

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND NINETEENTH LEGISLATURE**  
**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 11, 2000**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2000**

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

Sec. 1. 5 MRSA §1825-J is enacted to read:

**§1825-J. Reports**

When a state agency enters into a contract with a nongovernmental entity, and the contract includes a report to the agency, the contract must require that the report be in writing or in another reproducible nontransitory medium and be submitted to the agency. The report must express all of the substantive conclusions disclosed to the agency and either summarize the information and data or identify the source of the information and data on which those conclusions are based. Once the report is submitted, the agency shall retain at least one copy of the report in its custody. This section applies to contracts with a total cost of \$10,000 or more.

See title page for effective date.

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**CHAPTER 624**

**H.P. 1741 - L.D. 2447**

**An Act to Amend the Maine Juvenile Code**

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

**PART A**

Sec. A-1. 15 MRSA §3203-A, sub-§2, ¶A, as amended by PL 1999, c. 260, Pt. A, §2, is further amended to read:

A. When a juvenile is arrested, the law enforcement officer or the juvenile ~~caseworker~~ community corrections officer shall notify the legal custodian of the juvenile without unnecessary delay and inform the legal custodian of the juvenile's whereabouts, the name and telephone number of the juvenile ~~caseworker~~ community corrections officer who has been contacted and, if a juvenile has been placed in a secure juvenile detention facility, that a detention hearing will be held within ~~24~~ 48 hours following this placement, excluding Saturday, Sunday and legal holidays. Notwithstanding this provision, if a juvenile has been placed in a secure detention facility pursuant to subsection 7, paragraph B-5, the law enforcement officer or the juvenile community corrections officer shall notify the legal custodian that a detention hearing will be held within 24 hours following this placement, excluding Saturday, Sunday and legal holidays.

Sec. A-2. 15 MRSA §3203-A, sub-§4, ¶E, as amended by PL 1999, c. 260, Pt. A, §4, is further amended to read:

E. If a juvenile ~~caseworker~~ community corrections officer or an attorney for the State orders a juvenile detained, the juvenile ~~caseworker~~ community corrections officer who ordered the detention or the attorney for the State who ordered the detention shall petition the Juvenile Court for a review of the detention in time for the detention hearing to take place within ~~24 hours following the detention~~ the time provided by subsection 5, unless the juvenile ~~caseworker~~ community corrections officer who ordered the detention or the attorney for the State who ordered the detention has ordered the release of the juvenile. The juvenile ~~caseworker~~ community corrections officer who ordered the detention or the attorney for the State who ordered the detention may order the release of the juvenile anytime prior to the detention hearing. If the juvenile is so released, a detention hearing may not be held.

Sec. A-3. 15 MRSA §3203-A, sub-§5, as amended by PL 1999, c. 531, Pt. J, §1, is further amended to read:

**5. Detention hearing.** Upon petition by a juvenile ~~caseworker~~ community corrections officer who ordered the detention or an attorney for the State who ordered the detention, the Juvenile Court shall review the decision to detain a juvenile within ~~24~~ 48 hours following the detention, excluding Saturday, Sunday and legal holidays, except that if a juvenile is detained pursuant to subsection 7, paragraph B-5, the Juvenile Court shall review the decision to detain the juvenile within 24 hours following the detention, excluding Saturday, Sunday and legal holidays.

A. A detention hearing must precede and must be separate from a bind-over or adjudicatory hearing. Evidence presented at a detention hearing may include testimony, affidavits and other reliable hearsay evidence as permitted by the court and may be considered in making any determination in that 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. Continued detention may not be ordered unless the Juvenile Court determines that there is

probable cause to believe that the juvenile has committed a juvenile crime.

