

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

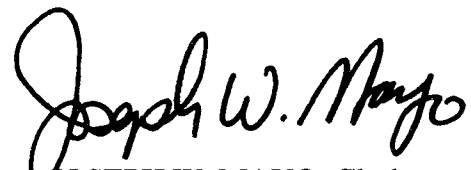
No. 1400

H.P. 1002

House of Representatives, February 18, 1999

**An Act to Amend Juvenile Corrections Laws and to Establish a Juvenile
Records Repository.**

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative POVICH of Ellsworth.
Cosponsored by Representatives: McALEVEY of Waterboro, MUSE of South Portland.

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

PART A

Sec. A-1. 15 MRSA §3203-A, sub-§1, ¶C, as amended by PL 1997, c. 645, §6, is further amended to read:

C. In cases under Title 5, section 200-A, the law enforcement officer shall immediately notify the juvenile caseworker and the Department of the Attorney General. In all other cases the law enforcement officer shall immediately notify the juvenile caseworker if the law enforcement officer believes that immediate secure detention is required. If the juvenile caseworker determines not to order the detention or continued detention of the juvenile, the caseworker shall inform the law enforcement officer and the attorney for the State prior to the juvenile's release. The attorney for the State, with or without a request from a law enforcement officer, shall consider the facts of the case, consult with the juvenile caseworker who made the initial determination, consider standards for detention under subsection 4, paragraph C and subsection 4, paragraph D, subparagraphs (1) to (6) and may order detention or continued detention of the juvenile under the same or any authorized conditions pending the juvenile's initial appearance before the court. If detention or continued detention is ordered, the detention placement must be made within 12 hours following the juvenile's arrest.

Sec. A-2. 15 MRSA §3203-A, sub-§3, as amended by PL 1991, c. 493, §4, is further amended to read:

3. **Law enforcement officer's report.** An officer who notifies a juvenile caseworker pursuant to subsection 1, paragraph A or B shall file a brief written report with the juvenile caseworker, stating the juvenile's name, date of birth 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.

A report of a notification pursuant to subsection 1, must be filed within 24 hours of the notification, excluding nonjudicial days. If a report is not timely filed, a conditional release of the juvenile becomes unconditional.

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

2 **Sec. A-3. 15 MRSA §3301, sub-§1, ¶A**, as enacted by PL 1977, c.
520, §1, is amended to read:

4
6 A. Decide that ~~no--further~~ action requiring ongoing
supervision is not required, either in the interests of the
8 public or of the juvenile;

10 **Sec. A-4. 15 MRSA §3301, sub-§5, ¶A**, as amended by PL 1989, c.
502, Pt. A, §41, is further amended to read:

12 A. Decide that ~~no--further~~ action requiring ongoing
supervision is not required either in the interests of the
14 public or of the juvenile. If the juvenile caseworker
determines that the facts in the report prepared for the
16 caseworker by the referring officer pursuant to section
3203-A, subsection 3, are sufficient to file a petition, but
18 in the caseworker's judgment the interest of the juvenile
and the public will be served best by providing the juvenile
20 with services voluntarily accepted by the juvenile and the
juvenile's parents, guardian or legal custodian if the
22 juvenile is not emancipated, the juvenile caseworker may
refer the juvenile for that care and treatment and not
24 request that a petition be filed;

26 **Sec. A-5. 15 MRSA §3314, sub-§2**, as amended by PL 1997, c.
752, §21, is further amended to read:

28
30 **2. Suspended disposition.** The court may impose any of the
dispositional alternatives provided in subsection 1, and may
suspend its disposition and place the juvenile on a specified
32 period of probation that is subject to such provisions of Title
17-A, section 1204 as the court may order and that is
34 administered pursuant to the provisions of Title 34-A, chapter 5,
subchapter IV, except that in no case may the court impose the
36 condition set out in Title 17-A, section 1204, subsection 1-A.
The court may impose as a condition of probation that a juvenile
38 must reside outside the juvenile's home in a setting satisfactory
to the juvenile caseworker if the court determines that
40 reasonable efforts have been made to prevent or eliminate the
need for removal of the juvenile from the juvenile's home and
42 that continuation in the juvenile's home would be contrary to the
welfare of the juvenile. Imposition of such a condition does not
44 affect the legal custody of the juvenile.

