

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1185

7 S.P. 428

In Senate, April 1, 1985

8 Submitted by the Department of Corrections pursuant to Joint Rule 24.
9 Reference to the Committee on Judiciary suggested and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Chalmers of Knox.

11 Cosponsored by Representative Allen of Washington, Senator Bustin of
Kennebec and Representative Nelson of Portland.

12 STATE OF MAINE
13

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

17 AN ACT to Amend the Juvenile Laws to Reflect
18 the Change from Probation and Intake
19 Workers to Juvenile Caseworkers.
20

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

23 Sec. 1. 15 MRSA §3003, sub-§4-B is enacted to
24 read:

25 4-B. Detention. "Detention" means any interval
26 following custody by a law enforcement officer subse-
27 quent to the time at which the juvenile caseworker
28 authorizes detention in accordance with section 3203
29 or when detention is ordered by the Juvenile Court
30 following a hearing.

31 Sec. 2. 15 MRSA §3003, sub-§10, as enacted by PL
32 1977, c. 520, §1, is amended to read:

33 10. Informal adjustment. "Informal adjustment"
34 means a voluntary arrangement between an intake

1 ~~worker~~ a juvenile caseworker and a juvenile referred
2 to him which provides sufficient basis for a decision
3 by the ~~intake worker~~ juvenile caseworker not to file
4 a petition under chapter 507.

5 Sec. 3. 15 MRSA §3003, sub-§12, as amended by PL
6 1981, c. 493, §2, is repealed.

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

9 14-A. Juvenile arrest. "Juvenile arrest" means
10 the taking of an accused juvenile into custody in
11 conformance with the law governing the arrest of per-
12 sons believed to have committed a crime.

13 14-B. Juvenile caseworker. "Juvenile casework-
14 er" means an agent of the Department of Corrections
15 authorized:

16 A. To perform juvenile probation functions;

17 B. To provide appropriate services to juveniles
18 committed to the Maine Youth Center who are on
19 leave or in the community on entrustment; and

20 C. To perform all caseworker functions estab-
21 lished by this Part for a juvenile alleged to
22 have committed a juvenile crime.

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

25 Sec. 6. 15 MRSA §3203, sub-§1, as amended by PL
26 1977, c. 664, §13, is repealed.

27 Sec. 7. 15 MRSA §3203, sub-§§1-A and 1-B are en-
28 acted to read:

29 1-A. Notification of a juvenile caseworker. No-
30 tification shall be given to a juvenile caseworker as
31 follows:

32 A. When, in the judgment of a law enforcement
33 officer, Juvenile Court proceedings should be
34 commenced against a juvenile, except in cases un-
35 der Title 5, section 200-A, the law enforcement

1 officer shall notify a juvenile caseworker within
2 24 hours, excluding nonjudicial days; or

3 B. When, in the judgment of a law enforcement
4 officer, a juvenile should be detained prior to
5 his initial appearance in Juvenile Court, except
6 in cases under Title 5, section 200-A, the law
7 enforcement officer shall immediately notify a
8 juvenile caseworker.

9 1-B. Custody. During the first 2 hours of cus-
10 tody, the law enforcement officer shall release the
11 juvenile or shall notify the juvenile caseworker in
12 accordance with the provisions of this section.

13 A. The period of the custody shall not exceed 12
14 hours, during which the juvenile caseworker shall
15 have ordered the conditional or unconditional re-
16 lease or shall have effected a detention place-
17 ment. Custody shall be exercised using the least
18 restrictive measures that will serve the purposes
19 of the custody.

20 B. A juvenile in custody shall have no regular
21 contact with adult detainees or inmates and shall
22 be supervised during the custody period. Secure
23 physical confinement of the juvenile during the
24 custody period shall require immediate notifica-
25 tion of an approval by the juvenile caseworker.
26 The juvenile caseworker shall approve secure
27 physical confinement during the custody period
28 only when it is necessary to prevent imminent es-
29 cape or to prevent the juvenile from harming him-
30 self or others. Secure physical confinement ex-
31 ists when the juvenile is placed within a locked
32 setting.

33 Sec. 8. 15 MRSA §3203, sub-§2, ¶A, as amended by
34 PL 1979, c. 681, §10, is further amended to read:

35 A. When a juvenile is arrested, the law enforce-
36 ment officer or the ~~intake worker~~ juvenile
37 caseworker shall notify a parent, guardian or le-
38 gal custodian of the juvenile without unnecessary
39 delay and inform him of the juvenile's where-
40 abouts, the name and telephone number of the ~~in-~~
41 ~~take worker~~ juvenile caseworker who has been con-

1 tacted and, if a juvenile has been placed in a
2 detention facility, that detention hearing will
3 be held within 48 hours following this placement
4 or within 24 hours following Saturdays, Sundays
5 and legal holidays which have occurred after the
6 placement.

