

MAINE STATE LEGISLATURE

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Date 5/19/23

(Filing No S-112)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
SENATE
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S P 31, L D 39, "An Act to Amend the Maine Juvenile Code"

Amend the bill by striking out all of section 1 and inserting the following

'Sec. 1. 15 MRSA §3003, sub-§14, as amended by PL 2021, c 326, §1, is further amended to read

14. Juvenile. "Juvenile" means a person who has had not attained 18 years of age and a person 18 years of age or older during the period of a disposition that includes probation or commitment to a Department of Corrections juvenile facility who was adjudicated before 18 years of age ~~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~~ at the time the person allegedly committed a juvenile crime '

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

'Sec. 2. 15 MRSA §3203-A, sub-§5, as amended by PL 2021, c 326, §3, is further amended to read

5. Detention hearing. The Department of Corrections shall notify the Juvenile Court when a juvenile is detained and shall provide the court with the name and date of birth of the juvenile, the name of the arresting law enforcement agency, the time of arrest, a description of the juvenile crimes for which the juvenile was arrested and, if available, the current telephone number and e-mail address for the juvenile's parent or parents, guardian or legal custodian Upon petition by a juvenile community corrections officer who ordered the detention or an attorney for the State who ordered the detention, the Juvenile Court shall review the decision to detain a juvenile within 48 hours following the detention, excluding Saturday, Sunday and legal holidays, except that if a juvenile is detained pursuant to subsection 7, paragraph B-5, the Juvenile Court shall review the decision to detain the juvenile within 24 hours following the detention, excluding Saturday, Sunday and legal holidays If the juvenile is not emancipated and the court has been provided a

COMMITTEE AMENDMENT

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1 telephone number or e-mail address for the juvenile's parent or parents, guardian or legal
2 custodian, the Juvenile Court shall provide notice of the detention hearing to the juvenile's
3 parent or parents, guardian or legal custodian. The court may conduct the detention hearing
4 in the absence of the parent or parents, guardian or legal custodian if the court is unable to
5 provide notice to the parent or parents, guardian or legal custodian or the parent or parents,
6 guardian or legal custodian fails to appear after receiving notice. When a petition to review
7 detention is filed, the Juvenile Court shall assign counsel to represent the juvenile. The
8 assignment must be reviewed at the juvenile's first appearance before the Juvenile Court.
9 If a juvenile petition with charges based on the conduct at issue in the detention hearing is
10 filed, the assignment continues with respect to the petition to review detention but must be
11 reviewed at the juvenile's first appearance on the juvenile petition.

12 A A detention hearing must precede and must be separate from a bind-over or
13 adjudicatory hearing. Evidence presented at a detention hearing may include
14 testimony, affidavits and other reliable hearsay evidence as permitted by the Juvenile
15 Court and may be considered in making any determination in that hearing.

16 B Following a detention hearing, the Juvenile Court shall order a juvenile's release,
17 in accordance with subsection 4, unless it finds, by a preponderance of the evidence,
18 that continued detention is necessary to meet one of the purposes of detention provided
19 in that subsection. The Juvenile Court shall ensure, by appropriate order, that any such
20 continued detention is otherwise in accordance with the requirements of subsection 4.
21 The Juvenile Court may order that detention be continued pending further appearances
22 before the Juvenile Court or pending conditional release to a setting satisfactory to the
23 juvenile community corrections officer.

24 C Continued detention or conditional release may not be ordered unless a Juvenile
25 Court Judge or justice of the peace has determined pursuant to subsection 4-A or the
26 Juvenile Court determines at the detention hearing that there is probable cause to
27 believe that the juvenile has committed a juvenile crime.

