

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

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J.S. McCarthy Company  
Augusta, Maine  
1991

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**PUBLIC LAWS**  
**OF THE**  
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**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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## CHAPTER 492

H.P. 1126 - L.D. 1651

An Act to Promote the Beneficial Use of  
Solid Waste

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

**Sec. 1. 38 MRSA §1303-C, sub-§31, ¶¶A and B,** as enacted by PL 1989, c. 869, Pt. A, §5, are amended to read:

A. A waste facility that employs controlled combustion to dispose of waste generated exclusively by an institutional, commercial or industrial establishment that owns the facility; ~~and~~

B. Lime kilns; wood chip, bark and hogged fuel boilers; kraft recovery boilers and sulfite process recovery boilers, which combust solid waste generated exclusively at the facility; ~~and~~

**Sec. 2. 38 MRSA §1303-C, sub-§31, ¶C** is enacted to read:

C. An industrial boiler that combusts mixed paper, corrugated cardboard or office paper to generate heat, steam or electricity if:

(1) The mixed paper, corrugated cardboard or office paper would otherwise be placed in a landfill;

(2) The market value of the mixed paper, corrugated cardboard or office paper as a raw material for the manufacture of a product with recycled content is less than its value to the facility owner as a fuel supplement;

(3) The mixed paper, corrugated cardboard or office paper is combusted as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels combusted in the industrial boiler; and

(4) The boiler combusts no other forms of solid waste except as provided in this subsection.

This paragraph is repealed on July 1, 1993.

**Sec. 3. 38 MRSA §2132, sub-§3** is enacted to read:

**3. Beneficial use of waste.** The use of waste paper or corrugated cardboard as a fuel in industrial boilers for the generation of heat, steam or electricity constitutes recycling for the sole purpose of determining whether the goals

in subsection 1 are met and if the wastes would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling that waste and if the wastes are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.

**Sec. 4. 38 MRSA §2138, sub-§6** is enacted to read:

**6. Beneficial use of office paper.** Any person subject to the requirements of this section may use any office paper or corrugated cardboard as fuel in industrial boilers for the generation of heat, steam or electricity if these materials would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling those materials and if the materials are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.

**Sec. 5. Report.** Beginning on January 1, 1992, the owner of an industrial boiler that combusts any mixed paper, corrugated cardboard or office paper under the Maine Revised Statutes, Title 38, section 1303-C, subsection 31, paragraph C shall annually report the following information to the Commissioner of Environmental Protection:

1. The total weight of waste paper burned in the boiler during the previous 12 months;

2. The total weight of waste paper burned that was generated by parties other than the owner or operator of the boiler;

3. The total weight of waste paper that was recycled by the owner of the industrial boiler during the previous 12 months; and

4. Information sufficient to justify the substitution of waste paper for fuel on a cost basis.

See title page for effective date.

## CHAPTER 493

S.P. 588 - L.D. 1541

## An Act to Clarify the Maine Juvenile Code

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

**Sec. 1. 15 MRSA §3003, sub-§4-B** is enacted to read:

**4-B. Detention.** "Detention" means the holding of a person in a facility characterized by either physically restrictive construction or intensive staff supervision that is

intended to prevent a person who is placed in or admitted to the facility from departing at will.

**Sec. 2. 15 MRSA §3003, sub-§24-A**, as amended by PL 1989, c. 744, §2, 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 that~~ is intended to prevent a person who is placed in or admitted to the facility from departing at will.

**Sec. 3. 15 MRSA §3003, sub-§26**, as amended by PL 1989, c. 925, §2, is further amended to read:

**26. Temporary holding resource.** "Temporary holding resource" means an area not in a jail, ~~consisting of not more than 2 rooms, with a capacity to serve no more than 4 juveniles, which or other secure detention facility intended or primarily used for the detention of adults that may be used to provide secure or nonsecure supervision for a juvenile for a period not to exceed 48 72 hours, excluding Saturday, Sunday and legal holidays, pending the completion of a procedure authorized by law to be taken in regard to a juvenile. The level of security Security is provided is dependent on the intensity of by intense personal supervision employed rather than on by the physical characteristics of the facility.~~

**Sec. 4. 15 MRSA §3203-A, sub-§3**, as amended by PL 1989, c. 741, §4, is further amended to read:

**3. Law enforcement officer's report.** An officer who notifies a juvenile caseworker pursuant to subsection 1, paragraph A or B shall file a brief written report with the juvenile caseworker, stating the juvenile's name, date of birth and address; the name and address of the juvenile's legal custodian; and the facts ~~which that~~ led to the notification, including the offense ~~which that~~ the juvenile is alleged to have committed. The report ~~shall~~ must contain sufficient information to establish the jurisdiction of the Juvenile Court.