46 Revocation of probation is governed by the ~~precedure~~ procedures
contained in Title 17-A, sections 1205, ~~1205-A~~ and 1206, except
48 that the provisions of Title 17-A, section 1205, subsections 4
and 5 requiring a preliminary hearing and Title 17-A, section
50 1206, subsection 7-A does do not apply,--provided that ; however,

2 a disposition under subsection 1, paragraph F may be modified to
3 a disposition under subsection 1, paragraph H. ~~If a motion for~~
4 ~~revocation of probation is filed with the court and if~~ the
5 juvenile is being detained pending ~~the court hearing for an~~
6 alleged violation of probation, the court shall review within 5
7 ~~days of the filing of the motion~~ 48 hours following the
8 detention, excluding Saturdays, Sundays and legal holidays, the
9 decision to detain the juvenile, ~~if the court has not previously~~
10 ~~reviewed the decision~~. Following that review, the court shall
11 order the juvenile's release unless the court finds that there is
12 probable cause to believe that the juvenile has violated a
13 condition of probation and finds, by a preponderance of the
14 evidence, that continued detention is necessary to meet one of
15 the purposes of detention under section 3203-A, subsection 4,
16 paragraph C.

17 **Sec. A-6. 15 MRSA §3315, sub-§3**, as amended by PL 1997, c.
18 464, §2, is further amended to read:

19 **3. Court review of determination.** Whenever a court makes a
20 determination pursuant to section 3314, subsection 1, paragraph F
21 or section 3314, subsection 2, that determination must be
22 reviewed by the court not less than once every 12 months until
23 the juvenile is discharged or no longer residing outside the
24 juvenile's home. This review does not affect a juvenile's
25 commitment to a Department of Corrections juvenile correctional
26 facility.

27 **Sec. A-7. 34-A MRSA §4104, sub-§1**, as enacted by PL 1991, c.
28 400, is repealed.

32 PART B

33 **Sec. B-1. 25 MRSA §1541, sub-§4**, as enacted by PL 1975, c.
34 763, §4, is amended to read:

35 **4. Rules and regulations.** The commanding officer shall make
36 and forward to all persons charged with any duty or
37 responsibility under this section and sections ~~1542~~ 1542-A, 1544,
38 1547 and 1549, rules, regulations and forms for the taking,
39 filing, preserving and distributing of fingerprints and other
40 juvenile crime and criminal history record information as
41 provided in this chapter. Before becoming effective, such rules,
42 regulations and forms are to be approved by the Attorney General.

43 **Sec. B-2. 25 MRSA §1541, sub-§4-A**, as amended by PL 1995, c.
44 65, Pt. A, §73 and affected by §153 and Pt. C, §15, is repealed
45 and the following enacted in its place:

2 4-A. Responsibility for the collection and maintenance of
3 criminal history record information and juvenile crime
4 information. The commanding officer shall collect and maintain:

5
6 A. Fingerprints and other criminal history record
7 information pertinent to the identification of individuals
8 who have been arrested as fugitives from justice or who have
9 been arrested or charged with any criminal offense under the
10 laws of this State except a violation of Title 12 or 29-A
11 that is a Class D or E crime other than an alcohol-related
12 or drug-related offense. For purposes of this paragraph, an
13 "alcohol-related or drug-related offense" is a Class D crime
14 that involves hunting while under the influence of
15 intoxicating liquor or drugs or with an excessive
16 blood-alcohol level or the operation or attempted operation
17 of a motorcraft, all-terrain vehicle, snowmobile or motor
18 vehicle while under the influence of intoxicating liquor or
19 drugs or with an excessive blood-alcohol level. The
20 commanding officer may collect and maintain fingerprints and
21 other criminal history record information that may be
22 related to other criminal offenses or to the performance of
23 the commanding officer's obligations under state laws and
24 under agreements with agencies of the United States or any
25 other jurisdiction; and

26 B. Fingerprints and other juvenile crime information
27 pertinent to the identification of individuals who have been
28 taken into custody for juvenile crimes under a uniform
29 interstate compact on juveniles or who have been arrested or
30 charged with juvenile crimes under the laws of this State.
31 The commanding officer may collect and maintain fingerprints
32 and other juvenile crime information that may be related to
33 other juvenile crimes or to the performance of the
34 commanding officer's obligations under state laws and under
35 agreements with agencies of the United States or any other
36 jurisdiction.

