8 graph (2), (3) or (4).

9 Sec. 10. 15 MRSA §3204, as amended by PL 1979,
10 c. 681, §14 is further amended to read:

11 §3204. Statements not admissible in evidence

12 No statements of a juvenile made to an intake
13 worker shall a juvenile caseworker may be admissible
14 in evidence in any proceeding against that juvenile.

15 Sec. 11. 15 MRSA §3301, as amended by PL 1981,
16 c. 679, §§6 and 7 are further amended to read:

17 §3301. Preliminary investigation, informal adjust-
18 ment and petition initiation

19 1. Preliminary investigation. When a juvenile
20 accused of having committed a juvenile crime is re-
21 ferred to an intake worker a juvenile caseworker, the
22 intake worker juvenile caseworker shall, except in
23 cases in which an investigation is conducted pursuant
24 to Title 5, section 200-A, conduct a preliminary in-
25 vestigation to determine whether the interests of the
26 juvenile or of the community require that further ac-
27 tion be taken.

28 On the basis of the preliminary investigation, the
29 intake worker juvenile caseworker shall:

30 A. Decide that no further action is required,
31 either in the interests of the public or of the
32 juvenile;

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1 B. Make whatever informal adjustment is practi-
2 cable without a petition; or

3 C. Request a petition to be filed.

4 5. Juvenile caseworker alternatives. On the ba-
5 sis of the preliminary investigation, the intake
6 worker juvenile caseworker shall choose one of the
7 following alternatives:

8 A. Decide that no further action is required ei-
9 ther in the interests of the public or of the ju-
10 venile. If the intake worker juvenile caseworker
11 determines that the facts in the report prepared
12 for him by the referring officer pursuant to sec-
13 tion 3203, subsection 3, are sufficient to file a
14 petition, but in his judgment the interest of the
15 juvenile and the public will be served best by
16 providing the juvenile with services voluntarily
17 accepted by the juvenile and his parents, guardi-
18 an or legal custodian if the juvenile is not
19 emancipated, the intake worker juvenile
20 caseworker may refer the juvenile for that care
21 and treatment and not request that a petition be
22 filed;

23 B. Make whatever informal adjustment is practi-
24 cable without a petition. The intake worker ju-
25 venile caseworker may effect whatever informal
26 adjustment is agreed to by the juvenile and his
27 parents, guardian or legal custodian if the juve-
28 nile is not emancipated, including a restitution
29 contract with the victim of the crime. Informal
30 adjustments shall extend no longer than 6 months
31 and informal adjustments shall not be commenced
32 unless:

33 (1) The intake worker juvenile caseworker
34 determines that the juvenile and his par-
35 ents, guardian or legal custodian, if the
36 juvenile is not emancipated, were advised of
37 their constitutional rights, including the

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1 right to an adjudicatory hearing, the right
2 to be represented by counsel and the right
3 to have counsel appointed by the court if
4 indigent;

5 (2) The facts establish prima facie juris-
6 diction, except that any admission made in
7 connection with this informal adjustment
8 cannot be used in evidence against the juve-
9 nile if a petition based on the same facts
10 is later filed; and

11 (3) Written consent to the informal adjust-
12 ment is obtained from the juvenile and his
13 parents, guardian or legal custodian if the
14 juvenile is not emancipated; or

15 C. If the ~~intake worker~~ juvenile caseworker de-
16 termines that the facts are sufficient for the
17 filing of a petition, he may request the prose-
18 cuting attorney to file a petition.

19 6. Review by prosecuting attorney. If the ~~intake~~
20 ~~worker~~ juvenile caseworker decides not to request the
21 prosecuting attorney to file a petition, the com-
22 plainant, the law enforcement officer and the victim
23 shall be informed of the decision and of the reasons
24 therefor as soon as practicable and shall be advised
25 that they may submit their complaint to the prosecut-
26 ing attorney for review.

27 The prosecuting attorney on his own motion or upon
28 receiving a request for review by the law enforcement
29 officer, the complainant or the victim, shall consid-
30 er the facts of the case, consult with the ~~intake~~
31 ~~worker~~ juvenile caseworker who made the initial deci-
32 sion and then make a final decision as to whether the
33 petition shall be filed.

