

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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Legislative Document

No. 2232

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S.P. 834

In Senate, February 26, 1998

**An Act to Improve the Delivery and Effectiveness of State Correctional Services.**

---

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MURRAY of Penobscot. (GOVERNOR'S BILL).  
Cosponsored by Representative POVICH of Ellsworth and  
Senator MITCHELL of Penobscot, Representative: McALEVEY of Waterboro.

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

4 Sec. 1. 5 MRSA §12004-I, sub-§4-A is enacted to read:

6 4-A. Policy Review Not 34-A MRSA  
Corrections Council Authorized §3002-A

8 Sec. 2. 5 MRSA §12004-I, sub-§15-A, as enacted by PL 1991, c.  
10 764, §1, is repealed.

12 Sec. 3. 15 MRSA §3006, as enacted by PL 1989, c. 925, §3, is  
14 repealed.

16 Sec. 4. 15 MRSA §3103, sub-§2, as amended by PL 1995, c. 470,  
18 §4, is further amended to read:

20 2. **Dispositional powers.** All of the dispositional powers of  
22 the Juvenile Court provided in section 3314 apply to a juvenile  
24 who is adjudicated to have committed a juvenile crime, except  
26 that no commitment to ~~the Maine Youth Center or other detention a~~  
28 Department of Corrections juvenile correctional facility may be  
30 imposed for conduct described in subsection 1, paragraphs B and C.

32 Sec. 5. 15 MRSA §3203-A, sub-§1, ¶B-1, as amended by PL 1997,  
34 c. 24, Pt. RR, §1, is further amended to read:

36 B-1. When, in the judgment of a law enforcement officer,  
38 immediate secure detention is required to prevent a juvenile  
40 from imminently inflicting bodily harm on others or the  
42 juvenile, the officer may refer the juvenile for temporary,  
44 emergency detention in a jail or other secure facility  
46 intended or primarily used for the detention of adults  
48 approved pursuant to subsection 7, paragraph A or a facility  
50 approved pursuant to subsection 7, paragraph B, prior to  
notifying a juvenile caseworker. Such a facility may detain  
the juvenile for up to 2 hours on an emergency basis,  
provided that the law enforcement officer immediately  
notifies the juvenile caseworker and requests authorization  
to detain the juvenile beyond the term of the temporary,  
emergency detention pursuant to paragraph B. The juvenile  
caseworker 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 shall order the conditional or  
unconditional release of a juvenile or shall effect a  
detention placement. ~~After December 31, 1991 and except~~  
Except as otherwise provided by law, any detention beyond 6  
hours must be in a placement other than a facility intended

2 or primarily used for the detention of adults and must be  
3 authorized by a juvenile caseworker. It is the  
4 responsibility of the law enforcement officer to remain at  
5 the facility until the juvenile caseworker has released the  
6 juvenile or has authorized detention.

7 **Sec. 6. 15 MRSA §3203-A, sub-§2, ¶A**, as amended by PL 1989, c.  
8 925, §5, is further amended to read:

9 A. When a juvenile is arrested, the law enforcement officer  
10 or the juvenile caseworker shall notify the legal custodian  
11 of the juvenile without unnecessary delay and inform the  
12 legal custodian of the juvenile's whereabouts, the name and  
13 telephone number of the juvenile caseworker who has been  
14 contacted and, if a juvenile has been placed in a secure  
15 detention facility, that a detention hearing will be held  
16 within 48 hours following this placement, excluding  
17 Saturday, Sunday and legal holidays. ~~After--December--31,~~  
18 ~~1991, if the juvenile is held under subsection 7, paragraph~~  
19 ~~B-1, the law enforcement officer or the juvenile caseworker~~  
20 ~~shall notify the legal custodian that a detention hearing~~  
21 ~~will be held within 24 hours following this placement,~~  
22 ~~excluding Saturday, Sunday and legal holidays.~~

23 **Sec. 7. 15 MRSA §3203-A, sub-§5**, as amended by PL 1989, c.  
24 741, §8, is further amended to read:

25 **5. Detention hearing.** Upon petition by a juvenile  
26 caseworker, the Juvenile Court shall review the decision to  
27 detain a juvenile within 48 hours following the detention,  
28 excluding Saturday, Sunday and legal holidays.

29 A. A detention hearing shall must precede and shall be  
30 separate from a bind-over or adjudicatory hearing. Evidence  
31 presented at a detention hearing may include testimony,  
32 affidavits and other reliable hearsay evidence as permitted  
33 by the court and may be considered in making any  
34 determination in that hearing.

