

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1701

H.P. 1253

House of Representatives, March 20, 2001

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**An Act to Clarify Parental Rights and Responsibilities When Children  
are Placed in the Custody of the Department of Human Services as a  
Result of Court Proceedings Governed by the Maine Juvenile Code.**

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

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative BROOKS of Winterport.

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

4 **Sec. 1. 15 MRSA §3306-A**, as amended by PL 1999, c. 624, Pt. B, §16, is further amended to read:

6 **§3306-A. Release or detention at first appearance**

8 At the juvenile's first appearance or at any subsequent  
10 appearance before the court, the court may order, pending further  
12 appearances before the court, the juvenile's unconditional  
14 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 community corrections  
officer remains on conditional release until disposition.

16 Unless the court orders the juvenile placed in a detention  
18 facility in the first court ruling that sanctions, even  
temporarily, the juvenile's removal from the home, the court  
shall make findings as to whether:

20 1. Welfare of juvenile. Continuation in the juvenile's  
22 home would be contrary to the welfare of the juvenile; and

24 2. Mitigating efforts. Reasonable efforts have been made  
26 to prevent or eliminate the need for removal of the juvenile from  
the juvenile's home or no reasonable efforts are necessary  
28 because there are aggravated circumstances as defined by Title  
22, section 4002, subsection 1-B.

30 **Sec. 2. 15 MRSA §3314, sub-§1, ¶C-1**, as amended by PL 1987, c.  
32 720, §5, is further amended to read:

34 C-1. The court may commit a juvenile to the custody of the  
Department of Human Services when the court has determined  
36 that reasonable efforts have been made to prevent or  
eliminate the need for removal of the juvenile from his the  
38 juvenile's home and that continuation therein would be  
contrary to the welfare of the juvenile. The court may not  
40 enter an order under this paragraph unless the parents have  
had notice and an opportunity to be heard at the  
42 dispositional hearing.

44 Notwithstanding any other provision of law, the court shall  
may not commit a juvenile to the custody of the Department  
46 of Human Services unless such notice has been served on the  
parents, custodians and the Department of Human Services in  
48 accordance with District Court civil rules at least 10 days  
prior to the dispositional hearing. A party may waive this  
50 time requirement if the waiver is written and voluntarily  
and knowingly executed in court before a judge.

2 The Department of Human Services shall provide for the care  
4 and placement of the juvenile as for other children in the  
6 department's custody pursuant to the Child and Family  
Services and Child Protection Act, Title 22, chapter 1071,  
subchapter VII.

8 The court may impose conditions that may include  
10 participation by the juvenile, the juvenile's parents, or  
12 legal guardian in treatment services aimed at the  
rehabilitation and reunification of the juvenile and the  
parents and reunification of the family.

14 **Sec. 3. 15 MRSA §3315, sub-§1**, as amended by PL 1997, c. 752,  
16 §24, is further amended to read:

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

30 When a juvenile is placed in foster care, reviews and permanency  
32 planning hearings must be conducted in accordance with Title 22,  
34 section 4038. The provisions of sections 4005, 4039, 4041 and  
chapter 1071, subchapter VI also apply in any such hearing.

36 **Sec. 4. 15 MRSA §3315-A** is enacted to read:

38 **§3315-A. Termination of parental rights**

40 Whenever a juvenile has been in foster care for 15 of the  
42 most recent 22 months, Title 22, chapter 1071, subchapter VI  
applies.

44 **Sec. 5. 22 MRSA §4055, sub-§1, ¶A**, as amended by PL 1995, c.  
46 694, Pt. D, §48 and affected by Pt. E, §2, is further amended to  
read:

48 A. One of the following conditions has been met:

50 (1) Custody has been removed from the parent under:

- 2 (a) Section 4035 or 4038;
- 4 (b) Title 19-A, section 1502 or 1653; or
- 6 (c) Section 3792 prior to the effective date of  
8 this chapter; or
- 10 (d) Title 15, section 3314, subsection 1,  
paragraph C-1; or

12 (2) The petition has been filed as part of an adoption  
14 proceeding in Title 18-A, article IX; and

16 **SUMMARY**

18 This bill allows the court to order parents to participate  
20 in services when a child has come into Department of Human  
22 Services custody as a result of court proceedings governed by the  
juvenile code. The bill also brings the department into  
compliance with federal law.