

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

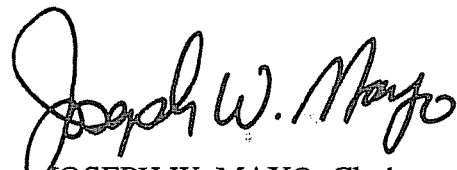
No. 1490

H.P. 1103

House of Representatives, May 11, 1993

An Act to Clarify Statutory Provisions Related to Juveniles.

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


JOSEPH W. MAYO, Clerk

Presented by Representative GREENLAW of Standish.
Cosponsored by Representative: JOHNSON of South Portland, Senators: BUSTIN of Kennebec,
KIEFFER of Aroostook.

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

2
4 **Sec. 1. 15 MRSA §3203-A, sub-§1, ¶B-1**, as amended by PL 1989, c. 925, §4, is further amended to read:

6 B-1. When, in the judgment of a law enforcement officer,
8 immediate secure detention is required to prevent a juvenile
10 from imminently inflicting bodily harm on others or the
12 juvenile, the officer may refer the juvenile for temporary,
14 emergency detention in a jail or other secure facility
16 intended or primarily used for the detention of adults
18 approved pursuant to subsection 7, paragraph A or a facility
20 approved pursuant to subsection 7, paragraph B, prior to
22 notifying a juvenile caseworker ~~of the Department of the~~
24 ~~Attorney-General, as applicable.~~ Such a facility may detain
26 the juvenile for up to 2 hours on an emergency basis,
28 provided that the law enforcement officer immediately
30 notifies the juvenile caseworker ~~of the Department of the~~
32 ~~Attorney-General~~ and requests authorization to detain the
34 juvenile beyond the term of the temporary, emergency
36 detention pursuant to paragraph B. The juvenile caseworker
38 ~~of the Department of the Attorney-General~~ may, if continued
 emergency detention is required to prevent the juvenile from
 imminently inflicting bodily harm on others or the juvenile,
 authorize temporary emergency detention in that facility for
 an additional 4 hours. Following any temporary emergency
 detention, the juvenile caseworker ~~of the Department of the~~
 ~~Attorney-General~~ shall order the conditional or
 unconditional release of a juvenile or shall effect a
 detention placement. After December 31, 1991, any detention
 beyond 6 hours must be in a placement other than a facility
 intended or primarily used for the detention of adults and
 must be authorized by a juvenile caseworker ~~of the~~
 ~~Department of the Attorney-General.~~ It is the
 responsibility of the law enforcement officer to remain at
 the facility until the juvenile caseworker ~~of the Department~~
 ~~of the Attorney-General~~ has released the juvenile or has
 authorized detention.

40 **Sec. 2. 15 MRSA §3203-A, sub-§4, ¶C**, as amended by PL 1991, c.
42 493, §7, is further amended to read:

44 C. Detention, if ordered, must be in the least restrictive
46 residential setting that will serve the purposes of the
 Maine Juvenile Code as provided in section 3002 and one of
 the following purposes of detention:

48 (1) To ensure the presence of the juvenile at
50 subsequent court proceedings;

2 (2) To provide physical care for a juvenile who cannot
4 return home because there is no parent or other
suitable person willing and able to supervise and care
for the juvenile adequately;

6 (3) To prevent the juvenile from harming or
8 intimidating any witness or otherwise threatening the
orderly progress of the court proceedings;

10 (4) To prevent the juvenile from inflicting bodily
12 harm on others; or

14 (5) To protect the juvenile from an immediate threat
of bodily harm.

16 ~~After December 31, 1991, detention must be in a temporary~~
18 ~~holding resource that provides secure supervision unless~~
20 ~~physically restrictive detention is determined necessary by~~
~~the juvenile caseworker.~~

22 **Sec. 3. 15 MRSA §3203-A, sub-§7, ¶B-1**, as amended by PL 1991,
c. 493, §12, is further amended to read:

24 B-1. After December 31, 1991 and until December 31, 1993
26 1995, if the juvenile caseworker determines there is no
acceptable alternative, a juvenile may be detained for up to
28 24 hours, excluding Saturday, Sunday and legal holidays, in
a jail or other secure detention facility intended or
primarily used for the detention of adults, if:

30 (1) The facility is not located in a standard
32 metropolitan statistical area and meets the statutory
criteria outlined in the federal Juvenile Justice
34 Delinquency Act, Section 223(a)(14)(A), (B) and (C);

36 (2) The facility complies with mandatory sight and
38 sound separation standards established by the
Department of Corrections in accordance with Title
34-A, section 1208;

40 (3) The facility has adequate certified correctional
42 staff to monitor and supervise the juvenile at all
times during detention; and

44 (4) The juvenile is detained only to await a detention
46 court hearing, a preliminary hearing pursuant to Title
17-A, section 1205 ~~or~~, an entrustment violation hearing
48 or transfer to another detention facility.