35 B. Following a detention hearing, a court shall order a  
36 juvenile's release, in accordance with subsection 4, unless  
37 it finds, by a preponderance of the evidence, that continued  
38 detention is necessary to meet one of the purposes of  
39 detention provided in that subsection. The Juvenile Court  
40 shall ensure, by appropriate order, that any such continued  
41 detention is otherwise in accordance with the requirements  
42 of subsection 4.

43 C. No continued detention may be ordered unless the  
44 Juvenile Court shall--~~determine~~ determines that there is  
45

2 probable cause to believe that the juvenile has committed a  
juvenile crime.

4 **Sec. 8. 15 MRSA §3203-A, sub-§7, ¶B-1**, as amended by PL 1995,  
c. 647, §1, is repealed.

6 **Sec. 9. 15 MRSA §3203-A, sub-§7, ¶B-2**, as amended by PL 1995,  
8 c. 647, §2, is repealed.

10 **Sec. 10. 15 MRSA §3203-A, sub-§7, ¶B-4**, as amended by PL 1997,  
c. 393, Pt. B, §6 and affected by §7, is further amended to read:

12 ~~B-4. Notwithstanding any other provision of law, on the~~  
14 ~~date that the Northern Maine Regional Juvenile Detention~~  
~~Facility begins operating, the~~ The State is responsible for  
16 all physically restrictive juvenile detention statewide,  
except that the detention provided under subsection 1  
18 remains the responsibility of the counties. At the  
discretion of the sheriff, a county may assume  
20 responsibility for the detention of a juvenile for the first  
48 hours, excluding Saturdays, Sundays and legal holidays.  
22 Upon mutual agreement of the Commissioner of Corrections and  
the sheriff and upon terms mutually agreeable to them, a  
24 juvenile may be further detained by a county. Any detention  
of a juvenile by a county must be in a section of a jail or  
26 other secure detention facility in compliance with paragraph  
A or in an approved detention facility or temporary holding  
28 resource in compliance with paragraph B. This paragraph  
does not apply to a juvenile who is held in an adult section  
30 of a jail pursuant to court order under paragraph C or D;  
section 3101, subsection 4, paragraph E-1; or section 3205,  
32 subsection 2.

34 **Sec. 11. 15 MRSA §3203-A, sub-§7, ¶C**, as amended by PL 1991,  
c. 493, §14, is further amended to read:

36 C. Upon the request of the Commissioner of Corrections or  
38 the commissioner's designee, a judge may approve the  
transfer of a juvenile, who is detained at ~~the Maine Youth~~  
40 ~~Center or in another~~ a detention facility described in  
paragraph B and operated by the department, to any section  
42 of a jail or other secure facility that is intended for use  
or used primarily for the detention of adults:

44 (1) If the judge finds, by clear and convincing  
46 evidence, that:

2 (a) Jurisdiction of the matter as a juvenile case  
has been waived and the juvenile has been bound  
over pursuant to section 3101, subsection 4;

4  
6 (2) If the judge finds, by clear and convincing  
evidence, that the juvenile's behavior:

8 (a) Presents an imminent danger of harm to the  
juvenile or to others; or

10 (b) Presents a substantial likelihood that the  
juvenile will leave the detention facility; and

14 (3) If the judge finds, by clear and convincing  
evidence, that there is no less restrictive alternative  
to detention in an adult facility that will meet the  
purposes of detention.

18 In determining whether the juvenile's behavior presents  
a danger to the juvenile or others, the court shall  
consider, among other factors:

22 (a) The nature of and the circumstances  
surrounding the offense with which the juvenile is  
charged, including whether the offense was  
committed in an aggressive, violent, premeditated  
or willful manner;

28 (b) The record and previous history of the  
juvenile, including the juvenile's emotional  
attitude and pattern of living; and

32 (c) If applicable, the juvenile's behavior and  
mental condition during any previous or current  
period of detention or commitment.

36 **Sec. 12. 15 MRSA §3205**, as amended by PL 1997, c. 24, Pt. RR,  
38 §4, is further amended to read:

40 **§3205. Juvenile in adult-serving jail**

42 1. **Generally.** ~~After December 31, 1991,~~ a juvenile may  
not be committed to or detained in a jail or other secure  
44 detention facility intended or primarily used for the detention  
of adults, except when bound over as an adult or as provided in  
46 section 3203-A, subsection 1, paragraph B-1 or section 3203-A,  
subsection 7, paragraph B-1, ~~B-2~~ or B-4. A juvenile who is  
48 detained in a jail or other secure detention facility intended or  
primarily used for the detention of adults may be detained only  
50 in a section of a facility that meets the requirements of section

2 3203-A, subsection 7, paragraph A, unless bound over as an adult  
and held in an adult section of a facility pursuant to court  
order.