**Sec. A-4. 15 MRSA §3203-A, sub-§7, ¶B-4**, as amended by PL 1997, c. 752, §12, is further amended to read:

B-4. The State is responsible for all physically restrictive juvenile detention statewide, except that the detention for up to 6 hours provided under subsection 1 remains the responsibility of the counties. At the discretion of the sheriff, if the requirements of paragraph B-5 are met, a county may assume responsibility for the detention of a juvenile for the first 48 up to 24 hours, excluding Saturdays, Sundays and legal holidays. Upon mutual agreement of the Commissioner of Corrections and the sheriff and upon terms mutually agreeable to them, a juvenile may be further detained by a county for a longer period of time in an approved detention facility or temporary holding resource complying with paragraph B. Any detention of a juvenile by a county must be in a section of a jail or other secure detention facility in compliance with paragraph A or in an approved detention facility or temporary holding resource in compliance with paragraph B. This paragraph does not apply to a juvenile who is held in an adult section of a jail pursuant to court order under paragraph C or D; section 3101, subsection 4, paragraph E-1; or section 3205, subsection 2.

**Sec. A-5. 15 MRSA §3203-A, sub-§7, ¶B-5** is enacted to read:

B-5. If the juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention determines there is no reasonable alternative, a juvenile may be detained in a jail or other secure detention facility intended or primarily used for the detention of adults for up to 24 hours, excluding Saturday, Sunday and legal holidays if:

- (1) The facility meets the requirements of paragraph A;
- (2) The facility is not located in a standard metropolitan statistical area and meets the statutory criteria contained in the federal Juvenile Justice and Delinquency Prevention Act of 1974, 42 United States Code, Section 5601; and
- (3) The juvenile is detained only to await a detention hearing pursuant to subsection 5 or section 3314, subsection 2, transfer to an appropriate juvenile facility, or transport to another jurisdiction.

**Sec. A-6. 15 MRSA §3205**, as amended by PL 1997, c. 752, §14, is further amended to read:

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

**1. Generally.** 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-4~~. 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 pursuant to section 3203-A 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~~.

**Sec. A-7. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 1997, c. 752, §20, is further amended to read:

H. The court may commit the juvenile to a Department of Corrections juvenile correctional facility 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 a Department of Corrections juvenile correctional facility, which detention must be served concurrently with any other period of detention previously imposed and not fully discharged or imposed on the same date but 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 that~~ is subject to such provisions of Title 17-A, section 1204 as the court may order and ~~which that~~ 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, 5 or 8.

**Sec. A-8. 15 MRSA §3314, sub-§2,** as amended by PL 1999, c. 260, Pt. A, §9, is further amended to read:

**2. Suspended disposition.** The court may impose any of the dispositional alternatives provided in subsection 1 and may suspend its disposition and place the juvenile on a specified period of probation that is subject to such provisions of Title 17-A, section 1204 as the court may order and that is administered pursuant to the provisions of Title 34-A, chapter 5, subchapter IV, except that ~~in no case may~~ the court may not impose the condition set out in Title 17-A, section 1204, subsection 1-A. The court may impose as a condition of probation that a juvenile must reside outside the juvenile's home in a setting satisfactory to the juvenile ~~caseworker~~ community corrections officer if the court determines that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and that continuation in the juvenile's home would be contrary to the welfare of the juvenile. Imposition of such a condition does not affect the legal custody of the juvenile.

Modification of probation is governed by the procedures contained in Title 17-A, section 1202, subsection 2. Termination of probation is governed by the procedures contained in Title 17-A, section 1202, subsection 3. Revocation of probation is governed by the procedures contained in Title 17-A, sections 1205, 1205-B, 1205-C and 1206, except that the provisions of Title 17-A, section 1205, subsections 4 and 5 and those sections requiring a preliminary hearing and Title 17-A, section 1206, subsection 7-A do not apply and those provisions of Title 17-A, section 1206, subsection 7-A allowing a vacating of part of the suspension of execution apply only to a disposition under subsection 1, paragraph G or H; however, a disposition under subsection 1, paragraph F may be modified to a disposition under subsection 1, paragraph H. If the juvenile is being detained for an alleged violation of probation, the court shall review within 48 hours following the detention, excluding Saturdays, Sundays and legal holidays, the decision to detain the juvenile. Following that review, the court shall order the juvenile's release unless the court finds that there is probable cause to believe that the juvenile has violated a condition of probation and finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention under section 3203-A, subsection 4, paragraph C.

