

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

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Legislative Document

No. 2447

H.P. 1741

House of Representatives, January 10, 2000

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### An Act to Amend the Maine Juvenile Code.

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative POVICH of Ellsworth.  
Cosponsored by Representative McALEVEY of Waterboro, Senator: MURRAY of Penobscot.

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

PART A

Sec. A-1. 15 MRSA §3203-A, sub-§2, ¶A, as amended by PL 1999, c. 260, Pt. A, §2, is further amended to read:

A. When a juvenile is arrested, the law enforcement officer or the juvenile ~~easewerker~~ community corrections officer 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 ~~easewerker~~ community corrections officer who has been contacted and, if a juvenile has been placed in a secure detention facility, that a detention hearing will be held within 24 ~~48~~ hours following this placement, excluding Saturday, Sunday and legal holidays. Notwithstanding this provision, if a juvenile has been placed in a secure detention facility pursuant to subsection 7, paragraph B-5, the law enforcement officer or the juvenile community corrections officer shall notify the legal custodian that a detention hearing will be held within 24 hours following this placement, excluding Saturday, Sunday and legal holidays.

Sec. A-2. 15 MRSA §3203-A, sub-§4, ¶E, as amended by PL 1999, c. 260, Pt. A, §4, is further amended to read:

E. If a juvenile ~~easewerker~~ community corrections officer or an attorney for the State orders a juvenile detained, the juvenile ~~easewerker~~ community corrections officer who ordered the detention or the attorney for the State who ordered the detention shall petition the Juvenile Court for a review of the detention in time for the detention hearing to take place within ~~24-hours-following-the-detention~~ the time provided by subsection 5, unless the juvenile ~~easewerker~~ community corrections officer who ordered the detention or the attorney for the State who ordered the detention has ordered the release of the juvenile. The juvenile ~~easewerker~~ community corrections officer who ordered the detention or the attorney for the State who ordered the detention may order the release of the juvenile anytime prior to the detention hearing. If the juvenile is so released, a detention hearing may not be held.

Sec. A-3. 15 MRSA §3203-A, sub-§5, as amended by PL 1999, c. 531, Pt. J, §1, is further amended to read:

5. **Detention hearing.** Upon petition by a juvenile ~~easewerker~~ community corrections officer who ordered the

2 detention or an attorney for the State who ordered the detention,  
3 the Juvenile Court shall review the decision to detain a juvenile  
4 within 24 48 hours following the detention, excluding Saturday,  
5 Sunday and legal holidays, except that if a juvenile is detained  
6 pursuant to subsection 7, paragraph B-5, the Juvenile Court shall  
7 review the decision to detain the juvenile within 24 hours  
8 following the detention, excluding Saturday, Sunday and legal  
9 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 **Sec. A-4. 15 MRSA §3203-A, sub-§7, ¶B-4**, as amended by PL 1997,  
28 c. 752, §12, is further amended to read:

29 B-4. The State is responsible for all physically  
30 restrictive juvenile detention statewide, except that the  
31 detention for up to 6 hours provided under subsection 1  
32 remains the responsibility of the counties. At the  
33 discretion of the sheriff, if the requirements of paragraph  
34 B-5 are met, a county may assume responsibility for the  
35 detention of a juvenile for ~~the first 48~~ up to 24 hours,  
36 excluding Saturdays, Sundays and legal holidays. Upon  
37 mutual agreement of the Commissioner of Corrections and the  
38 sheriff and upon terms mutually agreeable to them, a  
39 juvenile may be ~~further~~ detained by a county for a longer  
40 period of time in an approved detention facility or  
41 temporary holding resource complying with paragraph B. Any  
42 detention of a juvenile by a county must be in a section of  
43 a jail or other secure detention facility in compliance with  
44 paragraph A or in an approved detention facility or  
45 temporary holding resource in compliance with paragraph B.  
46 This paragraph does not apply to a juvenile who is held in  
47 an adult section of a jail pursuant to court order under  
48  
49  
50

2 paragraph C or D; section 3101, subsection 4, paragraph E-1;  
or section 3205, subsection 2.

4 **Sec. A-5. 15 MRSA §3203-A, sub-§7, ¶B-5** is enacted to read:

6 B-5. If the juvenile community corrections officer who  
8 ordered the detention or the attorney for the State who  
10 ordered the detention determines there is no reasonable  
12 alternative, a juvenile may be detained in a jail or other  
secure detention facility intended or primarily used for the  
detention of adults for up to 24 hours, excluding Saturday,  
Sunday and legal holidays if:

14 (1) The facility meets the requirements of paragraph A;

16 (2) The facility is not located in a standard  
18 metropolitan statistical area and meets the statutory  
20 criteria contained in the federal Juvenile Justice and  
Delinquency Prevention Act of 1974, 42 USC Section  
5601; and

22 (3) The juvenile is detained only to await a detention  
24 hearing pursuant to subsection 5 or section 3314,  
26 subsection 2, transfer to an appropriate juvenile  
facility, or transport to another jurisdiction.