34 7. Nonapplication of section. The provisions of
35 this section do not apply to a juvenile charged with
36 the juvenile crime defined in section 3103, subsec-

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1 tion 1, paragraph F, and a petition may be filed
2 without recommendation by ~~an intake worker~~ a juvenile
3 caseworker. The provisions of section 3203 apply in
4 the case of a juvenile charged with the juvenile
5 crime defined in section 3103, subsection 1, para-
6 graph F.

7 Sec. 12. 15 MRSA §3303, as amended by PL 1983,
8 c. 176, Pt. A, §6, is further amended to read:

9 §3303. Dismissal of petition with prejudice

10 On motion made by or on behalf of a juvenile, or
11 by the court itself, a petition shall be dismissed
12 with prejudice if it was not filed within 6 months
13 from the date the juvenile was referred to the ~~intake~~
14 ~~worker~~ juvenile caseworker for an intake assessment,
15 unless the prosecuting attorney either before or af-
16 ter the expiration of the 6-month period files a
17 motion for an extension of time for the filing of a
18 petition, accompanied by the reasons for this exten-
19 sion. The court may for good cause extend the time
20 for bringing a petition for any period of time that
21 is less than the limitation established in section
22 3105.

23 Sec. 13. 15 MRSA §3304, sub-§6-A, as enacted by
24 PL 1979, c. 681, §17, is amended to read:

25 6-A. Effect of nonappearance of parent or custo-
26 dian. The failure of a parent, guardian or legal cus-
27 todian to appear in response to the summons or for a
28 later hearing, or the inability to serve such a par-
29 ty, shall not prevent the court from continuing with
30 the proceedings against a juvenile who is before the
31 court, except as provided in section 3314, subsection
32 1, paragraphs D and E.

33 Sec. 14. 15 MRSA §3308, sub-§5, as enacted by PL
34 1977, c. 520, §1, is amended to read:

35 5. Other records. Police records, ~~intake~~

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1 ~~workers-~~ juvenile caseworkers' records, probation of-
2 ficers' records and all other reports of social and
3 clinical studies shall not be open to inspection ex-
4 cept with consent of the court or except to the ex-
5 tent that such records, reports and studies were made
6 a part of the record of a hearing that was open to
7 the general public under section 3307.

8 Sec. 15. 15 MRSA §3314, sub-§1, ¶C, as amended
9 by PL 1983, c. 480, Pt. B, §17, is further amended to
10 read:

11 C. The court may commit a juvenile to the De-
12 partment of Corrections for placement in a group
13 home or residential facility when the continua-
14 tion of the juvenile remaining in his own home
15 would be contrary to the welfare of that juvenile
16 or to the Department of Human Services for place-
17 ment in a foster home, group care home or resi-
18 dential facility, or to either department for the
19 provision of services to a juvenile in his own
20 home or for any other placement the department
21 deems appropriate.

22 Sec. 16. 15 MRSA §3314, sub-§1, ¶¶C-1 and C-2
23 are enacted to read:

24 C-1. The court may commit a juvenile to the cus-
25 tody of the Department of Human Services when the
26 court has determined that reasonable efforts have
27 been made to prevent or eliminate the need for
28 removal of the juvenile from his home and that
29 continuation therein would be contrary to the
30 welfare of the juvenile. The court may not enter
31 an order under this paragraph unless the parents
32 have had notice and an opportunity to be heard at
33 the dispositional hearing.

34 Notwithstanding any other provision of law, the
35 court shall not commit a juvenile to the custody
36 of the Department of Human Services until at
37 least 10 days have elapsed from the date on which

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1 service pursuant to section 3304 was effected.

2 The Department of Human Services shall provide
3 for the care and placement of the juvenile as for
4 other children in the department's custody pursu-
5 ant to the Child and Family Services and Child
6 Protection Act, Title 22, chapter 1071, subchap-
7 ter VII.

8 C-2. The court may commit a juvenile to the cus-
9 tody of a relative or other person when the court
10 determines that this is in the best interest of
11 the juvenile. The court may not enter an order
12 under this paragraph unless the parents have had
13 notice and an opportunity to be heard at the dis-
14 positional hearing.