## PART B

**Sec. B-1. 15 MRSA §3003, sub-§10,** as amended by PL 1985, c. 439, §2, is further amended to read:

**10. Informal adjustment.** "Informal adjustment" means a voluntary arrangement between a juvenile ~~caseworker~~ community corrections officer and a juvenile referred to ~~him~~ which the officer that provides sufficient basis for a decision by the juvenile ~~caseworker~~ community corrections officer not to file a petition under chapter 507.

**Sec. B-2. 15 MRSA §3003, sub-§14-B,** as enacted by PL 1985, c. 439, §4 and amended by PL 1999, c. 401, Pt. J, §4, is further amended to read:

**14-B. Juvenile community corrections officer.** "Juvenile ~~caseworker~~ community corrections officer" 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 Southern Maine Juvenile Facility who are on leave or in the community on ~~en-trustment~~ aftercare; and
- C. To perform all ~~caseworker~~ community corrections officer functions established by this Part for a juvenile alleged to have committed a juvenile crime.

**Sec. B-3. 15 MRSA §3203-A, sub-§1,** as amended by PL 1999, c. 260, Pt. A, §1, is further amended to read:

**1. Notification of a juvenile community corrections officer.** A juvenile ~~caseworker~~ community corrections officer ~~shall receive~~ receives 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~~ community corrections officer 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~~ community corrections officer within 12 hours following the arrest.

A-1. If the law enforcement officer determines that detention is not necessary but the officer is unable to immediately return the juvenile to the custody of ~~his~~ the juvenile's legal custodian or another suitable person, the officer, with the juvenile's consent, may deliver the juvenile to any public or private agency ~~which~~ that provides nonsecure services to juveniles, including an agency ~~which~~ that provides attendant care.

B. When, in the judgment of a law enforcement officer, a juvenile should be detained prior to ~~his~~

the juvenile's initial appearance in juvenile court, the law enforcement officer shall immediately notify a juvenile ~~easeworker~~ community corrections officer.

(1) Detention under this section ~~shall~~ must be requested by the law enforcement officer within 2 hours after the juvenile's arrest or the juvenile ~~shall~~ must be released.

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

B-1. ~~When~~ If, 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 ~~easeworker~~ community corrections officer. Such a facility may detain the juvenile for up to 2 hours on an emergency basis, ~~provided that as long as~~ the law enforcement officer immediately notifies the juvenile ~~easeworker~~ community corrections officer and requests authorization to detain the juvenile beyond the term of the temporary, emergency detention pursuant to paragraph B. The juvenile ~~easeworker~~ community corrections officer 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 ~~easeworker~~ community corrections officer shall order the conditional or unconditional release of a juvenile or shall effect a detention placement. Except as otherwise provided by law, 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 ~~easeworker~~ community corrections officer. It is the responsibility of the law enforcement officer to remain at the facility until the juvenile ~~easeworker~~ community corrections officer has released the juvenile or has authorized detention.

C. In cases under Title 5, section 200-A, the law enforcement officer shall immediately notify the

juvenile ~~easeworker~~ community corrections officer and the Department of the Attorney General. In all other cases the law enforcement officer shall immediately notify the juvenile ~~easeworker~~ community corrections officer if the law enforcement officer believes that immediate secure detention is required. If the juvenile ~~easeworker~~ community corrections officer determines not to order the detention or continued detention of the juvenile, the ~~easeworker~~ community corrections officer shall inform the law enforcement officer and the attorney for the State prior to the juvenile's release. The attorney for the State, with or without a request from a law enforcement officer, shall consider the facts of the case, consult with the juvenile ~~easeworker~~ community corrections officer who made the initial determination, consider standards for detention under subsection 4, paragraph C and subsection 4, paragraph D, subparagraphs (1) to (6) and may order detention or continued detention of the juvenile under the same or any authorized conditions pending the juvenile's initial appearance before the court. If detention or continued detention is ordered, the detention placement must be made by the juvenile ~~easeworker~~ community corrections officer within 12 hours following the juvenile's arrest.