28 **Sec. A-6. 15 MRSA §3205**, as amended by PL 1997, c. 752, §14,  
is further amended to read:

30 **§3205. Juvenile in adult-serving jail**

32 1. **Generally.** A juvenile may not be committed to or  
34 detained in a jail or other secure detention facility intended or  
36 primarily used for the detention of adults, except when bound  
38 over as an adult or as provided in section 3203-A, subsection 1,  
40 paragraph B-1 or section 3203-A, subsection 7, ~~paragraph B-4~~. A  
42 juvenile who is detained in a jail or other secure detention  
facility intended or primarily used for the detention of adults  
may be detained only in a section of a facility that meets the  
requirements of section 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.

44 2. **Exception.** Subsection 1 applies to any person who is  
46 considered a juvenile by virtue of section 3101, subsection 2,  
48 paragraph D except that if the person has attained the age of 18  
years, any detention pursuant to section 3203-A and any  
commitment pursuant to section 3314, subsection 1, paragraph H  
may be, upon the order of a court, in an adult section of a jail

2 or other secure detention facility intended or primarily used for  
the detention of adults and may extend beyond the time limits set  
out in section 3203-A, ~~subsection 1, paragraph B-1.~~

4  
6 **Sec. A-7. 15 MRSA §3307, sub-§2,** as amended by PL 1995, c.  
470, §7, is further amended to read:

8 **2. Certain hearings public.**

10 A. The general public ~~shall~~ may not be excluded from any  
12 proceeding on a juvenile crime that would constitute murder  
or a Class A, Class B or Class C crime if the juvenile  
14 involved were an adult ~~or. The general public may not be~~  
excluded from any proceeding on a juvenile crime that would  
16 constitute a Class D ~~or Class E~~ crime if the juvenile  
involved were an adult, and it is the 2nd or subsequent  
18 juvenile crime greater than a Class D E crime for that  
juvenile not arising from the same underlying transaction,  
or from any subsequent dispositional hearings in such cases.

20 B. The general public is excluded from all other juvenile  
22 ~~hearings--and~~ proceedings, except that a juvenile charged  
with a juvenile crime ~~that--would--constitute--murder--or--a~~  
24 ~~Class--A--Class--B--or--Class--C--offense--and--with--a--juvenile~~  
~~crime--that--would--constitute--a--juvenile's--first--Class--D~~  
26 ~~offense--or--Class--E--offense--or--with--conduct--described--in~~  
28 ~~section--3103--subsection--1--paragraph--B--C--D--or--E, for~~  
which proceedings are open to the general public and with  
30 conduct for which proceedings are not open to the general  
public arising from the same underlying transaction may  
32 elect to have all charges adjudicated in one hearing, and,  
when a juvenile does so elect, the general public is not  
34 excluded from that hearing.

36 **Sec. A-8. 15 MRSA §3314, sub-§1, ¶H,** as amended by PL 1997, c.  
752, §20, is further amended to read:

38 H. The court may commit the juvenile to a Department of  
40 Corrections juvenile correctional facility and order that  
the disposition be suspended or may commit the juvenile for  
42 a period of detention that may not exceed 30 days, with or  
without an underlying suspended disposition to a Department  
of Corrections juvenile correctional facility, which  
44 detention must be served concurrently with any other period  
of detention previously imposed or imposed on the same date  
46 but may be served intermittently as the court may order and  
must be ordered served in a detention facility approved or  
48 operated by the Department of Corrections exclusively for  
juveniles. The court may order such a disposition to be  
50 served as a part of and with a period of probation, ~~which~~

2           that is subject to such provisions of Title 17-A, section  
3           1204 as the court may order and ~~which~~ that must be  
4           administered pursuant to Title 34-A, chapter 5, subchapter  
5           IV. Revocation of probation is governed by the procedure  
6           contained in subsection 2. Any disposition under this  
7           paragraph is subject to Title 17-A, section 1253, subsection  
8           2, but not to Title 17-A, section 1253, subsection 3-B, 4, 5  
9           or 8.

10           **Sec. A-9. 15 MRSA §3314 sub-§2**, as amended by PL 1999, c.  
11           260, Pt. A, §9, is further amended to read:

12           **2. Suspended disposition.** The court may impose any of the  
13           dispositional alternatives provided in subsection 1 and may  
14           suspend its disposition and place the juvenile on a specified  
15           period of probation that is subject to such provisions of Title  
16           17-A, section 1204 as the court may order and that is  
17           administered pursuant to the provisions of Title 34-A, chapter 5,  
18           subchapter IV, except that ~~in no case may~~ the court may not  
19           impose the condition set out in Title 17-A, section 1204,  
20           subsection 1-A. The court may impose as a condition of probation  
21           that a juvenile must reside outside the juvenile's home in a  
22           setting satisfactory to the juvenile ~~easewerker~~ community  
23           corrections officer if the court determines that reasonable  
24           efforts have been made to prevent or eliminate the need for  
25           removal of the juvenile from the juvenile's home and that  
26           continuation in the juvenile's home would be contrary to the  
27           welfare of the juvenile. Imposition of such a condition does not  
28           affect the legal custody of the juvenile.

