

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1112

H.P. 782

House of Representatives, March 19, 2013

An Act To Amend the Maine Juvenile Code and Related Statutes

Reported by Representative DION of Portland for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed pursuant to Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

2 **Sec. 1. 15 MRSA §101-C, sub-§1**, as amended by PL 2009, c. 268, §2, is further
3 amended to read:

4 **1. Written demand for records.** When a person or entity has been ordered to
5 perform an examination or evaluation pursuant to section 101-D, a diagnostic evaluation
6 pursuant to section 3309-A, a competency examination pursuant to 3318-A, an evaluation
7 and treatment pursuant to section 3318-B, or an examination of a juvenile with reference
8 to insanity or abnormal condition of mind, and the person to be examined has sought the
9 examination, joined in a request or order for the examination or has entered a plea or
10 answer of not criminally responsible by reason of insanity, that person or entity may
11 make written demand upon any individual, partnership, association, corporation,
12 institution or governmental entity to produce the records or copies of the records, in
13 whatever medium preserved, of the subject of the examination or evaluation.

14 **Sec. 2. 15 MRSA §3003, sub-§1**, as enacted by PL 1977, c. 520, §1, is amended
15 to read:

16 **1. Adjudicatory hearing.** "Adjudicatory hearing" means a hearing to determine
17 whether the allegations of a petition under chapter 507 are supported by evidence ~~beyond~~
18 ~~a reasonable doubt~~ that satisfies the standard of proof required.

19 **Sec. 3. 15 MRSA §3003, sub-§9**, as enacted by PL 1977, c. 520, §1, is repealed.

20 **Sec. 4. 15 MRSA §3003, sub-§17**, as amended by PL 1989, c. 113, §1, is
21 repealed.

22 **Sec. 5. 15 MRSA §3003, sub-§19-A** is enacted to read:

23 **19-A. Mental disease or defect.** "Mental disease or defect" has the same meaning
24 as in Title 17-A, section 39, subsection 2 except that "mental disease or defect" does not
25 include, in and of itself, the fact that a juvenile has not attained the level of mental or
26 emotional development normally associated with persons 18 years of age or older.

27 **Sec. 6. 15 MRSA §3003, sub-§20**, as enacted by PL 1977, c. 520, §1, is repealed.

28 **Sec. 7. 15 MRSA §3003, sub-§22**, as enacted by PL 1977, c. 520, §1, is repealed.

29 **Sec. 8. 15 MRSA §3103-A** is enacted to read:

30 **§3103-A. Provisions of Title 17-A, Part 1 made applicable**

31 The following provisions of Title 17-A, Part 1 are applicable to juvenile crimes:

32 **1. Chapter 1.** Chapter 1, except section 1; section 2, subsections 3-C and 5-B; and
33 sections 6, 8, 9 and 17;

34 **2. Chapter 2.** Chapter 2, except section 40;

1 **3. Chapter 3.** Chapter 3, except section 60; and

2 **4. Chapter 5.** Chapter 5.

3 **Sec. 9. 15 MRSA §3305**, as amended by PL 2011, c. 336, §3, is further amended
4 to read:

5 **§3305. Answer**

6 ~~An answer to a petition need not be entered by a juvenile or by the juvenile's parents,~~
7 ~~guardian or legal custodian.~~ A juvenile or the juvenile's counsel may enter an answer
8 asserting the absence of criminal responsibility by reason of insanity or denying,
9 admitting or not contesting the allegations of the petition, in accordance with Rules 11
10 and 11A, Maine Rules of Criminal Procedure, except that, if the case has been continued
11 for investigation and for a bind-over hearing pursuant to section 3101, subsection 4,
12 paragraph A, the court may not accept an answer to the petition other than a denial or
13 assertion of the absence of criminal responsibility by reason of insanity until the court has
14 conducted a bind-over hearing and has decided to retain jurisdiction of the juvenile in the
15 Juvenile Court or until the prosecuting attorney has withdrawn the request to have the
16 juvenile tried as an adult. An answer may be both a denial and an assertion of the
17 absence of criminal responsibility by reason of insanity. If the juvenile or the juvenile's
18 counsel declines to enter an answer, the court shall enter an answer of denial.

19 ~~Upon the acceptance of such an answer~~ If the court accepts an answer admitting or
20 not contesting the allegations of the petition, a dispositional hearing ~~shall~~ must be set at
21 the earliest practicable time that will allow for the completion of a predisposition study
22 conducted pursuant to section 3311 and for service of notice as required by section 3314,
23 subsection 1, paragraph C-1 or C-2. If the answer entered is a denial or an assertion of
24 the absence of criminal responsibility by reason of insanity, or both, or if the court
25 declines to accept an answer admitting or not contesting the allegations of the petition, an
26 adjudicatory hearing must be set.

27 **Sec. 10. 15 MRSA §3315, sub-§1**, as amended by PL 2001, c. 696, §6 and PL
28 2003, c. 689, Pt. B, §6, is further amended to read:

29 **1. Right to review.** Every disposition pursuant to section 3314 and 3318-B, other
30 than unconditional discharge, must be reviewed not less than once in every 12 months
31 until the juvenile is discharged. The review must be made by a representative of the
32 Department of Corrections unless the juvenile ~~was~~ has been committed to the ~~Department~~
33 custody of the Commissioner of Health and Human Services, in which case such review
34 must be made by a representative of the Department of Health and Human Services. A
35 report of the review must be made in writing to the juvenile's parents, guardian or legal
36 custodian. A copy of the report must be forwarded to the program or programs that were
37 reviewed, and the department whose personnel made the review shall retain a copy of the
38 report in their files. The written report must be prepared in accordance with subsection 2.
39 When a juvenile is placed in the custody of the ~~Department~~ Commissioner of Health and
40 Human Services, reviews and permanency planning hearings must be conducted in
41 accordance with Title 22, section 4038. Title 22, sections 4005, 4039 and 4041 also
42 apply.

1 10. It provides that a court must enter an answer of denial if a juvenile or a juvenile's
2 counsel declines to enter an answer.

3 11. It provides that a dispositional hearing will be set for a juvenile if the court
4 accepts an answer admitting or not contesting the allegations of the petition.

5 12. It provides that if the answer entered by a juvenile is a denial or an assertion of
6 the absence of criminal responsibility by reason of insanity, or both, or if the court
7 declines to accept an answer admitting or not contesting the allegations of the petition, an
8 adjudicatory hearing must be set.

9 13. It provides for a right to periodic review of a disposition of a juvenile found
10 incompetent to proceed. It also clarifies that the commitment of a juvenile to the
11 Department of Health and Human Services is a commitment to the custody of the
12 Commissioner of Health and Human Services.

13 14. It changes the period of time within which a juvenile may take an appeal from
14 the juvenile court to the Superior Court from 5 to 7 days after the entry of an order of
15 disposition. This is the same appeal period as is provided for a petition contesting
16 extradition.