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

The date on which the report is received by the juvenile caseworker is the date of referral to the juvenile caseworker for an intake assessment.

**Sec. 5. 15 MRSA §3203-A, sub-§4, ¶A**, as enacted by PL 1985, c. 439, §9, is amended to read:

**A. A** Upon notification from a law enforcement officer, a juvenile caseworker shall direct the release or detention of a juvenile pending his that juvenile's initial appearance before the court. When a juvenile is

released unconditionally, whether by a law enforcement officer without notification to a juvenile caseworker or by a juvenile caseworker, and the law enforcement officer subsequently acquires information that makes detention or conditional release necessary, the law enforcement officer may apply to the court for a warrant of arrest. Following the arrest of the juvenile, the law enforcement officer immediately shall notify the juvenile caseworker. The juvenile caseworker shall direct the unconditional or conditional release of the juvenile or order the juvenile detained in accordance with paragraphs C and D.

**Sec. 6. 15 MRSA §3203-A, sub-§4, ¶B**, as amended by PL 1989, c. 741, §5, is further amended to read:

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 the juvenile's appearance or to ensure the protection of the community or any member of the community, including the juvenile:

(1) Upon the written promise of the juvenile's 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~~ in the care of a responsible person or organization, including one providing attendant care;

(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;

(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; or

(5) Upon prescribed conditions, reasonably related to ensuring the protection of the community or any member of the community, including the juvenile.

Upon imposition of any condition of release described in subparagraph (2), (3), (4) or (5), the juvenile caseworker shall provide the juvenile with a copy of the

condition imposed, inform the juvenile of the consequences applicable to violation of the condition and inform the juvenile of the right to have the condition reviewed by the Juvenile Court pursuant to subsection 10.

**Sec. 7. 15 MRSA §3203-A, sub-§4, ¶C**, as enacted by PL 1985, c. 439, §9, is amended to read:

C. Detention, if ordered, ~~shall~~ must 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~~ the juvenile 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.

After December 31, 1991, detention must be in a temporary holding resource that provides secure supervision unless physically restrictive detention is determined necessary by the juvenile caseworker.

**Sec. 8. 15 MRSA §3203-A, sub-§4, ¶D**, as amended by PL 1989, c. 741, §6, is further amended to read:

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 or is incapacitated to the extent of being incapable of participating 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 that 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 the 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~~ is considered a conditional release.

In no case may detention be ordered when either unconditional or conditional release is appropriate.

**Sec. 9. 15 MRSA §3203-A, sub-§4, ¶E**, as amended by PL 1989, c. 741, §7, is further amended to read:

E. If a juvenile caseworker orders a juvenile detained, the juvenile caseworker shall, within 24 hours, excluding nonjudicial days, 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. The juvenile caseworker may order the release of the juvenile anytime prior to the detention hearing. If the juvenile is so released, a detention hearing ~~shall~~ may not be held.

**Sec. 10. 15 MRSA §3203-A, sub-§7, ¶A**, as amended by PL 1989, c. 925, §6, is further amended to read:

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

- (1) Contains an area where juveniles are under direct staff observation at all times, in a separate section for juveniles that complies with mandatory sight and sound separation standards established by the Department of Corrections pursuant to Title 34-A, section 1208;

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

(3) Has an adequate staff to provide direct observation and supervise the juvenile's activities at all times during emergency detention.

Juveniles detained in adult-serving facilities may be placed only in the separate juvenile sections that comply with mandatory separation standards established by the Department of Corrections pursuant to Title 34-A, section 1208, unless the court orders that the person be detained with adults for any period of detention occurring after the detainee has attained the age of 18 years or unless the juvenile is bound over as an adult and held in an adult section of a facility pursuant to court order.