15 Sec. 17. 15 MRSA §3317, as amended by PL 1983,
16 c. 480, Pt. B, §22, is further amended to read:

17 §3317. Disposition after return to Juvenile Court

18 In instances of commitment of a juvenile to the
19 Department of Corrections, the Department of Human
20 Services or the Maine Youth Center, the commissioner
21 of either department or the superintendent of the
22 youth center following the commitment may for good
23 cause petition the Juvenile Court having original ju-
24 risdiction in the case for a judicial review of the
25 disposition, including extension of the period of
26 commitment. In all cases in which a juvenile is re-
27 turned to a Juvenile Court, the Juvenile Court may
28 make any of the dispositions otherwise provided in
29 section 3314. When reviewing a commitment to the De-
30 partment of Human Services, the court shall consider
31 efforts made by the Department of Corrections and the
32 Department of Human Services to reunify the juvenile
33 with his parents or custodians, shall make a finding
34 regarding those efforts and shall return custody of
35 the juvenile to the parent or legal custodian if the
36 return of the juvenile would not be contrary to the
37 welfare of the juvenile. A petition for judicial re-

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1 view of a disposition committing the child to the De-
2 partment of Human Services shall be served on the
3 parents at least 7 days prior to the hearing.

4 Sec. 18. 15 MRSA §3501, sub-§7, ¶B, as enacted
5 by PL 1977, c. 520, §1, is amended to read:

6 B. Notwithstanding paragraph A, a juvenile taken
7 into interim care may be held, if no other appro-
8 priate placement is available, in the public sec-
9 tions of a jail or other secure correctional fa-
10 cility if there is an adequate staff to supervise
11 the juvenile's activities at all times, including
12 an approved detention facility operated exclu-
13 sively for juveniles.

14 Sec. 19. 15 MRSA §3502, sub-§1, ¶A, as enacted
15 by PL 1981, c. 619, §10, is amended to read:

16 A. The Department of Corrections shall provide
17 for a placement referral service, staffed by ~~in-~~
18 ~~take workers~~ juvenile caseworkers for 24 hours a
19 day. This referral service shall make emergency
20 detention or conditional release decisions pursu-
21 ant to chapter 505 for all juveniles referred to
22 the department by law enforcement officers.

23 Sec. 20. 15 MRSA §3502, sub-§2, as repealed and
24 replaced by PL 1981, c. 619, §10, is amended to
25 read:

26 2. Placement procedures. Emergency placements
27 shall be arranged by ~~intake workers~~ juvenile
28 caseworkers or the Department of Human Services' per-
29 sonnel according to procedures and standards jointly
30 adopted by the Department of Corrections and the De-
31 partment of Human Services. Placement may include
32 voluntary care or short-term emergency services under
33 Title 22, sections 4021 to 4023.

34 Sec. 21. 15 MRSA §3507, as enacted by PL 1977,
35 c. 520, §1, is amended to read:

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1 §3507. Runaway juveniles returned from another state

2 When a juvenile who has left the care of his par-
3 ents, guardian or legal custodian without that
4 person's consent, is returned to Maine from another
5 state, he shall be referred immediately to an intake
6 ~~worker~~ a juvenile caseworker and shall be processed
7 according to the provisions of this chapter.

8 Sec. 22. 34-A MRSA §5602, as enacted by PL 1983,
9 c. 459, §6, is repealed and the following enacted in
10 its place:

11 §5602. Juvenile caseworker

12 1. Departmental employees. A juvenile casework-
13 er is an employee of the Department of Corrections.

14 2. Juvenile caseworker's functions. A juvenile
15 caseworker's functions are:

16 A. To serve as a juvenile probation officer;

17 B. To carry out all functions of a juvenile
18 caseworker delineated in the Maine Juvenile Code,
19 Title 15, Part 6; and

20 C. To provide appropriate services to juveniles
21 committed to the Maine Youth Center who are on
22 leave or in the community on entrustment.

