

MAINE STATE LEGISLATURE

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Date: 5/4/07

L.D. 363
(Filing No. H-186)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 293, L.D. 363, Bill, "An Act To Improve Juvenile Justice"

Amend the bill by inserting after the enacting clause and before section 1 the following:

Sec. 1. 15 MRSA §3205, sub-§2, as amended by PL 2005, c. 507, §7, is further amended to read:

2. Exception. Subsection 1 applies to any person who is considered a juvenile by virtue of section 3101, subsection 2, paragraph D except that if the person has attained 18 years of age, any detention pursuant to section 3203-A and any confinement pursuant to section 3314, subsection 1, paragraph H or section 3314, subsection 7 may be, upon the order of a court, in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults and may extend beyond the time limits set out in section 3203-A and, except that if the person has attained 21 years of age, any detention pursuant to section 3203-A and any confinement pursuant to section 3314, subsection 1, paragraph H or section 3314, subsection 7 must be in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults and may extend beyond the time limits set out in section 3203-A.

Sec. 2. 15 MRSA §3301, sub-§6, as amended by PL 2003, c. 305, §5, is further amended to read:

6. Review by attorney for the State. If the juvenile community corrections officer decides not to request the attorney for the State to file a petition, the juvenile community corrections officer shall inform the attorney for the State, the complainant, the law enforcement officer and the victim of the decision and of the reasons for the decision as soon as practicable. The juvenile community corrections officer shall advise the complainant, the law enforcement officer and the victim that they may submit their complaint to the attorney for the State for review.

If the juvenile community corrections officer makes a determination pursuant to subsection 5, paragraph A or B and decides not to request the attorney for the State to file

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1 a petition for a violation of Title 22, section 2389, subsection 2 or Title 28-A, section
2 2052, the juvenile community corrections officer shall inform the Secretary of State of
3 the violation. The Secretary of State shall suspend for a period of 30 days that juvenile's
4 license or permit to operate, right to operate a motor vehicle and right to apply for and
5 obtain a license.

6 The attorney for the State on that attorney's own motion or upon receiving a request for
7 review by the law enforcement officer, the complainant or the victim, shall consider the
8 facts of the case, consult with the juvenile community corrections officer who made the
9 initial decision and then make a final decision as to whether to file the petition.
10 ~~Notwithstanding any action or inaction by the juvenile community corrections officer,~~
11 The attorney for the State shall notify the juvenile community corrections officer of the
12 final decision within 30 days of being informed by the juvenile community corrections
13 officer of the initial decision. If a juvenile community corrections officer has not yet
14 made an initial decision, the attorney for the State may file a petition at any time more
15 than 30 days after the juvenile community corrections officer has been given notice
16 pursuant to section 3203-A.'

17 Amend the bill by striking out everything after section 1 and before the summary and
18 inserting the following:

19 'Sec. 4. 15 MRSA §3307, sub-§2, ¶A, as amended by PL 2003, c. 180, §8, is
20 further amended to read:

21 A. Once a petition is filed, the general public may not be excluded from ~~any a~~
22 proceeding on a juvenile crime that would constitute murder or a Class A, Class B or
23 Class C crime if the juvenile involved were an adult; from ~~any a~~ proceeding on a
24 juvenile crime that would constitute a Class D crime if the juvenile involved were an
25 adult and ~~it is the 2nd or subsequent~~ the juvenile has previously been adjudicated of
26 committing a juvenile crime that would constitute a Class D or higher class crime for
27 that juvenile not arising from the same underlying transaction; or from ~~any a~~
28 subsequent dispositional ~~hearings~~ hearing in such cases.

29 Sec. 5. 15 MRSA §3314, sub-§7 is enacted to read:

30 7. Enforcement of a dispositional order or order to appear. After notice and
31 hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court
32 may exercise its inherent contempt power by way of a plenary contempt proceeding
33 involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to
34 enforce the disposition ordered following an adjudication for a juvenile crime or to
35 enforce any order requiring the appearance of a juvenile before the court. Any
36 confinement imposed as a punitive or remedial sanction upon a person who has not
37 attained 18 years of age may not exceed 30 days and must be served in a facility
38 approved or operated by the Department of Corrections exclusively for juveniles. To
39 enforce the disposition ordered following an adjudication for a juvenile crime defined in
40 section 3103, subsection 1, paragraph B or C upon a person who has not attained 18 years
41 of age, the court shall, at the time of the disposition, provide written notice to the juvenile
42 of the court's authority to enforce the dispositional order through an exercise of its
43 inherent contempt power and that a contempt order could include an order of confinement
44 for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction.

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1 Nothing in this subsection affects the court's ability to exercise its contempt powers for
2 persons who have attained 18 years of age.

3 **Sec. 6. 15 MRSA §3314-B, sub-§3**, as enacted by PL 2003, c. 142, §2 and
4 affected by §3, is amended to read:

5 **3. Enforcement.** After notice and hearing and in accordance with the Maine Rules
6 of ~~Criminal~~ Civil Procedure, Rule 42(d) 66, the court may invoke its contempt powers to
7 enforce its counseling, treatment, education, case management or other order that applies
8 to the juvenile, the juvenile's parent, guardian or legal custodian or any other person
9 before the court who is subject to an order to participate in counseling, treatment,
10 education or case management. If the court invokes its contempt powers against the
11 juvenile, section 3314, subsection 7 applies.

