

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

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Chapters 384-End

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FIRST SPECIAL SESSION

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED
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1985

service, the Maine Agricultural Experiment Station, a financial institution and other representatives of Maine agriculture that the commissioner may designate, but the committee shall include no more than 7 members.

§323. Special projects

The commissioner may contract directly with the Agricultural Experiment Station or the Maine Cooperative Extension Service for testing new technologies and for research on pressing, short-term technical problems related to the production, storage and processing of agricultural commodities.

§324. Special revenues

Funds contributed by commodity groups, associations or individuals for special projects or for competitive technology transfer projects shall be deposited in a dedicated account which shall not lapse. Commodity groups, associations or individuals may specify that funds contributed to this account may be used to initiate projects affecting specific commodities.

§325. Annual review

The commissioner, the Director of the Agricultural Experiment Station and the Director of the Cooperative Extension Service shall, on an annual basis, review the effectiveness of the programs operated under the provisions of this chapter in facilitating the introduction of new technologies for Maine agricultural operations.

Effective September 19, 1985.

CHAPTER 439

H.P. 746 - L.D. 1069

AN ACT to Amend and Clarify the Maine
Juvenile Code.

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

Sec. 1. 15 MRSA §3003, sub-§2-A is enacted to read:

2-A. Attendant; attendant care. "Attendant" means an agent of a county sheriff or of the Department of Corrections who is authorized to provide temporary supervision of a juvenile alleged to have committed a juvenile crime. Supervision shall be exercised during that period beginning with receipt of the juvenile by the attendant and ending upon the release of the juvenile to his legal custodian or other responsible adult. This supervision constitutes "attendant care."

Sec. 2. 15 MRSA §3003, sub-§10, as enacted by PL 1977, c. 520, §1, is amended to read:

10. Informal adjustment. "Informal adjustment" means a voluntary arrangement between an ~~intake worker~~ a juvenile caseworker and a juvenile referred to him which provides sufficient basis for a decision by the ~~intake worker~~ juvenile caseworker not to file a petition under chapter 507.

Sec. 3. 15 MRSA §3003, sub-§12, as amended by PL 1981, c. 493, §2, is repealed.

Sec. 4. 15 MRSA §3003, sub-§§14-A and 14-B are enacted to read:

14-A. Juvenile arrest. "Juvenile arrest" means the taking of an accused juvenile into custody in conformance with the law governing the arrest of persons believed to have committed a crime.

14-B. Juvenile caseworker. "Juvenile caseworker" means an agent of the Department of Corrections authorized:

A. To perform juvenile probation functions;

B. To provide appropriate services to juveniles committed to the Maine Youth Center who are on leave or in the community on entrustment; and

C. To perform all caseworker functions established by this Part for a juvenile alleged to have committed a juvenile crime.

Sec. 5. 15 MRSA §3003, sub-§24, as amended by PL 1981, c. 493, §2, is repealed.

Sec. 6. 15 MRSA §3003, sub-§24-A is enacted to read:

24-A. Secure detention facility. "Secure detention facility" means a facility characterized by

physically restrictive construction or procedures, or both, that are intended to prevent a person who is placed or admitted to the facility from departing at will.

Sec. 7. 15 MRSA §3003, sub-§§26 and 27 are enacted to read:

26. Temporary holding resource. "Temporary holding resource" means an area consisting of not more than 2 rooms, with a capacity to serve no more than 4 juveniles, which may be used to provide secure or nonsecure shelter for a juvenile for a period not to exceed 72 hours. The level of security provided is dependent on the intensity of personal supervision employed rather than on the physical characteristics of the facility.

27. Temporary supervision. "Temporary supervision" means that supervision provided by an attendant delivering attendant care as defined in subsection 2-A.

Sec. 8. 15 MRSA §3203, as amended by PL 1983, c. 581, §1, is repealed.

Sec. 9. 15 MRSA §3203-A is enacted to read:

§3203-A. Arrested juveniles; release; detention; notification

1. Notification of a juvenile caseworker. A juvenile caseworker shall receive notification under the following circumstances.

A. When, in the judgment of a law enforcement officer, Juvenile Court proceedings should be commenced against a juvenile, but detention is not necessary, the law enforcement officer shall notify a juvenile caseworker as soon as possible after such a determination is made; but if the juvenile has been arrested, the law enforcement officer shall notify the juvenile caseworker within 12 hours following the arrest.