23 3. Juvenile caseworker's duties. A juvenile
24 caseworker shall:

25 A. When directed, provided information to the
26 Maine Youth Center on juveniles committed to the
27 Maine Youth Center;

28 B. Make such investigations as the Juvenile
29 Court may direct and shall keep written records
30 of the investigations as the Juvenile Court may

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1 direct;

2 C. Use all suitable means, including counseling,
3 to aid each juvenile under his supervision and
4 shall perform such duties in connection with the
5 care and custody of juveniles as the court may
6 direct;

7 D. Keep informed as to the condition and conduct
8 of each juvenile placed under his supervision and
9 shall report on the condition and conduct to the
10 court and to the department as the court or de-
11 partment may direct;

12 E. When a juvenile is placed under his supervi-
13 sion, give the juvenile a written statement of
14 the conditions of his supervision and shall fully
15 explain the conditions to him; and

16 F. Keep complete records of all work done.

17 4. Juvenile caseworkers' powers. Juvenile
18 caseworkers shall have the same arrest powers as oth-
19 er law enforcement officers with respect to juveniles
20 placed under their supervision.

21 STATEMENT OF FACT

22 This amendment is the end product of 4 different
23 bills to amend the Maine Revised Statutes, Title 15,
24 the Maine Juvenile Code.

25 1. Legislative Document 1069, a bill submitted
26 by the Department of Corrections, drafted by the Ju-
27 venile Justice Advisory Group (JJAG), proposing
28 changes in the Maine Juvenile Code designed to facil-
29 itate the eventual removal of juveniles from county
30 jails.

31 2 Legislative Document 1185, a bill submitted by

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1 the Department of Corrections, proposing procedural
2 changes in the Maine Juvenile Code to reflect the
3 change from intake workers and juvenile probation of-
4 ficers to juvenile caseworkers, as well as to limit
5 the time a juvenile may be held prior to an actual
6 detention placement.

7 3. Legislative Document 563, a bill submitted on
8 behalf of the Department of the Attorney General,
9 proposing to authorize the Attorney General and his
10 assistants to act as juvenile caseworkers in all
11 cases under the Maine Revised Statutes, Title 5, sec-
12 tion 200-A.

13 4. A proposal from the Department of Human Ser-
14 vices insures that the Maine Juvenile Code complies
15 with the Federal Adoption Assistance and Child Wel-
16 fare Act of 1980. Legislative Document 1069 is
17 amended and rewritten to reflect all of those propos-
18 als and those proposed bills have been withdrawn.

19 Section 1 of Legislative Document 1069 adds defi-
20 nitions for attendant and attendant care. These defi-
21 nitions are proposed by the Juvenile Justice Advis-
22 ory Group and reflect previously suggested committee
23 amendments.

24 Section 2 changes the term intake worker to juve-
25 nile caseworker. This section was previously a part
26 of Legislative Document 1185.

27 Section 3 repeals the definition of intake work-
28 er.

29 Section 4 defines juvenile arrest and juvenile
30 caseworker. The definition of juvenile caseworker
31 reflects the merger of the previously separate func-
32 tions of juvenile intake workers, juvenile probation
33 officers and Maine Youth Center caseworkers into one
34 position called juvenile caseworker.

35 Section 5 repeals the definition of juvenile pro-

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1 bation officer.

2 Sections 6 and 7 define the terms secure deten-
3 tion facility, temporary holding resource and tempo-
4 rary supervision. These definitions are proposed by
5 the Juvenile Justice Advisory Group in anticipation
6 of the availability of those placements and the even-
7 tual removal of juveniles from county jails.

8 Section 8 repeals the Maine Revised Statutes, Ti-
9 tle 15, section 3203 which concerned arrested juve-
10 niles, their release or detention and notifications
11 concerning them. Section 3203 provided that, whenev-
12 er in the judgment of a law enforcement officer, ju-
13 venile proceedings should be commenced against a ju-
14 venile, the law enforcement officer must immediately
15 notify a juvenile caseworker.