29           Revocation of probation is governed by the procedures contained  
30           in Title 17-A, sections 1205 and 1206, except that the provisions  
31           of Title 17-A, section 1205, subsections 4 and 5 requiring a  
32           preliminary hearing ~~and Title 17-A, section 1206, subsection 7-A~~  
33           do not apply. Upon a finding of a violation of probation, the  
34           court may vacate all or none of the suspension of execution as to  
35           the disposition specified when probation was granted, considering  
36           the nature of the violation and the reasons for granting  
37           probation; however, a disposition under subsection 1, paragraph F  
38           may be modified to a disposition under subsection 1, paragraph  
39           H. If the court finds a violation of probation but does not  
40           revoke the probation, the running of the period of probation  
41           resumes upon entry of those determinations. Notwithstanding this  
42           provision, if the court finds a violation of probation by a  
43           person who had attained the age of 18 years at the time of the  
44           violation and the violation consists of criminal conduct, the  
45           court shall terminate the period of probation and discharge the  
46           person. The termination and discharge serve to relieve the  
47           person of any obligations imposed by the disposition, except  
48           obligations to pay restitution, fines or fees, which obligations  
49           shall survive the termination and discharge.  
50           Notwithstanding this provision, if the court finds a violation of probation by a

2 remain subject to enforcement by means other than revocation of  
3 probation. If the juvenile is being detained for an alleged  
4 violation of probation, the court shall review within 48 hours  
5 following the detention, excluding Saturdays, Sundays and legal  
6 holidays, the decision to detain the juvenile. Following that  
7 review, the court shall order the juvenile's release unless the  
8 court finds that there is probable cause to believe that the  
9 juvenile has violated a condition of probation and finds, by a  
10 preponderance of the evidence, that continued detention is  
11 necessary to meet one of the purposes of detention under section  
12 3203-A, subsection 4, paragraph C.

## 14 PART B

16 **Sec. B-1. 15 MRSA §3003, sub-§10,** as amended by PL 1985, c.  
17 439, §2, is further amended to read:

18 **10. Informal adjustment.** "Informal adjustment" means a  
19 voluntary arrangement between a juvenile ~~easewerker~~ community  
20 corrections officer and a juvenile referred to ~~him--which the~~  
21 officer that provides sufficient basis for a decision by the  
22 juvenile ~~easewerker~~ community corrections officer not to file a  
23 petition under chapter 507.

26 **Sec. B-2. 15 MRSA §3003, sub-§14-B,** as enacted by PL 1985, c.  
27 439, §4 and amended by PL 1999, c. 401, Pt. J, §4, is further  
28 amended to read:

30 **14-B. Juvenile community corrections officer.** "Juvenile  
31 ~~easewerker~~ community corrections officer" means an agent of the  
32 Department of Corrections authorized:

- 34 A. To perform juvenile probation functions;
- 36 B. To provide appropriate services to juveniles committed  
37 to the Southern Maine Juvenile Facility who are on leave or  
38 in the community on ~~entrustment~~ aftercare; and
- 40 C. To perform all ~~easewerker~~ community corrections officer  
41 functions established by this Part for a juvenile alleged to  
42 have committed a juvenile crime.

44 **Sec. B-3. 15 MRSA §3203-A, sub-§1,** as amended by PL 1999, c.  
45 260, Pt. A, §1, is further amended to read:

46 **1. Notification of a juvenile community corrections**  
47 **officer.** A juvenile ~~easewerker~~ community corrections officer  
48 ~~shall---receive~~ receives notification under the following  
49 circumstances.



2 A. When, in the judgment of a law enforcement officer,  
4 Juvenile Court proceedings should be commenced against a  
6 juvenile, but detention is not necessary, the law  
8 enforcement officer shall notify a juvenile ~~easewerker~~  
10 community corrections officer as soon as possible after such  
a determination is made; but if the juvenile has been  
arrested, the law enforcement officer shall notify the  
juvenile ~~easewerker~~ community corrections officer within 12  
hours following the arrest.

12 A-1. If the law enforcement officer determines that  
14 detention is not necessary but the officer is unable to  
16 immediately return the juvenile to the custody of ~~his~~ the  
18 juvenile's legal custodian or another suitable person, the  
20 officer, with the juvenile's consent, may deliver the  
juvenile to any public or private agency ~~which~~ that provides  
nonsecure services to juveniles, including an agency ~~which~~  
that provides attendant care.

22 B. When, in the judgment of a law enforcement officer, a  
24 juvenile should be detained prior to ~~his~~ the juvenile's  
initial appearance in juvenile court, the law enforcement  
officer shall immediately notify a juvenile ~~easewerker~~  
community corrections officer.

26 (1) Detention under this section shall ~~shall~~ must be  
28 requested by the law enforcement officer within 2 hours  
30 after the juvenile's arrest or the juvenile shall ~~shall~~ must  
be released.

32 (2) After the law enforcement officer notifies the  
34 juvenile ~~easewerker~~ community corrections officer and  
36 requests detention, the juvenile ~~easewerker~~ community  
corrections officer shall order the conditional or  
38 unconditional release or shall effect a detention  
placement within 12 hours following the juvenile's  
arrest.