7 **Sec. 9. 15 MRSA §3203, sub-§3, as repealed and**
8 **replaced by PL 1977, c. 664, §15, is amended to**
9 **read:**

10 3. Law enforcement officer's report. An officer
11 who notifies ~~an intake worker~~ a juvenile caseworker
12 pursuant to subsection 1 shall, within 24 hours of
13 the referral, file a brief written report with the
14 ~~intake worker~~ juvenile caseworker stating the facts
15 which led to the referral. The report shall contain
16 sufficient information to establish jurisdiction of
17 the Juvenile Court.

18 **Sec. 10. 15 MRSA §3203, sub-§4, as amended by PL**
19 **1981, c. 392, §2, is further amended to read:**

20 4. Release or detention ordered by juvenile
21 caseworker.

22 A. ~~An intake worker~~ A juvenile caseworker shall
23 direct the release or detention of a juvenile
24 pending his initial appearance before the court.

25 B. Release may be unconditional or conditioned
26 upon the juvenile's promise to appear for subse-
27 quent court proceedings, or, if a juvenile cannot
28 appropriately be released on one of these 2
29 bases, then upon the least onerous of the follow-
30 ing conditions, or combination thereof, necessary
31 to ensure his appearance:

32 (1) Upon the written promise of his parent,
33 guardian or legal custodian to produce him
34 in court for subsequent proceedings;

35 (2) Upon placement into the care of a re-
36 sponsible person or organization;

37 (3) Upon prescribed conditions, reasonably
38 related to securing the juvenile's presence

1 in court, restricting the juvenile's activi-
2 ties, associations, residence or travel; and

3 (4) Upon such other prescribed conditions
4 as may be reasonably related to securing the
5 juvenile's presence in court.

6 Upon imposition of any condition of release
7 described in subparagraph (2), (3) or (4),
8 the ~~intake worker~~ juvenile caseworker shall
9 provide the juvenile with a copy of the con-
10 dition imposed and inform the juvenile of
11 the right to have the condition reviewed by
12 the Juvenile Court pursuant to subsection
13 5-A and of the consequences applicable to
14 violation of any condition.

15 C. Detention, if ordered, shall be in the least
16 restrictive residential setting that will ade-
17 quately serve the purposes of detention. Deten-
18 tion may be ordered only where it is necessary
19 to:

20 (1) Ensure the presence of the juvenile at
21 subsequent court proceedings;

22 (2) Provide physical care for a juvenile
23 who cannot return home because there is no
24 parent or other suitable person willing and
25 able to supervise and care for him adequate-
26 ly;

27 (3) Prevent the juvenile from harming or
28 intimidating any witness, or otherwise
29 threatening the orderly progress of the
30 court proceedings;

31 (4) Prevent the juvenile from inflicting
32 bodily harm on others; or

33 (5) Protect the juvenile from an immediate
34 threat of bodily harm.

35 D. If ~~an intake worker~~ a juvenile caseworker or-
36 ders a juvenile detained, the ~~worker~~ caseworker
37 shall, within 24 hours, petition the Juvenile
38 Court for a review of the juvenile's detention.

1 Sec. 11. 15 MRSA §3203, sub-§4-A, as enacted by
2 PL 1981, c. 392, §3, is amended to read:

3 4-A. Violation of conditions of release. Upon an
4 application for an arrest warrant setting forth prob-
5 able cause to believe a juvenile has intentionally or
6 knowingly violated a condition of his release, the
7 Juvenile Court may issue a warrant for his arrest. A
8 law enforcement officer having probable cause to be-
9 lieve that a juvenile has violated a condition of his
10 release in his presence may arrest the juvenile with-
11 out a warrant.

12 Following the arrest of a juvenile for violation of a
13 condition of his release, the law enforcement officer
14 shall immediately notify the intake worker juvenile
15 caseworker. The intake worker juvenile caseworker
16 shall either direct the release of the juvenile with
17 or without imposing different or additional condi-
18 tions for release of the juvenile or shall revoke re-
19 lease and order the juvenile detained for reasons set
20 forth in subsection 4, paragraph C.

21 If different or additional conditions of release are
22 imposed, the juvenile may request the Juvenile Court
23 to review the conditions pursuant to subsection 5-A.
24 Such review of additional or different conditions
25 shall include a hearing to determine whether the pre-
26 ponderance of the evidence indicates that the juve-
27 nile intentionally or knowingly violated a condition
28 of release.

