

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

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NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES  
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J.S. McCarthy Company  
Augusta, Maine  
1993

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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## CHAPTER 354

## H.P. 1103 - L.D. 1490

An Act to Clarify Statutory Provisions  
Related to Juveniles

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

**Sec. 1. 15 MRSA §3203-A, sub-§1, ¶B-1**, as amended by PL 1989, c. 925, §4, is further amended to read:

B-1. When, in the judgment of a law enforcement officer, immediate secure detention is required to prevent a juvenile from imminently inflicting bodily harm on others or the juvenile, the officer may refer the juvenile for temporary, emergency detention in a jail or other secure facility intended or primarily used for the detention of adults approved pursuant to subsection 7, paragraph A or a facility approved pursuant to subsection 7, paragraph B, prior to notifying a juvenile caseworker ~~or the Department of the Attorney General~~, as applicable. Such a facility may detain the juvenile for up to 2 hours on an emergency basis, provided that the law enforcement officer immediately notifies the juvenile caseworker ~~or the Department of the Attorney General~~ and requests authorization to detain the juvenile beyond the term of the temporary, emergency detention pursuant to paragraph B. The juvenile caseworker ~~or the Department of the Attorney General~~ may, if continued emergency detention is required to prevent the juvenile from imminently inflicting bodily harm on others or the juvenile, authorize temporary emergency detention in that facility for an additional 4 hours. Following any temporary emergency detention, the juvenile caseworker ~~or the Department of the Attorney General~~ shall order the conditional or unconditional release of a juvenile or shall effect a detention placement. After December 31, 1991, any detention beyond 6 hours must be in a placement other than a facility intended or primarily used for the detention of adults and must be authorized by a juvenile caseworker ~~or the Department of the Attorney General~~. It is the responsibility of the law enforcement officer to remain at the facility until the juvenile caseworker ~~or the Department of the Attorney General~~ has released the juvenile or has authorized detention.

**Sec. 2. 15 MRSA §3203-A, sub-§4, ¶C**, as amended by PL 1991, c. 493, §7, is further amended to read:

C. Detention, if ordered, 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 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. 3. 15 MRSA §3203-A, sub-§7, ¶B-1**, as amended by PL 1991, c. 493, §12, is further amended to read:

B-1. After December 31, 1991 and until December 31, ~~1993~~ 1995, 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 court hearing, a preliminary hearing pursuant to Title 17-A, section 1205 ~~or~~, an entrustment violation hearing or transfer to another detention facility.

**Sec. 4. 15 MRSA §3203-A, sub-§7, ¶B-2**, as amended by PL 1993, c. 162, §1, is further amended to read:

B-2. Notwithstanding any other provision of law, until December 31, 1995, a juvenile may be detained in ~~the Androscoggin County Jail~~ a 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.

**Sec. 5. 15 MRSA §3203-A, sub-§9**, as amended by PL 1991, c. 493, §16, 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 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. 6. 15 MRSA §3308, sub-§7, ¶B**, as enacted by PL 1985, c. 426, is amended to read:

B. Nothing in this section precludes dissemination of any information contained in the records of juvenile proceedings or other records described in subsection 5 by one criminal justice agency to another criminal justice agency for the purpose of the administration of criminal justice, the administration of juvenile criminal justice and for criminal justice agency employment, ~~provided that~~ as long as:

(1) The person concerning whom the records are sought has been convicted of a crime as an adult;

(2) The person concerning whom the records are sought has been adjudicated as having committed a juvenile crime ~~which that~~, if committed by an adult, would be defined as a Class A, B or C crime by Title 17-A, the Maine Criminal Code, or by any other criminal statute outside that code;

(3) The person concerning whom the records are sought has been adjudicated as having committed a juvenile crime with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9; ~~or~~

(4) The person concerning whom the records are sought has been adjudicated as having committed 2 or more juvenile crimes ~~which that~~, if committed by an adult, would be defined as Class D or Class E crimes by Title 17-A, the Maine Criminal Code, or by any other criminal statute outside that code; ~~or~~

(5) The person seeking the records is the prosecuting attorney in any proceeding and the person concerning whom the records are sought is a defendant in that proceeding.

**Sec. 7. 15 MRSA §3308, sub-§7, ¶C** is enacted to read:

C. Nothing in this section precludes dissemination of the records of the Department of Corrections if the person concerning whom the records are sought, the person's legal guardian, if any, and if the person is a minor, the person's parent or legal guardian has given informed written consent to the disclosure of the records.

**Sec. 8. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 1991, c. 493, §23 and affected by §28, is further amended to read:

H. The court may commit the juvenile to the Maine Youth Center and order that the disposition be suspended or may commit the juvenile for a period of detention that may not exceed 30 days, with or without an underlying suspended disposition to the Maine Youth Center, which detention may be served intermittently as the court may order and must be ordered served in a detention facility approved or operated by the Department of Corrections exclusively for juveniles. The court may order such a disposition to be served as a part of and with a period of probation, which is subject to such provisions of Title 17-A, section 1204 as the court may order and which must be administered pursuant to Title 34-A, chapter 5, subchapter IV. Revocation of probation 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. Any disposition under this paragraph ordering a period of detention to be served in a county-operated detention facility by a juvenile from another county is governed by section 1705.

**Sec. 9. 15 MRSA §3314, sub-§4**, as amended by PL 1991, c. 776, §3, is further 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 places a juvenile on a period of probation, it ~~shall notify 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, mental health treatment, substance abuse treatment and counseling that may be provided to the juvenile while the juvenile is committed, including while on entrapment or on probation.

