

MAINE STATE LEGISLATURE

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No. 521

H.P. 399

House of Representatives, February 2, 2007

An Act To Amend the Laws Relating to Juveniles

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 HANLEY of Gardiner.
Cosponsored by Senator McCORMICK of Kennebec and
Representatives: BERRY of Bowdoinham, GREELEY of Levant, HASKELL of Portland,
HILL of York, PLUMMER of Windham, SYKES of Harrison.

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

2 **Sec. 1. 15 MRSA §3103, sub-§2**, as amended by PL 1997, c. 752, §6, is further
3 amended to read:

4 **2. Dispositional powers.** All of the dispositional powers of the Juvenile Court
5 provided in section 3314 apply to a juvenile who is adjudicated to have committed a
6 juvenile crime, except that no commitment to a Department of Corrections juvenile
7 correctional facility or ~~other detention~~ period of confinement may be imposed for conduct
8 described in subsection 1, paragraphs B and C.

9 **Sec. 2. 15 MRSA §3203-A, sub-§7-B** is enacted to read:

10 **7-B. Separate nonsecure custody; detention.** When a juvenile who is being held in
11 nonsecure custody or is being detained pursuant to this section is transported to or from
12 court or to or from a juvenile facility or is being held in a court holding area awaiting
13 court proceedings, the juvenile must be separated by sight and sound from any adult
14 detainee.

15 **Sec. 3. 15 MRSA §3301, sub-§5-A**, as amended by PL 1999, c. 624, Pt. B, §10,
16 is repealed.

17 **Sec. 4. 15 MRSA §3312, sub-§3, ¶D**, as enacted by PL 1999, c. 624, Pt. B, §20,
18 is further amended to read:

19 D. If the court finds, after opportunity for hearing, that a juvenile released with a
20 condition of participation in a juvenile drug treatment court program has intentionally
21 or knowingly violated that condition, the court may impose a sanction of up to 7 days'
22 ~~detention~~ confinement in a ~~detention~~ facility approved or operated by the Department
23 of Corrections exclusively for juveniles. Nothing in this paragraph restricts the
24 ability of the court to impose sanctions other than ~~detention~~ confinement for the
25 violation of a condition of participation in a juvenile drug treatment court program or
26 the ability of the court to enter any dispositional order allowed under section 3314 on
27 final disposition.

28 **Sec. 5. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 2005, c. 507, §12, is
29 further amended to read:

30 H. The court ~~may commit the juvenile to a Department of Corrections juvenile~~
31 ~~correctional facility and order that the disposition be suspended or~~ may order the
32 juvenile to serve a period of confinement that may not exceed 30 days, with or
33 without an underlying suspended disposition of commitment to a Department of
34 Corrections juvenile correctional facility, which confinement must be served
35 concurrently with any other period of confinement previously imposed and not fully
36 discharged or imposed on the same date but may be served intermittently as the court
37 may order and must be ordered served in a facility approved or operated by the
38 Department of Corrections exclusively for juveniles. The court may order such a
39 disposition to be served as a part of and with a period of probation that is subject to
40 such provisions of Title 17-A, section 1204 as the court may order and that must be

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

17 **Sec. 6. 15 MRSA §3314, sub-§2**, as amended by PL 2003, c. 503, §2, is further
18 amended to read:

19 **2. Suspended disposition.** The court may impose any of the dispositional
20 alternatives provided in subsection 1 and may suspend its disposition and place the
21 juvenile on a specified period of probation that is subject to such provisions of Title 17-A,
22 section 1204 as the court may order and that is administered pursuant to the provisions of
23 Title 34-A, chapter 5, subchapter 4, except that the court may not impose the condition
24 set out in Title 17-A, section 1204, subsection 1-A. The court may impose as a condition
25 of probation that a juvenile must reside outside the juvenile's home in a setting
26 satisfactory to the juvenile community corrections officer if the court determines that
27 reasonable efforts have been made to prevent or eliminate the need for removal of the
28 juvenile from the juvenile's home or that no reasonable efforts are necessary because of
29 the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-
30 B, and that continuation in the juvenile's home would be contrary to the welfare of the
31 juvenile. Imposition of such a condition does not affect the legal custody of the juvenile.

