

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1069

6
7 H.P. 746

House of Representatives, March 19, 1985

8 Submitted by the Department of Corrections pursuant to Joint Rule 24.
9 Referred to the Committee on Judiciary. Sent up for concurrence and
10 ordered printed.

EDWIN H. PERT, Clerk

11 Presented by Representative Priest of Brunswick.

Cosponsored by Senator Chalmers of Knox, Representative Lebowitz of
Bangor and Representative Cooper of Windham.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Amend and Clarify the Maine
18 Juvenile Code.
19

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

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

24 2-A. Attendant; attendant care. "Attendant"
25 means an agent of a county sheriff or of the Depart-
26 ment of Corrections who is authorized to provide tem-
27 porary supervision of a juvenile alleged to have com-
28 mitted a juvenile crime. Supervision shall be exer-
29 cised during that period beginning with delivery of
30 the juvenile by a law enforcement officer or other
31 authorized individual and ending upon the release of
32 the juvenile to his legal custodian or other respon-
33 sible adult. This supervision constitutes "attendant
34 care."

35 Sec. 2. 15 MRSA §3003, sub-§24-A is enacted to
36 read:

1 24-A. Secure detention facility. "Secure deten-
2 tion facility" means a facility characterized by
3 physically restrictive construction or procedures, or
4 both, that are intended to prevent a person who is
5 placed or admitted to the facility from departing at
6 will.

7 Sec. 3. 15 MRSA §3003, sub-§§26 to 28 are en-
8 acted to read:

9 26. Temporary holding resource. "Temporary
10 holding resource" means a facility consisting of not
11 more than 2 rooms in a public structure, with a ca-
12 capacity to serve no more than 4 juveniles, which may
13 be used to provide secure or nonsecure shelter for a
14 juvenile for a period not to exceed 72 hours. The
15 level of security provided in such a facility is de-
16 pendent on the intensity of personal supervision em-
17 ployed rather than on the physical characteristics of
18 the facility.

19 27. Temporary supervision. "Temporary supervi-
20 sion" means that supervision provided by an attendant
21 delivering attendant care as defined in subsection
22 2-A.

23 28. Uniform Juvenile Arrest Form. "Uniform Ju-
24 venile Arrest Form" means the complaint and summons,
25 authorized by the Juvenile Court and the Department
26 of Corrections, in accordance with section 3005, for
27 use by a law enforcement officer.

28 Sec. 4. 15 MRSA §3203, as amended by PL 1983, c.
29 581, §1, is repealed.

30 Sec. 5. 15 MRSA §3203-A is enacted to read:

31 §3203-A. Arrested juveniles; release; detention; no-
32 tification

33 1. Notification of a juvenile caseworker. A ju-
34 venile caseworker shall receive notification under
35 the following circumstances.

36 A. When, in the judgment of a law enforcement
37 officer, Juvenile Court proceedings should be
38 commenced against a juvenile, except in cases un-

1 der Title 5, section 200-A, the law enforcement
2 officer shall notify a juvenile caseworker within
3 24 hours, excluding nonjudicial days. The law
4 enforcement officer may, in his discretion, issue
5 a summons, using the Uniform Juvenile Arrest
6 Form, ordering the juvenile to appear for further
7 juvenile proceedings when notified. Such a sum-
8 mons shall have the same standing as a summons to
9 appear in court or a conditional release by a ju-
10 venile caseworker and shall carry the same penal-
11 ties for failure to comply. The complaint por-
12 tion of the Uniform Juvenile Arrest Form shall be
13 filed with the juvenile caseworker and shall
14 serve the purpose of notification as required by
15 this section.

16 Notwithstanding any provision of this section,
17 execution of a Juvenile Arrest Form by a juvenile
18 shall not constitute an admission of guilt nor a
19 waiver of the juvenile's right to a hearing on
20 the offense charged.

21 B. When, in the judgment of a law enforcement
22 officer, a juvenile should be detained prior to
23 his initial appearance in Juvenile Court, except
24 in cases under Title 5, section 200-A, the law
25 enforcement officer shall immediately notify a
26 juvenile caseworker and shall record his request
27 and the subsequent action of the juvenile case-
28 worker on the Uniform Juvenile Arrest Form. The
29 Uniform Juvenile Arrest Form shall also be used
30 to provide documentation of the arrest or the de-
31 tention decision, or both, for the agency exer-
32 cising any supervision ordered by the juvenile
33 caseworker.

34 2. Notification of legal custodian. A legal
35 custodian shall receive notification under the fol-
36 lowing circumstances.

