

# MAINE STATE LEGISLATURE

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**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 542, L.D. 793, Bill, "An Act To Improve Juvenile Correctional Services"

Amend the bill by striking out all of sections 2 and 3 (page 1, lines 7 to 33 in L.D.) and inserting the following:

**'Sec. 2. 15 MRSA §3103, sub-§1, ¶D,** as amended by PL 1995, c. 470, §3, is repealed.

**Sec. 3. 15 MRSA §3105-A, sub-§2, ¶C,** as amended by PL 2005, c. 87, §2, is further amended to read:

C. A prosecution for conduct specified in section 3103, subsection 1, paragraph B, C, D, E, F or H must be commenced within one year after it is committed.

**Sec. 4. 15 MRSA §3201, sub-§1,** as amended by PL 2005, c. 328, §6, is further amended to read:

**1. Warrantless arrests.** Arrests without warrants of juveniles for juvenile crimes defined by section 3103, subsection 1, paragraphs A, D, E, F, G and H by law enforcement officers or private persons must be made pursuant to the provisions of Title 17-A, sections 15 and 16. For purposes of this section, a juvenile crime defined under section 3103, subsection 1, paragraph D or H is deemed a Class D or Class E crime. A law enforcement officer or private person may not arrest a juvenile for a juvenile crime defined by section 3103, subsection 1, paragraph B or C.

**Sec. 5. 15 MRSA §3203-A, sub-§7, ¶A,** as amended by PL 2005, c. 507, §5, is further amended to read:

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

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

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

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

Juveniles detained in adult-serving facilities may be placed only in the separate juvenile sections that comply with mandatory separation standards established by the Department of Corrections pursuant to Title 34-A, section 1208, ~~unless the detainee must be detained with adults as a result of having attained 21 years of age or unless the court orders that the person be detained with adults for any period of detention occurring after the detainee has attained 18 years of age or unless the juvenile is held in an adult section of a facility under section 3205, subsection 2 or is bound over as an adult and held in an adult section of a facility pursuant to court order.~~

Amend the bill by inserting after section 4 the following:

**Sec. 5. 15 MRSA §3203-A, sub-§7, ¶B-5**, as amended by PL 2005, c. 328, §11, is further amended to read:

B-5. If the juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention determines there is no reasonable alternative, a juvenile may be detained in a jail or other secure detention facility intended or primarily used for the detention of adults for up to 48 hours, excluding Saturday, Sunday and legal holidays, if:

(1) The facility meets the requirements of paragraph A;

(2) The facility is not located in a standard metropolitan statistical area and meets the statutory criteria contained in the federal Juvenile Justice and Delinquency Prevention Act of 1974, 42 United States Code, Section 5601; and

(3) The juvenile is detained only to await a detention hearing pursuant to subsection 5 or section 3314, subsection 2, ~~transfer to an appropriate juvenile facility, or transport to another jurisdiction.~~

**Sec. 6. 15 MRSA §3205, sub-§2**, as amended by PL 2007, c. 196, §1, is repealed and the following enacted in its place:

**2. Exception.** Subsection 1 applies to any person who has not attained 18 years of age or is considered a juvenile by virtue of section 3101, subsection 2, paragraph D except that:

A. If the person has attained 18 years of age, or has been convicted as an adult in another jurisdiction, 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

B. If the person has attained 21 years of age or has been convicted as an adult in another jurisdiction and has attained 18 years and 6 months 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. 7. 15 MRSA §3307, sub-§2, ¶B**, as amended by PL 1995, c. 470, §7, is further amended to read:

B. The general public is excluded from all other juvenile hearings and proceedings, except that a juvenile charged with a juvenile crime that would constitute murder or a Class A, Class B or Class C offense and with a juvenile crime that would constitute a juvenile's first Class D offense or Class E offense or with conduct described in section 3103, subsection 1, paragraph B, C, ~~D~~ or E, arising from the same underlying transaction may elect to have all charges adjudicated in one hearing, and, when a juvenile does so elect, the general public is not excluded from that hearing.