B. When, in the judgment of a law enforcement officer, a juvenile should be detained prior to his initial appearance in juvenile court, the law enforcement officer shall immediately notify a juvenile caseworker.

(1) Detention under this section shall be requested by the law enforcement officer

within 2 hours after the juvenile's arrest or the juvenile shall be released.

(2) After the law enforcement officer notifies the juvenile caseworker and requests detention, the juvenile caseworker shall order the conditional or unconditional release or shall effect a detention placement within 12 hours following the juvenile's arrest.

(3) During the 12-hour period referred to in subparagraph (2), any secure physical confinement of the juvenile shall require the approval of the juvenile caseworker. The juvenile caseworker shall approve secure physical confinement during the custody period only when it is necessary to prevent imminent escape or to prevent the juvenile from harming himself or others. Secure physical confinement exists when the juvenile is placed within a locked setting.

C. In cases under Title 5, section 200-A, the law enforcement officer shall immediately notify the Department of the Attorney General. The Attorney General or any of his deputies or assistants shall act as and shall possess all the powers and responsibilities of a juvenile caseworker specified in this section.

2. Notification of legal custodian. A legal custodian shall receive notification under the following circumstances.

A. When a juvenile is arrested, the law enforcement officer or the juvenile caseworker shall notify the legal custodian of the juvenile without unnecessary delay and inform him of the juvenile's whereabouts, the name and telephone number of the juvenile caseworker who has been contacted and, if a juvenile has been placed in a detention facility, that a detention hearing will be held within 48 hours following this placement, except that this paragraph does not require any such hearing to be held on a Saturday, Sunday or legal holiday.

B. Notification required by paragraph A may be made to a person of sufficient maturity with whom the juvenile is residing if the juvenile's legal custodian cannot be located.

3. Law enforcement officer's report. An officer who notifies a juvenile caseworker pursuant to sub-

section 1, paragraph A or B shall file a brief written report with the juvenile caseworker, stating the facts which led to the referral. The report shall contain sufficient information to establish the jurisdiction of the Juvenile Court.

A report pursuant to subsection 1, paragraph A, must be filed within 24 hours of the referral, excluding nonjudicial days. A report pursuant to subsection 1, paragraph B, must be filed within 24 hours of the referral.

4. Release or detention ordered by juvenile caseworker. The release or detention of a juvenile may be ordered by a juvenile caseworker as follows.

A. A juvenile caseworker shall direct the release or detention of a juvenile pending his initial appearance before the court.

B. Release may be unconditional or conditioned upon the juvenile's promise to appear for subsequent official proceedings or, if a juvenile cannot appropriately be released on one of these 2 bases, upon the least onerous of the following conditions, or combination of conditions, necessary to ensure his appearance:

(1) Upon the written promise of his legal custodian to produce the juvenile for subsequent official proceedings or at any place or time when so ordered by the juvenile caseworker or the Juvenile Court;

(2) Upon the juvenile's voluntary agreement to placement into the care of a responsible person or organization;

(3) Upon prescribed conditions, reasonably related to securing the juvenile's presence at subsequent official proceedings or at any place or time when so ordered by the juvenile caseworker or the court, restricting the juvenile's activities, associations, residence or travel; or

(4) Upon such other prescribed conditions as may be reasonably related to securing the juvenile's presence at subsequent official proceedings or at any place or time when so ordered by the juvenile caseworker or the court.

Upon imposition of any condition of release described in subparagraph (2), (3) or (4), the juvenile caseworker shall provide the juvenile with a copy of the condition imposed and inform the juvenile of the right to have the condition reviewed by the Juvenile Court pursuant to subsection 10 of the consequences applicable to violation of any condition.

C. Detention, if ordered, shall be in the least restrictive residential setting that will serve the purposes of the Maine Juvenile Code as provided in section 3002 and one of the following purposes of detention:

(1) To ensure the presence of the juvenile at subsequent court proceedings;

(2) To provide physical care for a juvenile who cannot return home because there is no parent or other suitable person willing and able to supervise and care for him adequately;

(3) To prevent the juvenile from harming or intimidating any witness or otherwise threatening the orderly progress of the court proceedings;

(4) To prevent the juvenile from inflicting bodily harm on others; or

(5) To protect the juvenile from an immediate threat of bodily harm.