4  
6 **2. Exception.** Subsection 1 applies to any person who is  
considered a juvenile by virtue of section 3101, subsection 2,  
paragraph D except that if the person has attained the age of 18  
8 years, any detention ~~and any commitment pursuant to section 3314,~~  
~~subsection 1, paragraph H~~ may be, upon the order of a court, in  
10 an adult section of a jail or other secure detention facility  
intended or primarily used for the detention of adults and may  
12 extend beyond the time limits set out in section 3203-A,  
subsection 1, paragraph B-1 ~~and section 3203-A, subsection 7,~~  
14 ~~paragraph B-1.~~

16 **Sec. 13. 15 MRSA §3308, sub-§7, ¶D,** as amended by PL 1997, c.  
548, Pt. A, §1, is further amended to read:

18  
20 D. When a juvenile who is adjudicated of a juvenile crime  
that if committed by an adult would be gross sexual assault  
under Title 17-A, section 253, subsection 1 is committed to  
22 ~~the Maine Youth Center~~ a Department of Corrections juvenile  
correctional facility or placed on probation, the Department  
24 of Corrections shall provide, while the juvenile is  
committed ~~to the Maine Youth Center~~ or on probation, a copy  
26 of the juvenile's judgment and commitment to the Department  
of Human Services, to all law enforcement agencies that have  
28 jurisdiction in those areas where the juvenile may reside,  
work or attend school and to the superintendent of any  
30 school system in which the juvenile attends school during  
the period of commitment or probation. The Department of  
32 Corrections shall provide a copy of the juvenile's judgment  
and commitment to all licensed and registered day-care  
34 facility operators located in the municipality where the  
juvenile resides, works or attends school during the period  
36 of commitment or probation. Upon request, the Department of  
Corrections shall also provide a copy of the juvenile's  
38 judgment and commitment to other entities that are involved  
in the care of children and are located in the municipality  
40 where the juvenile resides, works or attends school during  
the period of commitment or probation. The Department of  
42 Corrections may provide a copy of the juvenile's judgment  
and commitment to any other agency or person whom the  
44 Department of Corrections determines is appropriate to  
ensure public safety. Neither the failure of the Department  
46 of Corrections to perform the requirements of this paragraph  
nor compliance with this paragraph subjects the Department  
48 of Corrections or its employees to liability in a civil  
50 action.

2           **Sec. 14. 15 MRSA §3309-A, sub-§4**, as enacted by PL 1995, c.  
690, §4 and affected by §7, is amended to read:

4           **4. Juvenile adjudicated of gross sexual assault.** After  
adjudication and before disposition when a juvenile is  
6 adjudicated of a juvenile crime that if committed by an adult  
would be gross sexual assault under Title 17-A, section 253,  
8 subsection 1, the court shall order the juvenile to undergo a  
diagnostic evaluation at ~~the--Maine--Youth--Center~~ a detention  
10 facility described in section 3203-A, subsection 7, paragraph B.

12           **Sec. 15. 15 MRSA §3309-B**, as amended by PL 1997, c. 24, Pt.  
RR, §5, is further amended to read:

14           **§3309-B. Limitations on diagnostic evaluations in a secure**  
16 **detention facility**

18           Except as provided in section 3309-A, subsection 4, the  
court may not order a juvenile to undergo a diagnostic evaluation  
20 at ~~the--Maine--Youth--Center~~ a detention facility described in  
section 3203-A, subsection 7, paragraph B or a secure detention  
22 facility unless the juvenile meets the requirements of section  
3203-A, subsection 4, paragraphs C and D and the diagnostic  
24 evaluation is unable to take place outside the facility on either  
a residential or nonresidential basis.

26           **Sec. 16. 15 MRSA §3314, sub-§1, ¶E**, as repealed and replaced  
28 by PL 1995, c. 690, §6, is amended to read:

30           E. The court may require the juvenile to make restitution  
for any damage to the victim or other authorized claimant as  
32 compensation for economic loss upon reasonable conditions  
that the court determines appropriate. For the purposes of  
34 this paragraph, the definitions in Title 17-A, section 1322  
and the provisions of Title 17-A, ~~section~~ sections 1324,  
36 1328-A and 1329 apply, except that section 1329, subsection  
3, paragraph A does not apply.

