

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 122nd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2006

---

Legislative Document

No. 1771

S.P. 688

In Senate, December 30, 2005

---

**An Act To Amend the Maine Criminal Code and Various Provisions  
Related to Juveniles**

---

Submitted by the Department of Corrections pursuant to Joint Rule 204.

Received by the Secretary of the Senate on December 28, 2005. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.

Cosponsored by Senator: BRYANT of Oxford, Representatives: BRYANT of Windham,  
PATRICK of Rumford.

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

2  
3       **Sec. 1. 12 MRSA §6004**, as amended by PL 2005, c. 328, §1, is  
4 further amended to read:

6       **§6004. Juvenile violations**

8       Notwithstanding other provisions of law, a person who has  
9 not attained 18 years of age and who is convicted of a crime for  
10 a violation of a provision of this Part that is not defined as a  
11 juvenile crime under Title 15, section 3103, subsection 1 may not  
12 be sentenced to imprisonment but may be ~~committed~~ ordered  
13 to serve a period of confinement in a Department of Corrections  
14 juvenile correctional facility ~~for a period of detention~~ that may  
15 not exceed 30 days, which may be suspended in whole or in part,  
16 if the court determines that:

18       **1. Crime.** The crime is one that, if committed by a person  
19 who has attained 18 years of age, would carry a mandatory term of  
20 imprisonment that may not be suspended;

22       **2. Nature.** The aggravated nature and seriousness of the  
23 crime warrants a period of ~~detention~~ confinement; or

24       **3. History.** The record or previous history of the  
25 defendant warrants a period of ~~detention~~ confinement.

28       The court is not required to impose a period of ~~detention~~  
29 confinement notwithstanding that there is a mandatory term of  
30 imprisonment applicable to a person who has attained 18 years of  
31 age.

32       Any period of ~~detention~~ confinement must be served  
33 concurrently with any other period of ~~detention~~ confinement  
34 previously imposed and not fully discharged or imposed on the  
35 same date. Any period of ~~detention~~ confinement is subject to  
36 Title 17-A, section 1253, subsection 2, except that a statement  
37 is not required to be furnished and the day-for-day deduction  
38 must be determined by the facility, but not to Title 17-A,  
39 section 1253, subsection 2, paragraph A, or subsection 3-B, 4, 5,  
40 8, 9 or 10. If the court suspends the period of ~~detention~~  
41 confinement in whole or in part, the court shall impose a period  
42 of administrative release not to exceed one year. The  
43 administrative release must be administered pursuant to Title  
44 17-A, chapter 54-G, and revocation of the administrative release  
45 is governed by the provisions of that chapter.

48       **Sec. 2. 12 MRSA §8004**, as amended by PL 2005, c. 328, §2, is  
49 further amended to read:  
50

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

**§8004. Juvenile violations**

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment but may be ~~committed~~ ordered to serve a period of confinement in a Department of Corrections juvenile correctional facility ~~for a period of detention~~ that may not exceed 30 days, which may be suspended in whole or in part, if the court determines that:

1. **Crime.** The crime is one that, if committed by a person who has attained 18 years of age, would carry a mandatory term of imprisonment that may not be suspended;

2. **Nature.** The aggravated nature and seriousness of the crime warrants a period of ~~detention~~ confinement; or

3. **History.** The record or previous history of the defendant warrants a period of ~~detention~~ confinement.

The court is not required to impose a period of ~~detention~~ confinement notwithstanding that there is a mandatory term of imprisonment applicable to a person who has attained 18 years of age.

Any period of ~~detention~~ confinement must be served concurrently with any other period of ~~detention~~ confinement previously imposed and not fully discharged or imposed on the same date. Any period of ~~detention~~ confinement is subject to Title 17-A, section 1253, subsection 2, except that a statement is not required to be furnished and the day-for-day deduction must be determined by the facility, but not to Title 17-A, section 1253, subsection 2, paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10. If the court suspends the period of ~~detention~~ confinement in whole or in part, the court shall impose a period of administrative release not to exceed one year. The administrative release must be administered pursuant to Title 17-A, chapter 54-G, and revocation of the administrative release is governed by the provisions of that chapter.