**Sec. B-4. 15 MRSA §3203-A, sub-§3,** as amended by PL 1999, c. 260, Pt. A, §3, is further amended to read:

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

A report of a notification pursuant to subsection 1 must be filed within 24 hours of the notification, excluding nonjudicial days. ~~When~~ If a juvenile ~~easeworker~~ community corrections officer orders the conditional release of a juvenile and a report of the notification is not filed with the juvenile ~~easeworker~~ community corrections officer within 15 days, excluding nonjudicial days, the juvenile ~~easeworker~~ community corrections officer shall review the conditions imposed at the time of the release. Following the review, the juvenile ~~easeworker~~ community corrections officer may lessen or eliminate the conditions.

The date on which the report is received by the juvenile ~~easeworker~~ community corrections officer is

the date of referral to the juvenile ~~caseworker~~ community corrections officer for an intake assessment.

**Sec. B-5. 15 MRSA §3203-A, sub-§4**, as amended by PL 1999, c. 260, Pt. A, §4, is further amended to read:

**4. Release or detention ordered by juvenile community corrections officer.** The release or detention of a juvenile may be ordered by a juvenile ~~caseworker~~ community corrections officer as follows.

A. Upon notification from a law enforcement officer, a juvenile ~~caseworker~~ community corrections officer shall direct the release or detention of a juvenile pending that juvenile's initial appearance before the court. ~~When~~ If a juvenile is released unconditionally, whether by a law enforcement officer without notification to a juvenile ~~caseworker~~ community corrections officer or by a juvenile ~~caseworker~~ community corrections officer, 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~~ community corrections officer. The juvenile ~~caseworker~~ community corrections officer shall direct the unconditional or conditional release of the juvenile or order the juvenile detained in accordance with paragraphs C and D.

B. Release may be unconditional or conditioned upon the juvenile's promise to appear for subsequent official proceedings or, if a juvenile ~~cannot~~ can not 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~~ community corrections officer or the Juvenile Court;
- (2) Upon the juvenile's voluntary agreement to placement 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~~ community corrections officer 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~~ community corrections officer 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~~ community corrections officer 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.

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~~ can not 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.

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

(1) Has committed an act ~~which that~~ 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 that~~ 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 ~~easeworker~~ community corrections officer 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 ~~easeworker~~ community corrections officer or the court or has stated the intent not to appear.

~~Nonetheless, when~~ If, in the judgment of the juvenile ~~easeworker~~ community corrections officer, based on an assessment of risk, or in the judgment of the Juvenile Court, it is not necessary or appropriate to detain a juvenile who satisfies the criteria for detention, the juvenile ~~easeworker~~ community corrections officer 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 group home, emergency shelter, foster placement or attendant care, subject to specific conditions, including supervision by a juvenile ~~easeworker~~ community corrections officer or a designated supervisor. Such a placement is considered a conditional release.

~~In no case may detention~~ Detention may not be ordered when either unconditional or conditional release is appropriate.

E. If a juvenile ~~easeworker~~ community corrections officer or an attorney for the State orders a juvenile detained, the juvenile ~~easeworker~~ community corrections officer who ordered the detention or the attorney for the State who ordered

the detention shall petition the Juvenile Court for a review of the detention in time for the detention hearing to take place within 24 hours following ~~the detention the time required by subsection 5,~~ unless the juvenile ~~easeworker~~ community corrections officer who ordered the detention or the attorney for the State who ordered the detention has ordered the release of the juvenile. The juvenile ~~easeworker~~ community corrections officer who ordered the detention or the attorney for the State who ordered the detention may order the release of the juvenile anytime prior to the detention hearing. If the juvenile is so released, a detention hearing may not be held.

**Sec. B-6. 15 MRSA §3203-A, sub-§9,** as amended by PL 1993, c. 354, §5, 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 ~~easeworker~~ community corrections officer, a juvenile ~~easeworker~~ community corrections officer or a law enforcement officer may apply to the Juvenile Court for a warrant of arrest.

