

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1592

H.P. 1165

House of Representatives, April 30, 2003

**An Act To Amend the Department of Corrections' Laws Pertaining
to Juvenile Offenders**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BUNKER of Kossuth Township.
Cosponsored by Senator HATCH of Somerset and
Representatives: BLANCHETTE of Bangor, CHURCHILL of Washburn, GROSE of
Woolwich, LESSARD of Topsham, Senator: CARPENTER of York.

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

4 **Sec. 1. 12 MRSA §6004** is enacted to read:

6 **§6004. Juvenile violations**

8 Notwithstanding other provisions of law, a person who has
10 not attained 18 years of age and who is convicted of a crime for
12 a violation of a provision of this Part that is not defined as a
14 juvenile crime under Title 15, section 3103, subsection 1 may not
16 be sentenced to imprisonment.

18 **Sec. 2. 12 MRSA §7003** is enacted to read:

20 **§7003. Juvenile violations**

22 Notwithstanding other provisions of law, a person who has
24 not attained 18 years of age and who is convicted of a crime for
26 a violation of a provision of this Part that is not defined as a
28 juvenile crime under Title 15, section 3103, subsection 1 may not
30 be sentenced to imprisonment.

32 **Sec. 3. 12 MRSA §8004** is enacted to read:

34 **§8004. Juvenile violations**

36 Notwithstanding other provisions of law, a person who has
38 not attained 18 years of age and who is convicted of a crime for
40 a violation of a provision of this Part that is not defined as a
42 juvenile crime under Title 15, section 3103, subsection 1 may not
44 be sentenced to imprisonment.

46 **Sec. 4. 15 MRSA §3003, sub-§14-B, ¶B,** as amended by PL 1999,
48 c. 624, Pt. B, §2 and PL 2001, c. 439, Pt. G, §6, is further
50 amended to read:

B. To provide appropriate services to juveniles committed
to ~~the--Long--Creek--Youth--Development--Center~~ Department of
Corrections juvenile correctional facility who are on leave
or in the community on ~~aftercare~~ community reintegration; and

42 **Sec. 5. 15 MRSA §3103, sub-§1, ¶F,** as amended by PL 1997, c.
44 462, §3, is further amended to read:

F. The criminal violation of operating a motor vehicle
46 under the influence of intoxicating liquor or drugs or with
48 an excessive blood-alcohol level, as defined in Title 29-A,
section 2411, and offenses defined in Title 29-A as Class B
or C crimes; and

2 **Sec. 6. 15 MRSA §3103, sub-§1, ¶G**, as enacted by PL 1997, c.
462, §4, is amended to read:

4 G. A violation of section 393, subsection 1-A; and

6 **Sec. 7. 15 MRSA §3103, sub-§1, ¶H** is enacted to read:

8 H. If a juvenile has been convicted of a crime for a
10 violation of a provision of Title 12 or 29-A not
12 specifically included in paragraph E or F, willful refusal
14 to pay a resulting fine or willful violation of the terms of
16 a resulting probation or willful failure to comply with the
18 terms of any other resulting court order.

20 **Sec. 8. 29-A MRSA §115** is enacted to read:

22 **§115. Juvenile violations**

24 Notwithstanding other provisions of law, a person who has
26 not attained 18 years of age and who is convicted of a crime for
28 a violation of a provision of this Title that is not defined as a
30 juvenile crime under Title 15, section 3103, subsection 1 may not
32 be sentenced to imprisonment.

34 **Sec. 9. 34-A MRSA §1001, sub-§6**, as amended by PL 1997, c.
36 752, §31 and PL 2001, c. 439, Pt. G, §8, is further amended to
38 read:

40 **6. Correctional facility.** "Correctional facility" means
42 any facility that falls under the jurisdiction of the department,
44 but does not include ~~the Mountain View Youth Development Center~~
46 or any facility for which the department is required to establish
48 standards pursuant to section 1208 or 1208-A.

50 **Sec. 10. 34-A MRSA §1001, sub-§8-A**, as enacted by PL 1991, c.
314, §6 and amended PL 2001, c. 439, Pt. G, §8, is further
amended to read:

8-A. Detention facility. "Detention facility" means the
Long Creek Youth Development Center and the Mountain View Youth
Development Center.

Sec. 11. 34-A MRSA §1001, sub-§11, as amended by PL 1997, c.
752, §32, is further amended to read:

11. Juvenile client. "Juvenile client" means a juvenile
committed to a juvenile correctional facility who is either
residing at the facility or is on ~~aftercare~~ community
reintegration status.