37 **Sec. B-3. 25 MRSA §1542-A, sub-§1, ¶A,** as amended by PL 1995,
38 c. 65, Pt. A, §74 and affected by §153 and Pt. C, §15, is further
39 amended to read:
40

41 A. Charged with the commission of a criminal offense other
42 than a crime found in Title 12 or 29-A except a violation of
43 Title 12 or 29-A that is a Class D or E crime other than an
44 alcohol-related or drug-related offense, as defined in
45 section 1541, subsection 4-A, paragraph A;
46

47 **Sec. B-4. 25 MRSA §1542-A, sub-§1, ¶B,** as enacted by PL 1987,
48 c. 512, §3, is amended to read:
49
50

2 B. Arrested as a fugitive from justice or taken into
3 custody for a juvenile crime pursuant to a uniform
4 interstate compact on juveniles;

5 **Sec. B-5. 25 MRSA §1542-A, sub-§1, ¶E**, as amended by PL 1991,
6 c. 548, Pt. A, §22, is further amended to read:

7 E. Who dies under circumstances of death constituting a
8 medical examiner case under Title 22, section 3025, if
9 sought pursuant to Title 22, section 3028, subsection 3, or
10 at the request of the Chief Medical Examiner or the Attorney
11 General; ~~or~~

12 **Sec. B-6. 25 MRSA §1542-A, sub-§1, ¶F**, as enacted by PL 1987,
13 c. 512, §3, is amended to read:

14 F. Whose fingerprints have been ordered by a court; or

15 **Sec. B-7. 25 MRSA §1542-A, sub-§1, ¶G** is enacted to read:

16 G. Charged with the commission of a juvenile crime.

17 **Sec. B-8. 25 MRSA §1542-A, sub-§2**, as enacted by PL 1987, c.
18 512, §3, is amended to read:

19 **2. Palm prints, footprints and photographs.** Whenever
20 fingerprints are to be taken pursuant to subsection 1, paragraph
21 A ~~or~~ B or G, palm prints, footprints and photographs may also be
22 taken. Whenever palm prints, footprints or photographs are
23 ordered to be obtained pursuant to subsection 1, paragraph C, D
24 or F, or are sought pursuant to paragraph E, the palm prints,
25 footprints or photographs shall must be taken.

26 **Sec. B-9. 25 MRSA §1542-A, sub-§3, ¶B**, as enacted by PL 1987,
27 c. 512, §3, is amended to read:

28 B. The law enforcement agency ~~which~~ that arrests a fugitive
29 from justice or takes a person into custody for a juvenile
30 crime pursuant to a uniform interstate compact on juveniles
31 shall take or cause to be taken the fingerprints of that
32 person.

33 **Sec. B-10. 25 MRSA §1542-A, sub-§3, ¶F** is enacted to read:

34 F. The law enforcement agency that has primary
35 responsibility for the investigation and prosecution of the
36 juvenile offense shall take or cause to be taken the
37 fingerprints of the person named in subsection 1, paragraph
38 G. If the juvenile is arrested, fingerprints must be taken
39 prior to that person's being released from custody. If a
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2 juvenile court proceeding is commenced against a person
3 without a juvenile arrest having been made, fingerprints
4 must be taken within 5 days of the filing of the petition at
5 a time and place specified by the responsible agency after
6 consulting with the juvenile caseworker. The juvenile shall
7 appear at the specified time and place and shall submit to
8 the process.

9
10 **Sec. B-11. 25 MRSA §1542-A, sub-§4,** as enacted by PL 1987, c.
11 512, §3, is amended to read:

12 **4. Duty to submit to State Bureau of Identification.** It is
13 the duty of the law enforcement agency taking the fingerprints as
14 required by subsection 3, paragraphs A and B, and F to transmit
15 forthwith to the State Bureau of Identification the criminal
16 fingerprint record. Fingerprints taken pursuant to subsection 1,
17 paragraph C, D, E or F, or pursuant to subsection 5, ~~shall~~ may
18 not be submitted to the State Bureau of Identification unless an
19 express request is made by the commanding officer of the State
20 Bureau of Identification.