**Sec. 3. 12 MRSA §10608,** as amended by PL 2005, c. 328, §3, is further amended to read:

**§10608. Juvenile violations**

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of this Part that is not defined as a juvenile crime

2 under Title 15, section 3103, subsection 1 may not be sentenced  
3 to imprisonment but may be ~~committed~~ ordered to serve a period of  
4 confinement in a Department of Corrections juvenile correctional  
5 facility ~~for a period of detention~~ that may not exceed 30 days,  
6 which may be suspended in whole or in part, if the court  
determines that:

8 1. **Crime.** The crime is one that, if committed by a person  
9 who has attained 18 years of age, would carry a mandatory term of  
10 imprisonment that may not be suspended;

12 2. **Nature.** The aggravated nature and seriousness of the  
13 crime warrants a period of ~~detention~~ confinement; or

14 3. **History.** The record or previous history of the  
15 defendant warrants a period of ~~detention~~ confinement.

18 The court is not required to impose a period of ~~detention~~  
19 confinement notwithstanding that there is a mandatory term of  
20 imprisonment applicable to a person who has attained 18 years of  
age.

22 Any period of ~~detention~~ confinement must be served  
23 concurrently with any other period of ~~detention~~ confinement  
24 previously imposed and not fully discharged or imposed on the  
25 same date. Any period of ~~detention~~ confinement is subject to  
26 Title 17-A, section 1253, subsection 2, except that a statement  
27 is not required to be furnished and the day-for-day deduction  
28 must be determined by the facility, but not to Title 17-A,  
30 section 1253, subsection 2, paragraph A, or subsection 3-B, 4, 5,  
31 8, 9 or 10. If the court suspends the period of ~~detention~~  
32 confinement in whole or in part, the court shall impose a period  
of administrative release not to exceed one year. The  
34 administrative release must be administered pursuant to Title  
17-A, chapter 54-G, and revocation of the administrative release  
36 is governed by the provisions of that chapter.

38 **Sec. 4. 15 MRSA §3203-A, sub-§7, ¶A,** as amended by PL 1991, c.  
39 493, §10, is further amended to read:

40 A. A juvenile may be detained in a jail or other secure  
41 detention facility intended for use or primarily used for  
42 the detention of adults only when the serving facility:

44 (1) Contains an area where juveniles are under direct  
45 staff observation at all times, in a separate section  
46 for juveniles that complies with mandatory sight and  
47 sound separation standards established by the  
48 Department of Corrections pursuant to Title 34-A,  
50 section 1208;

2 (2) Provides for no regular contact between the  
juveniles with the adult detainees or inmates; and

4  
6 (3) Has an adequate staff to provide direct  
observation and supervise the juvenile's activities at  
all times during emergency detention.

8  
10 Juveniles detained in adult-serving facilities may be placed  
only in the separate juvenile sections that comply with  
12 mandatory separation standards established by the Department  
of Corrections pursuant to Title 34-A, section 1208, unless  
14 the detainee must be detained with adults as a result of  
having attained 21 years of age or unless the court orders  
16 that the person be detained with adults for any period of  
detention occurring after the detainee has attained the age  
18 of 18 years of age or unless the juvenile is bound over as  
an adult and held in an adult section of a facility pursuant  
to court order.

20 **Sec. 5. 15 MRSA §3205, sub-§2**, as amended by PL 1999, c. 624,  
22 Pt. A, §6, is further amended to read:

24 **2. Exception.** Subsection 1 applies to any person who is  
considered a juvenile by virtue of section 3101, subsection 2,  
26 paragraph D except that if the person has attained ~~the age of~~ 18  
years of age, any detention pursuant to section 3203-A and any  
28 ~~commitment~~ confinement pursuant to section 3314, subsection 1,  
paragraph H may be, upon the order of a court, in an adult  
30 section of a jail or other secure detention facility intended or  
primarily used for the detention of adults and may extend beyond  
32 the time limits set out in section 3203-A and, except that if the  
34 person has attained 21 years of age, any detention pursuant to  
section 3203-A and any confinement pursuant to section 3314,  
36 subsection 1, paragraph H must be in an adult section of a jail  
or other secure detention facility intended or primarily used for  
38 the detention of adults and may extend beyond the time limits set  
out in section 3203-A.

40 **Sec. 6. 15 MRSA §3206, first ¶**, as enacted by PL 2003, c. 180,  
§7, is amended to read:

42  
44 A person under 18 years of age who is arrested for a crime  
defined under Title 12 or Title 29-A that is not a juvenile crime  
46 as defined in section 3103 is not subject to chapter 105-A and  
may not be detained unless a juvenile community corrections  
officer has been notified within 2 hours after the person's  
48 arrest and has approved the detention. Section 3203-A,  
subsection 7, paragraphs A and B governing the facilities in

2 which juveniles may be detained apply to any detention of such a  
juvenile following arrest.