D. Detention of a juvenile in a detention facility may be ordered by the Juvenile Court or a juvenile caseworker when there is probable cause to believe the juvenile:

(1) Has committed an act which would be murder or a Class A, Class B or Class C crime if committed by an adult;

(2) Has refused to participate voluntarily in a conditional release placement;

(3) Has intentionally or knowingly violated a condition imposed as part of conditional release on a pending offense or has committed an offense subsequent to that release, which would be a crime if committed by an adult;

(4) Has committed the juvenile crime which would be escape if the juvenile was an adult;

(5) Has escaped from a facility to which the juvenile had been committed pursuant to an order of adjudication or is absent without authorization from a prior placement by a juvenile caseworker or the Juvenile Court; or

(6) Has a prior record of failure to appear in court when so ordered or summonsed by a law enforcement officer, juvenile caseworker or the court or has stated his intent not to appear.

Nonetheless, when, in the judgment of the juvenile caseworker or the Juvenile Court, it is not necessary or appropriate to detain a juvenile who satisfies the criteria for detention, the juvenile caseworker or the Juvenile Court may order the placement of the juvenile in the juvenile's home or in an alternative facility or service, such as a temporary holding resource, group home, emergency shelter, foster placement or attendant care, subject to specific conditions, including supervision by a juvenile caseworker or a designated supervisor. Such a placement shall be considered a conditional release.

E. If a juvenile caseworker orders a juvenile detained, the juvenile caseworker shall, within 24 hours, petition the Juvenile Court for a review of the detention, unless the juvenile caseworker has ordered the release of the juvenile prior to the expiration of the 24-hour period.

5. Detention hearing. Upon petition by a juvenile caseworker, the Juvenile Court shall renew the decision to detain a juvenile.

A. A detention hearing shall precede and shall be separate from a bind-over or adjudicatory hearing.

B. Following a detention hearing, a court shall order a juvenile's release, in accordance with subsection 4, unless it finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention provided in that subsection. The Juvenile Court shall ensure, by appropriate order, that any such

continued detention is otherwise in accordance with the requirements of subsection 4.

C. No continued detention may be ordered unless the Juvenile Court shall determine that there is probable cause to believe that the juvenile has committed a juvenile crime. That determination shall be made on the basis of evidence, including reliable hearsay evidence, presented in testimony or affidavits.

6. Availability of judges. The Chief Judge of the District Court shall provide that a Juvenile Court Judge, not necessarily a judge of the division where a juvenile is being held, is available to preside at the detention hearing, described in subsection 5, on all days except Saturdays, Sundays and legal holidays.

7. Restriction on place of detention. The following restrictions are placed on the facilities in which a juvenile may be detained.

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

(1) Contains a separate section for juveniles;

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

(3) Has an adequate staff to monitor and supervise the juvenile's activities at all times.

Juveniles detained in the adult receiving facilities shall be placed only in the separate juvenile sections.

B. A juvenile may be held in custody or detention in any detention facility approved or operated by the Department of Corrections exclusively for juveniles, pending his release or hearing in the Juvenile Court.

C. Upon the request of the Commissioner of Corrections or his designee, a judge may approve the transfer of a juvenile, who is detained at the Maine Youth Center, to any jail or to another se-

cure facility intended for use or used for the detention of adults:

(1) If the judge finds, by clear and convincing evidence, that:

(a) Jurisdiction of the matter as a juvenile case has been waived and the juvenile has been bound over pursuant to section 3101, subsection 4; or

(b) A prosecutor has requested the court to bind over the juvenile, pursuant to section 3101, subsection 4, because he is accused of having committed a subsequent offense, while committed to the center;

(2) If the judge finds, by clear and convincing evidence, that the juvenile's behavior:

(a) Presents an imminent danger of harm to himself or to others; or

(b) Presents a substantial likelihood that the juvenile will absent himself from the center; and

(3) If the judge finds, by clear and convincing evidence that there is no less restrictive alternative to detention in an adult facility which will meet the purposes of detention.

8. Detention. In the event that the court orders detention, after detention hearing in accordance with subsection 5, paragraph B, a petition shall be filed within 10 days from the date of detention, unless the time therefore is extended by the court by further order. In the event a petition is not so filed, then detention shall be terminated and the juvenile discharged from detention.

9. Violation of conditions of release. Upon notification that a juvenile has intentionally or knowingly violated a condition of his release, a juvenile caseworker or a law enforcement officer may apply to the Juvenile Court for a warrant of arrest.