2 **Sec. 4. 15 MRSA §3203-A, sub-§7, ¶B-2**, as enacted by PL 1991,
c. 493, §13, is amended to read:

4 B-2. Notwithstanding any other provision of law, until
5 ~~September 30, 1993~~ December 31, 1995, a juvenile may be
6 detained in the Androscoggin County Jail, as long as the
7 juvenile is detained in a separate juvenile section approved
8 by the federal Office of Juvenile Justice and Delinquency
9 Prevention and in compliance with paragraph A of this
10 subsection.

12 **Sec. 5. 15 MRSA §3203-A, sub-§9**, as amended by PL 1991, c.
13 493, §16, is further amended to read:

14 **9. Violation of conditions of release.** Upon notification
15 that a juvenile has intentionally or knowingly violated a
16 condition of release, whether imposed by a court or a juvenile
17 caseworker, a juvenile caseworker or a law enforcement officer
18 may apply to the Juvenile Court for a warrant of arrest.

19 A law enforcement officer or juvenile caseworker having probable
20 cause to believe that a juvenile has violated a condition of
21 release ~~in the officer's or juvenile caseworker's presence~~ may
22 arrest the juvenile without a warrant.
23

24 Following the arrest of a juvenile by a law enforcement officer
25 for violation of a condition of release, the law enforcement
26 officer shall immediately notify the juvenile caseworker. The
27 juvenile caseworker shall either direct the release of the
28 juvenile with or without imposing different or additional
29 conditions for release of the juvenile or shall revoke release
30 and order the juvenile detained in accordance with subsection 4,
31 paragraphs C and D.
32

33 If different or additional conditions of release are imposed, the
34 juvenile may request the Juvenile Court to review the conditions
35 pursuant to subsection 10. The review of additional or different
36 conditions must include a hearing to determine if the
37 preponderance of the evidence indicates that the juvenile
38 intentionally or knowingly violated a condition of release.
39

40 **Sec. 6. 15 MRSA §3308, sub-§7, ¶B**, as enacted by PL 1985, c.
41 426, is amended to read:

42 B. Nothing in this section precludes dissemination of any
43 information contained in the records of juvenile proceedings
44 or other records described in subsection 5 by one criminal
45 justice agency to another criminal justice agency for the
46 purpose of the administration of criminal justice, the
47 administration of juvenile criminal justice and for criminal
48 justice agency employment, ~~provided that~~ as long as:
49

- 2 (1) The person concerning whom the records are sought
4 has been convicted of a crime as an adult;
- 6 (2) The person concerning whom the records are sought
8 has been adjudicated as having committed a juvenile
10 crime which that, if committed by an adult, would be
12 defined as a Class A, B or C crime by Title 17-A, the
14 Maine Criminal Code, or by any other criminal statute
16 outside that code;
- 18 (3) The person concerning whom the records are sought
20 has been adjudicated as having committed a juvenile
22 crime with the use of a dangerous weapon, as defined in
24 Title 17-A, section 2, subsection 9; ~~or~~
- 26 (4) The person concerning whom the records are sought
28 has been adjudicated as having committed 2 or more
30 juvenile crimes which that, if committed by an adult,
32 would be defined as Class D or Class E crimes by Title
34 17-A, the Maine Criminal Code, or by any other criminal
36 statute outside that code; or
- 38 (5) The person seeking the records is the prosecuting
40 attorney in any proceeding and the person concerning
42 whom the records are sought is a defendant in that
44 proceeding.

38 **Sec. 7. 15 MRSA §3308, sub-§7, ¶C** is enacted to read:

40 C. Nothing in this section precludes dissemination of the
42 records of the Department of Corrections if the person
44 concerning whom the records are sought, the person's legal
46 guardian, if any, or if the person is a minor, the person's
48 parent or legal guardian has given informed written consent
50 to the disclosure of the records.

40 **Sec. 8. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 1991, c.
42 493, §23 and affected by §28, is further amended to read:

44 H. The court may commit the juvenile to the Maine Youth
46 Center and order that the disposition be suspended or may
48 commit the juvenile for a period of detention that may not
50 exceed 30 days, with or without an underlying suspended
disposition to the Maine Youth Center, which detention may
be served intermittently as the court may order and must be
ordered served in a detention facility approved or operated
by the Department of Corrections exclusively for juveniles.
The court may order such a disposition to be served as a
part of and with a period of probation, which is subject to

2 such provisions of Title 17-A, section 1204 as the court may
3 order and which must be administered pursuant to Title 34-A,
4 chapter 5, subchapter IV. Revocation of probation is
5 governed by the procedure contained in subsection 2. Any
6 disposition under this paragraph is subject to Title 17-A,
7 section 1253, subsection 2, but not to Title 17-A, section
8 1253, subsection 3-B, 4 or 5. Any disposition under this
9 paragraph ordering a period of detention to be served in a
10 county-operated detention facility by a juvenile from
11 another county is governed by section 1705.