38           **Sec. 17. 15 MRSA §3314, sub-§1, ¶F**, as amended by PL 1995, c.  
40 502, Pt. F, §5, is further amended to read:

42           F. The court may commit the juvenile to ~~the--Maine--Youth~~  
~~Center~~ a Department of Corrections juvenile correctional  
44 facility. Whenever a juvenile is committed to ~~the--Maine~~  
~~Youth---~~~~Center~~ a Department of Corrections juvenile  
46 correctional facility, the court shall determine whether  
reasonable efforts have been made to prevent or eliminate  
48 the need for removal of the juvenile from the juvenile's  
home and whether continuation in the juvenile's home would  
50 be contrary to the welfare of the juvenile. This



2 determination does not affect whether the court orders a  
3 commitment to ~~the--Maine--Youth--Center~~ a Department of  
4 Corrections juvenile correctional facility, which continues  
to be governed by section 3313.

6 **Sec. 18. 15 MRSA §3314, sub-§3**, as amended by PL 1995, c. 65,  
Pt. A, §48 and affected by §153 and Pt. C, §15, is further  
8 amended to read:

10 **3. Disposition for violation of section 3103, subsection 1,**  
11 **paragraph E or F.** When a juvenile has been adjudicated as having  
12 committed the juvenile crime under section 3103, subsection 1,  
13 paragraph E or F, the court may impose any of the dispositional  
14 alternatives contained in subsection 1. Any incarceration that  
15 is imposed may be part of a disposition pursuant to subsection 1,  
16 paragraph F ~~or H. Any incarceration in a detention facility must~~  
17 ~~be in a facility designated in subsection 1, paragraph H.~~

18 A. For an adjudication under section 3103, subsection 1,  
19 paragraph F, the juvenile's license or permit to operate a  
20 motor vehicle, right to operate a motor vehicle or right to  
21 apply for or obtain a license must be suspended by the court  
22 for a period of 180 days. The period of suspension may not  
23 be suspended by the court. The court shall give notice of  
24 the suspension and take physical custody of an operator's  
25 license or permit as provided in Title 29-A, section 2434.  
26 The court shall immediately transmit a certified abstract of  
27 the suspension to the Secretary of State. A further  
28 suspension may be imposed by the Secretary of State pursuant  
29 to Title 29-A, section 2451, subsection 3.

32 **Sec. 19. 15 MRSA §3314, sub-§4**, as amended by PL 1997, c. 24,  
Pt. RR, §6, is further amended to read:

34 **4. Medical support.** Whenever the court commits a juvenile  
35 to ~~the--Maine--Youth--Center~~ a Department of Corrections juvenile  
36 correctional facility or to the Department of Human Services ~~or~~  
37 ~~for a period of detention~~ or places a juvenile on a period of  
38 probation, it shall require the parent or legal guardian to  
39 provide medical insurance for or contract to pay the full cost of  
40 any medical treatment, mental health treatment, substance abuse  
41 treatment and counseling that may be provided to the juvenile  
42 while the juvenile is committed, including while on aftercare  
43 status or on probation, unless it determines that such a  
44 requirement would create an excessive hardship on the parent or  
45 legal guardian, or other dependent of the parent or legal  
46 guardian, in which case it shall require the parent or legal  
47 guardian to pay a reasonable amount toward the cost, the amount  
48 to be determined by the court.

50

2           **Sec. 20. 15 MRSA §3314, sub-§5**, as amended by PL 1997, c. 339,  
§1, is further amended to read:

4           **5. Support orders.** Whenever the court commits a juvenile  
to the Department of Human Services, to ~~the Maine Youth Center a~~  
6           Department of Corrections juvenile correctional facility or to a  
relative or other person, the court may order either or both  
8           parents of the juvenile to pay a reasonable amount of support for  
the juvenile. The order is enforceable under Title 19-A, section  
10           2603. ~~A parent may not be required to pay support for a juvenile~~  
~~during any period when the juvenile resides in a county jail.~~

12           **Sec. 21. 15 MRSA §3315, sub-§1**, as amended by PL 1983, c. 480,  
14           Pt. B, §20, is further amended to read:

16           **1. Right to review.** Every disposition pursuant to section  
3314, other than unconditional discharge, ~~and every disposition~~  
18           ~~made pursuant to the law in effect prior to July 1, 1978 shall~~  
must be reviewed not less than once in every 12 months until the  
20           juvenile is discharged. The review shall must be made by a  
representative of the Department of Corrections unless the  
22           juvenile was committed to the Department of Human Services, in  
which case such review shall must be made by a representative of  
24           the Department of Human Services. A report of the review shall  
must be made in writing to the juvenile's parents, guardian or  
26           legal custodian. A copy of the report shall must be forwarded to  
the program or programs which that were reviewed, and the  
28           department whose personnel made the review shall retain a copy of  
the report in their files. The written report shall must be  
30           prepared in accordance with subsection 2.

