

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 13, 2002 to November 14, 2002**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

This paragraph does not apply if the department is required to undertake reunification efforts and the department has not provided to the family of the child such services as the court determines to be necessary for the safe return of the child to the child's home consistent with the time period in the case plan;

B. A Within 60 days of a court order that includes a finding of an aggravating factor and an order to cease reunification; or

C. Within 60 days of a court finding that the child has been abandoned.

The department is not required to file a termination petition if the department has chosen to have the child cared for by a relative or the department has documented to the court a compelling reason for determining that filing such a petition would not be in the best interests of the child.

**Sec. 8. Statement of intent regarding youth services.** It is the intent of the Legislature that the Department of Human Services and the Department of Behavioral and Developmental Services provide services to eligible children and their families in home and community settings whenever possible, minimizing the need for intervention by the State and eliminating the need for parents to give up custody in order to qualify their children for services. As appropriate to the child and family and within existing resources, services must include assessment, health care and case management.

See title page for effective date.

## CHAPTER 409

S.P. 467 - L.D. 1419

### An Act To Protect Campers by Making Personal Information Confidential

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

**Sec. 1. 12 MRSA §1827, sub-§3** is enacted to read:

**3. Camper confidentiality.** Notwithstanding Title 1, chapter 13, subchapter 1, the names of campers, other identifying information and dates of a reservation are confidential and are not subject to public disclosure during the calendar year for which a reservation is made. Records may be made available

upon request to law enforcement officers investigating criminal activity.

See title page for effective date.

## CHAPTER 410

H.P. 1165 - L.D. 1592

### An Act To Amend the Department of Corrections' Laws Pertaining to Juvenile Offenders

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

**Sec. 1. 12 MRSA §6004** is enacted to read:

#### **§6004. Juvenile violations**

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment.

**Sec. 2. 12 MRSA §7003** is enacted to read:

#### **§7003. Juvenile violations**

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment.

**Sec. 3. 12 MRSA §8004** is enacted to read:

#### **§8004. Juvenile violations**

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment.

**Sec. 4. 15 MRSA §3003, sub-§14-B, ¶B,** as amended by PL 1999, c. 624, Pt. B, §2 and PL 2001, c. 439, Pt. G, §6, is further amended to read:

B. To provide appropriate services to juveniles committed to ~~the Long Creek Youth Development Center~~ a Department of Corrections juvenile correctional facility who are on leave or in the community on ~~aftercare~~ community reintegration; and

**Sec. 5. 15 MRSA §3103, sub-§1, ¶F**, as amended by PL 1997, c. 462, §3, is further amended to read:

F. The criminal violation of operating a motor vehicle under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, as defined in Title 29-A, section 2411, and offenses defined in Title 29-A as Class B or C crimes; ~~and~~

**Sec. 6. 15 MRSA §3103, sub-§1, ¶G**, as enacted by PL 1997, c. 462, §4, is amended to read:

G. A violation of section 393, subsection 1-A; ~~and~~

**Sec. 7. 15 MRSA §3103, sub-§1, ¶H** is enacted to read:

H. If a juvenile has been convicted of a crime for a violation of a provision of Title 12 or 29-A not specifically included in paragraph E or F, willful refusal to pay a resulting fine or willful violation of the terms of a resulting probation or willful failure to comply with the terms of any other resulting court order.

**Sec. 8. 29-A MRSA §115** is enacted to read:

#### **§115. Juvenile violations**

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Title that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment.

**Sec. 9. 34-A MRSA §1001, sub-§6**, as amended by PL 1997, c. 752, §31 and PL 2001, c. 439, Pt. G, §8, is further amended to read:

**6. Correctional facility.** "Correctional facility" means any facility that falls under the jurisdiction of the department, but does not include ~~the Mountain View Youth Development Center or any facility for which the department is required to establish standards pursuant to section 1208 or 1208-A.~~

**Sec. 10. 34-A MRSA §1001, sub-§8-A**, as enacted by PL 1991, c. 314, §6 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

**8-A. Detention facility.** "Detention facility" means the Long Creek Youth Development Center and the Mountain View Youth Development Center.

**Sec. 11. 34-A MRSA §1001, sub-§11**, as amended by PL 1997, c. 752, §32, is further amended to read:

**11. Juvenile client.** "Juvenile client" means a juvenile committed to a juvenile correctional facility who is either residing at the facility or is on ~~aftercare~~ community reintegration status.