**Sec. 11. 15 MRSA §3203-A, sub-§7, ¶B,** as enacted by PL 1985, c. 439, §9, is amended to read:

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 or a temporary holding resource that provides secure supervision approved by the Department of Corrections, pending his the juvenile's release or hearing in the Juvenile Court.

**Sec. 12. 15 MRSA §3203-A, sub-§7, ¶B-1,** as enacted by PL 1989, c. 925, §7, is amended to read:

B-1. After December 31, 1991 and until December 31, 1993, if the juvenile caseworker determines there is no acceptable alternative, a juvenile may be detained for up to 24 hours, excluding Saturday, Sunday and legal holidays, in a jail or other secure detention facility intended or primarily used for the detention of adults, if:

(1) The facility is not located in a standard metropolitan statistical area and meets the statutory criteria outlined in the federal Juvenile Justice Delinquency Act, Section 223(a)(14)(A), (B) and (C);

(2) The facility complies with mandatory sight and sound separation standards established by the Department of Corrections in accordance with Title 34-A, section 1208;

(3) The facility has adequate certified correctional staff to monitor and supervise the juvenile at all times during detention; and

(4) The juvenile is detained only to await a detention hearing, a preliminary hearing pursuant to Title 17-A, section 1205 or an entrapment violation hearing.

**Sec. 13. 15 MRSA §3203-A, sub-§7, ¶B-2** is enacted to read:

B-2. Notwithstanding any other provision of law, until September 30, 1993, a juvenile may be detained in the Androscoggin County Jail, as long as the juvenile is detained in a separate juvenile section approved by the federal Office of Juvenile Justice and Delinquency Prevention and in compliance with paragraph A of this subsection.

**Sec. 14. 15 MRSA §3203-A, sub-§7, ¶C,** as amended by PL 1989, c. 744, §3, is further amended to read:

C. Upon the request of the Commissioner of Corrections or 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 and operated by the department, to any section of a jail which is used or other secure facility that is intended for use or used primarily 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;

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

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

(b) Presents a substantial likelihood that the juvenile will leave the 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 that 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. 15. 15 MRSA §3203-A, sub-§7, ¶D**, as enacted by PL 1987, c. 398, §8, is amended to read:

D. Upon the petition of a sheriff or ~~his~~ the sheriff's designee, the District Court may approve the transfer of a juvenile who has been bound over pursuant to section 3101, subsection 4, from a separate juvenile section, which is described in paragraph A, or from a detention facility, which is described in paragraph B and operated by the county, to any section of a jail or another secure facility ~~which that~~ is intended for use or used primarily for the detention of adults, if the court finds by clear and convincing evidence that:

- (1) The juvenile's behavior presents an imminent danger of harm to ~~himself~~ that juvenile or to others; and
- (2) There is no less restrictive alternative to detention in an adult section ~~which that~~ serves the purposes of detention.

That determination ~~shall~~ must be made on the basis of evidence, including reliable hearsay evidence, presented in testimony or affidavits. In determining whether the juvenile's behavior presents a danger to ~~himself~~ that 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 ~~his~~ the juvenile's emotional attitude and pattern of living; and
- (c) The juvenile's behavior and mental condition during any previous ~~and~~ or current period of detention or commitment.

**Sec. 16. 15 MRSA §3203-A, sub-§9**, as amended by PL 1989, c. 741, §9, is further amended to read:

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

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

Following the arrest of a juvenile by a law enforcement officer for violation of a condition of 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 in accordance with subsection 4, paragraphs C and 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~~ must include a hearing to determine if the preponderance of the evidence indicates that the juvenile intentionally or knowingly violated a condition of release.

**Sec. 17. 15 MRSA §3205**, as amended by PL 1989, c. 925, §9, is repealed and the following enacted in its place:

**§3205. Juvenile in adult-serving jail**

**1. Generally.** After December 31, 1991, a juvenile may not be committed to or detained in a jail or other secure detention facility intended or primarily used for the detention of adults, except when bound over as an adult or as provided in section 3203-A, subsection 1, paragraph B-1 or section 3203-A, subsection 7, paragraph B-1. A juvenile who is detained in a jail or other secure detention facility intended or primarily used for the detention of adults may be detained only in a section of a facility that meets the requirements of section 3203-A, subsection 7, paragraph A, unless bound over as an adult and held in an adult section of a facility pursuant to court order.