32           **Sec. 22. 15 MRSA §3316**, as amended by PL 1995, c. 502, Pt. F,  
§9, is further amended to read:

34           **§3316. Commitment to the Department of Corrections or the**  
36           **Department of Human Services**

38           **1. Sharing of information about a committed juvenile.**

40           A. When a juvenile is committed to ~~the a~~ Department of  
Corrections juvenile correctional facility or the Department  
42           of Human Services, the court shall transmit, with the  
commitment order, a copy of the petition, the order of  
44           adjudication, copies of the social study, any clinical or  
educational reports and other information pertinent to the  
46           care and treatment of the juvenile;

48           B. The Department of Corrections facility or the Department  
of Human Services shall provide the court with any

2 information concerning a juvenile committed to its care  
which that the court at any time may require.

4 **2. Indeterminate sentence.**

6 A. A commitment of a juvenile to ~~the Maine Youth Center a~~  
7 Department of Corrections juvenile correctional facility  
8 pursuant to section 3314 must be for an indeterminate period  
9 not to extend beyond the juvenile's 18th birthday unless the  
10 court expressly further limits or extends the indeterminate  
11 commitment, as long as the court does not limit the  
12 commitment to less than one year nor extend the commitment  
13 beyond a juvenile's 21st birthday and as long as an order  
14 does not result in a commitment of less than one year,  
15 unless the commitment is for an indeterminate period not to  
16 extend beyond the juvenile's 21st birthday. Nothing in this  
17 Part may be construed to prohibit the provision to a  
18 juvenile following the expiration of the juvenile's term of  
19 commitment of services voluntarily accepted by the juvenile  
20 and the juvenile's parents, guardian or legal custodian if  
21 the juvenile is not emancipated; except that these services  
22 may not be extended beyond the juvenile's 21st birthday.

24 B. A commitment of a juvenile to the Department of Human  
25 Services pursuant to section 3314 ~~shall~~ must be for an  
26 indeterminate period not to extend beyond the juvenile's  
27 18th birthday unless the court expressly further limits the  
28 commitment.

30 **3. Provision of services.** Nothing in this chapter may  
31 prevent juveniles ~~in the custody of~~ who are receiving services  
32 from the Department of Corrections from receiving services from  
33 the Department of Human Services.

34 **Sec. 23. 15 MRSA §3317**, as amended by PL 1995, c. 502, Pt. F,  
35 §10, is further amended to read:

36 **§3317. Disposition after return to Juvenile Court**

38 In instances of commitment of a juvenile to the Department  
39 of Human Services or ~~the Maine Youth Center a~~ Department of  
40 Corrections juvenile correctional facility or when the juvenile  
41 is under a specified period of probation, the Commissioner of  
42 Human Services or the commissioner's designee or the Commissioner  
43 of Corrections or the commissioner's designee following the  
44 disposition may for good cause petition the Juvenile Court having  
45 original jurisdiction in the case for a judicial review of the  
46 disposition, including extension of the period of commitment or  
47 period of probation. In all cases in which a juvenile is returned  
48 to a Juvenile Court, the Juvenile Court may make any of the  
49

2 dispositions otherwise provided in section 3314. When reviewing a  
3 commitment to the Department of Human Services, the court shall  
4 consider efforts made by the Department of Corrections and the  
5 Department of Human Services to reunify the juvenile with the  
6 juvenile's parents or custodians, shall make a finding regarding  
7 those efforts and shall return custody of the juvenile to a  
8 parent or legal custodian if the return of the juvenile is not  
9 contrary to the welfare of the juvenile. A petition for judicial  
10 review of a disposition committing the child to the Department of  
11 Human Services must be served on the parents at least 7 days  
12 prior to the hearing.

13 **Sec. 24. 15 MRSA §3319** is enacted to read:

14 **§3319. Designation of facility**

15 Immediately after the court orders detention in or  
16 commitment to a juvenile facility, the court shall notify the  
17 Commissioner of Corrections or the commissioner's designee and  
18 shall inquire as to the juvenile facility to which the juvenile  
19 will be transported. The commissioner has complete discretion to  
20 make this determination. The commissioner or the commissioner's  
21 designee shall immediately inform the court of the location of  
22 the juvenile facility to which the juvenile will be transported.

