

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 793

H.P. 542

House of Representatives, March 2, 2009

### An Act To Improve Juvenile Correctional Services

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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 PLUMMER of Windham.  
Cosponsored by Representatives: BURNS of Whiting, LAJOIE of Lewiston, Senators: DAVIS  
of Cumberland, GERZOFKY of Cumberland.

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

2           **Sec. 1. 15 MRSA §712, sub-§2, ¶A,** as amended by PL 1997, c. 361, §3, is  
3 further amended to read:

4           A. Either the sender or receiver of that communication is a person residing in an  
5 adult or juvenile correctional facility administered by the Department of Corrections;  
6 and

7           **Sec. 2. 15 MRSA §3103, sub-§1, ¶D,** as amended by PL 1995, c. 470, §3, is  
8 further amended to read:

9           D. If a juvenile is adjudicated to have committed an action described in paragraph  
10 B or C willful refusal to pay a resulting fine or willful violation of the terms of a  
11 resulting probation or willful failure to comply with the terms of any other resulting  
12 court order;

13           **Sec. 3. 15 MRSA §3203-A, sub-§7, ¶A,** as amended by PL 2005, c. 507, §5, is  
14 further amended to read:

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

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

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

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

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

34           **Sec. 4. 15 MRSA §3203-A, sub-§7, ¶B-4,** as amended by PL 1999, c. 624, Pt.  
35 A, §4, is further amended to read:

36           B-4. The State is responsible for all physically restrictive juvenile detention  
37 statewide, except that the detention for up to 6 hours provided under subsection 1  
38 remains the responsibility of the counties. At the discretion of the sheriff, if the  
39 requirements of paragraph B-5 are met, a county may assume responsibility for the  
40 detention of a juvenile for up to 24 48 hours, excluding Saturdays, Sundays and legal

1 holidays. Upon mutual agreement of the Commissioner of Corrections and the  
2 sheriff and upon terms mutually agreeable to them, a juvenile may be detained by a  
3 county for a longer period of time in an approved detention facility or temporary  
4 holding resource complying with paragraph B. Any detention of a juvenile by a  
5 county must be in a section of a jail or other secure detention facility in compliance  
6 with paragraph A or in an approved detention facility or temporary holding resource  
7 in compliance with paragraph B. This paragraph does not apply to a juvenile who is  
8 held in an adult section of a jail pursuant to court order under paragraph C or D;  
9 section 3101, subsection 4, paragraph E-1; or section 3205, subsection 2.

10 **SUMMARY**

11 This bill permits the interception of phone calls made by or to residents of juvenile  
12 correctional facilities on the same basis as the interception of phone calls made by or to  
13 residents of adult correctional facilities. It also makes willful failure to comply with the  
14 terms of any court order resulting from a juvenile adjudication of a juvenile crime  
15 involving drugs or liquor itself a juvenile crime consistent with other provisions that  
16 define a juvenile crime. The bill requires that a detainee under 18 years of age who has  
17 been convicted as an adult in another jurisdiction be detained with adults, as is presently  
18 the case for detainees under 18 years of age who have been convicted as an adult in the  
19 State. The bill also makes the provisions for the detention of juveniles in a jail consistent  
20 by allowing such detention to be for up to 48 hours.