4 **Sec. 7. 15 MRSA §3301, sub-§7**, as amended by PL 1999, c. 624,  
Pt. B, §12, is further amended to read:

6  
7. **Nonapplication of section.** The Except for subsection  
8 6-A, the provisions of this section do not apply to a juvenile  
10 charged with either of the juvenile crimes defined in section  
12 3103, subsection 1, paragraph E or F, and a petition may be filed  
14 without recommendation by a juvenile community corrections  
officer. The provisions of section 3203-A apply in the case of a  
juvenile charged with either of the juvenile crimes defined in  
section 3103, subsection 1, paragraph E or F.

16 **Sec. 8. 15 MRSA §3314, sub-§1, ¶E**, as amended by PL 2003, c.  
18 239, §1, is further amended to read:

20 E. The court may require the juvenile to make restitution  
22 for any damage to the victim or other authorized claimant as  
24 compensation for economic loss upon reasonable conditions  
26 that the court determines appropriate. For the purposes of  
this paragraph, the definitions in Title 17-A, section 1322  
and the provisions of Title 17-A, sections 1324, 1326-B,  
1326-E, 1328-A and 1329 apply, except that section 1329,  
subsection 3, paragraph A does not apply.

28 **Sec. 9. 15 MRSA §3314, sub-§1, ¶G**, as amended by PL 1999, c.  
30 367, §1, is further amended to read:

32 G. Except for a violation of section 3103, subsection 1,  
34 paragraph D or H, the court may impose a fine, subject to  
36 Title 17-A, sections 1301 to 1304, except that there is no  
mandatory minimum fine amount. For the purpose of this  
section, juvenile offenses defined in section 3103,  
subsection 1, paragraphs B and C are deemed Class E crimes.

38 **Sec. 10. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 2005, c.  
40 328, §12, is further amended to read:

42 H. The court may commit the juvenile to a Department of  
44 Corrections juvenile correctional facility and order that  
46 the disposition be suspended or may ~~commit order~~ the  
48 juvenile for to serve a period of detention confinement that  
50 may not exceed 30 days, with or without an underlying  
suspended disposition of commitment to a Department of  
Corrections juvenile correctional facility, which detention  
confinement must be served concurrently with any other  
period of detention confinement previously imposed and not  
fully discharged or imposed on the same date but may be

2 served intermittently as the court may order and must be  
ordered served in a ~~detention~~ facility approved or operated  
4 by the Department of Corrections exclusively for juveniles.  
The court may order such a disposition to be served as a  
6 part of and with a period of probation that is subject to  
such provisions of Title 17-A, section 1204 as the court may  
8 order and that must be administered pursuant to Title 34-A,  
chapter 5, subchapter 4. Revocation of probation is  
10 governed by the procedure contained in subsection 2. Any  
disposition under this paragraph is subject to Title 17-A,  
12 section 1253, subsection 2 except that a statement is not  
required to be furnished and the day-for-day deduction must  
14 be determined by the facility, but not to Title 17-A,  
section 1253, subsection 2, paragraph A, or subsection 3-B,  
16 4, 5, 8, 9 or 10. For purposes of calculating the  
commencement of the period of detention confinement, credit  
18 is accorded only for the portion of the first day for which  
the juvenile is actually detained confined; the juvenile may  
20 not be released until the juvenile has served the full term  
of hours or days imposed by the court. Whenever a juvenile  
22 is committed for a period of detention confinement, the  
court shall determine whether reasonable efforts have been  
24 made to prevent or eliminate the need for removal of the  
juvenile from the juvenile's home or that reasonable efforts  
26 are not necessary because of the existence of an aggravating  
factor as defined in Title 22, section 4002, subsection 1-B  
28 and whether continuation in the juvenile's home would be  
contrary to the welfare of the juvenile. This determination  
30 does not affect whether the court orders a ~~commitment~~ for a  
period of detention confinement.

32 **Sec. 11. 15 MRSA §3319, first ¶,** as enacted by PL 1997, c. 752,  
§27, is amended to read:

34  
36 Immediately after the court orders detention or confinement  
in or commitment to a juvenile facility, the court shall notify  
38 the Commissioner of Corrections or the commissioner's designee  
and shall inquire as to the juvenile facility to which the  
40 juvenile will be transported. The commissioner has complete  
discretion to make this determination. The commissioner or the  
42 commissioner's designee shall immediately inform the court of the  
location of the juvenile facility to which the juvenile will be  
transported.

