

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1376

S.P. 474

In Senate, March 17, 2005

**An Act To Amend the Laws Governing the Right to Periodic Review
under the Maine Juvenile Code**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator STRIMLING of Cumberland.
Cosponsored by Representative BLANCHETTE of Bangor and
Senators: CLUKEY of Aroostook, DIAMOND of Cumberland, NUTTING of Androscoggin,
Representatives: CHURCHILL of Washburn, DAVIS of Augusta, GERZOFKY of
Brunswick, SYKES of Harrison, WEBSTER of Freeport.

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

4 **Sec. 1. 15 MRSA §3315, sub-§1**, as amended by PL 2001, c. 696,
5 §6 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

6 **1. Right to review.** Every disposition pursuant to section
7 3314, other than unconditional discharge, must be reviewed not
8 less than once in every 12 6 months until the juvenile is
9 discharged. The review must be made by a representative of the
10 Department of Corrections unless the juvenile was committed to
11 the Department of Health and Human Services, in which case such
12 review must be made by a representative of the Department of
13 Health and Human Services. A report of the review must be made in
14 writing to the juvenile's parents, guardian or legal custodian. A
15 copy of the report must be forwarded to the program or programs
16 that were reviewed, and the department whose personnel made the
17 review shall retain a copy of the report in ~~their~~ its files. The
18 written report must be prepared in accordance with subsection 2.
19 When a juvenile is placed in the custody of the Department of
20 Health and Human Services, reviews and permanency planning
21 hearings must be conducted in accordance with Title 22, section
22 4038. Title 22, sections 4005, 4039 and 4041 also apply.

23 **Sec. 2. 15 MRSA §3315, sub-§4** is enacted to read:

24 **4. Juvenile committed to a correctional facility.** Whenever
25 a juvenile is committed to the custody of the Department of
26 Corrections pursuant to section 3314, subsection 1, paragraph F,
27 the court shall appoint a guardian ad litem to represent the
28 juvenile and shall set a date for review of that commitment. The
29 date for review may be no more than 6 months from the date of the
30 commitment and subsequent reviews must be held at least every 6
31 months until the juvenile is no longer placed in a correctional
32 facility. If a juvenile is released from the correctional
33 facility and then returned on an aftercare violation, a review
34 must be held within 3 months of the date of the return. The
35 purpose of these reviews is to determine whether reasonable
36 efforts have been made to eliminate the need for removal of the
37 juvenile from the juvenile's home and whether the Department of
38 Corrections has met its statutory obligations pursuant to Title
39 34-A.

40 The initial review must consist of a review of the report
41 prepared by the guardian ad litem for the juvenile. The guardian
42 ad litem for the juvenile shall prepare and submit that report to
43 the court, with a copy to the District Attorney and a copy to the
44 Attorney General, 7 days in advance of the review date set by the
45 court. The District Attorney and the Attorney General may file a
46 written response with the court. The guardian ad litem for the

2 juvenile shall attend the initial review. The Attorney General
3 is not required to attend the initial review. If the Attorney
4 General declines to attend the initial review, the court may not
5 enter any order directing the Department of Corrections to take
6 or cease taking any action. If as a result of the initial review
7 any party or the court determines that a complete review hearing
8 is required, the court shall schedule the matter for further
9 hearing and the clerk shall notify all parties of the date of the
10 complete review hearing. At the complete review hearing, the
11 parties may submit written evidence and may call witnesses,
12 although the Maine Rules of Evidence do not apply. At the
13 conclusion of the complete review hearing, if the court
14 determines that services that have been identified as necessary
15 to meet the requirements of Title 34-A, chapter 3, subchapter 5
16 have not been provided to the juvenile or the juvenile's family,
17 the court may make recommendations to the Department of
18 Corrections to provide those services within a specific time
19 period and may schedule a further hearing to review the
20 department's response to those recommendations. At that
21 subsequent hearing, the court may reopen the disposition in that
22 matter and amend or modify the disposition as necessary to
23 address the purposes of section 3002, including, but not limited
24 to, the termination of the commitment of the juvenile to a
25 Department of Corrections facility and putting the juvenile on
26 probation, or take any other action permitted by this Part.

27 From the date of commitment, the guardian ad litem for the
28 juvenile must have access to all records in the custody of the
29 Department of Corrections that relate to the juvenile, including,
30 but not limited to, all documents that address evaluation,
31 diagnosis and treatment of the juvenile. The guardian ad litem
32 for the juvenile must be invited to and allowed to participate in
33 all classification conference and quarterly review meetings or
34 their equivalent.

35 No less than 28 days prior to any review, the facility in which
36 the juvenile is being held shall provide to the court and the
37 guardian ad litem for the juvenile copies of the following
38 documents:

39 A. The integrated assessment, or its equivalent;

40 B. The resident case plan, or its equivalent and any
41 modifications to the plan;

42 C. All psychological evaluations, including any sexual
43 behavior treatment assessment, if applicable;

44 D. All sexual behavior treatment plans, if applicable;
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2 E. All psychiatric evaluations;
4 F. All assessments of the juvenile prepared by independent
6 treatment providers with the Department of Corrections staff
8 under contract with the Department of Corrections; and
10 G. Minutes of all meetings regarding the juvenile,
12 including, but not limited to, the classification
14 conferences, quarterly reviews, unit treatment team meetings
16 or their equivalents, that are kept in the juvenile's files.
18 The Department of Corrections is not obligated to provide the
20 court or guardian ad litem for the juvenile with records it has
22 previously provided.

SUMMARY

18 This bill provides that a disposition under the Maine
20 Juvenile Code must be reviewed not less than once in every 6
22 months until the juvenile is discharged. Current law requires a
24 review not less than once in every 12 months. The bill also
26 provides that whenever a juvenile is committed to the custody of
the Department of Corrections, the court shall assign a guardian
ad litem to represent the juvenile and the court shall set a date
for review of that commitment. The date may be no more than 6
months from the date of the commitment.