2 **Sec. 12. 34-A MRSA §1001, sub-§11-A**, as amended by PL 1997, c.
752, §33, is further amended to read:

4 **11-A. Juvenile detainee.** "Juvenile detainee" means a
juvenile detained at a departmental juvenile facility pending a
6 court proceeding, ~~pending a preliminary hearing under Title 17-A,~~
~~section 1205~~ or pursuant to Title 15, section 3314, subsection 1,
8 paragraph H or Title 15, section 3312, subsection 3, paragraph D.

10 **Sec. 13. 34-A MRSA §3802, sub-§1, ¶A**, as amended by PL 1997,
c. 752, §36, is further amended to read:

12 A. To detain juveniles pending a court proceeding ~~or~~
14 ~~pending a preliminary hearing under Title 17-A, section 1205;~~

16 **Sec. 14. 34-A MRSA §3809-A, sub-§3**, as enacted by PL 2001, c.
517, §1, is amended to read:

18 **3. Psychiatric hospitalization.** The commissioner has all
20 the power over a juvenile client that a guardian has over a ward
and that a parent has over a child with regard to necessary
22 psychiatric hospitalization, including hospitalization in a
nonstate mental health institution or hospital for the mentally
24 ill. If a juvenile client is or becomes 18 years of age while
still under commitment, the statutory guardianship of the
26 commissioner over the juvenile client terminates, but the
juvenile client remains subject to the control of the
28 commissioner and staff and rules of the facility until the
expiration of the period of commitment or until discharge from
30 the facility. Nothing in this subsection may be construed to
override the requirement to make application for psychiatric
32 hospitalization in accordance with Title 34-B, section 3863,
unless hospitalization is made with the juvenile client's consent
34 in accordance with Title 34-B, section 3831. The commissioner
may make application for necessary psychiatric hospitalization of
36 a juvenile detainee, including hospitalization in a nonstate
mental health institution or hospital for the mentally ill, in
38 accordance with Title 34-B, section 3863.

40 **Sec. 15. 34-A MRSA §3810**, as amended by PL 1999, c. 583, §§33
and 34, is further amended to read:

42 **§3810. Community reintegration status**

44 **1. Commissioner's powers.** During a juvenile client's
46 commitment to the facility, the commissioner may, at the
commissioner's discretion:

48 A. Keep the juvenile client at the facility; or

50

2 B. Place the juvenile client on ~~aftercare~~ community
reintegration status for a period not exceeding the term of
4 the juvenile's commitment.

6 **2. Reports.** As often as the commissioner requires, the
8 person or agency caring for the juvenile client while on
~~aftercare~~ community reintegration status shall report to the
commissioner:

10 A. The progress and behavior of the juvenile client,
12 whether or not the juvenile client remains under the care of
the person or agency; and

14 B. If the juvenile client is not under the care of the
16 person or agency, where the client is.

18 **3. Center services.** The commissioner shall provide
~~aftercare~~ community reintegration services to juvenile clients.

20 **4. Cancellation.** If the commissioner is satisfied at any
22 time that the welfare of the juvenile client will be promoted by
return to the facility, the commissioner may cancel the ~~aftercare~~
community reintegration status and resume charge of the client
24 with the same powers as before the placement on ~~aftercare~~
community reintegration status was made.
26

28 **Sec. 16. 34-A MRSA §3811, first ¶,** as amended by PL 1999, c.
583, §35, is further amended to read:

30 When a juvenile client who has been placed on ~~aftercare~~
community reintegration status, who has been granted a furlough
32 or work or education release or who has been absent from the
facility without leave is taken into custody for the purpose of
34 return to the facility by an officer or employee of the facility,
at the direction of the commissioner, or by a law enforcement
36 officer, at the request of the commissioner, and because of the
juvenile client's distance from the facility at the time of being
38 taken into custody, it becomes necessary to detain the client
overnight:
40

42 **Sec. 17. 34-A MRSA §4102, sub-§1,** as amended by PL 1997, c.
752, §41, is further amended to read:

44 **1. Detention.** To detain juveniles pending a court
46 proceeding ~~or pending a preliminary hearing under Title 17-A,~~
~~section 1205;~~

48 **Sec. 18. 34-A MRSA §4111, sub-§3,** as enacted by PL 2001, c.
517, §2, is amended to read:
50

2 **3. Psychiatric hospitalization.** The commissioner has all
3 the power over a juvenile client that a guardian has over a ward
4 and that a parent has over a child with regard to necessary
5 psychiatric hospitalization, including hospitalization in a
6 nonstate mental health institution or hospital for the mentally
7 ill. If a juvenile client is or becomes 18 years of age while
8 still under commitment, the statutory guardianship of the
9 commissioner over the juvenile client terminates, but the
10 juvenile client remains subject to the control of the
11 commissioner and staff and rules of the facility until the
12 expiration of the period of commitment or until discharge from
13 the facility. Nothing in this subsection may be construed to
14 override the requirement to make application for psychiatric
15 hospitalization in accordance with Title 34-B, section 3863,
16 unless hospitalization is made with the juvenile client's consent
17 in accordance with Title 34-B, section 3831. The commissioner
18 may make application for necessary psychiatric hospitalization of
19 a juvenile detainee, including hospitalization in a nonstate
20 mental health institution or hospital for the mentally ill, in
21 accordance with Title 34-B, section 3863.