40 B-1. ~~When~~ If, in the judgment of a law enforcement officer,  
42 immediate secure detention is required to prevent a juvenile  
44 from imminently inflicting bodily harm on others or the  
46 juvenile, the officer may refer the juvenile for temporary,  
emergency detention in a jail or other secure facility  
intended or primarily used for the detention of adults  
approved pursuant to subsection 7, paragraph A or a facility  
approved pursuant to subsection 7, paragraph B, prior to  
48 notifying a juvenile ~~easewerker~~ community corrections  
officer. Such a facility may detain the juvenile for up to  
50 2 hours on an emergency basis, ~~provided-that~~ as long as the

2 law enforcement officer immediately notifies the juvenile  
3 ~~easewerker~~ community corrections officer and requests  
4 authorization to detain the juvenile beyond the term of the  
5 temporary, emergency detention pursuant to paragraph B. The  
6 juvenile ~~easewerker~~ community corrections officer may, if  
7 continued emergency detention is required to prevent the  
8 juvenile from imminently inflicting bodily harm on others or  
9 the juvenile, authorize temporary emergency detention in  
10 that facility for an additional 4 hours. Following any  
11 temporary emergency detention, the juvenile ~~easewerker~~  
12 community corrections officer shall order the conditional or  
13 unconditional release of a juvenile or shall effect a  
14 detention placement. Except as otherwise provided by law,  
15 any detention beyond 6 hours must be in a placement other  
16 than a facility intended or primarily used for the detention  
17 of adults and must be authorized by a juvenile ~~easewerker~~  
18 community corrections officer. It is the responsibility of  
19 the law enforcement officer to remain at the facility until  
20 the juvenile ~~easewerker~~ community corrections officer has  
released the juvenile or has authorized detention.

22 C. In cases under Title 5, section 200-A, the law  
23 enforcement officer shall immediately notify the juvenile  
24 ~~easewerker~~ community corrections officer and the Department  
25 of the Attorney General. In all other cases the law  
26 enforcement officer shall immediately notify the juvenile  
27 ~~easewerker~~ community corrections officer if the law  
28 enforcement officer believes that immediate secure detention  
29 is required. If the juvenile ~~easewerker~~ community  
30 corrections officer determines not to order the detention or  
31 continued detention of the juvenile, the ~~easewerker~~  
32 community corrections officer shall inform the law  
33 enforcement officer and the attorney for the State prior to  
34 the juvenile's release. The attorney for the State, with or  
35 without a request from a law enforcement officer, shall  
36 consider the facts of the case, consult with the juvenile  
37 ~~easewerker~~ community corrections officer who made the  
38 initial determination, consider standards for detention  
39 under subsection 4, paragraph C and subsection 4, paragraph  
40 D, subparagraphs (1) to (6) and may order detention or  
41 continued detention of the juvenile under the same or any  
42 authorized conditions pending the juvenile's initial  
43 appearance before the court. If detention or continued  
44 detention is ordered, the detention placement must be made  
45 by the juvenile ~~easewerker~~ community corrections officer  
46 within 12 hours following the juvenile's arrest.

48 **Sec. B-4. 15 MRSA §3203-A, sub-§3**, as amended by PL 1999, c.  
49 260, Pt. A, §3, is further amended to read:  
50

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

12 A report of a notification pursuant to subsection 1 must be filed  
13 within 24 hours of the notification, excluding nonjudicial days.  
14 ~~When~~ If a juvenile ~~easeworker~~ community corrections officer  
15 orders the conditional release of a juvenile and a report of the  
16 notification is not filed with the juvenile ~~easeworker~~ community  
17 corrections officer within 15 days, excluding nonjudicial days,  
18 the juvenile ~~easeworker~~ community corrections officer shall  
19 review the conditions imposed at the time of the release.  
20 Following the review, the juvenile ~~easeworker~~ community  
21 corrections officer may lessen or eliminate the conditions.

22 The date on which the report is received by the juvenile  
23 ~~easeworker~~ community corrections officer is the date of referral  
24 to the juvenile ~~easeworker~~ community corrections officer for an  
25 intake assessment.

26  
27           **Sec. B-5. 15 MRSA §3203-A, sub-§4,** as amended by PL 1999, c.  
28 260, Pt. A, §4, is further amended to read:

29  
30           **4. Release or detention ordered by juvenile community**  
31 **corrections officer.** The release or detention of a juvenile may  
32 be ordered by a juvenile ~~easeworker~~ community corrections officer  
33 as follows.

34  
35           A. Upon notification from a law enforcement officer, a  
36 juvenile ~~easeworker~~ community corrections officer shall  
37 direct the release or detention of a juvenile pending that  
38 juvenile's initial appearance before the court. ~~When~~ If a  
39 juvenile is released unconditionally, whether by a law  
40 enforcement officer without notification to a juvenile  
41 ~~easeworker~~ community corrections officer or by a juvenile  
42 ~~easeworker~~ community corrections officer, and the law  
43 enforcement officer subsequently acquires information that  
44 makes detention or conditional release necessary, the law  
45 enforcement officer may apply to the court for a warrant of  
46 arrest. Following the arrest of the juvenile, the law  
47 enforcement officer immediately shall notify the juvenile  
48 ~~easeworker~~ community corrections officer. The juvenile  
49 ~~easeworker~~ community corrections officer shall direct the  
50

2 unconditional or conditional release of the juvenile or  
order the juvenile detained in accordance with paragraphs C  
and D.