A law enforcement officer or juvenile ~~easeworker~~ community corrections officer having probable cause to believe that a juvenile has violated a condition of release 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 ~~easeworker~~ community corrections officer. The juvenile ~~easeworker~~ community corrections officer 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. B-7. 15 MRSA §3204,** as amended by PL 1997, c. 421, Pt. A, §1, is further amended to read:

#### **§3204. Statements not admissible in evidence**

Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made to a juvenile ~~easeworker~~ community corrections officer during the course of a preliminary investigation or made to a



community resolution team under section 3301 are not admissible in evidence at an adjudicatory hearing against that juvenile if a petition based on the same facts is later filed.

Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made during the course of screening and assessment for participation in a juvenile drug treatment court program if made to a juvenile community corrections officer or to another person reporting on or supervising the juvenile in connection with the program are not admissible in evidence at an adjudicatory or probation violation hearing against that juvenile if a petition or motion to revoke probation based on the same facts is the subject of the hearing.

**Sec. B-8. 15 MRSA §3301, sub-§1,** as amended by PL 1999, c. 260, Pt. A, §6, is further amended to read:

**1. Preliminary investigation.** When a juvenile accused of having committed a juvenile crime is referred to a juvenile ~~caseworker~~ community corrections officer, the juvenile ~~caseworker~~ community corrections officer 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 juvenile ~~caseworker~~ community corrections officer shall:

- A. Decide that action requiring ongoing supervision is not 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.

**Sec. B-9. 15 MRSA §3301, sub-§5,** as amended by PL 1999, c. 260, Pt. A, §7 and c. 266, §§1 to 3, is further amended to read:

**5. Juvenile community corrections officer alternatives.** On the basis of the preliminary investigation, the juvenile ~~caseworker~~ community corrections officer shall choose one of the following alternatives:

- A. Decide that action requiring ongoing supervision is not required either in the interests of the public or of the juvenile. If the juvenile ~~caseworker~~ community corrections officer determines that the facts in the report prepared for the ~~caseworker~~ community corrections officer by the referring officer pursuant to section 3203-A, subsection 3 are sufficient to file a petition, but in

the ~~caseworker's~~ community corrections officer's 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 the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, the juvenile ~~caseworker~~ community corrections officer 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 juvenile ~~caseworker~~ community corrections officer may effect whatever informal adjustment is agreed to by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime and the performance of community service. Informal adjustments may extend no longer than 6 months and may not be commenced unless:

- (1) The juvenile ~~caseworker~~ community corrections officer determines that the juvenile and the juvenile's 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 may not 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 the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated;

C. If the juvenile ~~caseworker~~ community corrections officer determines that the facts are sufficient for the filing of a petition, the juvenile ~~caseworker~~ community corrections officer shall request the prosecuting attorney to file a petition; or

D. If the juvenile ~~caseworker~~ community corrections officer makes a determination pursuant to paragraph A or B, the ~~caseworker~~ community corrections officer shall notify the juvenile and the juvenile's parents, guardian or legal custodian at least 2 weeks prior to the date for which they are summonsed.

**Sec. B-10. 15 MRSA §3301, sub-§5-A**, as amended by PL 1999, c. 167, §1, is further amended to read:

**5-A. Community resolution teams.** In accordance with policy and procedures established by the Department of Corrections, the juvenile ~~caseworker~~ community corrections officer may establish a community resolution team after completing the preliminary investigation.

A. Team participants may include the team facilitator; the juvenile ~~caseworker~~ community corrections officer; the juvenile's parents, guardian or legal custodian; the complainant; the victim; a person designated by the victim; the law enforcement officer who notified the juvenile ~~caseworker~~ community corrections officer; and any other person who the juvenile ~~caseworker~~ community corrections officer determines is appropriate.

B. The community resolution team may agree to effect an informal adjustment or recommend to the juvenile ~~caseworker~~ community corrections officer one of the alternatives in subsection 5. If the team makes a recommendation, the juvenile ~~caseworker~~ community corrections officer shall consider the recommendation and decide which alternative to choose.

C. The Department of Corrections shall report on the progress of the community resolution teams to the joint standing committee of the Legislature having jurisdiction over criminal justice matters no later than January 1st annually.