21
22 **Sec. B-12. 25 MRSA §1542-A, sub-§5, ¶A,** as enacted by PL 1987,
23 c. 512, §3, is repealed.

24
25 **Sec. B-13. 25 MRSA §1542-A, sub-§5, ¶B,** as amended by PL 1995,
26 c. 65, Pt. A, §75 and affected by §153 and Pt. C, §15, is further
27 amended to read:

28
29 B. Charged with the commission of a criminal offense found
30 in Title 12 or 29-A that is a Class D or E crime but is not
31 an alcohol-related or drug-related offense as defined in
32 section 1541, subsection 4-A, paragraph A;

33
34 **Sec. B-14. 25 MRSA §1542-A, sub-§§6 and 8,** as enacted by PL
35 1987, c. 512, §3, are amended to read:

36
37 **6. Palm prints, footprints and photographs.** Whenever
38 fingerprints are taken pursuant to subsection 5, paragraph A, B
39 or C, palm prints, footprints and photographs may also be taken.
40 In addition, palm prints, footprints or photographs may also be
41 taken for any law enforcement purpose when a person voluntarily
42 submits to them.

43
44 **8. Fingerprint record forms.** Fingerprints taken pursuant to
45 subsection 1, paragraphs A, B as to a person arrested as a
46 fugitive from justice and D, and subsection 5, paragraphs B, C
47 and D, ~~shall~~ must be taken on a form furnished by the State
48 Bureau of Identification, such form to be known as the Criminal
49 Fingerprint Record. Fingerprints taken pursuant to subsection 1,
50 paragraph E, ~~shall~~ must be taken on a form furnished by the

2 bureau, such form to be known as the Noncriminal Fingerprint
Record. Fingerprints taken pursuant to subsection 5, ~~paragraph A,~~
4 shall 1, paragraphs B as to a person taken into custody for a
juvenile crime pursuant to a uniform interstate compact on
6 juveniles and G must be taken on a form furnished by the State
Bureau of Identification, such form to be known as the Juvenile
8 Crime Fingerprint Record. Fingerprints taken pursuant to
subsection 1, ~~paragraphs paragraph C or F,~~ shall must be taken
upon the form appropriate for that purpose.

10 **Sec. B-15. 25 MRSA §1547**, as amended by PL 1995, c. 65, Pt.
12 A, §76 and affected by §153 and Pt. C, §15, is repealed and the
following enacted in its place:

14 **§1547. Courts to submit juvenile and criminal records to the**
16 **State Bureau of Identification**

18 At the conclusion of a juvenile court proceeding or at the
19 conclusion of a prosecution for a criminal offense except a
20 violation of Title 12 or Title 29-A that is a Class D or E crime
21 other than a Class D crime that involves hunting while under the
22 influence of intoxicating liquor or drugs or with an excessive
23 blood-alcohol level or the operation or attempted operation of a
24 watercraft, all-terrain vehicle, snowmobile or motor vehicle
25 while under the influence of intoxicating liquor or drugs or with
26 an excessive blood alcohol level, the court shall transmit to the
27 State Bureau of Identification an abstract duly authorized on
28 forms provided by the bureau.

30 **Sec. B-16. Effective date.** This Act takes effect September 1,
2000.

32
34 **SUMMARY**

36 Part A of this bill amends the juvenile correction laws to:

38 1. Require prosecutors to effect detention placement within
12 hours following arrest just as is now required of juvenile
40 careworkers;

42 2. Specify that a conditional release becomes unconditional
if report of notification is not filed by police within the 24
44 hours mandated by present law;

46 3. Clarify that a juvenile caseworker may decide that
ongoing supervision of a juvenile is not required;

48

2 4. Eliminate administrative preliminary hearings and
require court detention hearings to determine probable cause for
probation revocation; and

4

6 5. Eliminate the age restriction on juveniles who may be
detained at the Northern Maine Regional Juvenile Detention
Facility so that it like the Maine Youth Center may be used to
8 detain younger juveniles for whom there is no alternative.

10 Part B of the bill establishes the State Bureau of
Identification of the Department of Public Safety as the central
12 repository for juvenile crime information.