

MAINE STATE LEGISLATURE

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M
R.S.

L.D. 2447

DATE: 3-16-00

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CRIMINAL JUSTICE

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

COMMITTEE AMENDMENT "A" to H.P. 1741, L.D. 2447, Bill, "An Act to Amend the Maine Juvenile Code"

Amend the bill in Part A in section 1 in paragraph A in the 8th line (page 1, line 15 in L.D.) by inserting after the following: "secure" the following: 'juvenile'

Further amend the bill in Part A by striking out all of section 7.

Further amend the bill in Part A in section 8 in paragraph H in the 8th line (page 4, line 45 in L.D.) by inserting after the following: "previously imposed" the following: 'and not fully discharged'

Further amend the bill in Part A in section 9 by striking out all of subsection 2 and inserting in its place the following:

'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 period of probation that is subject to such provisions of Title 17-A, section 1204 as the court may order and that is administered pursuant to the provisions of Title 34-A, chapter 5, subchapter IV, except that ~~in no case may~~ the court may not impose the condition set out in Title 17-A, section 1204, subsection 1-A. The court may impose as a condition of probation that a juvenile must reside outside the juvenile's home in a setting satisfactory to the juvenile ~~easewerker~~ community corrections officer if the court determines that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and that

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2 continuation in the juvenile's home would be contrary to the
welfare of the juvenile. Imposition of such a condition does not
affect the legal custody of the juvenile.

4
6 Modification of probation is governed by the procedures contained
7 in Title 17-A, section 1202, subsection 2. Termination of
8 probation is governed by the procedures contained Title 17-A,
9 section 1202, subsection 3. Revocation of probation is governed
10 by the procedures contained in Title 17-A, sections 1205, 1205-B,
11 1205-C and 1206, except that the provisions of Title--17-A,
12 section-1205,--subsections-4--and--5 those sections requiring a
13 preliminary hearing and Title 17-A, section-1206,--subsection-7-A
14 do not apply and those provisions of Title 17-A, section 1206,
15 subsection 7-A allowing a vacating of part of the suspension of
16 execution apply only to a disposition under subsection 1,
17 paragraph G or H; however, a disposition under subsection 1,
18 paragraph F may be modified to a disposition under subsection 1,
19 paragraph H. If the juvenile is being detained for an alleged
20 violation of probation, the court shall review within 48 hours
21 following the detention, excluding Saturdays, Sundays and legal
22 holidays, the decision to detain the juvenile. Following that
23 review, the court shall order the juvenile's release unless the
24 court finds that there is probable cause to believe that the
25 juvenile has violated a condition of probation and finds, by a
26 preponderance of the evidence, that continued detention is
27 necessary to meet one of the purposes of detention under section
28 3203-A, subsection 4, paragraph C.'

30 Further amend the bill in Part B in section 5 in subsection
31 4 by striking out all of paragraph E (page 12, lines 24 to 36 in
L.D.) and inserting in its place the following:

32
33 'E. If a juvenile ~~easeworker~~ community corrections officer
34 or an attorney for the State orders a juvenile detained, the
35 juvenile ~~easeworker~~ community corrections officer who
36 ordered the detention or the attorney for the State who
37 ordered the detention shall petition the Juvenile Court for
38 a review of the detention in time for the detention hearing
39 to take place within ~~24-hours-following-the-detention~~ the
40 time required by subsection 5, unless the juvenile
41 ~~easeworker~~ community corrections officer who ordered the
42 detention or the attorney for the State who ordered the
43 detention has ordered the release of the juvenile. The
44 juvenile ~~easeworker~~ community corrections officer who
45 ordered the detention or the attorney for the State who
46 ordered the detention may order the release of the juvenile
47 anytime prior to the detention hearing. If the juvenile is
48 so released, a detention hearing may not be held.'

