

# MAINE STATE LEGISLATURE

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R.S.

L.D. 1400

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CRIMINAL JUSTICE

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STATE OF MAINE HOUSE OF REPRESENTATIVES 119TH LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1002, L.D. 1400, Bill, "An Act to Amend Juvenile Corrections Laws and to Establish a Juvenile Records Repository"

Amend the bill by inserting after the title and before the enacting clause the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.'

Further amend the bill in Part A in section 1 in paragraph C in the next-to-the-last line (page 1, line 27 in L.D.) by inserting after the following: "must be made" the following: 'by the juvenile caseworker'

Further amend the bill in Part A by striking out all of section 2 and inserting in its place the following:

'Sec. A-2. 15 MRSA §3203-A, sub-§2, ¶A, as amended by PL 1997, c. 752, §8, is further amended to read:

A. When a juvenile is arrested, the law enforcement officer or the juvenile caseworker shall notify the legal custodian of the juvenile without unnecessary delay and inform the legal custodian of the juvenile's whereabouts, the name and telephone number of the juvenile caseworker who has been

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2 contacted and, if a juvenile has been placed in a secure  
detention facility, that a detention hearing will be held  
4 within 48 24 hours following this placement, excluding  
Saturday, Sunday and legal holidays.

6 **Sec. A-3. 15 MRSA §3203-A, sub-§3**, as amended by PL 1991, c.  
493, §4, is further amended to read:

8  
10 **3. Law enforcement officer's report.** An officer who  
12 notifies a juvenile caseworker pursuant to subsection 1,  
14 paragraph A or B shall file a brief written report with the  
juvenile caseworker, stating the juvenile's name, date of birth  
16 and address; the name and address of the juvenile's legal  
custodian; and the facts that led to the notification, including  
the offense that the juvenile is alleged to have committed. The  
report must contain sufficient information to establish the  
jurisdiction of the Juvenile Court.

18  
20 A report of a notification pursuant to subsection 1, must be  
filed within 24 hours of the notification, excluding nonjudicial  
22 days. When a juvenile caseworker orders the conditional release  
of a juvenile and a report of the notification is not filed with  
the juvenile caseworker within 15 days, excluding nonjudicial  
24 days, the juvenile caseworker shall review the conditions imposed  
at the time of the release. Following the review, the juvenile  
caseworker may lessen or eliminate the conditions.

28 The date on which the report is received by the juvenile  
caseworker is the date of referral to the juvenile caseworker for  
30 an intake assessment.

32 **Sec. A-4. 15 MRSA §3203-A, sub-§4, ¶E**, as amended by PL 1997,  
c. 645, §7, is further amended to read:

34  
36 E. If a juvenile caseworker or an attorney for the State  
orders a juvenile detained, the juvenile caseworker who  
38 ordered the detention or the attorney for the State who  
ordered the detention shall, ~~within 24 hours, excluding  
nonjudicial days,~~ petition the Juvenile Court for a review  
40 of the detention in time for the detention hearing to take  
place within 24 hours following the detention, unless the  
42 juvenile caseworker who ordered the detention or the  
attorney for the State who ordered the detention has ordered  
44 the release of the juvenile ~~prior to the expiration of the  
24-hour period.~~ The juvenile caseworker who ordered the  
46 detention or the attorney for the State who ordered the  
detention may order the release of the juvenile anytime  
48 prior to the detention hearing. If the juvenile is so  
released, a detention hearing may not be held.

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2       **Sec. A-5. 15 MRSA §3203-A, sub-§5**, as amended by PL 1997, c.  
3 645, §8 and c. 752, §9, is repealed and the following enacted in  
4 its place:

5       **5. Detention hearing.** Upon petition by a juvenile  
6 caseworker who ordered the detention or an attorney for the State  
7 who ordered the detention, the Juvenile Court shall review the  
8 decision to detain a juvenile within 24 hours following the  
9 detention, excluding Saturday, Sunday and legal holidays.

10       A. A detention hearing must precede and must be separate  
11 from a bind-over or adjudicatory hearing. Evidence  
12 presented at a detention hearing may include testimony,  
13 affidavits and other reliable hearsay evidence as permitted  
14 by the court and may be considered in making any  
15 determination in that hearing.

16       B. Following a detention hearing, a court shall order a  
17 juvenile's release, in accordance with subsection 4, unless  
18 it finds, by a preponderance of the evidence, that continued  
19 detention is necessary to meet one of the purposes of  
20 detention provided in that subsection. The Juvenile Court  
21 shall ensure, by appropriate order, that any such continued  
22 detention is otherwise in accordance with the requirements  
23 of subsection 4.

24       C. Continued detention may not be ordered unless the  
25 Juvenile Court determines that there is probable cause to  
26 believe that the juvenile has committed a juvenile crime.'

27       Further amend the bill in Part A by inserting after section  
28 4 the following:

29       '**Sec. A-5. 15 MRSA §3301, sub-§6-A**, as enacted by PL 1997, c.  
30 421, Pt. A, §3, is amended to read:

31       **6-A. Records confidential.** Except as otherwise provided in  
32 this Title, information contained in records pertaining to a  
33 juvenile against whom a juvenile petition has not been filed is  
34 confidential unless the juvenile, and the juvenile's parents,  
35 guardian or legal custodian if the juvenile is not emancipated,  
36 has given informed written consent to the disclosure of the  
37 records.

38       This subsection does not preclude the release of the identity of  
39 a juvenile on conditional release pursuant to section 3203-A or  
40 on informal adjustment pursuant to this section to a criminal  
41 justice agency for the administration of juvenile criminal  
42 justice.'

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Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

The requirement that law enforcement agencies take fingerprints of juveniles taken into custody and forward those fingerprints to the State Bureau of Investigation represents a state mandate pursuant to the Constitution of Maine. The additional local costs are expected to be minor. Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional local costs.

The additional costs associated with implementing the juvenile records repository can be absorbed by the Department of Corrections and the Department of Public Safety utilizing existing budgeted resources.

The Judicial Department will incur some minor additional costs to review juvenile probation violations on a more expedited basis and to forward abstracts of juvenile court proceedings to the State Bureau of Identification. These costs can be absorbed within the department's existing budgeted resources.'

**SUMMARY**

This amendment clarifies that juvenile caseworkers are responsible for detention placement. The amendment allows juvenile caseworkers to review conditions imposed on a juvenile and lessen or eliminate the conditions if the law enforcement report for the incident is not filed within 15 days. The amendment permits juvenile caseworkers to share the identities of juveniles on conditional release or informal adjustment with criminal justice agencies for the purpose of administration of juvenile criminal justice. The amendment changes from 48 hours to 24 hours the time a detention hearing must be held after a juvenile is placed in a secure detention facility. This is consistent with federal requirements. Finally, the amendment is a mandate and adds a mandate preamble and a fiscal note to the bill.