**Sec. 8. 15 MRSA §3310, sub-§4**, as amended by PL 2005, c. 87, §3, is further amended to read:

**4. Standard of proof.** If the court finds that the elements of the juvenile crime as defined in section 3103, subsection 1, paragraph A, ~~D~~, E, F, G or H are not supported by evidence beyond a reasonable doubt or that the elements of a juvenile crime as defined in section 3103, subsection 1, paragraph B or C are not supported by a preponderance of the evidence, the court shall order the petition dismissed and the juvenile discharged from any detention or restriction previously ordered. The juvenile's parents, guardian or other legal custodian must also be discharged from any restriction or other temporary order.

**Sec. 9. 15 MRSA §3310, sub-§5, ¶A**, as amended by PL 2005, c. 87, §4, is further amended to read:

A. If the court finds that the allegations of the petition alleging a juvenile crime as defined in section 3103, subsection 1, paragraph A, ~~D~~, E, F, G or H are supported by evidence beyond a reasonable doubt or that the allegations of a petition alleging a juvenile crime as defined in section 3103, subsection 1, paragraph B or C are supported by a preponderance of the evidence, the court shall adjudge that the juvenile committed a juvenile crime and shall, in all such adjudications, issue an order of adjudication.

**Sec. 10. 15 MRSA §3314, sub-§1, ¶G**, as amended by PL 2005, c. 507, §11, is further amended to read:

G. Except for a violation of section 3103, subsection 1, paragraph ~~D~~ or H, the court may impose a fine, subject to 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.

**Sec. 11. 15 MRSA §3314-A**, as amended by PL 1993, c. 354, §10, is further amended to read:

**§3314-A. Period of probation; modification and discharge**

The period of probation of a juvenile, its modification and discharge, is as provided by Title 17-A, section 1202, except that the period of probation of a juvenile convicted of

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1 a juvenile crime as defined by section 3103, subsection 1, paragraph B, C, ~~D~~ or E may  
2 not exceed one year. The period of probation may extend beyond the juvenile's 21st  
3 birthday.

4 **Sec. 12. 30 MRSA §6209-A, sub-§1, ¶B**, as enacted by PL 1995, c. 388, §6 and  
5 affected by §8, is amended to read:

6 B. Juvenile crimes against a person or property involving conduct that, if  
7 committed by an adult, would fall within the exclusive jurisdiction of the  
8 Passamaquoddy Tribe under paragraph A, and juvenile crimes, as defined in Title 15,  
9 section 3103, subsection 1, paragraphs B ~~to D~~ and C, committed by a juvenile  
10 member of either the Passamaquoddy Tribe or the Penobscot Nation on the  
11 reservation of the Passamaquoddy Tribe;

12 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
13 section number to read consecutively.

#### 14 SUMMARY

15 This amendment repeals the provision in current law that establishes that a violation  
16 of a court order relating to drug and alcohol infractions constitutes a new and distinct  
17 juvenile crime. The provision is seldom used, and juveniles may be held accountable  
18 through the contempt powers of the court.

19 The amendment clarifies under what conditions a person who is over 18 years of age  
20 but is considered a juvenile because the offense was committed before the person attained  
21 18 years of age may be detained in a jail. The amendment also specifies the conditions  
22 under which a person convicted of an adult offense in another jurisdiction that would be a  
23 juvenile offense here may be detained and housed with juveniles in the State and under  
24 what conditions a juvenile detained in the State for a new offense can be housed after  
25 previously being convicted as an adult in another jurisdiction.

26 Finally, the amendment specifies that a juvenile may be held for over 6 hours, but not  
27 more than 48 hours, in a separate juvenile section of a rural jail. The conditions of  
28 detention are consistent with the federal Juvenile Justice and Delinquency Prevention Act  
29 of 1974. The amendment also corrects cross-references.