32 Modification of probation is governed by the procedures contained in Title 17-A, section
33 1202, subsection 2. Termination of probation is governed by the procedures contained in
34 Title 17-A, section 1202, subsection 3. Revocation of probation is governed by the
35 procedures contained in Title 17-A, sections 1205, 1205-B, 1205-C and 1206, except that
36 ~~the provisions of these sections requiring a preliminary hearing do not apply this~~
37 subsection governs the court's determinations concerning probable cause and continued
38 detention and those provisions of Title 17-A, section 1206, subsection 7-A allowing a
39 vacating of part of the suspension of execution apply only to a ~~disposition~~ suspended fine
40 under subsection 1, paragraph G or a suspended period of confinement under paragraph
41 H; however, a disposition suspended commitment under subsection 1, paragraph F may
42 be modified to a disposition under subsection 1, paragraph H. ~~Whenever~~ When a
43 revocation of probation results in the imposition of a disposition under subsection 1,
44 paragraph F or a period of ~~detention~~ confinement under subsection 1, paragraph H, the
45 court shall determine whether reasonable efforts have been made to prevent or eliminate

1 the need for removal of the juvenile from the juvenile's home or that no reasonable efforts
2 are necessary because of the existence of an aggravating factor as defined in Title 22,
3 section 4002, subsection 1-B and whether continuation in the juvenile's home would be
4 contrary to the welfare of the juvenile. This determination does not affect whether the
5 court orders a particular disposition upon a revocation of probation. If the juvenile is
6 being detained for an alleged violation of probation, the court shall review within 48
7 hours following the detention, excluding Saturdays, Sundays and legal holidays, the
8 decision to detain the juvenile. Following that review, the court shall order the juvenile's
9 release unless the court finds that there is probable cause to believe that the juvenile has
10 violated a condition of probation and finds, by a preponderance of the evidence, that
11 continued detention is necessary to meet one of the purposes of detention under section
12 3203-A, subsection 4, paragraph C. ~~Whenever~~ When a court orders continued detention,
13 the court shall determine whether reasonable efforts have been made to prevent or
14 eliminate the need for removal of the juvenile from the juvenile's home or that no
15 reasonable efforts are necessary because of the existence of an aggravating factor as
16 defined in Title 22, section 4002, subsection 1-B and whether continuation in the
17 juvenile's home would be contrary to the welfare of the juvenile. This determination does
18 not affect whether the court orders continued detention.

19 **Sec. 7. 15 MRSA §3316, sub-§2, ¶A**, as repealed and replaced by PL 1999, c.
20 127, Pt. B, §6, is amended to read:

21 A. A commitment of a juvenile to a Department of Corrections juvenile corrections
22 facility pursuant to section 3314 must be for an indeterminate period not to extend
23 beyond the juvenile's 18th birthday unless the court expressly further limits or
24 extends the indeterminate commitment, as long as the court does not limit the
25 commitment to less than one year nor extend the commitment beyond a juvenile's
26 21st birthday and as long as an order does not result in a commitment of less than one
27 year, unless the commitment is for an indeterminate period not to extend beyond the
28 juvenile's 21st birthday. When the vacating of the suspension of execution of a
29 disposition of commitment to a Department of Corrections juvenile corrections
30 facility as the result of a probation revocation results in a commitment of less than
31 one year after the revocation, the court shall extend the period of commitment to a
32 year or more unless doing so extends the commitment beyond the juvenile's 21st
33 birthday. Nothing in this Part may be construed to prohibit the provision to a juvenile
34 following the expiration of the juvenile's term of commitment of services voluntarily
35 accepted by the juvenile and the juvenile's parents, guardian or legal custodian if the
36 juvenile is not emancipated; except that these services may not be extended beyond
37 the juvenile's 21st birthday.

38 **Sec. 8. 17-A MRSA §303, sub-§1-A** is enacted to read:

39 1-A. A person is guilty of criminal restraint by parent if the person, being the parent
40 of a child under 18 years of age and knowing the person has no legal right to do so, takes,
41 retains or entices the child from the custody of the Department of Corrections or the
42 Department of Health and Human Services with the intent to remove the child from the
43 State or to secrete the child and hold the child in a place where the child is not likely to be
44 found.

1 **SUMMARY**

2 This bill amends the laws relating to juveniles as follows.

3 It provides that when a juvenile detainee or juvenile held in nonsecure custody is
4 being transported or is held in a court holding area, there must be the same sight and
5 sound separation from adults as when the juvenile is in a county jail.

6 It repeals the provision establishing community resolution teams as a means of
7 informal adjustment of juvenile offenses.

8 It addresses the issue of a juvenile who receives a suspended order of commitment to
9 a juvenile facility and commits a probation violation shortly before the end of the
10 commitment period by requiring that a court revoking probation ensure that the juvenile
11 receives a commitment of at least one year.

12 It expands the crime of criminal restraint by parent to cover a parent who removes a
13 child under 18 years of age from state custody.

14 It substitutes "confinement" for "detention" in several provisions that were
15 inadvertently overlooked in legislation passed in the last legislative session, which
16 clarified that the term "detention" should be used only when a juvenile is being held
17 pending court proceedings.

18 It clarifies the provisions referring to the disposition of up to 30 days' confinement in
19 a juvenile facility.

20 It fixes the cross-references to adult probation revocation provisions in light of the
21 changes made to those provisions in the last legislative session.