~~D. The Department of Corrections shall make a final report on the effectiveness of community resolution teams to the joint standing committee of the Legislature having jurisdiction over criminal justice matters no later than March 1, 1999. Victims, the law enforcement community, prosecuting attorneys, defense attorneys and other parties that have been involved in community resolution teams may also address the committee at the time the Department of Corrections makes its final report.~~

**Sec. B-11. 15 MRSA §3301, sub-§6**, as amended by PL 1997, c. 645, §9, is further amended to read:

**6. Review by attorney for the State.** If the juvenile ~~caseworker~~ community corrections officer decides not to request the attorney for the State to file a petition, the juvenile ~~caseworker~~ community corrections officer shall inform the complainant, the law enforcement officer and the victim of the decision and of the reasons for the decision as soon as practicable. The juvenile ~~caseworker~~ community corrections

officer shall advise the complainant, the law enforcement officer and the victim that they may submit their complaint to the attorney for the State for review.

The attorney for the State on that attorney's 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 juvenile ~~caseworker~~ community corrections officer who made the initial decision and then make a final decision as to whether to file the petition. Notwithstanding any action or inaction by the juvenile ~~caseworker~~ community corrections officer, the attorney for the State may file a petition at any time more than 30 days after the juvenile ~~caseworker~~ community corrections officer has been given notice pursuant to section 3203-A.

**Sec. B-12. 15 MRSA §3301, sub-§7**, as amended by PL 1989, c. 599, §7, is further amended to read:

**7. Nonapplication of section.** The provisions of this section do not apply to a juvenile charged with either of the juvenile crimes defined in section 3103, subsection 1, paragraph E or F, and a petition may be filed without recommendation by a juvenile ~~caseworker~~ community corrections officer. The provisions of section 3203-A apply in the case of a juvenile charged with either of the juvenile crimes defined in section 3103, subsection 1, paragraph E or F.

**Sec. B-13. 15 MRSA §3303**, as amended by PL 1995, c. 133, §1, 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 must be dismissed with prejudice if it was not filed within 9 months from the date the juvenile was referred to the juvenile ~~caseworker~~ community corrections officer for an intake assessment, unless the prosecuting attorney either before or after the expiration of the 9-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-A.

**Sec. B-14. 15 MRSA §3304, sub-§1**, as amended by PL 1999, c. 266, §4, is further amended to read:

**1. Issuance and contents.** The summons issued by the law enforcement officer must include the signature of the law enforcement officer, a brief description of the alleged juvenile crime, the time and place of the alleged juvenile crime and the time and place the juvenile is to appear in court. The summons

must also include a statement of the constitutional rights of the juvenile, including the right to have an attorney present at the hearing on the petition and to have an attorney appointed, if indigent. The summons must also include a notice that the case may be informally adjusted by a juvenile ~~caseworker~~ community corrections officer.

**Sec. B-15. 15 MRSA §3304, sub-§3**, as repealed and replaced by PL 1999, c. 266, §5, is amended to read:

**3. Service.** The summons must be directed to and served upon the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated. The summons must be served in hand or by leaving it at the juvenile's and parents', guardian's or legal custodian's dwelling house or usual place of abode with a person of suitable age and discretion residing in that house or by mailing it to the last known address of the juvenile. A copy of the summons must be mailed to the juvenile ~~caseworker~~ community corrections officer and the ~~district~~ attorney for the State.

**Sec. B-16. 15 MRSA §3306-A**, as amended by PL 1991, c. 493, §18, is further 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~~ community corrections officer remains on conditional release until disposition.

**Sec. B-17. 15 MRSA §3307, sub-§1-A**, as amended by PL 1991, c. 776, §1, is further amended to read:

**1-A. Release of identity.** ~~No~~ A law enforcement officer, officer of the court or juvenile ~~caseworker~~ community corrections officer may not 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~~ community corrections officer decides not to file a petition in accordance with section 3301, subsection 5, paragraph A or B or if the juvenile ~~caseworker~~ community corrections officer requests the prosecuting attorney to file a petition in accordance with section 3301, subsection 5, paragraph C.