**2. Exception.** Subsection 1 applies to any person who is considered a juvenile by virtue of section 3101, subsection 2, paragraph D except that if the person has attained the age of 18 years, any detention and any commitment pursuant to section 3314, subsection 1, paragraph H may be, upon the order of a court, in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults and may extend beyond the time limits set out in section 3203-A, subsection 1, paragraph B-1 and section 3203-A, subsection 7, paragraph B-1.

**Sec. 18. 15 MRSA §3306-A**, as enacted by PL 1989, c. 741, §15, is amended to read:

**§3306-A. Release or detention at first appearance**

At the juvenile's first appearance or at any subsequent appearance before the court, the court may order,



pending further appearances before the court, the juvenile's unconditional release, conditioned release or detention in accordance with section 3203-A. Unless the court orders otherwise, any juvenile put on conditional release by a juvenile caseworker remains on conditional release until disposition.

**Sec. 19. 15 MRSA §3307, sub-§1-A**, as enacted by PL 1989, c. 421, is amended to read:

**1-A. Release of identity.** No law enforcement officer, officer of the court or juvenile caseworker may release the identity of any juvenile until a petition is filed charging the juvenile with a juvenile crime described in subsection 2. This section does not preclude the release of the identity of a juvenile to a complainant or victim if a juvenile caseworker decides not to file a petition in accordance with section 3301, subsection 5, paragraph B or if the juvenile caseworker requests the prosecuting attorney to file a petition in accordance with section 3301, subsection 5, paragraph C.

**Sec. 20. 15 MRSA §3308, sub-§3**, as enacted by PL 1977, c. 520, §1, is amended to read:

**3. Parties.** Records of court proceedings and of the other records described in subsection 5 shall must be open to inspection by the juvenile, ~~his~~ the juvenile's parents, guardian or legal custodian, ~~his~~ the juvenile's attorney, the prosecuting attorney and to any agency to which legal custody of the juvenile was transferred as a result of adjudication. These records may also be open to inspection by the Department of Human Services prior to adjudication if commitment to the Department of Human Services is a proposed disposition.

**Sec. 21. 15 MRSA §3314, sub-§1, ¶C**, as amended by PL 1985, c. 439, §15, is repealed.

**Sec. 22. 15 MRSA §3314, sub-§1, ¶D**, as amended by PL 1983, c. 480, Pt. B, §18, is repealed.

**Sec. 23. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 1989, c. 502, Pt. A, §§43 and 44, is amended to read:

H. The court may commit the juvenile to the Maine Youth Center and order that the sentence disposition be suspended or may commit the juvenile for a period of detention ~~which shall~~ that may not exceed 30 days, with or without an underlying suspended sentence disposition to the Maine Youth Center, which detention may be served intermittently as the court may order and ~~which shall~~ must be ordered served in a county jail designated detention facility approved or operated by the Department of Corrections as a place for the secure detention of exclusively for juveniles, or in a nonsecure group care home or halfway house. ~~When the detention is ordered served in a county jail, the juvenile may be detained~~

~~only in that part of the jail which meets the requirements of section 3203-A, subsection 7, paragraph A; unless the court orders that the person be housed with adults for that portion of the detention served after the detainee has attained the age of 18 years.~~ The court may order such a sentence disposition to be served as a part of and with a period of probation, which ~~shall be~~ is subject to such provisions of Title 17-A, section 1204 as the court may order and which ~~shall must~~ be administered pursuant to Title 34-A, chapter 5, subchapter IV. Revocation of probation ~~shall be~~ is governed by the procedure contained in subsection 2. Any disposition under this paragraph is subject to Title 17-A, section 1253, subsection 2, but not to Title 17-A, section 1253, subsection 3-B, 4 or 5.

**Sec. 24. 15 MRSA §3314, sub-§4**, as enacted by PL 1983, c. 581, §2, is amended to read:

**4. Medical support.** Whenever the court commits a juvenile to the Maine Youth Center or to the Department of Human Services ~~or Department of Corrections for placement in a foster home, group care home or halfway house,~~ it shall notify ~~his~~ the juvenile's parents or legal guardian and, after hearing, may, as justice may demand, require the parent or legal guardian to provide medical insurance for or contract to pay the full cost of any medical treatment which, mental health treatment, substance abuse treatment and counseling that may be provided to the juvenile while ~~he~~ the juvenile is committed.