44  
46 **Sec. 12. 17-A MRSA §1206, sub-§7-C,** as enacted by PL 1999, c.  
246, §7, is amended to read:

48 **7-C.** The running of the period of probation is tolled upon  
50 either the delivery of the summons, the filing of the written  
notice with the court that the person can not be located or the



2 arrest of the person. If the motion is dismissed or withdrawn,  
3 or if the court finds no violation of probation, the running of  
4 the period of probation is deemed not to have been tolled. The  
5 conditions of probation continue in effect during the tolling of  
6 the running of the period of probation, and any violation of a  
7 condition subjects the person to a revocation of probation  
8 pursuant to the provisions of this chapter.

10 **Sec. 13. 17-A MRSA §1206, sub-§8,** as amended by PL 1983, c.  
11 450, §9, is further amended to read:

12 **8.** Whenever a person is detained in any state or county  
13 institution pending a probation revocation proceeding, such and  
14 not in execution of any other sentence of confinement, that  
15 period of detention shall must be deducted from the time the  
16 person is required to serve under that portion of the sentence  
17 for which the suspension of execution was vacated as a result of  
18 the probation revocation. A person who is simultaneously  
19 detained for conduct for which the person receives a consecutive  
20 term of imprisonment is not entitled to receive a day-for-day  
21 deduction from the consecutive term of imprisonment for the  
22 period of simultaneous detention except for any period of  
23 detention that is longer than the prior term of imprisonment.

24 **Sec. 14. 17-A MRSA §1253, sub-§2,** as amended by PL 2003, c.  
25 706, Pt. A, §6 and c. 711, Pt. A, §15, is further amended to read:

28 **2.** Each person sentenced to imprisonment who has previously  
29 been detained for the conduct for which the sentence is imposed  
30 in any state facility or county institution or facility or in any  
31 local lockup awaiting trial, during trial, post-trial awaiting  
32 sentencing or post-sentencing prior to the date on which the  
33 sentence commenced to run either to await transportation to the  
34 place of imprisonment specified, or pursuant to court order, and  
35 not in execution of any other sentence of confinement, is  
36 entitled to receive a day-for-day deduction from the total term  
37 of imprisonment required under that sentence. Each person is  
38 entitled to receive the same deduction for any such period of  
39 detention in any federal, state or county institution, local  
40 lockup or similar facility in another jurisdiction, including any  
41 detention resulting from being a fugitive from justice, as  
42 defined by Title 15, section 201, subsection 4, unless the person  
43 is has simultaneously being been detained for non-Maine conduct.  
44 A person who has been simultaneously detained for conduct for  
45 which the person is sentenced to a consecutive sentence is not  
46 entitled to receive a day-for-day deduction from the consecutive  
47 sentence for the period of simultaneous detention except for any  
48 period of detention that is longer than the total term of  
49 imprisonment required under the prior sentence.

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

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

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

20 A. For any person who commits a crime on or after August 1,  
2004, is subsequently sentenced to a term of imprisonment  
22 for that crime and is entitled to receive a day-for-day  
deduction pursuant to this subsection, up to 2 additional  
24 days per calendar month may be credited to that deduction if  
the person's conduct during that period of detention was  
26 such that the credit is determined to be warranted in the  
discretion of the chief administrative officer of the  
28 facility in which the person has previously been detained.

30 Credits under this paragraph must be calculated as follows  
for partial calendar months:

Days of partial month	Maximum credit available
1 to 15 days	up to 1
16 to 31 days	up to 2

38 The sheriff or other person required to furnish a statement  
40 showing the length of detention shall also furnish a  
statement showing the number of days credited pursuant to  
42 this paragraph.

44 Detention awaiting trial, during trial, post-trial awaiting  
46 sentencing or post-sentencing prior to the date on which a  
sentence commences to run is not punishment.

48 **Sec. 15. 29-A MRSA §115**, as amended by PL 2005, c. 328, §15,  
is further amended to read:

50

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**§115. Juvenile violations**

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Title that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment but may be ~~committed~~ ordered to serve a period of confinement in a Department of Corrections juvenile correctional facility ~~for a period of detention~~ that may not exceed 30 days, which may be suspended in whole or in part, if the court determines that:

1. **Crime.** The crime is one that, if committed by a person who has attained 18 years of age, would carry a mandatory term of imprisonment that may not be suspended;

2. **Nature.** The aggravated nature and seriousness of the crime warrants a period of ~~detention~~ confinement; or

3. **History.** The record or previous history of the defendant warrants a period of ~~detention~~ confinement.

The court is not required to impose a period of ~~detention~~ confinement notwithstanding that there is a mandatory term of imprisonment applicable to a person who has attained 18 years of age.

