

MAINE STATE LEGISLATURE

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L.D. 2020

(Filing No. H-603)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
113TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1486, L.D. 2020,
Bill, "AN ACT to Amend the Maine Juvenile Code to
Expand Notice Provisions."

Amend the Bill in section 1 by striking out all of
subsection 5 and inserting in its place the following:

'5. Service of summons on parents of juvenile.
If the person or persons to whom a summons is served
are not the parents or guardian of the juvenile, the
summons shall also be issued to the parents or
guardian or both notifying them of the pendency of the
cause and of the time and place set for hearing. The
court may waive this requirement if it finds that the
service of the summons is not possible and explains
this finding in writing, except as required by section
3314, subsection 1, paragraph C-1 or C-2.'

Further amend the Bill by striking out all of
section 4 and inserting in its place the following:

'Sec. 4. 15 MRSA §3312, sub-§3, as amended by PL
1979, c. 373, §5, is repealed and the following
enacted in its place:

3. Continuation of dispositional hearing. A
dispositional hearing may be continued in the
following circumstances.

A. The court may continue the dispositional
hearing, either on its own motion or on the motion
of any interested party:

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1 (1) For a period not to exceed one month to
2 receive reports or other evidence;

3 (2) For a period not to exceed 2 months to
4 allow for service of notice as required in
5 section 3314, subsection 1, paragraph C-1 or
6 C-2; or

7 (3) For a period not to exceed 12 months in
8 order to place the juvenile in a supervised
9 work or service program or a restitution
10 program, or for such other purpose as the
11 court in its discretion determines
12 appropriate. If a supervised work or service
13 program or restitution program has been
14 ordered, the court shall on final disposition
15 consider whether or not there has been
16 compliance with the program so ordered.

17 B. If the hearing is continued, the court shall
18 make an appropriate order for detention of the
19 juvenile or for the juvenile's release in the
20 custody of the juvenile's parents, guardian, legal
21 custodian or other responsible person or agency
22 under such conditions of supervision as the court
23 may impose during the continuance. The court may
24 order a juvenile into the temporary custody of the
25 Department of Human Services only if the following
26 conditions are met:

27 (1) That service of notice of the
28 dispositional hearing as required under
29 section 3314, subsection 1, paragraph C-1,
30 has not been made on parents who reside
31 outside the State or whose whereabouts are
32 unknown after a diligent search;

33 (2) That the Department of Human Services
34 has:

35 (a) Received written notice of the
36 hearing on temporary custody at least 10
37 days before the hearing, provided that
38 the department may waive this 10-day
39 requirement in writing; and

40 (b) Had an opportunity to be heard

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- 1 before any order of temporary custody;
- 2 (3) That notice under section 3314,
3 subsection 1, paragraph C-1, has been served
4 on the juvenile's legal custodian at least 10
5 days before any order of temporary custody to
6 the Department of Human Services and that the
7 legal custodian has had an opportunity to be
8 heard before the issuance of a temporary
9 order, provided that the juvenile's custodian
10 may waive the 10-day notice requirement if
11 the waiver is in writing and voluntarily and
12 knowingly executed in court before a judge;
- 13 (4) That the court finds that either:
- 14 (a) The juvenile does not meet the
15 criteria for detention; or
- 16 (b) It is not necessary or appropriate
17 to detain the juvenile; and
- 18 (5) That the court finds by a preponderance
19 of the evidence that:
- 20 (a) Reasonable efforts have been made
21 to prevent or eliminate the need for
22 removal of the juvenile from the
23 juvenile's home;
- 24 (b) Continuation in the juvenile's home
25 during the period required for service
26 of notice under section 3314, subsection
27 1, paragraph C-1, would be contrary to
28 the welfare of the juvenile; and
- 29 (c) Temporary custody is necessary to
30 provide for the care and support of the
31 juvenile during this period.
- 32 Any order of temporary custody terminates upon an
33 order of disposition under section 3314, or
34 automatically 2 months after issuance, whichever
35 occurs first.
- 36 C. In scheduling investigations and hearings, the
37 court shall give priority to proceedings

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1 concerning a juvenile who is in detention or who
2 has otherwise been removed from the juvenile's
3 home before an order of disposition has been made.'

4 STATEMENT OF FACT

5 This amendment clarifies the procedures under
6 which a court may order a juvenile into the temporary
7 custody of the Department of Human Services pending a
8 juvenile hearing.

9 5340033188

Reported by the Committee on Judiciary
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House
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