37 A. When a juvenile is arrested, the law enforce-
38 ment officer or the juvenile caseworker shall no-
39 tify the legal custodian of the juvenile without
40 unnecessary delay and inform him of the
41 juvenile's whereabouts, the name and telephone
42 number of the juvenile caseworker who has been
43 contacted and, if a juvenile has been placed in a

1 detention facility, that a detention hearing will
2 be held within 48 hours following this placement,
3 except that this paragraph does not require any
4 such hearing to be held on a Saturday, Sunday or
5 legal holiday.

6 If a juvenile has been summonsed and released in
7 accordance with subsection 1, paragraph A, the
8 law enforcement officer shall mail the notifica-
9 tion portion of the Uniform Juvenile Arrest Form
10 to the parent or legal custodian of the juvenile
11 at the address furnished by the juvenile at the
12 time of arrest or summons.

13 B. Notification required by paragraph A may be
14 made to a person of sufficient maturity with whom
15 the juvenile is residing if the juvenile's legal
16 custodian cannot be located.

17 3. Law enforcement officer's report. An officer
18 who notifies a juvenile caseworker pursuant to sub-
19 section 1, paragraph A or B shall file a brief writ-
20 ten report with the juvenile caseworker, stating the
21 facts which led to the referral. The report shall
22 consist of the complaint portion of the Uniform Juve-
23 venile Arrest Form and shall contain sufficient infor-
24 mation to establish the jurisdiction of the Juvenile
25 Court.

26 A report pursuant to subsection 1, paragraph A, must
27 be filed within 24 hours of the referral, excluding
28 nonjudicial days. A report pursuant to subsection 1,
29 paragraph B, must be filed within 24 hours.

30 4. Release or detention ordered by juvenile
31 caseworker. The release or detention of a juvenile
32 may be ordered by a juvenile caseworker as follows.

33 A. A juvenile caseworker shall direct the re-
34 lease or detention of a juvenile pending his ini-
35 tial appearance before the court.

36 B. Release may be unconditional or conditional
37 upon the juvenile's promise to appear for subse-
38 quent official proceedings or, if a juvenile can-
39 not appropriately be released on one of these 2
40 bases, upon the least onerous of the following

1 conditions, or combination of conditions, neces-
2 sary to ensure his appearance:

3 (1) Upon the written promise of his legal
4 custodian to produce the juvenile for subse-
5 quent official proceedings, or at any place
6 or time when so ordered by the juvenile
7 caseworker or the Juvenile Court;

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

11 (3) Upon prescribed conditions, reasonably
12 related to securing the juvenile's presence
13 at subsequent official proceedings or at any
14 place or time when so ordered by the juve-
15 nil caseworker or the court, restricting
16 the juvenile's activities, associations,
17 residence or travel; and

18 (4) Upon such other prescribed conditions
19 as may be reasonably related to securing the
20 juvenile's presence at subsequent official
21 proceedings or at any place or time when so
22 ordered by the juvenile caseworker or the
23 court.

24 Upon imposition of any condition of release de-
25 scribed in subparagraph (2), (3) or (4), the ju-
26 venile caseworker shall provide the juvenile with
27 a copy of the condition imposed and inform the
28 juvenile of the right to have the condition re-
29 viewed by the Juvenile Court pursuant to subsec-
30 tion 6 and of the consequences applicable to vio-
31 lation of any condition.

32 C. Detention, if ordered, shall be in the least
33 restrictive residential setting that will serve
34 the purposes of the Maine Juvenile Code as pro-
35 vided in section 3002. Detention of a juvenile
36 in a detention facility may be ordered by the Ju-
37 venile Court or a juvenile caseworker when there
38 is probable cause to believe the juvenile:

39 (1) Has committed an act which would be
40 murder or a Class A, Class B or Class C
41 crime if committed by an adult;

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

3 (3) Has knowingly and willingly violated a
4 condition imposed as part of conditional re-
5 lease on a pending offense, or has committed
6 an offense, subsequent to that release,
7 which would be a crime if committed by an
8 adult;

9 (4) Has committed the juvenile crime which
10 would be escape were the juvenile an adult;

11 (5) Has escaped from a facility to which
12 the juvenile had been committed pursuant to
13 an order of adjudication, or is absent with-
14 out authorization from a prior placement by
15 a juvenile caseworker or the Juvenile Court;
16 or

17 (6) Has a prior record of failure to appear
18 in court when so ordered or summonsed by a
19 law enforcement officer, juvenile casework-
20 er, probation officer or the court, or has
21 stated his intention not to appear.

22 Nonetheless, when, in the judgment of the juve-
23 nile caseworker or the Juvenile Court, it is not
24 necessary or appropriate to detain a juvenile who
25 satisfies the criteria for detention, the juve-
26 nile caseworker or the Juvenile Court may order
27 the placement of the juvenile in the juvenile's
28 home, or in an alternative facility or service,
29 subject to specific conditions, including super-
30 vision by a juvenile caseworker, probation offi-
31 cer or a designated supervisor. Such a placement
32 shall be considered a conditional release.