Any period of ~~detention~~ confinement must be served concurrently with any other period of ~~detention~~ confinement previously imposed and not fully discharged or imposed on the same date. Any period of ~~detention~~ confinement is subject to Title 17-A, section 1253, subsection 2, except that a statement is not required to be furnished and the day-for-day deduction must be determined by the facility, but not to Title 17-A, section 1253, subsection 2, paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10. If the court suspends the period of ~~detention~~ confinement in whole or in part, the court shall impose a period of administrative release not to exceed one year. The administrative release must be administered pursuant to Title 17-A, chapter 54-G, and revocation of the administrative release is governed by the provisions of that chapter.

42  
43  
44  
45

**Sec. 16. 34-A MRSA §1001, sub-§11,** as amended by PL 2003, c. 410, §11, is further amended to read:

46  
47  
48

**11. Juvenile client.** "Juvenile client" means a juvenile committed to a juvenile correctional facility who is either residing at the facility or is on community reintegration status, or ordered confined in a juvenile correctional facility pursuant

2 to Title 12, section 6004, 8004 or 10608; Title 15, section 3314,  
3 subsection 1, paragraph H; or Title 29-A, section 115.

4 **Sec. 17. 34-A MRSA §1001, sub-§11-A**, as amended by PL 2003, c.  
5 410, §12, is further amended to read:

6 **11-A. Juvenile detainee.** "Juvenile detainee" means a  
7 juvenile detained at a departmental juvenile facility pending a  
8 court proceeding or pursuant to ~~Title--15,--section--3314,~~  
9 ~~subsection-1,-paragraph-H-~~ or Title 15, section 3312, subsection  
10 3, paragraph D.

11 **Sec. 18. 34-A MRSA §3802, sub-§1, ¶E**, as amended by PL 2005,  
12 c. 328, §17, is further amended to read:

13 E. To confine juveniles ordered ~~detained~~ confined pursuant  
14 to Title 15, section 3314, subsection 1, paragraph H;

15 **Sec. 19. 34-A MRSA §3802, sub-§1, ¶G**, as enacted by PL 2005,  
16 c. 328, §19, is amended to read:

17 G. To confine juveniles ordered ~~detained~~ confined pursuant  
18 to Title 12, sections 6004, 8004 and 10608 and Title 29-A,  
19 section 115.

20 **Sec. 20. 34-A MRSA §3805, sub-§2**, as amended by PL 2003, c.  
21 689, Pt. B, §§6 and 7 and c. 706, Pt. A, §10, is further amended  
22 to read:

23 **2. Limitations.** A person may not be detained at or  
24 confined in or committed to the facility if that person is more  
25 appropriately a subject for intensive temporary out-of-home  
26 treatment services or for in-home treatment services provided by  
27 or through the Department of Health and Human Services as agreed  
28 upon by the commissioner and the Commissioner of Health and Human  
29 Services or their designees.

30 **Sec. 21. 34-A MRSA §3805, sub-§3**, as amended by PL 1999, c.  
31 583, §31, is further amended to read:

32 **3. Certification.** When a person is detained at or confined  
33 in or committed to the facility, the court making the detention,  
34 confinement or commitment shall certify on the mittimus the  
35 person's birthplace, parentage and legal residence.

36 **Sec. 22. 34-A MRSA §4102-A, sub-§1, ¶E**, as enacted by PL 2005,  
37 c. 328, §22, is amended to read:

38 E. To confine juveniles ordered ~~detained~~ confined pursuant  
39 to Title 15, section 3314, subsection 1, paragraph H;



2           4. Codifies in Title 17-A the Law Court's ruling that when  
there are consecutive sentences, detention time can only be  
4 counted once and also clarifies that this applies to probation  
revocations too;

6           5. Clarifies in Title 17-A that when the running of the  
period of probation is tolled due to pending probation violation  
8 proceedings, the conditions still apply during the tolled period;

10          6. Provides that those persons who have reached 21 years of  
age at the time of being detained for a juvenile offense must be  
12 held in an adult facility;

14          7. Clarifies that the confidentiality provision regarding a  
juvenile against whom a petition has not been filed applies also  
16 to those juveniles against whom a petition may be filed without a  
recommendation from a juvenile community corrections officer;

18          8. Adds a cross-reference in the Maine Juvenile Code to a  
20 restitution provision that was recently added to the Maine  
Criminal Code; and

22          9. Adds a cross-reference in the fine provision of the  
24 Maine Juvenile Code to a recently enacted juvenile crime law and  
clarifies that mandatory minimum fine provisions do not apply to  
26 juveniles.