4  
6 B. Release may be unconditional or conditioned upon the  
juvenile's promise to appear for subsequent official  
8 proceedings or, if a juvenile ~~cannot~~ can not appropriately  
be released on one of these 2 bases, upon the least onerous  
10 of the following conditions, or combination of conditions,  
necessary to ensure the juvenile's appearance or to ensure  
the protection of the community or any member of the  
12 community, including the juvenile:

14 (1) Upon the written promise of the juvenile's legal  
custodian to produce the juvenile for subsequent  
16 official proceedings or at any place or time when so  
ordered by the juvenile ~~caseworker~~ community  
18 corrections officer or the Juvenile Court;

20 (2) Upon the juvenile's voluntary agreement to  
placement in the care of a responsible person or  
22 organization, including one providing attendant care;

24 (3) Upon prescribed conditions, reasonably related to  
securing the juvenile's presence at subsequent official  
26 proceedings or at any place or time when so ordered by  
the juvenile ~~caseworker~~ community corrections officer  
28 or the court, restricting the juvenile's activities,  
associations, residence or travel;

30 (4) Upon such other prescribed conditions as may be  
reasonably related to securing the juvenile's presence  
32 at subsequent official proceedings or at any place or  
time when so ordered by the juvenile ~~caseworker~~  
34 community corrections officer or the court; or

36 (5) Upon prescribed conditions, reasonably related to  
ensuring the protection of the community or any member  
38 of the community, including the juvenile.

40  
42 Upon imposition of any condition of release described in  
subparagraph (2), (3), (4) or (5), the juvenile ~~caseworker~~  
44 community corrections officer shall provide the juvenile  
with a copy of the condition imposed, inform the juvenile of  
46 the consequences applicable to violation of the condition  
and inform the juvenile of the right to have the condition  
reviewed by the Juvenile Court pursuant to subsection 10.

48  
50 C. Detention, if ordered, must be in the least restrictive  
residential setting that will serve the purposes of the

2 Maine Juvenile Code as provided in section 3002 and one of  
the following purposes of detention:

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

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

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

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

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

22 D. Detention of a juvenile in a detention facility may be  
ordered by the Juvenile Court or a juvenile ~~caseworker~~  
24 community corrections officer when there is probable cause  
to believe the juvenile:

26 (1) Has committed an act ~~which~~ that would be murder or  
28 a Class A, Class B or Class C crime if committed by an  
adult;

30 (2) Has refused to participate voluntarily in a  
32 conditional release placement or is incapacitated to  
the extent of being incapable of participating in a  
34 conditional release placement;

36 (3) Has intentionally or knowingly violated a  
condition imposed as part of conditional release on a  
38 pending offense or has committed an offense subsequent  
to that release,--~~which~~ that would be a crime if  
40 committed by an adult;

42 (4) Has committed the juvenile crime that would be  
escape if the juvenile was an adult;

44 (5) Has escaped from a facility to which the juvenile  
46 had been committed pursuant to an order of adjudication  
or is absent without authorization from a prior  
48 placement by a juvenile ~~caseworker~~ community  
corrections officer or the Juvenile Court; or

50

2 (6) Has a prior record of failure to appear in court  
when so ordered or summonsed by a law enforcement  
4 officer, ~~juvenile caseworker~~ community corrections  
officer or the court or has stated the intent not to  
appear.

6  
8 ~~Nonetheless,--when~~ If, in the judgment of the juvenile  
~~caseworker~~ community corrections officer, based on an  
10 assessment of risk, or in the judgment of the Juvenile  
12 Court, it is not necessary or appropriate to detain a  
juvenile who satisfies the criteria for detention, the  
14 juvenile ~~caseworker~~ community corrections officer or the  
Juvenile Court may order the placement of the juvenile in  
16 the juvenile's home or in an alternative facility or  
service, such as a group home, emergency shelter, foster  
18 placement or attendant care, subject to specific conditions,  
including supervision by a juvenile ~~caseworker~~ community  
corrections officer or a designated supervisor. Such a  
placement is considered a conditional release.

20  
22 ~~In no case may detention~~ Detention may not be ordered when  
either unconditional or conditional release is appropriate.

24 E. If a juvenile caseworker or an attorney for the State  
orders a juvenile detained, the juvenile caseworker who  
26 ordered the detention or the attorney for the State who  
ordered the detention shall petition the Juvenile Court for  
28 a review of the detention in time for the detention hearing  
to take place within 24 hours following the detention,  
30 unless the juvenile caseworker who ordered the detention or  
the attorney for the State who ordered the detention has  
32 ordered the release of the juvenile. The juvenile  
caseworker who ordered the detention or the attorney for the  
34 State who ordered the detention may order the release of the  
juvenile anytime prior to the detention hearing. If the  
36 juvenile is so released, a detention hearing may not be held.