16 Section 9 replaces the Maine Revised Statutes,
17 Title 15, section 3203 with section 3203-A and does
18 not require the law enforcement officer to immediat-
19 ly notify the juvenile caseworker in all circum-
20 stances when a juvenile is to be referred to court.
21 The Maine Revised Statutes, Title 15, section 3203-A,
22 subsection 1, paragraph A, provides that a law en-
23 forcement officer shall notify a juvenile caseworker
24 as soon as possible after a determination is made
25 that juvenile proceedings should be commenced against
26 a juvenile, if the juvenile has not been arrested.
27 If the juvenile has been arrested and detention is
28 not necessary, the law enforcement officer must noti-
29 fy the juvenile caseworker within 12 hours after the
30 arrest.

31 The Maine Revised Statutes, Title 15, section
32 3203-A, subsection 1, paragraph B, provides that, if,
33 in the judgment of a law enforcement officer, a juve-
34 nile should be detained prior to his initial appear-
35 ance in court, then the law enforcement officer must
36 immediately notify a juvenile caseworker. Paragraph
37 B, subparagraphs (1), (2) and (3) govern the length
38 of time a juvenile may be held prior to a detention

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1 placement. Essentially, pursuant to these sections,
2 a juvenile may be held for a maximum of 12 hours be-
3 fore a detention placement is effected.

4 Section 3203-A, subsection 1, paragraph B, pro-
5 vides that, in cases under the Maine Revised Stat-
6 utes, Title 5, section 200-A, the law enforcement of-
7 ficer shall immediately notify the Department of the
8 Attorney General, and also provides that the Attorney
9 General, his deputies and assistants, shall have all
10 powers of a juvenile caseworker specified in this
11 section. The substance of this paragraph was previ-
12 ously contained in Legislative Document 563 and was
13 proposed by the Department of the Attorney General.

14 Section 3203-A, subsection 2 is the same as the
15 present law except that the words parents and guardi-
16 an have been deleted because the term legal custodian
17 encompasses both terms. This change has been made
18 throughout the Maine Juvenile Code except in those
19 provisions relating to the Department of Human Ser-
20 vices custody.

21 There is no substantive change to section 3203-A,
22 subsection 3, concerning when and how a law enforce-
23 ment officer is to file a report concerning a juve-
24 nile.

25 Section 3203-A, subsection 4, paragraph A, is ex-
26 actly the same as present law. In section 3203-A,
27 subsection 4, paragraph B, the term "official" has
28 been substituted for the term "court." In paragraph
29 B, subparagraph (1), the word "official" has been
30 substituted for the word "court" and the phrase "or
31 at any place or time when so ordered by the juvenile
32 caseworker or the juvenile court" has been added. In
33 subparagraph (2) there is a change which would re-
34 quire the juvenile's voluntary agreement to placement
35 in the care of a responsible person or organization.
36 Subparagraph (4) substitutes the phrase "official
37 proceedings or at any place or time when so ordered
38 by the juvenile caseworker or the court for court

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1 proceedings" for the phrase "in court."

2 Section 3203-A, subsection 4, paragraph C,
3 changes the present law in that the present law pro-
4 vides that "detention shall be in the least restric-
5 tive residential setting that will serve the purposes
6 of detention," by adding that detention must also
7 serve the purposes of the Maine Juvenile Code as pro-
8 vided in section 3002. The purposes of detention
9 taken from the current statute are made clear and
10 listed. Paragraph D makes clear that detention may
11 only be ordered when there is probable cause to be-
12 lieve a juvenile fits into one of the 6 objective
13 categories listed, as opposed to present law which
14 provides that detention may be ordered only when it
15 is necessary to meet one of the enumerated purposes
16 of detention. Juvenile Justice Advisory Group has
17 proposed reasonable objective factors to take the
18 place of the presently enumerated subjective factors
19 to take the place of the presently enumerated subjec-
20 tive factors considered in making a detention deci-
21 sion. The last portion of section 3203-A, subsection
22 4, paragraph D, is the same as present law except for
23 the addition of the language "such as a temporary
24 holding resource group home, emergency shelter, fos-
25 ter placement or attendant care" following the word
26 "service."

27 Section 3203-A, subsection 4, paragraph E is the
28 same as present law with the addition of the last
29 phrase which allows the juvenile caseworker to re-
30 lease a detained juvenile prior to the expiration of
31 the 24 hour period during which a petition for judi-
32 cial review of detention must be filed.

