

MAINE STATE LEGISLATURE

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L.D. 320

Date: 6/16/21

(Filing No. H-698)

JUDICIARY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 130TH LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 224, L.D. 320, "An Act To Provide the Right to Counsel for Juveniles and Improve Due Process for Juveniles"

Amend the bill in section 1 in subsection 14 in the last line (page 1, line 7 in L.D.) by inserting after the following: "age." the following: 'This definition does not apply to a person whose disposition includes probation or commitment to a Department of Corrections juvenile correctional facility when that person engages in new criminal conduct and is 18 years of age or older at the time of the new criminal conduct.'

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 15 MRSA §3203-A, sub-§4, ¶G is enacted to read:

G. Notwithstanding any provision of law to the contrary, a juvenile who has not attained 12 years of age may not be detained at a secure detention facility for more than 7 days except by agreement of the parties.'

Amend the bill in section 3 in subsection 5 in the 11th line (page 2, line 11 in L.D.) by striking out the following: "juvenile petition" and inserting the following: 'petition to review detention'

Amend the bill in section 5 in subsection 1 in paragraph D in the last line (page 3, line 17 in L.D.) by striking out the following: "the juvenile's primary counsel" and inserting the following: 'any other counsel representing the juvenile'

Amend the bill in section 10 in paragraph M in the 3rd and 4th lines (page 3, lines 37 and 38 in L.D.) by striking out the following: "criminal episode giving rise to the conviction" and inserting the following: 'juvenile criminal episode giving rise to the adjudication'

Amend the bill by inserting after section 10 the following:

'Sec. 11. 15 MRSA §3314, sub-§1, ¶F, as amended by PL 2001, c. 696, §4, is further amended to read:

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F. The court may commit the juvenile to a Department of Corrections juvenile correctional facility, except that, beginning October 1, 2021, the juvenile must be at least 12 years of age at the time of commitment to be committed to such a facility. Whenever a juvenile is committed to a Department of Corrections juvenile correctional facility, the court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B, and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders a commitment to a Department of Corrections juvenile correctional facility, which continues to be governed by section 3313.'

Amend the bill in section 11 in subsection 3 in paragraph A in the last line (page 4, line 14 in L.D.) by striking out the following: "a judicial review of the juvenile's commitment" and inserting the following: 'this review'

Amend the bill in section 13 in §3317 in the first indented paragraph in the 7th line (page 4, line 42 in L.D.) by striking out the following: "or reduction"

Amend the bill in section 13 in §3317 in the first indented paragraph in the 12th and 13th lines (page 5, lines 3 and 4 in L.D.) by striking out the following: ", including a reduction of the period of commitment or probation,"

Amend the bill in section 13 in §3317 in the first indented paragraph in the last line (page 5, line 13 in L.D.) by inserting after the following: "days," the following: 'A juvenile who has not attained 21 years of age must be represented by counsel at this review.'

Amend the bill by striking out all of section 14 and inserting the following:

'**Sec. 14. 15 MRSA §3402, sub-§1**, as amended by PL 2021, c. 23, §§1 to 3, is further amended to read:

1. Matters for appeal. Appeals of the following matters may be taken from the ~~juvenile court~~ Juvenile Court to the Supreme Judicial Court by a party specified in subsection 2:

A. An adjudication, as long as the appeal is taken after an order of disposition;

B. An order of disposition, or of any subsequent order modifying disposition, for an abuse of discretion;

D. A detention order entered pursuant to section 3203-A, subsection 5 or any refusal to alter a detention order upon petition of the juvenile pursuant to section 3203-A, subsection 11, for abuse of discretion, ~~provided that the~~ The appeal must be handled expeditiously; ~~and~~

H. An order binding a juvenile over for prosecution as an adult, which may be taken following issuance of the bind-over order, or, at the election of the appellant, following a judgment of conviction as an adult, but not both; ~~and~~

I. A judicial review decision pursuant to section 3317.'

Amend the bill in section 16 in the blocked paragraph in the first line (page 5, line 37 in L.D.) by striking out the following: "2022" and inserting the following: '2021'

1 Amend the bill in section 17 in subsection 1-A in the first line (page 5, line 39 in L.D.)
2 by striking out the following: "2022" and inserting the following: '2021'

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

5 SUMMARY

6 This amendment revises the definition of "juvenile" to make clear it does not apply to
7 a person whose disposition includes probation or commitment to a Department of
8 Corrections juvenile correctional facility when that person engages in new criminal conduct
9 and is 18 years of age or older at the time of the new criminal conduct

10 It deletes from the bill the limitation on the Juvenile Court's jurisdiction over those who
11 have not attained 12 years of age and instead provides that, beginning October 1, 2021, a
12 juvenile who has not attained 12 years of age may not be committed to a secure detention
13 facility, which includes the Long Creek Youth Development Center. It also provides that
14 a juvenile who has not attained 12 years of age may not be detained in a secure detention
15 facility for more than 7 days except upon agreement of the parties. This amendment
16 clarifies that a juvenile who has not attained 21 years of age must be represented by counsel
17 when the court is conducting a review under the Maine Revised Statutes, Title 15, section
18 3315 or Title 15, section 3317.

19 This amendment deletes from the bill the authority of the Juvenile Court to reduce the
20 period of commitment or probation upon review. The amendment makes additional
21 technical corrections.

22 FISCAL NOTE REQUIRED

23 (See attached)



Approved: 06/13/21 *MAC*

130th MAINE LEGISLATURE

LD 320

LR 406(02)

An Act To Provide the Right to Counsel for Juveniles and Improve Due Process for Juveniles

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Judiciary

Fiscal Note Required: Yes

A' (H-698)

Fiscal Note

Minor cost increase - General Fund

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services from the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.