

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2025

S.P. 768

In Senate, January 13, 1988

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

Reference to the Committee on Human Resources suggested  
and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator GILL of Cumberland.

Cosponsored by Representative STROUT of Windham, Senator  
GAUVREAU of Androscoggin, Representative MELENDY of Rockland.

STATE OF MAINE

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

AN ACT to Increase the Eligibility of  
Juveniles for Attendant Care.

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

6 Sec. 1. 15 MRSA §3003, sub-§2-A, as enacted by  
7 PL 1985, c. 439, §1, is amended to read:

8 2-A. Attendant; attendant care. "Attendant"  
9 means an agent of a county sheriff or of the  
10 Department of Corrections who is authorized to provide

1 temporary supervision of a juvenile alleged to have  
2 committed a juvenile crime or of a juvenile  
3 adjudicated as having committed a juvenile crime when  
4 supervision is appropriate as an interim measure  
5 pending the completion of a procedure authorized by  
6 law to be taken in regard to such juvenile.  
7 Supervision shall be exercised during that period  
8 beginning with receipt of the juvenile by the  
9 attendant and ending upon the release of the juvenile  
10 to his legal custodian or other responsible adult.  
11 This supervision constitutes "attendant care."

12 **Sec. 2.** 15 MRSA §3203-A, sub-§1, ¶A-1, as  
13 enacted by PL 1987, c. 398, §3, is amended to read:

14 A-1. If the law enforcement officer determines  
15 that detention is not necessary but the officer is  
16 unable to immediately return the juvenile to the  
17 custody of his legal custodian or another suitable  
18 person, the officer, with the juvenile's consent,  
19 may deliver the juvenile to any public or private  
20 agency which provides nonsecure services to  
21 juveniles, including an agency which provides  
22 attendant care.

23 **Sec. 3.** 15 MRSA §3203-A, sub-§4, ¶B, as enacted  
24 by PL 1985, c. 439, §9, is amended to read:

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

32 (1) Upon the written promise of his legal  
33 custodian to produce the juvenile for  
34 subsequent official proceedings or at any  
35 place or time when so ordered by the juvenile  
36 caseworker or the Juvenile Court;

37 (2) Upon the juvenile's voluntary agreement  
38 to placement into the care of a responsible  
39 person or organization, including one

1                    providing attendant care;

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

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

15                    Upon imposition of any condition of release  
16 described in subparagraph (2), (3) or (4), the  
17 juvenile caseworker shall provide the juvenile  
18 with a copy of the condition imposed and inform  
19 the juvenile of the right to have the condition  
20 reviewed by the Juvenile Court pursuant to  
21 subsection 10 of the consequences applicable to  
22 violation of any condition.

23                    /                    STATEMENT OF FACT

24                    Under present law, a juvenile is not eligible for  
25 attendant care unless he or she is at the stage of  
26 merely being alleged to have committed a juvenile  
27 crime. Present law excludes many juveniles who are  
28 adjudicated as having committed a juvenile crime but  
29 who are behaviorally suitable for attendant care  
30 services and who are in a transitional status making  
31 such services appropriate. As a result, it may happen  
32 that there are 2 juveniles in essentially the same  
33 situation, both of whom are appropriate candidates for  
34 attendant care, but only one of whom is eligible for  
35 those services. For example, 2 juveniles placed on  
36 probation as a result of an adjudication of having  
37 committed a juvenile crime who are alleged to be in  
38 violation of a probation condition could wind up being

1 treated differently in regard to attendant care  
2 services based not on their suitability for those  
3 services but on the technicality of the existence of  
4 an allegation of the commission of a juvenile crime.  
5 If the alleged violation of probation constitutes an  
6 allegation of a new juvenile crime, that juvenile is  
7 eligible for attendant care. On the other hand, if  
8 the alleged violation of probation revolves around a  
9 condition not related to the commission of a new  
10 juvenile crime, that juvenile is not eligible for  
11 attendant care. This could potentially lead to the  
12 anomalous situation that, of the 2 juveniles, it is  
13 the one who is most appropriate for attendant care,  
14 that is the one who is alleged to have committed the  
15 less serious violation of probation, who is not  
16 eligible under the law for attendant care services.  
17 This type of situation occurs frequently, resulting in  
18 the frustration of the intent of the original  
19 attendant care legislation, which was aimed at  
20 reducing jail detentions and assuring placement of  
21 juveniles in the least restrictive setting appropriate.

22 The wording of this bill is intended to create  
23 eligibility for attendant care services for juveniles  
24 for whom these services are appropriate under the  
25 following circumstances:

- 26 1. Alleged to have violated probation;
- 27 2. Alleged to have violated entrustment from the  
28 Maine Youth Center;
- 29 3. Failed to have appeared in court;
- 30 4. Being held for transportation;
- 31 5. Being held pending psychological evaluation;
- 32 6. Absent from the Maine Youth Center to testify  
33 in court;
- 34 7. Being held for processing under the Interstate  
35 Compact; and
- 36 8. Any other situation involving a juvenile in a

1 transitional status for whom attendant care is an  
2 appropriate interim measure.

3 In addition, this bill makes clear that juveniles  
4 may be referred for placement into attendant care by  
5 both law enforcement officers and juvenile  
6 caseworkers, with the juveniles' consent, in  
7 situations where attendant care is appropriate but the  
8 juveniles do not meet criteria for detention; the  
9 meeting of such criteria arguably being a prerequisite  
10 under the present law for referral into attendant care.

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