38 **Sec. B-6. 15 MRSA §3203-A, sub-§9**, as amended by PL 1993, c.  
354, §5, is further amended to read:

40  
42 **9. Violation of conditions of release.** Upon notification  
that a juvenile has intentionally or knowingly violated a  
44 condition of release, whether imposed by a court or a juvenile  
~~caseworker~~ community corrections officer, a juvenile ~~caseworker~~  
community corrections officer or a law enforcement officer may  
46 apply to the Juvenile Court for a warrant of arrest.

48 A law enforcement officer or juvenile ~~caseworker~~ community  
corrections officer having probable cause to believe that a  
50 juvenile has violated a condition of release may arrest the  
juvenile without a warrant.

2 Following the arrest of a juvenile by a law enforcement officer  
for violation of a condition of release, the law enforcement  
4 officer shall immediately notify the juvenile ~~easeworke~~  
community corrections officer. The juvenile ~~easeworke~~ community  
6 corrections officer shall either direct the release of the  
juvenile with or without imposing different or additional  
8 conditions for release of the juvenile or shall revoke release  
and order the juvenile detained in accordance with subsection 4,  
10 paragraphs C and D.

12 If different or additional conditions of release are imposed, the  
juvenile may request the Juvenile Court to review the conditions  
14 pursuant to subsection 10. The review of additional or different  
conditions must include a hearing to determine if the  
16 preponderance of the evidence indicates that the juvenile  
intentionally or knowingly violated a condition of release.  
18

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

22 **§3204. Statements not admissible in evidence**

24 Statements of a juvenile made to a juvenile ~~easeworke~~  
community corrections officer during the course of a preliminary  
26 investigation or made to a community resolution team under  
section 3301 are not admissible in evidence at an adjudicatory  
28 hearing against that juvenile if a petition based on the same  
facts is later filed.  
30

32 **Sec. B-8. 15 MRSA §3301, sub-§1**, as amended by PL 1999, c.  
260, Pt. A, §6, is further amended to read:

34 **1. Preliminary investigation.** When a juvenile accused of  
having committed a juvenile crime is referred to a juvenile  
36 ~~easeworke~~ community corrections officer, the juvenile ~~easeworke~~  
community corrections officer shall, except in cases in which an  
38 investigation is conducted pursuant to Title 5, section 200-A,  
conduct a preliminary investigation to determine whether the  
40 interests of the juvenile or of the community require that  
further action be taken.  
42

44 On the basis of the preliminary investigation, the juvenile  
~~easeworke~~ community corrections officer shall:

46 A. Decide that action requiring ongoing supervision is not  
required either in the interests of the public or of the  
48 juvenile;

2 B. Make whatever informal adjustment is practicable without  
a petition; or

4 C. Request a petition to be filed.

6 **Sec. B-9. 15 MRSA §3301, sub-§5**, as amended by PL 1999, c.  
260, Pt. A, §7 and c. 266, §§1 to 3, is further amended to read:

8  
10 **5. Juvenile community corrections officer alternatives.** On  
the basis of the preliminary investigation, the juvenile  
12 ~~easeworker~~ community corrections officer shall choose one of the  
following alternatives:

14 A. Decide that action requiring ongoing supervision is not  
required either in the interests of the public or of the  
16 juvenile. If the juvenile ~~easeworker~~ community corrections  
officer determines that the facts in the report prepared for  
18 the ~~easeworker~~ community corrections officer by the  
referring officer pursuant to section 3203-A, subsection 3  
20 are sufficient to file a petition, but in the ~~easeworker's~~  
community corrections officer's judgment the interest of the  
22 juvenile and the public will be served best by providing the  
juvenile with services voluntarily accepted by the juvenile  
24 and the juvenile's parents, guardian or legal custodian if  
the juvenile is not emancipated, the juvenile ~~easeworker~~  
26 community corrections officer may refer the juvenile for  
that care and treatment and not request that a petition be  
28 filed;

30 B. Make whatever informal adjustment is practicable without  
a petition. The juvenile ~~easeworker~~ community corrections  
32 officer may effect whatever informal adjustment is agreed to  
by the juvenile and the juvenile's parents, guardian or  
34 legal custodian if the juvenile is not emancipated,  
including a restitution contract with the victim of the  
36 crime and the performance of community service. Informal  
adjustments may extend no longer than 6 months and may not  
38 be commenced unless:

40 (1) The juvenile ~~easeworker~~ community corrections  
officer determines that the juvenile and the juvenile's  
42 parents, guardian or legal custodian, if the juvenile  
is not emancipated, were advised of their  
44 constitutional rights, including the right to an  
adjudicatory hearing, the right to be represented by  
46 counsel and the right to have counsel appointed by the  
court if indigent;

48 (2) The facts establish prima facie jurisdiction,  
50 except that any admission made in connection with this



2 informal adjustment may not be used in evidence against  
the juvenile if a petition based on the same facts is  
later filed; and

4  
6 (3) Written consent to the informal adjustment is  
obtained from the juvenile and the juvenile's parents,  
guardian or legal custodian if the juvenile is not  
8 emancipated;

10 C. If the juvenile ~~easeworker~~ community corrections officer  
determines that the facts are sufficient for the filing of a  
12 petition, the juvenile ~~easeworker~~ community corrections  
officer shall request the prosecuting attorney to file a  
14 petition; or

16 D. If the juvenile ~~easeworker~~ community corrections officer  
makes a determination pursuant to paragraph A or B, the  
18 ~~easeworker~~ community corrections officer shall notify the  
juvenile and the juvenile's parents, guardian or legal  
20 custodian at least 2 weeks prior to the date for which they  
are summonsed.