A law enforcement officer having probable cause to believe that a juvenile has violated a condition of release in his presence may arrest the juvenile without a warrant.

Following the arrest of a juvenile for violation of a condition of his release, the law enforcement officer shall immediately notify the juvenile caseworker. The juvenile caseworker shall either direct the release of the juvenile with or without imposing different or additional conditions for release of the juvenile or shall revoke release and order the juvenile detained for reasons set forth in subsection 4, paragraph D.

If different or additional conditions of release are imposed, the juvenile may request the Juvenile Court to review the conditions pursuant to subsection 10. The review of additional or different conditions shall include a hearing to determine if the preponderance of the evidence indicates that the juvenile intentionally or knowingly violated a condition of release.

10. Juvenile Court to review for abuse of discretion. Upon the request of a juvenile or legal custodian, the Juvenile Court shall, at the juvenile's first appearance or within 7 days, review for abuse of discretion, any condition of release imposed pursuant to subsection 4, paragraph B, subparagraph (2), (3) or (4).

Sec. 10. 15 MRSA §3204, as amended by PL 1979, c. 681, §14 is further amended to read:

§3204. Statements not admissible in evidence

No statements of a juvenile made to an ~~intake worker~~ a juvenile caseworker may be admissible in evidence in any proceeding against that juvenile.

Sec. 11. 15 MRSA §3301, as amended by PL 1981, c. 679, §§6 and 7 are further amended to read:

§3301. Preliminary investigation, informal adjustment and petition initiation

1. Preliminary investigation. When a juvenile accused of having committed a juvenile crime is referred to an ~~intake worker~~ a juvenile caseworker, the ~~intake worker~~ juvenile caseworker shall, except in cases in which an investigation is conducted pursuant to Title 5, section 200-A, conduct a preliminary investigation to determine whether the interests of the juvenile or of the community require that further action be taken.

On the basis of the preliminary investigation, the ~~intake worker~~ juvenile caseworker shall:

A. Decide that no further action is required, either in the interests of the public or of the juvenile;

B. Make whatever informal adjustment is practicable without a petition; or

C. Request a petition to be filed.

5. Juvenile caseworker alternatives. On the basis of the preliminary investigation, the ~~intake worker~~ juvenile caseworker shall choose one of the following alternatives:

A. Decide that no further action is required either in the interests of the public or of the juvenile. If the ~~intake worker~~ juvenile caseworker determines that the facts in the report prepared for him by the referring officer pursuant to section 3203, subsection 3, are sufficient to file a petition, but in his judgment the interest of the juvenile and the public will be served best by providing the juvenile with services voluntarily accepted by the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated, the ~~intake worker~~ juvenile caseworker may refer the juvenile for that care and treatment and not request that a petition be filed;

B. Make whatever informal adjustment is practicable without a petition. The ~~intake worker~~ juvenile caseworker may effect whatever informal adjustment is agreed to by the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime. Informal adjustments shall extend no longer than 6 months and informal adjustments shall not be commenced unless:

(1) The ~~intake worker~~ juvenile caseworker determines that the juvenile and his parents, guardian or legal custodian, if the juvenile is not emancipated, were advised of their constitutional rights, including the right to an adjudicatory hearing, the right to be represented by counsel and the right to have counsel appointed by the court if indigent;

(2) The facts establish prima facie jurisdiction, except that any admission made in

connection with this informal adjustment cannot be used in evidence against the juvenile if a petition based on the same facts is later filed; and

(3) Written consent to the informal adjustment is obtained from the juvenile and his parents, guardian or legal custodian if the juvenile is not emancipated; or

C. If the ~~intake worker~~ juvenile caseworker determines that the facts are sufficient for the filing of a petition, he may request the prosecuting attorney to file a petition.

6. Review by prosecuting attorney. If the ~~intake worker~~ juvenile caseworker decides not to request the prosecuting attorney to file a petition, the complainant, the law enforcement officer and the victim shall be informed of the decision and of the reasons therefor as soon as practicable and shall be advised that they may submit their complaint to the prosecuting attorney for review.

The prosecuting attorney on his own motion or upon receiving a request for review by the law enforcement officer, the complainant or the victim, shall consider the facts of the case, consult with the ~~intake worker~~ juvenile caseworker who made the initial decision and then make a final decision as to whether the petition shall be filed.