12 **Sec. 7. 34-A MRSA §3802, sub-§1**, as amended by PL 2005, c. 507, §§20 and
13 21, is further amended to read:

14 **1. Statement.** The purposes of the Long Creek Youth Development Center are:

- 15 A. To detain juveniles pending a court proceeding;
- 16 B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section
17 3309-A, and court-ordered examinations pursuant to Title 15, section 3318;
- 18 C. To rehabilitate juveniles committed to a juvenile correctional facility pursuant to
19 Title 15, section 3314, subsection 1, paragraph F;
- 20 D. To protect the public from dangerous juveniles;
- 21 E. To confine juveniles ordered confined pursuant to Title 15, section 3314,
22 subsection 1, paragraph H;
- 23 F. To confine juveniles ordered detained pursuant to Title 15, section 3312,
24 subsection 3, paragraph D; and
- 25 G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004
26 and 10608 and Title 29-A, section 115; and
- 27 H. To confine juveniles ordered confined pursuant to Title 15, section 3314,
28 subsection 7.

29 **Sec. 8. 34-A MRSA §4102-A, sub-§1**, as amended by PL 2005, c. 507, §§24 and
30 25, is further amended to read:

31 **1. Statement.** The purposes of the Mountain View Youth Development Center are:

- 32 A. To detain juveniles pending a court proceeding;
- 33 B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section
34 3309-A, and court-ordered examinations pursuant to Title 15, section 3318;
- 35 C. To rehabilitate juveniles committed to a juvenile correctional facility pursuant to
36 Title 15, section 3314, subsection 1, paragraph F;
- 37 D. To protect the public from dangerous juveniles;

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- 1 E. To confine juveniles ordered confined pursuant to Title 15, section 3314,
- 2 subsection 1, paragraph H;
- 3 F. To confine juveniles ordered detained pursuant to Title 15, section 3312,
- 4 subsection 3, paragraph D; and
- 5 G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004
- 6 and 10608 and Title 29-A, section 115-; and
- 7 H. To confine juveniles ordered confined pursuant to Title 15, section 3314,
- 8 subsection 7.'
- 9 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
- 10 section number to read consecutively.

11 **SUMMARY**

12 This amendment does the following.

13 1. It adds a new section that amends the Maine Revised Statutes, Title 15, section

14 3301, subsection 6 by adding the "attorney for the State" to those a juvenile community

15 corrections officer must notify if the officer decides not to request the attorney for the

16 State to file a petition. The change also amends that section to add a requirement that the

17 attorney for the State make a final determination as to whether to file a juvenile petition

18 within 30 days of being notified of the juvenile community corrections officer's decision

19 not to request that a petition be filed.

20 2. It amends Title 15, section 3307, subsection 2 by opening to the public a juvenile

21 proceeding in which a petition has been filed for a juvenile crime that would constitute a

22 Class D crime if the juvenile involved were an adult only when the juvenile has

23 previously been adjudicated of committing a juvenile crime that would constitute a Class

24 D or higher class crime.

25 3. It replaces that section of the bill that enacts Title 15, section 3314, subsection 7 to

26 clarify the juvenile court's inherent contempt power as a court of record to enforce either

27 a disposition ordered following an adjudication for a juvenile crime or to enforce any

28 order requiring the appearance of a juvenile before the court. The amendment specifies

29 that after notice and hearing and in accordance with the Maine Rules of Civil Procedure,

30 Rule 66 the court may exercise its inherent contempt power by way of a plenary contempt

31 proceeding involving punitive sanctions, accompanied or unaccompanied by remedial

32 sanctions, to enforce the disposition ordered following an adjudication for a juvenile

33 crime or to enforce any order requiring the appearance of a juvenile before the court.

34 Any confinement imposed as a punitive or remedial sanction upon a person who has not

35 attained 18 years of age may not exceed 30 days and must be served in a facility

36 approved or operated by the Department of Corrections exclusively for juveniles. To

37 enforce the disposition ordered following an adjudication for a juvenile crime upon a

38 person who has not attained 18 years of age, the court shall, at the time of the disposition,

39 provide written notice to the juvenile of the court's authority to enforce the dispositional

40 order through an exercise of its inherent contempt power and that a contempt order could

41 include an order of confinement for up to 30 days as a punitive sanction and for up to 30

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1 days as a remedial sanction. Nothing in this subsection affects the court's ability to
2 exercise its contempt powers for persons who have attained 18 years of age.

3 4. It specifies that a person who has turned 18 years of age and is subject to the
4 court's contempt powers that include a sanction of confinement under Title 15, section
5 3314, subsection 7 may be sentenced to serve that term of confinement in an adult section
6 of a jail or other secure detention facility intended or primarily used for the detention of
7 adults.

8 5. It strikes those sections of the bill that allow the court to suspend licenses or
9 permits to operate for up to 6 months for juveniles adjudicated of illegal possession or
10 consumption of liquor.

11 6. It adds a new section that adds a cross-reference to Title 15, section 3314,
12 subsection 7.

13 7. It adds 2 new sections that add to the purposes of the Long Creek Youth
14 Development Center and the Mountain View Youth Development Center the confinement
15 of juveniles ordered confined pursuant to Title 15, section 3314, subsection 7 of the
16 Juvenile Code.

17 **FISCAL NOTE REQUIRED**
18 **(See attached)**

COMMITTEE AMENDMENT



123rd MAINE LEGISLATURE

LD 363

LR 988(02)

An Act To Improve Juvenile Justice

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - Highway Fund

Correctional and Judicial Impact Statements

This bill may increase confinements within the Department of Corrections' juvenile correctional facilities. These additional costs can be absorbed by the Department of Corrections utilizing existing budgeted resources.