22 **Sec. B-10. 15 MRSA §3301, sub-§5-A**, as amended by PL 1999, c.  
24 167, §1, is further amended to read:

26 **5-A. Community resolution teams.** In accordance with policy  
and procedures established by the Department of Corrections, the  
28 juvenile ~~easeworker~~ community corrections officer may establish a  
community resolution team after completing the preliminary  
30 investigation.

32 A. Team participants may include the team facilitator; the  
juvenile ~~easeworker~~ community corrections officer; the  
34 juvenile; the juvenile's parents, guardian or legal  
custodian; the complainant; the victim; a person designated  
36 by the victim; the law enforcement officer who notified the  
juvenile ~~easeworker~~ community corrections officer; and any  
38 other person who the juvenile ~~easeworker~~ community  
corrections officer determines is appropriate.

40 B. The community resolution team may agree to effect an  
informal adjustment or recommend to the juvenile ~~easeworker~~ community  
42 corrections officer one of the alternatives in  
subsection 5. If the team makes a recommendation, the  
44 juvenile ~~easeworker~~ community corrections officer shall  
46 consider the recommendation and decide which alternative to  
choose.

48 C. The Department of Corrections shall report on the  
50 progress of the community resolution teams to the joint

2 standing committee of the Legislature having jurisdiction  
over criminal justice matters no later than January 1st  
annually.

4  
6 ~~D. The Department of Corrections shall make a final report  
on the effectiveness of community resolution teams to the  
joint standing committee of the Legislature having  
8 jurisdiction over criminal justice matters no later than  
March 1, 1999. Victims, the law enforcement community,  
10 prosecuting attorneys, defense attorneys and other parties  
that have been involved in community resolution teams may  
12 also address the committee at the time the Department of  
Corrections makes its final report.~~

14  
16 **Sec. B-11. 15 MRSA §3301, sub-§6,** as amended by PL 1997, c.  
645, §9, is further amended to read:

18 **6. Review by attorney for the State.** If the juvenile  
easewerke community corrections officer decides not to request  
20 the attorney for the State to file a petition, the juvenile  
easewerke community corrections officer shall inform the  
22 complainant, the law enforcement officer and the victim of the  
decision and of the reasons for the decision as soon as  
24 practicable. The juvenile easewerke community corrections  
officer shall advise the complainant, the law enforcement officer  
26 and the victim that they may submit their complaint to the  
attorney for the State for review.

28  
30 The attorney for the State on that attorney's own motion or upon  
receiving a request for review by the law enforcement officer,  
the complainant or the victim, shall consider the facts of the  
32 case, consult with the juvenile easewerke community corrections  
officer who made the initial decision and then make a final  
34 decision as to whether to file the petition. Notwithstanding any  
action or inaction by the juvenile easewerke community  
36 corrections officer, the attorney for the State may file a  
petition at any time more than 30 days after the juvenile  
38 easewerke community corrections officer has been given notice  
pursuant to section 3203-A.

40  
42 **Sec. B-12. 15 MRSA §3301, sub-§7,** as amended by PL 1989, c.  
599, §7, is further amended to read:

44 **7. Nonapplication of section.** The provisions of this  
section do not apply to a juvenile charged with either of the  
46 juvenile crimes defined in section 3103, subsection 1, paragraph  
E or F, and a petition may be filed without recommendation by a  
48 juvenile easewerke community corrections officer. The  
provisions of section 3203-A apply in the case of a juvenile  
50 charged with either of the juvenile crimes defined in section  
3103, subsection 1, paragraph E or F.

2           **Sec. B-13. 15 MRSA §3303**, as amended by PL 1995, c. 133, §1,  
is further amended to read:

4           **§3303. Dismissal of petition with prejudice**

6           On motion made by or on behalf of a juvenile, or by the  
8 court itself, a petition must be dismissed with prejudice if it  
was not filed within 9 months from the date the juvenile was  
10 referred to the juvenile ~~easewerker~~ community corrections officer  
for an intake assessment, unless the prosecuting attorney either  
12 before or after the expiration of the 9-month period files a  
motion for an extension of time for the filing of a petition,  
14 accompanied by the reasons for this extension. The court may for  
good cause extend the time for bringing a petition for any period  
16 of time that is less than the limitation established in section  
3105-A.