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2 Further amend the bill in Part B by striking out all of section 7 and inserting in its place the following:

4 'Sec. B-7. 15 MRSA §3204, as amended by PL 1997, c. 421, Pt. A, §1, is further amended to read:

6 §3204. Statements not admissible in evidence

8
10 Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made to a juvenile easewer#e# community corrections officer during the course of a preliminary investigation or made to a community resolution team under section 3301 are not admissible in evidence at an adjudicatory hearing against that juvenile if a petition based on the same facts is later filed.

16
18 Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made during the course of screening and assessment for participation in a juvenile drug treatment court program if made to a juvenile community corrections officer or to another person reporting on or supervising the juvenile in connection with the program are not admissible in evidence at an adjudicatory or probation violation hearing against that juvenile if a petition or motion to revoke probation based on the same facts is the subject of the hearing.'

26
28 Further amend the bill in Part B by inserting after section 18 the following:

30 'Sec. B-19. 15 MRSA §3312, sub-§3, ¶A, as repealed and replaced by PL 1987, c. 720, §4, is amended to read:

32
34 A. The court may continue the dispositional hearing, either on its own motion or on the motion of any interested party:

36 (1) For a period not to exceed one month to receive reports or other evidence;

38 (2) For a period not to exceed 2 months to allow for service of notice as required in section 3314, subsection 1, paragraph C-1 or C-2; or

40 (3) For a period not to exceed 12 months in order to place the juvenile in a supervised work or service program ~~or~~ a restitution program or a juvenile drug treatment court program, or for such other purpose as the court in its discretion determines appropriate. If a supervised work or service program ~~or~~ restitution program or a juvenile drug treatment court program has been ordered, the court shall on final disposition

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consider whether or not there has been compliance with the program so ordered.

Sec. B-20. 15 MRSA §3312, sub-§3, ¶D is enacted to read:

D. If the court finds, after opportunity for hearing, that a juvenile released with a condition of participation in a juvenile drug treatment court program has intentionally or knowingly violated that condition, the court may impose a sanction of up to 7 days' detention in a detention facility approved or operated by the Department of Corrections exclusively for juveniles. Nothing in this paragraph restricts the ability of the court to impose sanctions other than detention for the violation of a condition of participation in a juvenile drug treatment court program or the ability of the court to enter any dispositional order allowed under section 3314 on final disposition.'

Further amend the bill by in Part B by inserting after section 19 the following:

'Sec. B-20. 34-A MRSA §3802, sub-§1, ¶D, as amended by PL 1999, c. 463, §2, is further amended to read:

D. To protect the public from dangerous juveniles; and

Sec. B-21. 34-A MRSA §3802, sub-§1, ¶E, as enacted by PL 1999, c. 463, §3, is amended to read:

E. To confine juveniles ordered detained pursuant to Title 15, section 3314, subsection 1, paragraph H; and

Sec. B-22. 34-A MRSA §3802, sub-§1, ¶F is enacted to read:

F. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D.

Sec. B-23. 34-A MRSA §4102, sub-§§2 and 3, as enacted by PL 1991, c. 400, are amended to read:

2. Diagnostic evaluation. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A and court-ordered examinations pursuant to Title 15, section 3318; and

3. Confinement. To confine juveniles ordered detained pursuant to Title 15, section 3314, subsection 1, paragraph H; and

Sec. B-24. 34-A MRSA §4102, sub-§4 is enacted to read:

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4. Confinement pursuant to detention for violation of participation in certain treatments. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D.'

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 additional costs associated with changes to the juvenile code can be absorbed by the Department of the Attorney General and by the Department of Corrections utilizing existing budgeted resources.'

SUMMARY

This amendment does the following:

1. It clarifies and updates the cross-references to the Maine Revised Statutes, Title 17-A probation provisions;

2. It corrects a provision regarding juvenile detention hearings to be consistent with the rest of the bill;

3. It adds provisions that are needed for proper implementation of a juvenile drug treatment court program;

4. It strikes the provision that would have amended access by the public to the juvenile proceedings; and

5. It adds a fiscal note to the bill.