23 **Sec. 25. 15 MRSA §3501, sub-§7, ¶A**, as enacted by PL 1977, c.  
24 520, §1, is amended to read:

25 A. A child taken into interim care shall ~~may~~ not be placed  
26 in a jail or other secure ~~correctional~~ facility intended or  
27 used to detain adults accused or convicted of crimes or  
28 juveniles accused or adjudicated of juvenile crimes.

29 **Sec. 26. 15 MRSA §3501, sub-§7, ¶B**, as amended by PL 1993, c.  
30 354, §12, is further amended to read:

31 B. Notwithstanding paragraph A, a juvenile taken into  
32 interim care may be held, if no other appropriate placement  
33 is available, in the public sections of a ~~jail-or-other~~  
34 ~~secure-juvenile-correctional~~ facility described in section  
35 3203-A, subsection 7, paragraph B if there is an adequate  
36 staff to supervise the juvenile's activities at all times,  
37 ~~including---an---approved---detention---facility---operated~~  
38 ~~exclusively--for--juveniles~~ or in accordance with section  
39 3203-A, subsection 7-A.

40 **Sec. 27. 17-A MRSA §1330, sub-§3** is enacted to read:

41 **3. Restitution; absolute.** The requirements imposed on a  
42 prisoner by this section to pay restitution and fines during  
43

2 incarceration apply regardless of whether the court order to pay  
3 restitution or fines constitutes a sentence or is imposed as a  
4 condition of probation, regardless of whether payment has been  
5 stayed in the court order and regardless of whether the  
6 prisoner's incarceration resulted from a revocation of probation.

7 **Sec. 28. 34-A MRSA §1001, sub-§6**, as repealed and replaced by  
8 PL 1995, c. 462, Pt. A, §63 and affected by §§64, 82 and 83, is  
9 amended to read:

10 **6. Correctional facility.** "Correctional facility" means  
11 any facility that falls under the jurisdiction of the department,  
12 but does not include a ~~county jail, holding facility, short-term~~  
13 ~~detention area or a detention facility~~ the Northern Maine  
14 Regional Juvenile Detention Facility or any facility for which  
15 the department is required to establish standards pursuant to  
16 section 1208 or 1208-A.

17 **Sec. 29. 34-A MRSA §1001, sub-§11**, as amended by PL 1997, c.  
18 464, §7, is further amended to read:

19 **11. Juvenile client.** "Juvenile client" means a juvenile  
20 committed to ~~the Maine Youth Center~~ a juvenile correctional  
21 facility who is either residing at the ~~center~~ facility or is on  
22 aftercare status.

23 **Sec. 30. 34-A MRSA §1001, sub-§11-A**, as enacted by PL 1991, c.  
24 314, §6, is amended to read:

25 **11-A. Juvenile detainee.** "Juvenile detainee" means a  
26 juvenile detained at ~~the Maine Youth Center or~~ a detention  
27 facility pending a court proceeding, or pending a preliminary  
28 hearing under Title 17-A, section 1205 ~~or pursuant to Title 15,~~  
29 ~~section 3314, subsection 1, paragraph H.~~

30 **Sec. 31. 34-A MRSA §3002-A** is enacted to read:

31 **§3002-A. Policy review council**

32 The commissioner and the Commissioner of Education shall  
33 appoint a 7-member policy review council, referred to in this  
34 section as the "council," as authorized by Title 5, chapter 379.

35 **1. Term.** The term of office is 3 years. The initial  
36 appointments are as follows:

37 A. Three members for 3 years;

38 B. Two members for 2 years; and

2           C. Two members for one year.

4           Replacements for council members who do not complete their terms  
6           of office are for the remainder of the unexpired terms.

8           2. Council members. The council members must be  
10           representative of a broad range of professionals, parents and  
12           citizens interested in the education of students confined in the  
14           department's juvenile facilities and include the parents of a  
16           current or former student. In addition, council members may  
18           include:

20           A. Professionals not employed by the department who serve  
22           or have served students in a corrections setting;

24           B. Representatives of advocacy groups for children with  
26           special needs;

28           C. School administrative unit administrators or special  
30           education directors; and

32           D. Interested citizens.

34           A Legislator may not serve on the council.

36           3. Access to educational programs. The council must have  
38           access to the department's educational programs for confined  
40           juveniles, but may not participate in the administration of the  
42           day-to-day operations of the programs.