18           **Sec. B-14. 15 MRSA §3304, sub-§1**, as amended by PL 1999, c.  
20 266, §4, is further amended to read:

22           **1. Issuance and contents.** The summons issued by the law  
enforcement officer must include the signature of the law  
24 enforcement officer, a brief description of the alleged juvenile  
crime, the time and place of the alleged juvenile crime and the  
26 time and place the juvenile is to appear in court. The summons  
must also include a statement of the constitutional rights of the  
28 juvenile, including the right to have an attorney present at the  
hearing on the petition and to have an attorney appointed, if  
30 indigent. The summons must also include a notice that the case  
may be informally adjusted by a juvenile ~~easewerker~~ community  
32 corrections officer.

34           **Sec. B-15. 15 MRSA §3304, sub-§3**, as repealed and replaced by  
PL 1999, c. 266, §5, is amended to read:

36           **3. Service.** The summons must be directed to and served  
38 upon the juvenile and the juvenile's parents, guardian or legal  
custodian if the juvenile is not emancipated. The summons must  
40 be served in hand or by leaving it at the juvenile's and  
parents', guardian's or legal custodian's dwelling house or usual  
42 place of abode with a person of suitable age and discretion  
residing in that house or by mailing it to the last known address  
44 of the juvenile. A copy of the summons must be mailed to the  
juvenile ~~easewerker~~ community corrections officer and the  
46 ~~district~~ attorney for the State.

48           **Sec. B-16. 15 MRSA §3306-A**, as amended by PL 1991, c. 493,  
§18, is further amended to read:

2                   **§3306-A. Release or detention at first appearance**

4                   At the juvenile's first appearance or at any subsequent  
6                   appearance before the court, the court may order, pending further  
8                   appearances before the court, the juvenile's unconditional  
10                  release, conditioned release or detention in accordance with  
                  section 3203-A. Unless the court orders otherwise, any juvenile  
                  put on conditional release by a juvenile ~~easewerker~~ community  
                  corrections officer remains on conditional release until  
                  disposition.

12                  **Sec. B-17. 15 MRSA §3307, sub-§1-A**, as amended by PL 1991, c.  
14                  776, §1, is further amended to read:

16                  **1-A. Release of identity.** No A law enforcement officer,  
18                  officer of the court or juvenile ~~easewerker~~ community corrections  
20                  officer may not release the identity of any juvenile until a  
22                  petition is filed charging the juvenile with a juvenile crime  
24                  described in subsection 2. This section does not preclude the  
26                  release of the identity of a juvenile to a complainant or victim  
                  if a juvenile ~~easewerker~~ community corrections officer decides  
                  not to file a petition in accordance with section 3301,  
                  subsection 5, paragraph A or B or if the juvenile ~~easewerker~~  
                  community corrections officer requests the prosecuting attorney  
                  to file a petition in accordance with section 3301, subsection 5,  
                  paragraph C.

28                  **Sec. B-18. 15 MRSA §3308, sub-§5**, as amended by PL 1985, c.  
30                  439, §14, is further amended to read:

32                  **5. Other records.** Police records, juvenile ~~easewerker's~~  
34                  community corrections officers' records, ~~--probation--officers'~~  
36                  ~~records~~ and all other reports of social and clinical studies  
38                  shall may not be open to inspection except with consent of the  
                  court or except to the extent that such records, reports and  
                  studies were made a part of the record of a hearing that was open  
                  to the general public under section 3307.

40                  **Sec. B-19. 15 MRSA §3507**, as amended by PL 1985, c. 439, §21,  
42                  is further amended to read:

44                  **§3507. Runaway juveniles returned from another state**

46                  When a juvenile who has left the care of ~~his~~ the juvenile's  
48                  parents, guardian or legal custodian without that person's  
                  consent, is returned to Maine from another state, ~~he shall~~ the  
                  juvenile must be referred immediately to a juvenile ~~easewerker~~  
                  community corrections officer and shall must be processed  
                  according to the provisions of this chapter.

2

## SUMMARY

4           Part A does the following:

6           1. Expands the time for a juvenile detention court hearing  
8           from 24 hours to 48 hours following a placement in detention  
          except for juveniles being held in a jail or other secure  
          detention facility serving adults;

10           2. Eliminates the ability of adult-serving jails to detain  
12           juveniles other than for 6 hours on an emergency basis unless a  
          jail is located in a rural area, in which case the jail may  
14           detain a juvenile for up to 24 hours;

16           3. Makes changes that comply with federal law;

18           4. Clarifies that the general public may not be excluded  
20           from a juvenile proceeding for a minor juvenile crime if the  
          juvenile has already been adjudicated of a juvenile crime of any  
          severity other than a Class E crime;

22           5. Requires that shock sentences for juveniles be served  
24           concurrently; and

26           6. Requires the termination of the probation of a person on  
28           juvenile probation who is 18 years of age or older and who  
          commits a probation violation consisting of criminal conduct so  
30           that the person may be dealt with exclusively by way of the adult  
          criminal process.

32           Part B changes references from "juvenile caseworker" to  
34           "juvenile community corrections officer" as well as makes several  
          other minor wording changes to ensure conformity and consistency  
          in terms.

36