33 D. If a juvenile caseworker orders a juvenile
34 detained, the juvenile caseworker shall, within
35 24 hours, excluding nonjudicial days, petition
36 the Juvenile Court for a review of the detention,
37 unless the juvenile caseworker has ordered the
38 release of the juvenile prior to the expiration
39 of the 24-hour period.

1 5. Detention hearing. Upon petition by a juve-
2 nile caseworker, the Juvenile Court shall review the
3 decision to detain a juvenile.

4 A. A detention hearing shall precede and shall
5 be separate from a bind over or adjudicatory
6 hearing.

7 B. Following a detention hearing, a court shall
8 order a juvenile's release, in accordance with
9 subsection 4, unless it finds, by a preponderance
10 of the evidence, that continued detention is nec-
11 essary. The Juvenile Court shall ensure, by ap-
12 propriate order, that any such continued deten-
13 tion is otherwise in accordance with the require-
14 ments of subsection 4.

15 C. No continued detention may be ordered unless
16 the Juvenile Court shall determine that there is
17 probable cause to believe that the juvenile has
18 committed a juvenile crime. That determination
19 shall be made on the basis of evidence, including
20 reliable hearsay evidence, presented in testimony
21 or affidavits.

22 6. Juvenile Court to review for abuse of discre-
23 tion. Upon the request of a juvenile or his parent,
24 guardian or legal custodian, the Juvenile Court
25 shall, at the juvenile's first appearance or within 7
26 days, review for abuse of discretion, any condition
27 or release imposed pursuant to subsection 4, para-
28 graph B, subparagraphs (2), (3) and (4).

29 7. Availability of judges. The Chief Judge of
30 the District Court shall provide that a juvenile
31 court judge, not necessarily a judge of the division
32 where a juvenile is being held, is available to pre-
33 side at the detention hearing described in subsection
34 5 on all days except Saturdays, Sundays and legal
35 holidays.

36 8. Restriction on place of detention. The fol-
37 lowing restrictions are placed on the facilities in
38 which a juvenile may be detained.

39 A. A juvenile may be detained in a jail or other
40 security facility intended for use or primarily

1 used for the detention of adults only when the
2 receiving facility:

3 (1) Contains a separate section for juve-
4 niles;

5 (2) Provides for no regular contact between
6 the juveniles with the adult detainees or
7 inmates; and

8 (3) Has an adequate staff to monitor and
9 supervise the juvenile's activities at all
10 times.

11 A juvenile detained in the adult receiving facil-
12 ities shall be placed only in the separate juve-
13 nile sections, unless that person has been bound
14 over pursuant to section 3101, subsection 4, and
15 convicted as an adult.

16 B. A juvenile may be held in custody or deten-
17 tion in any detention facility approved or oper-
18 ated by the Department of Corrections exclusively
19 for juveniles, pending his release or hearing in
20 the Juvenile Court.

21 C. Upon the request of the Commissioner of Cor-
22 rections or his designee, a judge may approve the
23 transfer of a juvenile who is detained at the
24 Maine Youth Center to any jail or to another se-
25 ecure facility intended for use or used for the
26 detention of adults, such as the Maine Correc-
27 tional Center:

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

30 (a) Jurisdiction of the matter as a
31 juvenile case has been bound over pur-
32 suant to section 3101, subsection 4; or

33 (b) A prosecutor has requested the
34 court to bind over the juvenile, pursu-
35 ant to section 3101, subsection 4, be-
36 cause he is accused of having committed
37 a subsequent offense while committed to
38 the center;

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

4 (a) Presents an imminent danger of
5 harm to himself or to others; or

6 (b) Presents a substantial likelihood
7 that the juvenile will absent himself
8 from the center; and

9 (3) If the judge finds, by clear and con-
10 vincing evidence, that there is no less re-
11 strictive alternative to detention in an
12 adult facility which will meet the purposes
13 of detention.

14 9. Detention. In the event that the court orders
15 detention, after detention hearing in accordance with
16 subsection 5, paragraph B, a petition shall be filed
17 within 10 days from the date of detention, unless the
18 time therefor is extended by the court by further or-
19 der. In the event a petition is not so filed, then
20 detention shall be terminated and the juvenile dis-
21 charged from detention.