44           4. Duties. The duties of the council include, but are not  
46           limited to:

48           A. Making annual recommendations to the Commissioner of  
50           Education and the commissioner and sending copies of the  
52           recommendations to the members of the joint standing  
54           committee of the Legislature having jurisdiction over  
56           education matters;

58           B. Making policy recommendations to the Commissioner of  
60           Education and the commissioner;

62           C. Reviewing policy development;

64           D. Reviewing the implementation of the policy;

66           E. Reviewing staff recruitment, retention, promotion and  
68           evaluation policies and procedures;

2 F. Holding hearings for staff, parents, students, alumni,  
4 special education directors and the general public and  
6 otherwise soliciting the opinions of individuals in those  
8 groups concerning the operation and role of the department's  
10 educational programs for confined juveniles; and

12 G. Conducting exit interviews with staff members  
14 terminating employment with the department's educational  
16 programs for confined juveniles.

18 **Sec. 32. 34-A MRSA §3201**, as amended by PL 1995, c. 502, Pt.  
20 F, §22, is further amended to read:

22 **§3201. Maintenance**

24 The commissioner shall maintain the Maine State Prison at  
26 Themaster, in Knox County, as the prison and penitentiary of the  
28 State, and shall confine, employ and govern persons lawfully in  
30 the custody of the department, as provided by law. The Maine  
32 Correctional Institution - Warren is established as a unit of the  
34 Maine State Prison.

36 **Sec. 33. 34-A MRSA §3802, sub-§1, ¶A**, as enacted by PL 1983,  
38 c. 459, §6, is amended to read:

40 A. ~~To detain juveniles prior to Juvenile Court appearances~~  
42 ~~en--court--order--that--the--juvenile--be--securely--detained~~  
44 pending a court proceeding or pending a preliminary hearing  
46 under Title 17-A, section 1205;

48 **Sec. 34. 34-A MRSA §3802, sub-§1, ¶C**, as amended by PL 1995,  
50 c. 502, Pt. F, §27, is further amended to read:

52 C. ~~To rehabilitate juveniles committed to it--en--being~~  
54 ~~adjudicated as having committed a juvenile crime under Title~~  
56 ~~15,--section--3310,--subsection--5 a juvenile correctional~~  
58 facility pursuant to Title 15, section 3314, subsection 1,  
60 paragraph F; and

62 **Sec. 35. 34-A MRSA §3809-A**, as enacted by PL 1983, c. 581,  
64 §§51 and 59, is repealed and the following enacted in its place:

66 **§3809-A. Commissioner's guardianship powers**

68 **1. Juvenile client.** The commissioner has all the power  
70 over a juvenile client that a guardian has over a ward and that a  
72 parent has over a child with regard to allowable property that  
74 the juvenile client has at the Maine Youth Center, earnings that  
76 the juvenile client receives during the juvenile client's stay at  
78 the Maine Youth Center and the rehabilitation of every juvenile

2 client. If a juvenile client is or becomes 18 years of age while  
3 still under commitment, the statutory guardianship of the  
4 commissioner over the juvenile client terminates, but the  
5 juvenile client remains subject to the control of the  
6 commissioner, staff and rules of the center until the expiration  
7 of the period of commitment or until discharge from the center.

8 2. Juvenile detainee. The commissioner has all the power  
9 over a juvenile detainee that a guardian has over a ward and that  
10 a parent has over a child with regard to necessary medical care.  
11 If a juvenile detainee is or becomes 18 years of age while still  
12 detained, the statutory guardianship of the commissioner over the  
13 juvenile detainee terminates, but the juvenile remains subject to  
14 the control of the commissioner, staff and rules of the center  
15 until release from the center.

16 Sec. 36. 34-A MRSA §3815, sub-§4, as enacted by PL 1991, c.  
17 764, §2, is repealed.

18 Sec. 37. 34-A MRSA §3901, as enacted by PL 1983, c. 861, §1,  
19 is amended to read:

20 **§3901. Establishment**

21 There is established the Downeast Correctional Facility  
22 located at ~~Machiasport~~ in Washington County for the confinement  
23 and rehabilitation of persons who have been duly sentenced and  
24 committed to the Department of Corrections.

