

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 72

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H.P. 80

House of Representatives, January 16, 2003

### An Act to Improve Juvenile Rehabilitation

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SNOWE-MELLO of Poland.  
Cosponsored by Senator MITCHELL of Penobscot and  
Representatives: CLOUGH of Scarborough, GERZOFSKY of Brunswick, HEIDRICH of  
Oxford, PATRICK of Rumford, Senators: CARPENTER of York, DAVIS of Piscataquis,  
MAYO of Sagadahoc, STRIMLING of Cumberland.

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

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4       **Sec. 1. 15 MRSA §3314, sub-§2**, as amended by PL 2001, c. 696, §5, is further amended to read:

6       **2. Suspended disposition.** The court may impose any of the  
8       dispositional alternatives provided in subsection 1 and may  
10       suspend its disposition and place the juvenile on a specified  
12       period of probation that is subject to such provisions of Title  
14       17-A, section 1204 as the court may order and that is  
16       administered pursuant to the provisions of Title 34-A, chapter 5,  
18       subchapter IV 4, except that the court may not impose the  
20       condition set out in Title 17-A, section 1204, subsection 1-A.  
22       The court may impose as a condition of probation that a juvenile  
24       must reside outside the juvenile's home in a setting satisfactory  
26       to the juvenile community corrections officer if the court  
28       determines that reasonable efforts have been made to prevent or  
30       eliminate the need for removal of the juvenile from the  
      juvenile's home or that no reasonable efforts are necessary  
      because of the existence of an aggravating factor as defined in  
      Title 22, section 4002, subsection 1-B, 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. Subject to the provisions of  
      subsections 7 and 8, the court may as a condition of probation  
      require the juvenile to attend a residential special-purpose  
      private school or similar private facility approved by either the  
      Department of Education or the Department of Human Services and  
      to comply with the rules of such facility.

32       Modification of probation is governed by the procedures contained  
34       in Title 17-A, section 1202, subsection 2. Termination of  
36       probation is governed by the procedures contained in Title 17-A,  
38       section 1202, subsection 3. Revocation of probation is governed  
40       by the procedures contained in Title 17-A, sections 1205, 1205-B,  
42       1205-C and 1206, except that the provisions of those sections  
44       requiring a preliminary hearing do not apply and those provisions  
46       of Title 17-A, section 1206, subsection 7-A allowing a vacating  
48       of part of the suspension of execution apply only to a  
50       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  
      shall review within 48 hours following the detention, excluding  
      Saturdays, Sundays and legal holidays, the decision to detain the  
      juvenile. Following that review, the court shall order the  
      juvenile's release unless the court finds that there is probable  
      cause to believe that the juvenile has violated a condition of  
      probation and finds, by a preponderance of the evidence, that  
      continued detention is necessary to meet one of the purposes of  
      detention under section 3203-A, subsection 4, paragraph C.

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

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6           **5. Support orders.** Whenever the court commits a juvenile  
to the Department of Human Services, to a Department of  
8           Corrections juvenile correctional facility, to a residential  
special-purpose private school or a similar private facility or  
10           to a relative or other person, the court may order either or both  
parents of the juvenile to pay a reasonable amount of support for  
12           the juvenile. The order is enforceable under Title 19-A, section  
2603.

14           **Sec. 3. 15 MRSA §3314, sub-§§7 and 8** are enacted to read:

16           **7. Consideration for placement.** In deciding whether to  
suspend any dispositional alternative provided in subsection 1  
18           and to require as a condition of probation that the juvenile  
attend a residential special-purpose private school or similar  
20           private facility in accordance with subsection 2, the court shall  
take the following considerations into account:

22           A. Whether the placement is likely to provide more  
24           effective rehabilitation than the disposition to be  
suspended;

26           B. Whether the placement will provide such rehabilitation  
28           at a cost less than the average per-juvenile cost of  
committing the juvenile to a state-run facility;

30           C. Whether the residential special-purpose private school  
32           or similar private facility has an established record for  
effectively assisting juveniles with behavioral or  
34           psychological problems similar to those the court finds the  
juvenile in fact has;

36           D. The best interest of the juvenile and the juvenile's  
38           family; and

40           E. The best interest of society.

42           **8. Funding.** Subject to full or partial reimbursement in  
accordance with subsection 5, the State shall pay the reasonable  
44           and customary charges of any residential special-purpose private  
school or similar private facility that a juvenile is required to  
46           attend as a condition of probation established in accordance with  
subsection 2. If the charges of the residential special-purpose  
48           private school or similar private facility have been approved by  
the Department of Human Services or by the Department of  
50           Education, those charges are deemed reasonable and appropriate.

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## SUMMARY

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6       This bill allows a court, as a condition of probation, to  
8       require a juvenile to attend a residential special-purpose  
      private school or similar private facility approved by either the  
      Department of Education or the Department of Human Services.