29 Sec. 12. 15 MRSA §3203, sub-§5, ¶A, as enacted
30 by PL 1977, c. 520, §1, is amended to read:

31 A. Upon petition by an intake worker a juvenile
32 caseworker, the Juvenile Court shall review the
33 decision to detain a juvenile.

34 Sec. 13. 15 MRSA §3204, as amended by PL 1979,
35 c. 681, §14, is further amended to read:

36 §3204. Statements not admissible in evidence

37 No statements of a juvenile made to an intake
38 worker shall a juvenile caseworker may be admissible
39 in evidence in any proceeding against that juvenile.

1 Sec. 14. 15 MRSA §3301, as amended by PL 1981,
2 c. 679, §§6 and 7, is further amended to read:

3 §3301. Preliminary investigation, informal adjust-
4 ment and petition initiation

5 1. Preliminary investigation. When a juvenile
6 accused of having committed a juvenile crime is re-
7 ferred to an ~~intake worker~~ a juvenile caseworker, the
8 ~~intake worker~~ juvenile caseworker shall, except in
9 cases in which an investigation is conducted pursuant
10 to Title 5, section 200-A, conduct a preliminary in-
11 vestigation to determine whether the interests of the
12 juvenile or of the community require that further ac-
13 tion be taken.

14 On the basis of the preliminary investigation, the
15 ~~intake worker~~ juvenile caseworker shall:

16 A. Decide that no further action is required,
17 either in the interests of the public or of the
18 juvenile;

19 B. Make whatever informal adjustment is practi-
20 cable without a petition; or

21 C. Request a petition to be filed.

22 5. Juvenile caseworker alternatives. On the ba-
23 sis of the preliminary investigation, the ~~intake~~
24 ~~worker~~ juvenile caseworker shall choose one of the
25 following alternatives:

26 A. Decide that no further action is required ei-
27 ther in the interests of the public or of the ju-
28 venile. If the ~~intake worker~~ juvenile caseworker
29 determines that the facts in the report prepared
30 for him by the referring officer pursuant to sec-
31 tion 3203, subsection 3, are sufficient to file a
32 petition, but in his judgment the interest of the
33 juvenile and the public will be served best by
34 providing the juvenile with services voluntarily
35 accepted by the juvenile and his parents, guardi-
36 an or legal custodian if the juvenile is not
37 emancipated, the ~~intake worker~~ juvenile
38 caseworker may refer the juvenile for that care
39 and treatment and not request that a petition be
40 filed;

1 B. Make whatever informal adjustment is practi-
2 cable without a petition. The ~~intake worker~~ ju-
3 venile caseworker may effect whatever informal
4 adjustment is agreed to by the juvenile and his
5 parents, guardian or legal custodian if the juve-
6 nile is not emancipated, including a restitution
7 contract with the victim of the crime. Informal
8 adjustments shall extend no longer than 6 months
9 and informal adjustments shall not be commenced
10 unless:

11 (1) The ~~intake worker~~ juvenile caseworker
12 determines that the juvenile and his par-
13 ents, guardian or legal custodian, if the
14 juvenile is not emancipated, were advised of
15 their constitutional rights, including the
16 right to an adjudicatory hearing, the right
17 to be represented by counsel and the right
18 to have counsel appointed by the court if
19 indigent;

20 (2) The facts establish prima facie juris-
21 diction, except that any admission made in
22 connection with this informal adjustment
23 cannot be used in evidence against the juve-
24 nile if a petition based on the same facts
25 is later filed; and

26 (3) Written consent to the informal adjust-
27 ment is obtained from the juvenile and his
28 parents, guardian or legal custodian if the
29 juvenile is not emancipated; or

30 C. If the ~~intake worker~~ juvenile caseworker de-
31 termines that the facts are sufficient for the
32 filing of a petition, he may request the prose-
33 cuting attorney to file a petition.

34 6. Review by prosecuting attorney. If the ~~intake~~
35 ~~worker~~ juvenile caseworker decides not to request the
36 prosecuting attorney to file a petition, the com-
37 plainant, the law enforcement officer and the victim
38 shall be informed of the decision and of the reasons
39 therefor as soon as practicable and shall be advised
40 that they may submit their complaint to the prosecut-
41 ing attorney for review.

1 The prosecuting attorney on his own motion or upon
2 receiving a request for review by the law enforcement
3 officer, the complainant or the victim, shall consid-
4 er the facts of the case, consult with the ~~intake~~
5 ~~worker~~ juvenile caseworker who made the initial deci-
6 sion and then make a final decision as to whether the
7 petition shall be filed.