**Sec. 10. 15 MRSA §3314-A**, as enacted by PL 1977, c. 664, §39, is amended to read:

**§3314-A. Period of probation; modification and discharge**

The period of probation of a juvenile, its modification and discharge, ~~shall be~~ is as provided by Title 17-A, section 1202, except that the period of probation of a juvenile convicted of a juvenile crime as defined by section 3103, subsection 1, ~~paragraphs paragraph B, C, D or E, shall may not exceed one year. The period of probation may extend beyond the juvenile's 21st birthday.~~

**Sec. 11. 15 MRSA §3316, sub-§2, ¶A**, as amended by PL 1983, c. 480, Pt. B, §21, is further amended to read:

A. A commitment of a juvenile to the Department of Corrections, including a commitment to the Maine Youth Center, pursuant to section 3314, ~~shall must~~ be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits or extends the indeterminate commitment, ~~provided that as long as the court shall does~~ not limit the commitment to less than one year nor extend the commitment beyond a juvenile's 21st birthday and as long as an order does not result in a commitment of less than one year, unless the commitment is for an indeterminate period not to extend beyond the juvenile's 21st birthday. Nothing in this Part may be construed to prohibit the provision to a juvenile following the expiration of ~~his~~ the juvenile's term of commitment of services voluntarily accepted by the juvenile and ~~his~~ the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; except that these services ~~shall may~~ not be extended beyond the juvenile's 21st birthday.

**Sec. 12. 15 MRSA §3501, sub-§7, ¶B**, as amended by PL 1985, c. 439, §18, is further 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 juvenile 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. 13. 30-A MRSA §458-A**, as amended by PL 1991, c. 493, §27, is further amended to read:

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

By January 1, 1992, each county shall establish the capacity to hold a juvenile for 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 or shall establish a juvenile detention diversion project approved by the Department of Corrections.

**Sec. 14. 34-A MRSA §3003, sub-§1**, as amended by PL 1993, c. 13, §1, is further amended to read:

**1. Limited disclosure.** All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department, must be kept confidential and may not be disclosed by any person, except that criminal history record information may be disseminated in accordance with Title 16, chapter 3, subchapter VIII, and documents, other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated, or a victim's request for notice of release, may be disclosed:

A. To any person, if the person receiving services, that person's legal guardian, if any, ~~or and~~, if that person is a minor, that person's parent or legal guardian, gives informed written consent to the disclosure of the documents referred to in this subsection after being given the opportunity to review the documents sought to be disclosed;

B. To any state agency if necessary to carry out the statutory functions of that agency;

C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503; and

D. To any criminal justice agency if necessary to carry out the administration of criminal justice, the administration of juvenile criminal justice or for criminal justice agency employment.

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of juveniles receiving services from the department and, if applicable, the Medicaid eligibility numbers and the dates on which those juveniles received Medicaid services to the Bureau of Medical Services and the Bureau of Income Maintenance within the Department of Human Services for the sole purpose of determining eligibility and billing for Medicaid services provided by or through the department. The department may also release to the Department of Human Services information required for, and to be used solely for, audit purposes, consistent with federal law, for Medicaid services provided by or through the department. Department of Human Services personnel must treat this information as confidential in accordance with federal and state law and must return the records when their purpose has been served. ~~This paragraph does not authorize the department to release client treatment plans, psychological profiles or criminal records to the Department of Human Services.~~

**Sec. 15. 34-A MRSA §4110**, as enacted by PL 1991, c. 400, is amended to read:

**§4110. State responsible for detention**

Notwithstanding any other provision of law, on the date that the Northern Maine Regional Juvenile Detention Facility begins operating, the State is responsible for all physically restrictive juvenile detention statewide, except that the detention provided under Title 15, section 3203-A, subsection 1 remains the responsibility of the counties.

See title page for effective date.

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## CHAPTER 355

### H.P. 1113 - L.D. 1509

#### An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection's Bureau of Hazardous Materials and Solid Waste Control

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

Whereas, there is a need to exempt certain oil terminal facilities from unnecessary licensing requirements; and

Whereas, it is necessary to resolve questions raised in a recent law court decision concerning procedural provisions of the 3rd-party oil damage claims process in order to achieve efficiencies in the resolution of disputed claims; and

Whereas, it is important to exempt certain underground oil storage facilities from daily inventory and annual statistical inventory requirements in cases where they are not technically feasible; 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. 37-B MRSA §797, first ¶**, as enacted by PL 1989, c. 464, §3, is amended to read:

Any A person required to submit a facility emergency response plan, material safety data sheet or list of hazardous chemicals and extremely hazardous substances must submit a Maine chemical inventory reporting form to the commission, the Department of Environmental Protection, the local emergency planning committee and the local fire department with jurisdiction over the facility, by March 1st annually. ~~This form shall require information~~ Information on the inventory of extremely hazardous substances and hazardous chemicals for the previous calendar year is required on the form. These forms ~~shall~~ must state, at a minimum:

**Sec. 2. 37-B MRSA §799**, as amended by PL 1989, c. 929, §4, is further amended to read:

**§799. Toxic chemical release forms**

Under this section, the owner or operator of every facility with 10 or more employees and within Standard Industrial Classification Codes 20-39 must file toxic chemical release forms for routine releases with the United States Environmental Protection Agency, the Department of Environmental Protection, the commission and the local emergency planning committee by October 1, 1989; and annually thereafter consistent with the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, Title III, Section 313, and 40 Code of Federal Regulations, Part 372. Those forms must be made available to the public by the commission and the local emergency planning committee. The owner or operator of every facility required to report under this section must also submit a report on the progress made by the facility toward meeting the toxics release reduction goals established in Title 38, section 2303.