

MAINE STATE LEGISLATURE

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L.D. 1490

(Filing No. H-578)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1103, L.D. 1490, Bill, "An Act to Clarify Statutory Provisions Related to Juveniles"

Amend the bill by striking out all of section 4 and inserting in its place the following:

'Sec. 4. 15 MRSA §3203-A, sub-§7, ¶B-2, as amended by PL 1993, c. 162, §1, is further amended to read:

B-2. Notwithstanding any other provision of law, until December 31, 1995, a juvenile may be detained in the ~~Androscoggin--County--Jail~~ a county jail, as long as the juvenile is detained in a separate juvenile section approved by the federal Office of Juvenile Justice and Delinquency Prevention and in compliance with paragraph A.'

Further amend the bill in section 7 in paragraph C in the 4th line (page 4, line 34 in L.D.) by striking out the following: "or" and inserting in its place the following: 'and'

Further amend the bill by inserting after section 13 the following:

'Sec. 14. 34-A MRSA §3003, sub-§1, as amended by PL 1993, c. 13, §1, is further amended to read:

1. **Limited disclosure.** All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department, must be kept confidential and may not be disclosed by any person, except that criminal history record information may be disseminated in accordance with Title 16, chapter 3, subchapter VIII, and documents, other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated, or a victim's request for notice of release, may be disclosed:

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 1103, L.D. 1490

A. To any person, if the person receiving services, that person's legal guardian, if any, or and, if that person is a minor, that person's parent or legal guardian, gives informed written consent to the disclosure of the documents referred to in this subsection after being given the opportunity to review the documents sought to be disclosed;

B. To any state agency if necessary to carry out the statutory functions of that agency;

C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503; and

D. To any criminal justice agency if necessary to carry out the administration of criminal justice, the administration of juvenile criminal justice or for criminal justice agency employment.

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of juveniles receiving services from the department and, if applicable, the Medicaid eligibility numbers and the dates on which those juveniles received Medicaid services to the Bureau of Medical Services and the Bureau of Income Maintenance within the Department of Human Services for the sole purpose of determining eligibility and billing for Medicaid services provided by or through the department. The department may also release to the Department of Human Services information required for, and to be used solely for, audit purposes, consistent with federal law, for Medicaid services provided by or through the department. Department of Human Services personnel must treat this information as confidential in accordance with federal and state law and must return the records when their purpose has been served. ~~This paragraph does not authorize the department to release client treatment plans, psychological profiles or criminal records to the Department of Human Services.~~

Further amend the bill by renumbering the sections to read consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

The Department of Corrections will avoid the General Fund costs associated with detaining juveniles at the Maine Youth Center if they are detained in an approved county jail. The department does receive additional General Fund undedicated

revenue from the counties when juveniles are detained at the Maine Youth Center. The amount of the costs that will be avoided and the loss of General Fund revenue to offset these costs can not be determined at this time.

The Department of Human Services will incur some minor additional costs to return records when their purpose has been served. These costs can be absorbed within the department's existing budgeted resources.

STATEMENT OF FACT

The original bill does the following to clarify sections of the Maine Juvenile Code and related provisions.

1. It eliminates references to the Attorney General because initial detention decisions are always made by the juvenile caseworker, as reflected in a recent change to the Juvenile Code.

2. It eliminates the mandate for holding juveniles in a temporary holding resource unless the juvenile caseworker determines that a physically restrictive setting is necessary.

3. It extends the "rural exception" for detaining juveniles in county jails until 1995. In addition, this revision permits short-term detention in a rural county jail while awaiting transfer to the Androscoggin County Jail or other approved juvenile detention facility if, for example, inclement weather prevents immediate transfer.

4. It extends the time limit for using the Androscoggin County Jail for juvenile detention.

5. It eliminates the requirement that a violation of conditional release must be in a law enforcement officer's or juvenile caseworker's presence. It makes probable cause without that presence sufficient for an arrest, consistent with the law for bail violations.

6. It changes the law to reflect the fact that prosecutors do, in fact, have access to juvenile criminal records, even for Class D and Class E offenses.

7. It allows juvenile criminal records to be released with informed consent.

8. It clarifies that a juvenile adjudicated in one county who is ordered to serve time in another county must be paid for by the county of origin.

9. It eliminates language that has been construed to require a separate hearing for medical treatment and counseling orders. This change in language makes this provision consistent with the Maine Revised Statutes, Title 15, section 3314, subsection 4, relating to support orders.

10. It permits the "20 1/2-year old" to serve a reasonable amount of probation.

11. It prevents the person who is no longer a juvenile but is convicted of a juvenile offense from being sent to the Maine Youth Center for only a few months.

12. It prevents a runaway from being held in an adult correctional facility.

13. It permits the counties to establish juvenile detention diversion projects as an alternative to juvenile detention.

14. It clarifies that, after the State takes over most juvenile detention, the counties will still provide emergency detention of up to 6 hours.

The amendment does the following.

1. The First Regular Session of the 115th Legislature enacted Legislative Document 1378 extending the deadline for housing juveniles in Penobscot County jails. This bill, Legislative Document 1490, and Public Law 1993, chapter 162 make the same provisions for the Androscoggin jail. This amendment removes these individual permissions and gives permission to any county jail that meets certain requirements.

2. The bill allowed the Department of Corrections to disseminate records if the person recorded or the person's parents gave permission. The amendment requires permission from the person and the person's parents.

3. The amendment adds a section that allows the Department of Corrections to release to the Department of Human Services information for audit purposes for Medicaid services provided by the Department of Corrections.

Reported by the Joint Select Committee on Corrections
Reproduced and distributed under the direction of the Clerk of the
House
6/3/93 (Filing No. H-578)