

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

B. Any person smoking on a bus commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 27, 1990.

CHAPTER 744

S.P. 541 - L.D. 1512

An Act to Reform the Juvenile Criminal Justice System

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

Sec. 1. 15 MRSA §3003, sub-§4-A, as enacted by PL 1981, c. 619, §2, is amended to read:

4-A. Diagnostic evaluation. "Diagnostic evaluation" means an examination of a juvenile, ~~to determine his mental or emotional condition~~ to assess the risks the juvenile may pose and determine the needs the juvenile may have, which may include, but is not limited to, educational, vocational or psychosocial evaluations, psychometric testing and psychological, psychiatric or medical examinations, which may take place on either a residential or a nonresidential basis.

Sec. 2. 15 MRSA §3003, sub-§24-A, as amended by PL 1987, c. 398, §1, is further amended to read:

24-A. Secure detention facility. "Secure detention facility" means a facility characterized by either physically restrictive construction or intensive staff supervision which is intended to prevent a person who is placed in or admitted to the facility from departing at will.

Sec. 3. 15 MRSA §3203-A, sub-§7, 1C, as amended by PL 1987, c. 398, §7, is further amended to read:

C. Upon the request of the Commissioner of Corrections or ~~his~~ the commissioner's designee, a judge may approve the transfer of a juvenile, who is detained at the Maine Youth Center or in another detention facility described in paragraph B, to a jail which is 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~~ the juvenile or to others; or

(b) Presents a substantial likelihood that the juvenile will ~~absent himself from~~ leave the center detention facility; 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.

In determining whether the juvenile's behavior presents a danger to the juvenile or others, the court shall consider, among other factors:

(a) The nature of and the circumstances surrounding the offense with which the juvenile is charged, including whether the offense was committed in an aggressive, violent, premeditated or willful manner;

(b) The record and previous history of the juvenile, including the juvenile's emotional attitude and pattern of living; and

(c) If applicable, the juvenile's behavior and mental condition during any previous or current period of detention or commitment.

Sec. 4. 15 MRSA §3203-A, sub-§8, as enacted by PL 1985, c. 439, §9, is amended to read:

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 for good cause shown. In the event a petition is not so filed, then detention shall be terminated and the juvenile discharged from detention.

Sec. 5. 15 MRSA §3308, sub-§8 is enacted to read:

8. Juvenile records sealed. This subsection governs the sealing of records of a person adjudicated to have committed a juvenile crime.

A. A person adjudicated to have committed a juvenile crime may petition the court to seal from public inspection all records pertaining to the juvenile crime and its disposition, and to any prior juvenile records and their dispositions if:

(1) At least 3 years have passed since the person's discharge from the disposition ordered for that juvenile crime;

(2) Since the date of disposition, the person has not been adjudicated to have committed a juvenile crime and has not been convicted of committing a crime; and

(3) There are no current adjudicatory proceedings pending for a juvenile or other crime.

B. The court may grant the petition if it finds that the requirements of paragraph A are satisfied, unless it finds that the general public's right to information substantially outweighs the juvenile's interest in privacy.

C. Notwithstanding subsections 3, 3-A, 4 and 5, the court order sealing the records permits only the following persons to have access to the sealed records:

(1) The courts and criminal justice agencies as provided by this section; and

(2) The person whose juvenile records are sealed or that person's designee.

D. If the petition is granted, the person may respond to inquiries from other than the courts and criminal justice agencies about that person's juvenile crimes, the records of which have been sealed, as if the juvenile crimes had never occurred, without being subject to any sanctions.

See title page for effective date.

CHAPTER 745

H.P. 1784 - L.D. 2454

An Act Authorizing the Town of Howland to Refinance Certain Temporary Bond Anticipation Notes Issued for its Water Project

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Town of Howland has authorized the issuance of general obligation securities for the purpose of financing certain capital improvements to the town's water system, the water project, and has issued its temporary general obligation bond anticipation notes in the principal amount of \$894,000 to finance the water project, the debt being originally issued in April 1987; and

Whereas, long-term financing for the water project is to be provided by the issuance of general obligation bonds to the United States of America, acting through the Farmers Home Administration; and

Whereas, engineering problems associated with the water project have caused the construction of the project to extend beyond the time originally contemplated and have delayed the closing of the long-term financing with the Farmers Home Administration; and

Whereas, the Maine Revised Statutes, Title 30-A, section 5772, states that the period of anticipatory borrowing by a municipality may not exceed 3 years; and

Whereas, it is necessary for the Town of Howland to extend the period of its anticipatory borrowing for an additional year; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Authority to issue and sell temporary notes. Notwithstanding the Maine Revised Statutes, Title 30-A, section 5772, or any other provision of law, the Town of Howland may issue and sell temporary general obligation bond anticipation notes in a principal amount not to exceed \$894,000 for an additional year for the purpose of refinancing certain outstanding temporary notes originally issued in April 1987, and subsequently reissued in 1988 and 1989, in that amount to finance the water project for the Town of Howland, and that the 3-year limitation regarding temporary or anticipatory borrowing under Title 30-A, section 5772, be extended to 4 years for the water project for the Town of Howland.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 30, 1990.

CHAPTER 746

H.P. 1742 - L.D. 2406

An Act Regarding Squa Pan Stream