

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2032

H.P. 1529

House of Representatives, December 26, 2001

**An Act to Exclude Court Holidays from the Time Required in Which a
Juvenile Detention Hearing Must be Held.**

Submitted by the Department of Corrections pursuant to Joint Rule 204.

Received by the Clerk of the House on December 19, 2001. Referred to the Committee on
Criminal Justice pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative PEAVEY of Woolwich.

Cosponsored by Representatives: GERZOFISKY of Brunswick, O'BRIEN of Lewiston,
QUINT of Portland, SNOWE-MELLO of Poland, TOBIN of Dexter.

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

Sec. 1. 15 MRSA §3203-A, sub-§2, ¶A, as amended by PL 1999, c. 624, Pt. A, §1, is further amended to read:

A. When a juvenile is arrested, the law enforcement officer or the juvenile 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 community corrections officer who has been contacted and, if a juvenile has been placed in a secure juvenile detention facility, that a detention hearing will be held within 48 hours following this placement, excluding Saturday, Sunday and, legal holidays and court 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 and court holidays.

Sec. 2. 15 MRSA §3203-A, sub-§5, as amended by PL 1999, c. 624, Pt. A, §3, is further amended to read:

5. Detention hearing. Upon petition by a juvenile community corrections officer who ordered the detention or an attorney for the State who ordered the detention, the Juvenile Court shall review the decision to detain a juvenile within 48 hours following the detention, excluding Saturday, Sunday and, legal holidays and court holidays, except that if a juvenile is detained pursuant to subsection 7, paragraph B-5, the Juvenile Court shall review the decision to detain the juvenile within 24 hours following the detention, excluding Saturday, Sunday and, legal holidays and court holidays.

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

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

detention is otherwise in accordance with the requirements of subsection 4.

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

Sec. 3. 15 MRSA §3203-A, sub-§6, as amended by PL 1993, c. 675, Pt. B, §13, is further amended to read:

6. Availability of judges. The Chief Judge of the District Court shall provide that a Juvenile Court Judge is available to preside at the detention hearing, described in subsection 5, on all days except Saturdays, Sundays and, legal holidays and court holidays.

Sec. 4. 15 MRSA §3203-A, sub-§7, ¶B-4, as amended by PL 1999, c. 624, Pt. A, §4, is further amended to read:

B-4. The State is responsible for all physically restrictive juvenile detention statewide, except that the detention for up to 6 hours provided under subsection 1 remains the responsibility of the counties. At the discretion of the sheriff, if the requirements of paragraph B-5 are met, a county may assume responsibility for the detention of a juvenile for up to 24 hours, excluding Saturdays, Sundays and, legal holidays and court holidays. Upon mutual agreement of the Commissioner of Corrections and the sheriff and upon terms mutually agreeable to them, a juvenile may be detained by a county for a longer period of time in an approved detention facility or temporary holding resource complying with paragraph B. Any detention of a juvenile by a county must be in a section of a jail or other secure detention facility in compliance with paragraph A or in an approved detention facility or temporary holding resource in compliance with paragraph B. This paragraph does not apply to a juvenile who is held in an adult section of a jail pursuant to court order under paragraph C or D; section 3101, subsection 4, paragraph E-1; or section 3205, subsection 2.

Sec. 5. 15 MRSA §3203-A, sub-§7, ¶B-5, as enacted by PL 1999, c. 624, Pt. A, §5, is amended to read:

B-5. If the juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention determines there is no reasonable 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 and court holidays if:

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

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

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

Sec. 6. 15 MRSA §3314, sub-§2, as amended by PL 1999, c. 624, Pt. A, §8, is further amended to read:

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 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 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 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.

Modification of probation is governed by the procedures contained in Title 17-A, section 1202, subsection 2. Termination of probation is governed by the procedures contained in Title 17-A, section 1202, subsection 3. Revocation of probation is governed by the procedures contained in Title 17-A, sections 1205, 1205-B, 1205-C and 1206, except that the provisions of those sections requiring a preliminary hearing do not apply and those provisions of Title 17-A, section 1206, subsection 7-A allowing a vacating of part of the suspension of execution apply only to a disposition under subsection 1, paragraph G or H; however, a disposition under subsection 1, paragraph F may be modified to a disposition under subsection 1, paragraph H. If the juvenile is being detained for an alleged violation of probation, the court

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

12 SUMMARY

14 This bill amends the juvenile detention laws to specify that
15 court holidays are excluded from the time limits for holding
16 juveniles in detention prior to a hearing. This change would
17 make the law the same for juveniles as for adults as set out in
18 the Maine Rules of Criminal Procedure.