12 **Sec. 9. 15 MRSA §3314, sub-§4**, as amended by PL 1991, c. 776,
13 §3, is further amended to read:

14 **4. Medical support.** Whenever the court commits a juvenile
15 to the Maine Youth Center or to the Department of Human Services
16 or places a juvenile on a period of probation, it shall ~~notify~~
17 ~~the juvenile's parents or legal guardian and, after hearing,~~ may,
18 ~~as justice may demand,~~ require the parent or legal guardian to
19 provide medical insurance for or contract to pay the full cost of
20 any medical treatment, mental health treatment, substance abuse
21 treatment and counseling that may be provided to the juvenile
22 while the juvenile is committed, including while on entrustment
23 or on probation.

24 **Sec. 10. 15 MRSA §3314-A**, as enacted by PL 1977, c. 664, §39,
25 is amended to read:

26 **§3314-A. Period of probation; modification and discharge**
27
28 The period of probation of a juvenile, its modification and
29 discharge, shall ~~be~~ is as provided by Title 17-A, section 1202,
30 except that the period of probation of a juvenile convicted of a
31 juvenile crime as defined by section 3103, subsection 1,
32 paragraphs paragraph B, C, D or E, ~~shall~~ may not exceed one
33 year. The period of probation may extend beyond the juvenile's
34 21st birthday.

35 **Sec. 11. 15 MRSA §3316, sub-§2, ¶A**, as amended by PL 1983, c.
36 480, Pt. B, §21, is further amended to read:

37 **A.** A commitment of a juvenile to the Department of
38 Corrections, including a commitment to the Maine Youth
39 Center, pursuant to section 3314, shall must be for an
40 indeterminate period not to extend beyond the juvenile's
41 18th birthday unless the court expressly further limits or
42 extends the indeterminate commitment, ~~provided that~~ as long
43 as the court shall does not limit the commitment to less
44 than one year nor extend the commitment beyond a juvenile's
45 21st birthday and as long as an order does not result in a

2 commitment of less than one year, unless the commitment is
4 for an indeterminate period not to extend beyond the
6 juvenile's 21st birthday. Nothing in this Part may be
8 construed to prohibit the provision to a juvenile following
10 the expiration of his the juvenile's term of commitment of
12 services voluntarily accepted by the juvenile and his the
14 juvenile's parents, guardian or legal custodian if the
16 juvenile is not emancipated; except that these services
18 shall may not be extended beyond the juvenile's 21st
20 birthday.

12 **Sec. 12. 15 MRSA §3501, sub-§7, ¶B,** as amended by PL 1985, c.
14 439, §18, is further amended to read:

16 B. Notwithstanding paragraph A, a juvenile taken into
18 interim care may be held, if no other appropriate placement
20 is available, in the public sections of a jail or other
22 secure juvenile correctional facility if there is an
adequate staff to supervise the juvenile's activities at all
times, including an approved detention facility operated
exclusively for juveniles.

24 **Sec. 13. 30-A MRSA §458-A,** as amended by PL 1991, c. 493,
§27, is further amended to read:

26 **§458-A. Temporary holding capacity**

28 By January 1, 1992, each county shall establish the capacity
30 to hold a juvenile for 72 hours, excluding Saturday, Sunday and
32 legal holidays, either in a temporary holding resource, as
34 defined in Title 15, section 3003, subsection 26 or in a secure
detention facility, as defined in Title 15, section 3003,
subsection 24-A or shall establish a juvenile detention diversion
project approved by the Department of Corrections.

36 **Sec. 14. 34-A MRSA §4110,** as enacted by PL 1991, c. 400, is
38 amended to read:

40 **§4110. State responsible for detention**

42 Notwithstanding any other provision of law, on the date that
44 the Northern Maine Regional Juvenile Detention Facility begins
46 operating, the State is responsible for all physically
restrictive juvenile detention statewide, except that the
detention provided under Title 15, section 3203-A, subsection 1
remains the responsibility of the counties.

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STATEMENT OF FACT

The purpose of this bill is to clarify several sections of the Maine Juvenile Code and related provisions that have been open to broad interpretation and inconsistent practice throughout the State, resulting in confusion within the juvenile justice system.