8 7. Nonapplication of section. The provisions of
9 this section do not apply to a juvenile charged with
10 the juvenile crime defined in section 3103, subsec-
11 tion 1, paragraph F, and a petition may be filed
12 without recommendation by ~~an intake worker~~ a juvenile
13 caseworker. The provisions of section 3203 apply in
14 the case of a juvenile charged with the juvenile
15 crime defined in section 3103, subsection 1, para-
16 graph F.

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

19 §3303. Dismissal of petition with prejudice

20 On motion made by or on behalf of a juvenile, or
21 by the court itself, a petition shall be dismissed
22 with prejudice if it was not filed within 6 months
23 from the date the juvenile was referred to the ~~intake~~
24 ~~worker~~ juvenile caseworker for an intake assessment,
25 unless the prosecuting attorney either before or af-
26 ter the expiration of the 6-month period files a
27 motion for an extension of time for the filing of a
28 petition, accompanied by the reasons for this exten-
29 sion. The court may for good cause extend the time
30 for bringing a petition for any period of time that
31 is less than the limitation established in section
32 3105.

33 Sec. 16. 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~~
36 ~~workers'~~ juvenile caseworkers' records, probation of-
37 ficers' records and all other reports of social and
38 clinical studies shall not be open to inspection ex-
39 cept with consent of the court or except to the ex-
40 tent that such records, reports and studies were made
41 a part of the record of a hearing that was open to
42 the general public under section 3307.

1 Sec. 17. 15 MRSA §3502, as repealed and replaced
2 by PL 1981, c. 619, §10, is amended to read:

3 §3502. The Department of Corrections and the Depart-
4 ment of Human Services 24-hour referral
5 services

6 1. Emergency placement decisions. Placement re-
7 ferral services shall be provided by the Department
8 of Corrections and Department of Human Services as
9 follows.

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

17 B. The Department of Human Services shall pro-
18 vide for a placement referral service, staffed by
19 personnel 24 hours a day. This referral service
20 shall make emergency placement decision pursuant
21 to this chapter for all juveniles referred to the
22 department by law enforcement officers.

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

31 Sec. 18. 15 MRSA §3507, as enacted by PL 1977,
32 c. 520, §1, is amended to read:

33 §3507. Runaway juveniles returned from another state

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

1 Sec. 19. 34-A MRSA §5602, as enacted by PL 1983,
2 c. 459, §6, is repealed and the following enacted in
3 its place:

4 §5602. Juvenile caseworkers

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

7 2. Juvenile caseworker's functions. A juvenile
8 caseworker's functions are:

9 A. To serve as a juvenile probation officer;

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

13 C. To provide appropriate services to juveniles
14 committed to the Maine Youth Center who are on
15 leave or in the community on entrustment.

16 3. Juvenile caseworker's duties. A juvenile
17 caseworker:

18 A. Shall, when directed, provide information to
19 the Maine Youth Center on juveniles committed to
20 the Maine Youth Center;

21 B. Shall make such investigations as the Juve-
22 nil Court may direct and shall keep written
23 records of the investigations as the Juvenile
24 Court may direct;

25 C. Shall use all suitable means, including coun-
26 seling, to aid each juvenile under his supervi-
27 sion and shall perform such duties in connection
28 with the care and custody of juveniles as the
29 court may direct;

30 D. Shall keep informed as to the condition and
31 conduct of each juvenile placed under his super-
32 vision and shall report on the condition and con-
33 duct to the court and to the department as the
34 court or departments may direct;

1 E. Shall, when a juvenile is placed under his
2 supervision, give the juvenile a written state-
3 ment of the conditions of his supervision and
4 shall fully explain the conditions to him; and

5 F. Shall keep complete records of all work done.

6 4. Juvenile caseworkers; powers. Juvenile
7 caseworkers shall have the same arrest powers as oth-
8 er law enforcement officers with respect to juveniles
9 placed under their supervision.

10 STATEMENT OF FACT

11 In response to the recommendations of the Joint
12 Standing Committee on Audit and Program Review, the
13 111th Legislature abolished the distinction among
14 court intake workers, probation officers who super-
15 vised juveniles and after-care workers of the Maine
16 Youth Center. It consolidated the responsibilities
17 of these 3 functions and assigned them to a
18 newly-defined class of employees denominated as juve-
19 nile caseworkers. This bill amends those provisions
20 of the Maine Revised Statutes, Titles 15 and 34-A
21 which refer to intake workers, etc., and the respon-
22 sibilities which were assigned to these classes to
23 reflect changes in the law.

24 2486030585