**Sec. B-18. 15 MRSA §3308, sub-§5**, as amended by PL 1985, c. 439, §14, is further amended to read:

**5. Other records.** Police records, juvenile ~~caseworkers'~~ community corrections officers' records, ~~probation officers'~~ records and all other reports of social and clinical studies ~~shall~~ may 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. B-19. 15 MRSA §3312, sub-§3, ¶A**, as repealed and replaced by PL 1987, c. 720, §4, is amended to read:

A. The court may continue the dispositional hearing, either on its own motion or on the motion of any interested party:

(1) For a period not to exceed one month to receive reports or other evidence;

(2) For a period not to exceed 2 months to allow for service of notice as required in section 3314, subsection 1, paragraph C-1 or C-2; or

(3) For a period not to exceed 12 months in order to place the juvenile in a supervised work or service program ~~or a restitution program or a juvenile drug treatment court program~~, or for such other purpose as the court in its discretion determines appropriate. If a supervised work or service program ~~or a restitution program or a juvenile drug treatment court program~~ has been ordered, the court shall on final disposition consider whether or not there has been compliance with the program so ordered.

**Sec. B-20. 15 MRSA §3312, sub-§3, ¶D** is enacted to read:

D. If the court finds, after opportunity for hearing, that a juvenile released with a condition of participation in a juvenile drug treatment court program has intentionally or knowingly violated that condition, the court may impose a sanction of up to 7 days' detention in a detention facility approved or operated by the Department of Corrections exclusively for juveniles. Nothing in this paragraph restricts the ability of the court to impose sanctions other than detention for the violation of a condition of participation in a juvenile drug treatment court program or the ability of the court to enter any dispositional order allowed under section 3314 on final disposition.

**Sec. B-21. 15 MRSA §3507**, as amended by PL 1985, c. 439, §21, is further amended to read:

**§3507. Runaway juveniles returned from another state**

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

**Sec. B-22. 34-A MRSA §3802, sub-§1, ¶D**, as amended by PL 1999, c. 463, §2, is further amended to read:

D. To protect the public from dangerous juveniles; ~~and~~

**Sec. B-23. 34-A MRSA §3802, sub-§1, ¶E**, as enacted by PL 1999, c. 463, §3, is amended to read:

E. To confine juveniles ordered detained pursuant to Title 15, section 3314, subsection 1, paragraph H; ~~and~~

**Sec. B-24. 34-A MRSA §3802, sub-§1, ¶F** is enacted to read:

F. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D.

**Sec. B-25. 34-A MRSA §4102, sub-§§4 and 5**, as enacted by PL 1999, c. 583, §40, are amended to read:

**4. Rehabilitation.** To rehabilitate juveniles committed to a juvenile correctional facility pursuant to Title 15, section 3314, subsection 1, paragraph F; ~~and~~

**5. Protection.** To protect the public from dangerous juveniles; ~~and~~

**Sec. B-26. 34-A MRSA §4102, sub-§6** is enacted to read:

**6. Confinement pursuant to detention for violation of participation in certain treatments.** To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D.

See title page for effective date.

## CHAPTER 625

### H.P. 1782 - L.D. 2499

#### An Act Concerning the Date by Which Land Must be Acquired by the Penobscot Nation

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

**Sec. 1. 30 MRSA §6205, sub-§2, ¶B**, as amended by PL 1995, c. 601, §1 and affected by §2, is further amended to read:

B. The first 150,000 acres of land acquired by the secretary for the benefit of the Penobscot Nation from the following areas or lands to the extent that those lands are acquired by the secretary prior to January 31, ~~2001~~ 2021, are not held in common with any other person or entity and are certified by the secretary by January 31, ~~2001~~ 2021, as held for the Penobscot Nation:

The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P. (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.; the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5, B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5, B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.; any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International Corporation, International Paper Company and Lincoln Pulp and Paper Company located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.; any 300 acres in Old Town mutually agreed upon by the City of Old Town and the Penobscot Nation Tribal Government, provided that the mutual agreement must be finalized prior to August 31, 1991; any lands in Lakeville acquired by the Penobscot Nation before January 1, 1991; and all the property acquired by the Penobscot Indian Nation from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and