

MAINE STATE LEGISLATURE

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R.O.S.

L.D. 1496

DATE: 4-28-03

(Filing No. H-189)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 121ST LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1093, L.D. 1496, Bill, "An Act To Amend the Maine Juvenile Code"

Amend the bill by striking out all of sections 3 and 4 and inserting in their place the following:

'Sec. 3. 15 MRSA §3203-A, sub-§4-A is enacted to read:

4-A. Probable cause determination. Except in a bona fide emergency or other extraordinary circumstance, when a juvenile arrested without a warrant for a juvenile crime or a violation of conditional release is not released from custody or does not receive a detention hearing within 48 hours after arrest, including Saturdays, Sundays and legal holidays, a Juvenile Court Judge or justice of the peace shall determine, within that time period, whether there is probable cause to believe that the juvenile has committed a juvenile crime. Evidence presented to establish such probable cause may include affidavits and other reliable hearsay evidence as permitted by the Juvenile Court Judge or justice of the peace. If the evidence does not establish such probable cause, the Juvenile Court Judge or justice of the peace shall order the juvenile's discharge from detention.

Sec. 4. 15 MRSA §3203-A, sub-§5, ¶C, as repealed and replaced by PL 1999, c. 127, Pt. A, §32 and c. 260, Pt. A, §5, is amended to read:

C. Continued detention may not be ordered unless a Juvenile Court Judge or justice of the peace has determined pursuant to subsection 4-A or the Juvenile Court determines at the detention hearing that there is probable cause to believe that the juvenile has committed a juvenile crime.'

COMMITTEE AMENDMENT

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2 Further amend the bill by striking out all of section 5.

4 Further amend the bill by inserting after section 5 the following:

6 'Sec. 6. 15 MRSA §3203-A, sub-§9, as amended by PL 1999, c. 8 624, Pt. B, §6, is further amended to read:

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

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

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

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

38 If detention is ordered, the provisions of subsections 4-A and 5 apply.'

40 Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

46 SUMMARY

48 This amendment authorizes justices of the peace to determine whether there is probable cause to believe that a juvenile has committed a juvenile crime when a juvenile is arrested without a 50

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2 warrant for a juvenile crime or a violation of conditional
3 release and is not released from custody or does not receive a
4 detention hearing within 48 hours after arrest. In the bill,
5 only Juvenile Court Judges have that authorization. The
6 amendment removes the requirement that the Chief Judge of the
7 District Court provide that a Juvenile Court Judge is available
8 on all days, including Saturdays, Sundays and legal holidays,
9 since justices of the peace would now also have authority to make
10 these probable cause determinations. This amendment also strikes
11 "testimony" from the types of evidence that may be used to
12 establish probable cause.

14 **FISCAL NOTE REQUIRED**
(See attached)

COMMITTEE AMENDMENT

Approved: 04/18/03 *MAC*

**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1496

An Act To Amend the Maine Juvenile Code



LR 1963(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund