

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1286, L.D. 1764, Bill, "An Act To Improve the Operations of the Department of Corrections and the Safety of State Correctional Facilities"

Amend the bill in Part A by striking out all of sections 1 to 3 and inserting in their place the following:

Sec. A-1. 15 MRSA §3101, sub-§4, ¶E-2 is enacted to read:

E-2. If the Juvenile Court binds a juvenile over to Superior Court and has not directed the detention of the juvenile in a section of a jail that is used primarily for the detention of adults pursuant to paragraph E-1, the court shall order that, if the juvenile attains 18 years and 6 months of age and is being detained, the juvenile be detained in an adult section of a jail.

Sec. A-2. 15 MRSA §3203-A, sub-§5, ¶B, as repealed and replaced by PL 1999, c. 127, Pt. A, §32 and c. 260, Pt. A, §5, is amended to read:

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. The court may order that detention be

continued pending further appearances before the court or pending conditional release to a setting satisfactory to the juvenile community corrections officer.

Sec. A-3. 15 MRSA §3203-A, sub-§5, ¶C, as amended by PL 2003, c. 180, §4, is further amended to read:

C. Continued detention or conditional release 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.

Sec. A-4. 15 MRSA §3306-A, as amended by PL 2001, c. 696, §2, is further amended to read:

§3306-A. Release or detention at first appearance

At the juvenile's first appearance or at any subsequent appearance before the court, the court may order, ~~pending further appearances before the court,~~ the juvenile's unconditional release, ~~conditioned~~ conditional 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.

Conditional release or detention may not be ordered at any appearance unless it has been determined by a Juvenile Court Judge or a justice of the peace that there is probable cause to believe that the juvenile has committed a juvenile crime.

When a court orders detention or a conditional release that authorizes even temporarily the juvenile's removal from the juvenile's home or when a court allows a conditional release ordered by a juvenile community corrections officer that authorizes, even temporarily, the juvenile's removal from the juvenile's home to remain in effect, the court shall determine whether reasonable efforts have been made to prevent or 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 whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders detention or a conditional release or allows a conditional release to remain in effect, ~~which continues to be governed by section 3203-A.~~

COMMITTEE AMENDMENT "A" to H.P. 1286, L.D. 1764

2 Further amend the bill in Part A by striking out all of
section 5 and inserting in its place the following:

4 'Sec. A-5. 17-A MRSA §1253, sub-§2, as amended by PL 2003, c.
205, §6, is further amended to read:

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8 2. Each person sentenced to imprisonment who has previously
10 been detained for the conduct for which the sentence is imposed
12 in any state facility or county institution or facility or in any
14 local lockup awaiting trial, during trial, post-trial awaiting
16 sentencing or post-sentencing prior to the date on which the
18 sentence commenced to run either to await transportation to the
20 place of imprisonment specified, or pursuant to court order, and
22 not in execution of any other sentence of confinement, is
entitled to receive a day-for-day deduction from the total term
of imprisonment required under that sentence. Each person is
entitled to receive the same deduction for any such period of
detention in any federal, state or county institution, local
lockup or similar facility in another jurisdiction, including any
detention resulting from being a fugitive from justice, as
defined by Title 15, section 201, subsection 4, unless the person
is simultaneously being detained for non-Maine conduct.

24 For the purpose of calculating the day-for-day deduction
26 specified by this subsection, a "day" means 24 hours.

28 The total term required under the sentence of imprisonment is
reduced by the total deduction of this subsection prior to
30 applying any of the other deductions specified in this section or
in Title 30-A, section 1606.

32 ~~The attorney representing this State shall furnish the court, at~~
34 ~~the time of sentencing or within 10 days thereafter, a statement~~
showing the total deduction of this subsection, to that point in
36 ~~time, and the statement must be attached to the official records~~
~~of the commitment.~~

38 The sheriff or other person upon whom the legal duty is imposed
40 to deliver a sentenced person who has been detained as specified
42 in this subsection shall, within 30 days of delivery, furnish to
the custodian a statement showing the length of that detention.
44 In addition, the transporter shall furnish to the attorney for
the State the same statement. The custodian shall use the
46 statement furnished to determine the day-for-day deduction to
which the person is entitled, if any, unless, within 15 days of
its receipt, the attorney for the State furnishes a revised
statement to the custodian.'

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50 Further amend the bill in Part A by striking out all of
section 9 and inserting in its place the following:

2 'Sec. A-9. 34-A MRSA §3805, sub-§2, as amended by PL 1999, c.
583, §31 and PL 2001, c. 354, §3, is further amended to read:

4
6 2. **Limitations.** A person may not be detained at or
committed to the facility ~~who is blind or who is a proper subject~~
8 ~~for any residential~~ if that person is more appropriately a
subject for intensive temporary out-of-home treatment services or
10 for in-home treatment services provided by or through the
Department of Behavioral and Developmental Services as agreed
12 upon by the commissioner and the Commissioner of Behavioral and
Developmental Services or their designees.'

14 Further amend the bill in Part A by striking out all of
section 11 and inserting in its place the following:

16 'Sec. A-11. 34-A MRSA §4104, sub-§2, as amended by PL 1999, c.
18 583, §42 and PL 2001, c. 354, §3 and c. 439, Pt. G, §8, is
further amended to read:

20 2. **Limitations.** A person may not be detained at or
22 committed to the ~~Mountain-View-Youth-Development-Center-who-is~~
~~blind or who is a proper subject for any residential~~ facility if
24 that person is more appropriately a subject for intensive
temporary out-of-home treatment services or for in-home treatment
26 services provided by or through the Department of Behavioral and
Developmental Services as agreed upon by the commissioner and the
28 Commissioner of Behavioral and Developmental Services or their
designees.'

30 Further amend the bill in Part A by inserting after section
32 13 the following:

34 'Sec. A-14. **Report to Legislature.** By March 1, 2005, the
Department of Corrections shall report to the joint standing
36 committee of the Legislature having jurisdiction over criminal
justice matters regarding any impact on the corrections system
38 due to detention and commitment changes in that section of this
Part that enacts the Maine Revised Statutes, Title 15, section
40 3101, subsection 4, paragraph E-2 and those sections of this Part
that amend Title 15, section 3230-A, subsection 5, paragraph B;
42 Title 34-A, section 3805, subsection 2; and Title 34-A, section
4104, subsection 2. Upon hearing the department's report, the
44 committee may report out a bill to the First Regular Session of
the 122nd Legislature.'

46 Further amend the bill by striking out all of Part B.

48 Further amend the bill in Part C by inserting before section
50 1 the following:

2 'Sec. C-1. 17-A MRSA §759 is enacted to read:

4 §759. Violation of interstate compact for adult supervision

6 1. A person is guilty of violating an interstate compact
8 for adult offender supervision if that person, after being
10 convicted and sentenced for a crime in a state that is a member
12 of an interstate compact for adult offender supervision and
subsequently released on probation or parole, resides in this
State without complying with the requirements of the interstate
compact as enacted by the sentencing state.

14 2. Violation of an interstate compact for adult offender
16 supervision is a Class D crime.'

Further amend the bill in Part C in section 6 by striking
18 out all of that part designated "~~§9886.~~" (page 10, lines 24 to 32
in L.D.) and inserting in its place the following:

20 '§9886. Violation of interstate compact for adult offender
22 supervision

24 Violation of the requirements of an interstate compact for
adult offender supervision as enacted by the sentencing state is
26 a Class D crime as provided in Title 17-A, section 759.'

28 Further amend the bill in Part C by inserting after section
8 the following:

30 'Sec. C-9. Appropriations and allocations. The following
32 appropriations and allocations are made.

34 **LEGISLATURE**

36 **Legislature**

38 Initiative: Appropriates funds for the per diem and expenses of
legislative members of the State Council for Juvenile and Adult
40 Offender Supervision.

42	General Fund	2003-04	2004-05
	Personal Services	\$0	\$440
44	All Other	0	400
46	General Fund Total	<u>\$0</u>	<u>\$840'</u>

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

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SUMMARY

This amendment does the following.

1. It specifies that a bound-over juvenile be detained with adults once the juvenile attains 18 years and 6 months of age.
2. It eliminates an extra court hearing and helps put a juvenile in an appropriate placement more quickly.
3. It repeals language directing the attorney representing the State to provide a custodian with a statement showing the length of a person's detention. This provision was inadvertently left in law when the responsibility of providing a custodian with a statement of the length of a person's detention was transferred to sheriffs.
4. It amends detention language to specify that a person may not be detained at or committed to a corrections facility if that person is more appropriately a subject for intensive temporary out-of-home treatment services or for in-home treatment services provided by or through the Department of Behavioral and Developmental Services as agreed upon by the Commissioner of Behavioral and Developmental Services and the Commissioner of Corrections.
5. It removes from the bill all of Part B, which dealt with the reimbursement rate to providers for medical services provided to inmates outside correctional facilities. Provisions in Part B were enacted in Public Law 2003, chapter 513, Part E.
6. It directs the Department of Corrections to report the impact of changes to the juvenile detention and commitment laws by March 1, 2005 to the joint standing committee of the Legislature having jurisdiction over criminal justice matters. Upon receiving the report, the committee may report out a bill.
7. It moves the crime of violating an interstate compact for adult offender supervision to the Maine Revised Statutes, Title 17-A, while leaving a reference to the crime in the Interstate Compact for Adult Offender Supervision.

FISCAL NOTE REQUIRED
(See attached)

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

LD 1764

**An Act To Improve the Operations of the Department of Corrections
and the Safety of State Correctional Facilities**

LR 2623(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes



Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projection 2006-0
Net Cost (Savings)				
General Fund	\$0	\$840	\$840	\$840
Appropriations/Allocations				
General Fund	\$0	\$840	\$840	\$840

Fiscal Detail and Notes

This bill will require a General Fund appropriation to the Legislature in the amount of \$840 annually, beginning in fiscal year 2004-05. This appropriation provides funds for the per diem and expenses of legislative members of the State Council for Juvenile and Adult Offender Supervision. All costs associated with the statutory changes impacting the Judicial Department and the Department of Corrections can be absorbed by the departments utilizing existing budgeted resources.