33 Presently, section 3203-A, subsection 5, is the
34 same as current law, except that paragraph A, under
35 current section 3203 has become the first sentence of
36 section 3203-A; the succeeding paragraphs are simply
37 relettered.

38 Section 3203-A, subsection 6 is the same as

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1 present law.

2 Section 3203-A, subsection 7, paragraph A, is the
3 same as present law.

4 Section 3203-A, subsection 7, paragraph B, is an
5 addition to present law. It is proposed by the Juve-
6 nile Justice Advisory Group in anticipation of the
7 removal of all juveniles from county jails.

8 In section 3203-A, subsection 7, paragraph C, is
9 the same as current law.

10 Section 3203-A, subsection 8, is the same as
11 present section 3203, subsection 9.

12 Section 3203-A, subsection 9 is substantively the
13 same as current section 3203, subsection 4-A.

14 Section 3203-A, subsection 10 is the same as
15 present section 3203, subsection 5-A.

16 Sections 10, 11 and 12 of Legislative Document
17 1069, substitute the term juvenile caseworker for the
18 terms juvenile intake worker, Maine Youth Center
19 caseworker and juvenile probation officer. There are
20 no substantive changes in these sections.

21 Section 13 provides that parents must have notice
22 in order for the court to place custody in the De-
23 partment of Human Services or in a relative or other
24 person. It also makes changes to the Maine Juvenile
25 Code which are necessary if the Department of Human
26 Services is to meet federal guidelines and be eligi-
27 ble for federal funding.

28 Section 14 replaces the term intake worker with
29 juvenile caseworker.

30 Section 15 of the bill limits commitments to the
31 Department of Corrections for placement in a group
32 home or residential facility to those situations

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1 where remaining in the home would be contrary to the
2 welfare of the child.

3 Section 16 provides that commitment to the custo-
4 dy of the Department of Human Services can occur only
5 when the court has determined that reasonable efforts
6 to prevent or eliminate the need for placement have
7 been made and that remaining in the home would be
8 contrary to the welfare of the juvenile; and provides
9 for placement of a child who has committed a juvenile
10 crime in the custody of a relative or other person,
11 if that is found to be in the best interest of the
12 child.

13 It also ensures that, in cases in which the State
14 seeks to place custody of the child in the Department
15 of Human Services or in the custody of a relative or
16 other person, the parents are provided adequate no-
17 tice of the action and have the opportunity to be
18 heard.

19 Moreover, it makes changes to the Maine Juvenile
20 Code which are necessary if the Department of Human
21 Services is to meet federal guidelines and be eligi-
22 ble for federal funding.

23 Section 17 adds standards for judicial review for
24 children committed to the Department of Human Ser-
25 vices under the Maine Juvenile Code to require the
26 court to consider efforts to reunify the juvenile
27 with his family and to return custody to the parent
28 or legal guardian if that is not contrary to the wel-
29 fare of the juvenile. It also makes changes to the
30 Maine Juvenile Code which are necessary if the De-
31 partment of Human Services is to meet federal guide-
32 lines and be eligible for federal funding.

33 Section 18 is the same as present law except for
34 the addition of the phrase "including an approved de-
35 tention facility operated exclusively for juveniles."
36 This change is proposed by the Juvenile Justice Ad-
37 visory Group and is in anticipation of the eventual

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1 removal of all juveniles from county jails.

2 Sections 19, 20 and 21 change the term intake
3 worker to juvenile caseworker.

4 Section 22 repeals and replaces the Maine Revised
5 Statutes, Title 34-A, section 5602. It defines a ju-
6 venile caseworker's functions, duties and powers as
7 substantively the same as those set forth in current
8 section 5602 for intake workers, juvenile probation
9 officers and Maine Youth Center caseworkers. The on-
10 ly substantive change in the fuctions, duties and
11 powers repealed and replaced in section 5602 is the
12 deletion of the substance of current section 5602,
13 subsection 11, which required the caseworker to imme-
14 diately notify the court when a juvenile changed res-
15 idence to another district.

Reported by the Committee on Judiciary
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