

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1572

S.P. 520

In Senate, May 15, 1987

Submitted by the Department of Corrections pursuant to
Joint Rule 24.

Reference to the Committee on Judiciary suggested and
ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator WHITMORE of Androscoggin.

Cosponsored by Senator GAUVREAU of Androscoggin,
Representative STROUT of Corinth, Representative MANNING of
Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Clarify the Conditions Under Which
a Juvenile may be Detained.

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

Sec. 1. 15 MRSA §3203-A, sub-§1, as enacted by
PL 1985, c. 439, §9, is repealed.

Sec. 2. 15 MRSA §3203-A, sub-§1-A is enacted to
read:

1-A. Notification of a juvenile caseworker. A
juvenile caseworker shall receive notification under
the following circumstances.

A. When, in the judgment of a law enforcement
officer, Juvenile Court proceedings should be

1 commenced against a juvenile, but detention is
2 not necessary, the law enforcement officer shall
3 notify a juvenile caseworker as soon as possible
4 after such a determination is made; but if the
5 juvenile has been arrested, the law enforcement
6 officer shall notify the juvenile caseworker
7 within 12 hours following the arrest.

8 B. If the law enforcement officer determines
9 that detention is not necessary, but the officer
10 is unable to immediately return the juvenile to
11 the custody of his legal custodian or another
12 suitable person, the officer, with the juvenile's
13 consent, may deliver the juvenile to any public
14 or private agency which provides nonsecure ser-
15 vices to juveniles.

16 C. When, in the judgment of a law enforcement
17 officer, a juvenile should be detained prior to
18 his initial appearance in juvenile court, the law
19 enforcement officer shall immediately notify a
20 juvenile caseworker and request authorization to
21 detain the juvenile.

22 (1) Detention under this section shall be
23 requested by the law enforcement officer
24 within 2 hours after the juvenile's arrest
25 or the juvenile shall be released.

26 (2) After the law enforcement officer noti-
27 fies the juvenile caseworker and requests
28 detention, the juvenile caseworker shall or-
29 der the conditional or unconditional release
30 or shall effect a detention placement within
31 12 hours following the juvenile's arrest.

32 (3) During the 12-hour period referred to
33 in subparagraph (2), any secure physical
34 confinement of the juvenile shall require
35 the approval of the juvenile caseworker.
36 The juvenile caseworker shall approve secure
37 physical confinement during the custody pe-
38 riod only when it is necessary to prevent
39 the juvenile from harming himself or others.
40 Secure physical confinement exists when the
41 juvenile is placed within a locked setting.

1 D. When in the judgment of a law enforcement of-
2 ficer, immediate secure detention is required to
3 prevent a juvenile who satisfies the requirements
4 of section 3203-A, subsection 4, paragraph D,
5 from imminently inflicting bodily harm to others
6 or to himself, the officer may refer the juvenile
7 for temporary, emergency detention to a facility
8 which satisfies the requirements of section
9 3202-A, subsection 7, paragraph A or B, prior to
10 notifying a juvenile caseworker or the Department
11 of the Attorney General, as applicable. Such a
12 facility may detain the juvenile on a emergency
13 basis for up to 2 hours provided that the law en-
14 forcement officer shall immediately notify the
15 juvenile caseworker from the facility or the De-
16 partment of the Attorney General, as applicable,
17 and request authorization to detain the juvenile
18 beyond the term of the temporary, emergency de-
19 tention pursuant to paragraph C. The juvenile
20 caseworker or the Department of the Attorney Gen-
21 eral, as applicable, shall order the conditional
22 or unconditional release of a juvenile or shall
23 effect a detention placement within 2 hours fol-
24 lowing a temporary, emergency detention. It
25 shall be the responsibility of the law enforce-
26 ment officer to remain at the facility until the
27 juvenile caseworker or the Department of the At-
28 torney General, has released the juvenile or has
29 effected a detention placement.

30 E. In cases under Title 5, section 200-A, the
31 law enforcement officer shall immediately notify
32 the Department of the Attorney General. The At-
33 torney General or any of his deputies or assist-
34 ants shall act as and shall possess all the pow-
35 ers and responsibilities of a juvenile caseworker
36 specified in this section.

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STATEMENT OF FACT

2 The current law is silent as to whether it is the
3 responsibility of the law enforcement officer who ar-
4 rests a juvenile, or the facility to which the juve-
5 nile is brought for detention, to obtain permission
6 of a juvenile caseworker to detain the juvenile.
7 Further, the law provides little direction as to whom
8 a juvenile, who a law enforcement officer does not
9 wish to detain, may be released in the absence of the
10 juvenile's legal custodian. Moreover, the law makes
11 no provision for the emergency detention of a juve-
12 nile who is out of control and presents a danger to
13 himself or others, prior to obtaining permission for
14 detention from a juvenile caseworker. Some youths
15 require secure services immediately, on an emergency
16 basis, to permit the law enforcement officer to sub-
17 mit the required request for detention.

18 By placing the responsibility to obtain permis-
19 sion for the detention of a juvenile on the officer
20 who affects the arrest, the bill would reduce the
21 number of juveniles who are unnecessarily and
22 inappropriately transferred to the custody of the
23 sheriffs and eliminates the transportation expenses
24 associated with bringing these juveniles, who are in-
25 appropriate for secure detention, to the jails and
26 returning them. It also specifically permits a law
27 enforcement officer to release a juvenile who accepts
28 services to a public or private agency which serves
29 juveniles when the juvenile's legal custodian is not
30 available to provide care and supervision. Finally,
31 it permits the emergency detention of juveniles in
32 certain cases and describes the requirements neces-
33 sary to such an interim detention.

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