**Sec. 25. 15 MRSA §3317**, as amended by PL 1987, c. 400, §4, 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 or when the juvenile is under a specified period of probation, the commissioner of ~~either~~ the department ~~or,~~ the superintendent of the youth center or the Director of Probation and Parole 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 or period of probation. 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~~ the juvenile's parents or custodians, shall make a finding regarding those efforts and shall return custody of the juvenile to a parent or legal custodian if the return of the juvenile ~~would~~ is 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 must be served on the parents at least 7 days prior to the hearing.

**Sec. 26. 30-A MRSA §451, sub-§4**, as amended by PL 1989, c. 925, §12, is further amended to read:

**4. Detention.** In the case of an adult, "detention" means the confining of an adult held in lawful custody in a specially constructed or modified facility designed to ensure continued custody and control. Detention may be confinement before trial or another hearing by a court or confinement to serve court-imposed sentences or dispositions and may be in a jail or lock-up. In the case of a juvenile, "detention" ~~means being held in a secure detention facility, as defined~~ has the same meaning as in Title 15, section 3003, subsection ~~24-A 4-B~~.

**Sec. 27. 30-A MRSA §458-A**, as enacted by PL 1989, c. 925, §13, is amended to read:

**§458-A. Temporary holding capacity**

By January 1, 1992, each county shall establish the capacity to hold a juvenile for ~~48~~ 72 hours, excluding Saturday, Sunday and legal holidays, either in a temporary holding resource, as defined in Title 15, section 3003, subsection 26 or in a secure detention facility, as defined in Title 15, section 3003, subsection 24-A.

**Sec. 28. Effective date.** Section 23 of this Act takes effect January 1, 1992.

See title page for effective date, unless otherwise indicated.

## CHAPTER 494

H.P. 1258 - L.D. 1826

### An Act to Amend Maine's Underground Oil Storage Laws

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

**Whereas**, the Department of Environmental Protection's underground storage tank program has been underway for a number of years; and

**Whereas**, this Act is necessary to make state law conform with federal law and clears up inconsistencies within the Maine Revised Statutes; 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:**

**Sec. 1. 38 MRSA §562-A, sub-§§8 and 19**, as enacted by PL 1989, c. 865, §2, are amended to read:

**8. Existing underground oil storage facility or existing underground oil storage tank.** "Existing underground oil storage facility" or "existing underground oil storage tank" means any facility or tank, as defined in subsections 21 and 22, fully installed as of ~~the effective date of this Act~~ April 19, 1990, the location of which has not changed.

**19. Sensitive geologic areas.** "Sensitive geologic areas" means significant ground water aquifers and primary sand and gravel recharge areas, as defined in section 482, areas located within 1,000 feet of a public drinking water supply and areas located within 300 feet of a private drinking water supply.

**Sec. 2. 38 MRSA §563-A, sub-§8** is enacted to read:

**8. Repaired concrete underground oil storage tanks.** The requirements of subsection 1 do not apply to underground oil storage tanks that are constructed primarily of concrete and that:

A. Exceed 100,000 gallons in capacity;

B. Have been repaired after December 31, 1988;

C. Have environmental monitoring and other leak detection procedures approved by the commissioner; and

D. Have stored only #6 fuel oil since January 1, 1991.

After October 1, 1997 or after a documented leak or subsurface discharge of oil, a person may not operate, maintain or store oil in a concrete underground oil storage facility or tank exempt under this subsection.

**Sec. 3. 38 MRSA §564, sub-§1, ¶A**, as repealed and replaced by PL 1991, c. 66, Pt. B, §3, is amended to read:

A. All new and replacement tanks, piping and below ground ancillary equipment must be constructed of fiberglass, cathodically protected steel or other equally noncorrosive material approved by the department. All new and replacement tanks must include secondary containment, continuous monitoring of the interstitial spaces for all piping and below ground ancillary equipment except for suction piping systems installed in accordance with subsection 1-A. Both tanks and piping must be constructed of materials compatible with the product to be stored. Anchoring is required of tanks when located in a site where the ground water is expected to reach the bottom of the tank or in a 100-year flood plain.