25 Sec. 38. 34-A MRSA §4102, sub-§1, as enacted by PL 1991, c.  
26 400, is amended to read:

27 1. Detention. To detain juveniles ~~prior to juvenile court~~  
28 ~~appearances when a court orders that the juvenile be securely~~  
29 detained pending a court proceeding or pending a preliminary  
30 hearing under Title 17-A, section 1205;

31 Sec. 39. 34-A MRSA §4111 is enacted to read:

32 **§4111. Powers of commissioner**

33 The commissioner has all the power over a juvenile detainee  
34 that a guardian has over a ward and that a parent has over a  
35 child with regard to necessary medical care. If a juvenile  
36 detainee is or becomes 18 years of age while still detained, the  
37 statutory guardianship of the commissioner over the juvenile  
38 detainee terminates, but the juvenile remains subject to the  
39 control of the commissioner, staff and rules of the facility  
40 until release from the facility.



2           **Sec. 40. Change in facility name and function.** On the date that  
the Charleston Correctional Facility ceases operating as an adult  
4           correctional facility and begins operating as a juvenile  
detention facility and a juvenile correctional facility, the  
6           Northern Maine Regional Juvenile Detention Facility will be  
incorporated into the Charleston Correctional Facility and those  
8           facilities will be renamed the Northern Maine Juvenile Facility.  
On that same date, the Maine Youth Center will be renamed the  
10          Southern Maine Juvenile Facility to reflect its status as a  
juvenile detention facility and a juvenile correctional  
12          facility. The Department of Corrections shall prepare  
legislation for submission to the legislative session occurring  
14          just prior to that date to make state law consistent with the  
changes in name and functions of the facilities.

16

### SUMMARY

18

The bill:

20

1. Eliminates an outdated requirement that the Department  
22          of Corrections review the Maine Juvenile Code and recommend  
legislation;

24

2. Replaces the reference to the Maine Youth Center as the  
26          place of commitment to a Department of Corrections juvenile  
correctional facility to reflect the restructuring of the  
28          juvenile system;

30

3. Eliminates outdated references to detention prior to the  
opening of the Northern Maine Regional Juvenile Detention  
32          Facility;

34

4. Reiterates the requirement already found in the Maine  
Juvenile Code that a detention hearing be held within 48 hours  
36          and puts it in a place in the code where it is more likely to be  
found;

38

5. Replaces the reference to the Maine Youth Center as the  
40          place of detention with "a detention facility" to reflect the  
restructuring of the juvenile system;

42

6. Replaces the reference to the Maine Youth Center as the  
44          place for diagnostic evaluation with "a detention facility" to  
reflect the restructuring of the juvenile system;

46

7. Allows the court to enforce a restitution order against  
48          a juvenile who has defaulted in the same way as an order is  
enforced against an adult except that a juvenile may not be  
50          confined in a county jail pending payment of restitution;

- 2           8. Eliminates the term of confinement of 30 days or less  
4 that is presently one of the dispositions that a juvenile court  
may impose on a juvenile adjudicated of a juvenile crime;
- 6           9. Clarifies existing statutory language to reflect that  
8 commitment is to a Department of Corrections juvenile  
correctional facility;
- 10          10. Requires the court to notify the Commissioner of  
12 Corrections or the commissioner's designee immediately after  
detention or commitment is ordered and to inquire as to the  
14 juvenile facility to which the juvenile is to be transported;
- 16          11. Clarifies the holding of juveniles taken into interim  
care;
- 18          12. Clarifies the definitions of "correctional facility,"  
20 "juvenile client" and "juvenile detainee";
- 22          13. Changes a provision that currently applies only to the  
24 Maine Youth Center school and applies it to all educational  
programs for confined juveniles;
- 26          14. Eliminates the reference to Thomaston as the location  
for the Maine State Prison. The location remains in Knox County;
- 28          15. Revises the purpose of the Maine Youth Center to be  
30 consistent with the State's assumption of responsibility for  
juvenile detention and the restructuring of the juvenile system;
- 32          16. Clarifies that the commissioner's power of guardianship  
34 extends to juvenile detainees for necessary medical services only;
- 36          17. Changes the location of the Downeast Correctional  
Facility from Machiasport to Washington County;
- 38          18. Revises the purpose of the Northern Maine Regional  
40 Juvenile Detention Facility to be consistent with the State's  
assumption of responsibility for juvenile detention and with the  
42 elimination of short terms of confinement as a disposition;
- 44          19. Completes the transition from the existing juvenile  
46 system to the restructured system and directs the department to  
submit legislation to make state law consistent with the changes;  
and
- 48          20. Clarifies that the requirements to pay victim  
50 restitution and court fines from money received while  
incarcerated is absolute.