7. Nonapplication of section. The provisions of this section do not apply to a juvenile charged with the juvenile crime defined in section 3103, subsection 1, paragraph F, and a petition may be filed without recommendation by an ~~intake worker~~ a juvenile caseworker. The provisions of section 3203 apply in the case of a juvenile charged with the juvenile crime defined in section 3103, subsection 1, paragraph F.

Sec. 12. 15 MRSA §3303, as amended by PL 1983, c. 176, Pt. A, §6, is further amended to read:

§3303. Dismissal of petition with prejudice

On motion made by or on behalf of a juvenile, or by the court itself, a petition shall be dismissed with prejudice if it was not filed within 6 months from the date the juvenile was referred to the ~~intake worker~~ juvenile caseworker for an intake assessment, unless the prosecuting attorney either before or af-

ter the expiration of the 6-month period files a motion for an extension of time for the filing of a petition, accompanied by the reasons for this extension. The court may for good cause extend the time for bringing a petition for any period of time that is less than the limitation established in section 3105.

Sec. 13. 15 MRSA §3304, sub-§6-A, as enacted by PL 1979, c. 681, §17, is amended to read:

6-A. Effect of nonappearance of parent or custodian. The failure of a parent, guardian or legal custodian to appear in response to the summons or for a later hearing, or the inability to serve such a party, shall not prevent the court from continuing with the proceedings against a juvenile who is before the court, except as provided in section 3314, subsection 1, paragraphs D and E.

Sec. 14. 15 MRSA §3308, sub-§5, as enacted by PL 1977, c. 520, §1, is amended to read:

5. Other records. Police records, ~~intake workers'~~ juvenile caseworkers' records, probation officers' records and all other reports of social and clinical studies shall not be open to inspection except with consent of the court or except to the extent that such records, reports and studies were made a part of the record of a hearing that was open to the general public under section 3307.

Sec. 15. 15 MRSA §3314, sub-§1, ¶C, as amended by PL 1983, c. 480, Pt. B, §17, is further amended to read:

C. The court may commit a juvenile to the Department of Corrections for placement in a group home or residential facility when the continuation of the juvenile remaining in his own home would be contrary to the welfare of that juvenile or ~~to the Department of Human Services for placement in a foster home, group care home or residential facility, or to either department for the provision of services to a juvenile in his own home or for any other placement the department deems appropriate.~~

Sec. 16. 15 MRSA §3314, sub-§1, ¶¶C-1 and C-2 are enacted to read:

C-1. The court may commit a juvenile to the custody of the Department of Human Services when the court has determined that reasonable efforts have

been made to prevent or eliminate the need for removal of the juvenile from his home and that continuation therein would be contrary to the welfare of the juvenile. The court may not enter an order under this paragraph unless the parents have had notice and an opportunity to be heard at the dispositional hearing.

Notwithstanding any other provision of law, the court shall not commit a juvenile to the custody of the Department of Human Services until at least 10 days have elapsed from the date on which service pursuant to section 3304 was effected.

The Department of Human Services shall provide for the care and placement of the juvenile as for other children in the department's custody pursuant to the Child and Family Services and Child Protection Act, Title 22, chapter 1071, subchapter VII.

C-2. The court may commit a juvenile to the custody of a relative or other person when the court determines that this is in the best interest of the juvenile. The court may not enter an order under this paragraph unless the parents have had notice and an opportunity to be heard at the dispositional hearing.

Sec. 17. 15 MRSA §3317, as amended by PL 1983, c. 480, Pt. B, §22, is further amended to read:

§3317. Disposition after return to Juvenile Court

In instances of commitment of a juvenile to the Department of Corrections, the Department of Human Services or the Maine Youth Center, the commissioner of either department or the superintendent of the youth center following the commitment may for good cause petition the Juvenile Court having original jurisdiction in the case for a judicial review of the disposition, including extension of the period of commitment. In all cases in which a juvenile is returned to a Juvenile Court, the Juvenile Court may make any of the dispositions otherwise provided in section 3314. When reviewing a commitment to the Department of Human Services, the court shall consider efforts made by the Department of Corrections and the Department of Human Services to reunify the juvenile with his parents or custodians, shall make a finding regarding those efforts and shall return custody of the juvenile to the parent or legal custodian if the return of the juvenile would not be contrary to the

welfare of the juvenile. A petition for judicial review of a disposition committing the child to the Department of Human Services shall be served on the parents at least 7 days prior to the hearing.