22 10. Violation of conditions of release. Upon
23 notification that a juvenile has intentionally or
24 knowingly violated a condition of his release, a ju-
25 venile caseworker or a law enforcement officer may
26 apply to the Juvenile Court for a warrant of arrest.
27 The application shall be governed by the same laws
28 and rules of court as would govern an application for
29 a warrant of arrest of a juvenile for a juvenile
30 crime and may be issued by a person who might issue a
31 warrant for the arrest of an adult for whom there is
32 probable cause to believe has committed a crime.

33 A law enforcement officer having probable cause to
34 believe that a juvenile has violated a condition of
35 release in his presence may arrest the juvenile with-
36 out a warrant.

37 Following the arrest of a juvenile for violation of a
38 condition of his release, the law enforcement officer
39 shall immediately notify the juvenile caseworker.
40 The juvenile caseworker shall either direct the re-

1 lease of the juvenile with or without imposing dif-
2 ferent or additional conditions for release of the
3 juvenile or shall revoke release and order the juve-
4 nile detained for reasons set forth in subsection 4,
5 paragraph B.

6 If different or additional conditions of release are
7 imposed, the juvenile may request the Juvenile Court
8 to review the conditions pursuant to subsection
9 6. The review of additional or different conditions
10 shall include a hearing to determine if the prepon-
11 derance of the evidence indicates that the juvenile
12 intentionally or knowingly violated a condition of
13 release.

14 11. Juvenile Court to review for abuse of dis-
15 cretion. Upon the request of a juvenile or his par-
16 ent, guardian or legal custodian, the Juvenile Court
17 shall, at the juvenile's first appearance or within 7
18 days, review for abuse of discretion, any condition
19 of release imposed pursuant to subsection 4, para-
20 graph B, subparagraphs (2), (3) and (4).

21 Sec. 6. 15 MRSA §3314, sub-§1, ¶H, as amended by
22 PL 1983, c. 480, Pt. B, §19, is further amended to
23 read:

24 H. The court may commit the juvenile to the
25 Maine Youth Center and order that the sentence be
26 suspended except for a period of detention which
27 shall not exceed 30 days, which may be served
28 intermittently as the court may order and which
29 shall be ordered served in a county jail desig-
30 nated by the Department of Corrections as a
31 place for the secure detention of juveniles, in
32 any detention facility operated exclusively for
33 juveniles, except the Maine Youth Center, or in a
34 nonsecure group care home or halfway house. The
35 court may order such a sentence to be served as a
36 part of and with a period of probation, which
37 shall be subject to such provisions of Title
38 17-A, section 1204 as the court may order and
39 which shall be administered pursuant to Title 34,
40 chapter 121, subchapter V-A. Revocation of pro-
41 bation shall be governed by the procedure con-
42 tained in subsection 2.

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

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

11 STATEMENT OF FACT

12 The sections in this bill serve primarily to re-
13 organize and reorder the Maine Juvenile Code, Maine
14 Revised Statutes, Title 15, Part 6, to reflect
15 changes made to the code since its original enact-
16 ment. They also propose changes recommended by the
17 Juvenile Justice Advisory Group to clarify the code
18 and to assist in effecting the removal of juveniles
19 from adult-serving jails and lockups.

20 Sections 1, 2 and 3 add definitions for attend-
21 ant, attendant care, secure detention facility, tem-
22 porary holding resource, temporary supervision and
23 Uniform Juvenile Arrest Form to the definitions sec-
24 tion of the code. The definitions are reordered to
25 permit the addition of definitions while preserving
26 the alphabetical sequence of the definitions.

27 Sections 4 and 5 repeal Title 15, section 3203
28 and enacts a new section 3203-A. This section will:

29 A. Restrict the places of detention unless the
30 juvenile has been bound over and convicted as an
31 adult;

32 B. Restate the 1983 changes regarding transfer
33 from the Maine Youth Center to an adult facility
34 under certain conditions and reorder its position
35 in the code;

36 C. Restate the procedures regarding violation of
37 a condition of release and reorder its position
38 in the code; and

1 D. Restate the section regarding review of abuse
2 of discretion and reorder its position in the
3 code.

4 Section 5 also removes the requirement for imme-
5 diate notification of the juvenile caseworker rela-
6 tive to the pursuit of juvenile proceedings unless
7 detention is requested; requires notification to the
8 juvenile's legal custodian rather than parent or le-
9 gal guardian, which terms have been deleted; replaces
10 the so-called purposes of detention with objective
11 criteria to govern when secure detention may be or-
12 dered.

13 Section 6 amends the provision for the so-called
14 30-day "shock" sentences and expands the use of that
15 option in exclusively juvenile facilities, except
16 that the Maine Youth Center may not be used for that
17 purpose.

18 Section 7 expands the provision for the holding
19 of juveniles taken into interim care to include the
20 holding of those juveniles in an exclusively juvenile
21 facility.

22 2159022585