28 D When the Juvenile Court orders detention or a conditional release that authorizes,
29 even temporarily, the juvenile's removal from the juvenile's home, the Juvenile Court
30 shall determine whether reasonable efforts have been made to prevent or eliminate the
31 need for removal of the juvenile from the juvenile's home or that no reasonable efforts
32 are necessary because of the existence of an aggravating factor as defined in Title 22,
33 section 4002, subsection 1-B, and whether continuation in the juvenile's home would
34 be contrary to the welfare of the juvenile. This determination does not affect whether
35 the Juvenile Court orders detention or a conditional release, which continues to be
36 governed by the other provisions of this section.

37 **Sec. 3. 15 MRSA §3311-B, sub-§1**, as amended by PL 2011, c 480, §2, is further
38 amended to read

39 **1. Imposition.** Following the acceptance of an admission of commission of a juvenile
40 crime for which a juvenile is eligible for a deferred disposition under section 3311-A, the
41 court may order disposition deferred to a date certain or determinable and impose
42 requirements upon the juvenile to be in effect during the period of deferment that are
43 considered by the court to be reasonable and appropriate to meet the purposes of the Maine
44 Juvenile Code. The court-imposed deferment requirements must include a requirement
45 that the juvenile refrain from conduct that would constitute a juvenile crime, crime or civil

1 violation Unless the juvenile crime is one under section 3103, subsection 1, paragraph B
2 or C, the court-imposed deferment requirements may include that the juvenile abide by
3 specific conditional release requirements under supervision by a juvenile community
4 corrections officer The court may not impose a requirement that the juvenile pay a
5 supervision fee In exchange for the deferred disposition, the juvenile shall abide by the
6 court-imposed deferment requirements Unless the court orders otherwise, the deferment
7 requirements are immediately in effect '

8 Amend the bill by striking out all of section 5 and inserting the following

9 '**Sec. 5. 15 MRSA §3314-C, sub-§8** is enacted to read

10 **8. Payment and collection of restitution. Payment of restitution by and collection**
11 **of restitution from a juvenile must be in accordance with Title 17-A, sections 2006, 2007,**
12 **2008, 2009, 2011, 2012, 2013, 2016, 2017 and 2018** '

13 Amend the bill by striking out all of section 6 and inserting the following

14 '**Sec. 6. 15 MRSA §3318-B, sub-§3** is enacted to read

15 **3. Provision of reports. If, following the competency determination hearing provided**
16 **in section 3318-A, subsection 7, the Juvenile Court refers the juvenile to the Commissioner**
17 **of Health and Human Services for evaluation and treatment, issues an order for the**
18 **commissioner to evaluate the juvenile or orders the juvenile into the custody of the**
19 **commissioner pursuant to this section, the Juvenile Court shall ensure that a copy of the**
20 **report of the State Forensic Service examiner or any other report considered for the**
21 **competency determination is provided to the commissioner or the commissioner's**
22 **designee** '

23 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
24 number to read consecutively

25 SUMMARY

26 This amendment makes the following changes to the bill

27 1 It amends the definition of "juvenile" under the Maine Juvenile Code as a person
28 who had not attained 18 years of age at the time the person allegedly committed a juvenile
29 crime

30 2 It amends the bill by changing the requirement that the Juvenile Court notify the
31 juvenile's parent or parents, guardian or legal custodian of a detention hearing to allow a
32 court to conduct a detention hearing in the absence of the juvenile's parent or parents,
33 guardian or legal custodian if the court is unable to provide them notice or if they fail to
34 appear after receiving notice

35 3 It prohibits courts from requiring a juvenile under a deferred disposition to pay a
36 supervision fee

37 4 It provides additional cross-references to restitution provisions regarding payment
38 and collection of juvenile restitution for a deceased victim, a victim unable to be located,
39 post-conviction relief, waiver of issue of excessiveness and restitution for the benefit of the
40 victim



131st MAINE LEGISLATURE

LD 39

LR 130(02)

An Act to Amend the Maine Juvenile Code

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-112)
Committee: Criminal Justice and Public Safety
Fiscal Note Required Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Department of Corrections associated with this legislation can be absorbed within existing budgeted resources