Sec. 18. 15 MRSA §3501, sub-§7, ¶B, as enacted by PL 1977, c. 520, §1, is amended to read:

B. Notwithstanding paragraph A, a juvenile taken into interim care may be held, if no other appropriate placement is available, in the public sections of a jail or other secure correctional facility if there is an adequate staff to supervise the juvenile's activities at all times, including an approved detention facility operated exclusively for juveniles.

Sec. 19. 15 MRSA §3502, sub-§1, ¶A, as enacted by PL 1981, c. 619, §10, is amended to read:

A. The Department of Corrections shall provide for a placement referral service, staffed by ~~intake workers~~ juvenile caseworkers for 24 hours a day. This referral service shall make emergency detention or conditional release decisions pursuant to chapter 505 for all juveniles referred to the department by law enforcement officers.

Sec. 20. 15 MRSA §3502, sub-§2, as repealed and replaced by PL 1981, c. 619, §10, is amended to read:

2. Placement procedures. Emergency placements shall be arranged by ~~intake workers~~ juvenile caseworkers or the Department of Human Services' personnel according to procedures and standards jointly adopted by the Department of Corrections and the Department of Human Services. Placement may include voluntary care or short-term emergency services under Title 22, sections 4021 to 4023.

Sec. 21. 15 MRSA §3507, as enacted by PL 1977, c. 520, §1, is amended to read:

§3507. Runaway juveniles returned from another state

When a juvenile who has left the care of his parents, guardian or legal custodian without that person's consent, is returned to Maine from another state, he shall be referred immediately to ~~an intake worker~~ a juvenile caseworker and shall be processed according to the provisions of this chapter.

Sec. 22. 34-A MRSA §5602, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

§5602. Juvenile caseworker

1. Departmental employees. A juvenile caseworker is an employee of the Department of Corrections.

2. Juvenile caseworker's functions. A juvenile caseworker's functions are:

A. To serve as a juvenile probation officer;

B. To carry out all functions of a juvenile caseworker delineated in the Maine Juvenile Code, Title 15, Part 6; and

C. To provide appropriate services to juveniles committed to the Maine Youth Center who are on leave or in the community on entrustment.

3. Juvenile caseworker's duties. A juvenile caseworker shall:

A. When directed, provided information to the Maine Youth Center on juveniles committed to the Maine Youth Center;

B. Make such investigations as the Juvenile Court may direct and shall keep written records of the investigations as the Juvenile Court may direct;

C. Use all suitable means, including counseling, to aid each juvenile under his supervision and shall perform such duties in connection with the care and custody of juveniles as the court may direct;

D. Keep informed as to the condition and conduct of each juvenile placed under his supervision and shall report on the condition and conduct to the court and to the department as the court or department may direct;

E. When a juvenile is placed under his supervision, give the juvenile a written statement of the conditions of his supervision and shall fully explain the conditions to him; and

F. Keep complete records of all work done.

4. Juvenile caseworkers' powers. Juvenile caseworkers shall have the same arrest powers as other law enforcement officers with respect to juveniles placed under their supervision.

Effective September 19, 1985.

CHAPTER 440

S.P. 218 - L.D. 577

AN ACT to Amend the Probate Code to Improve Guardianship and Conservatorship Proceedings.

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

Sec. 1. 18-A MRS §5-303, as amended by PL 1983, c. 816, Pt. A, §8, is further amended to read:

§5-303. Procedure for court appointment of a guardian of an incapacitated person

(a) The incapacitated person or any person interested in his welfare may petition for a finding of incapacity and appointment of a guardian. The person nominated to serve as guardian shall file a plan which, where relevant, shall include, but not be limited to, the type of proposed living arrangement for the ward, how the ward's financial needs will be met, how the ward's medical and other remedial needs will be met, how the ward's social needs will be met and a plan for the ward's continuing contact with relatives and friends.

(b) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity and unless the allegedly incapacitated person has counsel of his own choice, it may appoint an appropriate official or attorney to represent him in the proceeding, who shall have the powers and duties of a guardian ad litem unless it is indicated on the petition that the allegedly incapacitated person will attend the hearing or unless it is demonstrated that the appointment will serve no useful purpose, the court shall appoint one or more of the following: A visitor, a guardian ad litem or an attorney to represent the allegedly incapacitated person in the proceeding. The cost of this appointment shall be paid from the estate of the allegedly incapacitated