22 **Sec. 19. 34-A MRSA §4112**, as enacted by PL 1999, c. 583, §45
23 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to
24 read:

25 **§4112. Community reintegration status**

26 **1. Commissioner's powers.** During a juvenile client's
27 commitment to the Mountain View Youth Development Center, the
28 commissioner may, at the commissioner's discretion:
29

30 A. Keep the juvenile client at the Mountain View Youth
31 Development Center; or

32 B. Place the juvenile client on ~~aftercare~~ community
33 reintegration status for a period not exceeding the term of
34 the juvenile's commitment.

35 **2. Reports.** As often as the commissioner requires, the
36 person or agency caring for the juvenile client while on
37 ~~aftercare~~ community reintegration status shall report to the
38 commissioner:

39 A. The progress and behavior of the juvenile client,
40 whether or not the juvenile client remains under the care of
41 the person or agency; and

42 B. If the juvenile client is not under the care of the
43 person or agency, where the client is.

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2 3. Facility services. The commissioner shall provide
aftercare community reintegration services to a juvenile client.

4 4. Cancellation. If the commissioner is satisfied at any
6 time that the welfare of the juvenile client will be promoted by
return to the Mountain View Youth Development Center, the
8 commissioner may cancel the aftercare community reintegration
status and resume charge of the client with the same powers as
10 before the placement on aftercare community reintegration status
was made.

12 **Sec. 20. 34-A MRSA §4113, first ¶**, as enacted by PL 1999, c.
583, §45 and amended by PL 2001, c. 439, Pt. G, §8, is further
14 amended to read:

16 When a juvenile client who has been placed on aftercare
community reintegration status, who has been granted a furlough
18 or work or education release or who has been absent from the
Mountain View Youth Development Center without leave is taken
20 into custody for the purpose of return to the Mountain View Youth
Development Center by an officer or employee of the Mountain View
22 Youth Development Center, at the direction of the commissioner,
or by a law enforcement officer, at the request of the
24 commissioner, and, because of the juvenile client's distance from
the Mountain View Youth Development Center at the time of being
26 taken into custody, it becomes necessary to detain the client
overnight:

28 **Sec. 21. 34-A MRSA §4116, sub-§2**, as enacted by PL 1999, c.
30 583, §45 and amended by PL 2001, c. 439, Pt. G, §8, is further
amended to read:

32 **2. Reversion.** Upon discharge or placement on aftercare
34 community reintegration status from the Mountain View Youth
Development Center, the custody of the juvenile reverts to the
36 Department of Human Services, if the juvenile is still under 18
years of age.

38 **Sec. 22. 34-A MRSA §5602, sub-§2, ¶C**, as amended by PL 1999,
40 c. 583, §46, is further amended to read:

42 C. To provide appropriate services to juveniles committed
to a juvenile correctional facility who are in the community
44 on aftercare community reintegration status.

46 **SUMMARY**

48 This bill eliminates terms of imprisonment in county jails
50 for juveniles who commit adult offenses under the Maine Revised

2 Statutes, Titles 12 and 29-A, such as operating after suspension,
night hunting and operating an ATV on a public way, but provides,
4 if the juvenile doesn't comply with the sentence given, the
juvenile commits a juvenile crime.

6 The bill amends the purposes of juvenile institutions to
eliminate the references to preliminary hearings since these are
8 no longer held for juveniles. The bill amends the definition of
"juvenile detainee" to include a juvenile detained for a drug
10 court sanction under Title 15, section 3312, subsection 3,
paragraph D. This clarifies that juveniles sanctioned by a drug
12 court are considered detainees under the provisions of Title
34-A. The bill clarifies that the Long Creek Youth Development
14 Center and the Mountain View Youth Development Center are both
detention and correctional facilities. The bill also replaces
16 references to "aftercare" with "community reintegration"
throughout Title 34-A to reflect current terminology.

18
20 This bill also allows a juvenile detainee to be hospitalized
in a nonstate psychiatric hospital if ordered by the court by way
of a procedure known as the "blue paper" process.