**Sec. 12. 34-A MRSA §1001, sub-§11-A**, as amended by PL 1997, c. 752, §33, is further amended to read:

**11-A. Juvenile detainee.** "Juvenile detainee" means a juvenile detained at a departmental juvenile facility pending a court proceeding, ~~pending a preliminary hearing under Title 17-A, section 1205 or pursuant to Title 15, section 3314, subsection 1, paragraph H or Title 15, section 3312, subsection 3, paragraph D.~~

**Sec. 13. 34-A MRSA §3802, sub-§1, ¶A**, as amended by PL 1997, c. 752, §36, is further amended to read:

A. To detain juveniles pending a court proceeding ~~or pending a preliminary hearing under Title 17-A, section 1205;~~

**Sec. 14. 34-A MRSA §3807, sub-§2**, as repealed and replaced by PL 1983, c. 581, §§48 and 59 and amended by PL 1999, c. 401, Pt. J, §4 and PL 2001, c. 439, Pt. G, §6, is further amended to read:

**2. Reversion.** Upon discharge or placement on ~~aftercare~~ community reintegration status from the Long Creek Youth Development Center, the custody of the child ~~shall revert~~ reverts to the Department of Human Services, if the child is still under 18 years of age.

**Sec. 15. 34-A MRSA §3809-A, sub-§3**, as enacted by PL 2001, c. 517, §1, is amended to read:

**3. Psychiatric hospitalization.** The commissioner has all the power over a juvenile client that a guardian has over a ward and that a parent has over a child with regard to necessary psychiatric hospitalization, including hospitalization in a nonstate mental health institution or hospital for the mentally ill. If a juvenile client is or becomes 18 years of age while still under commitment, the statutory guardianship of the commissioner over the juvenile client terminates, but the juvenile client remains subject to the control of the commissioner and staff and rules of the facility until the expiration of the period of commitment or until discharge from the facility. Nothing in this subsection may be construed to override the requirement to make application for psychiatric hospitalization in accordance with Title 34-B, section 3863, unless hospitalization is made with the juvenile client's consent in accordance with Title 34-B, section 3831. The commissioner may make application for necessary psychiatric hospitalization of a juvenile detainee, including hospitalization in a nonstate mental health

institution or hospital for the mentally ill, in accordance with Title 34-B, section 3863.

**Sec. 16. 34-A MRSA §3810**, as amended by PL 1999, c. 583, §§33 and 34, is further amended to read:

**§3810. Community reintegration status**

**1. Commissioner's powers.** During a juvenile client's commitment to the facility, the commissioner may, at the commissioner's discretion:

A. Keep the juvenile client at the facility; or

B. Place the juvenile client on ~~aftercare~~ community reintegration status for a period not exceeding the term of the juvenile's commitment.

**2. Reports.** As often as the commissioner requires, the person or agency caring for the juvenile client while on ~~aftercare~~ community reintegration status shall report to the commissioner:

A. The progress and behavior of the juvenile client, whether or not the juvenile client remains under the care of the person or agency; and

B. If the juvenile client is not under the care of the person or agency, where the client is.

**3. Center services.** The commissioner shall provide ~~aftercare~~ community reintegration services to juvenile clients.

**4. Cancellation.** If the commissioner is satisfied at any time that the welfare of the juvenile client will be promoted by return to the facility, the commissioner may cancel the ~~aftercare~~ community reintegration status and resume charge of the client with the same powers as before the placement on ~~aftercare~~ community reintegration status was made.

**Sec. 17. 34-A MRSA §3811, first ¶**, as amended by PL 1999, c. 583, §35, is further amended to read:

When a juvenile client who has been placed on ~~aftercare~~ community reintegration status, who has been granted a furlough or work or education release or who has been absent from the facility without leave is taken into custody for the purpose of return to the facility by an officer or employee of the facility, at the direction of the commissioner, or by a law enforcement officer, at the request of the commissioner, and because of the juvenile client's distance from the facility at the time of being taken into custody, it becomes necessary to detain the client overnight:

**Sec. 18. 34-A MRSA §4102, sub-§1**, as amended by PL 1997, c. 752, §41, is further amended to read:

**1. Detention.** To detain juveniles pending a court proceeding ~~or pending a preliminary hearing under Title 17-A, section 1205;~~

**Sec. 19. 34-A MRSA §4111, sub-§3**, as enacted by PL 2001, c. 517, §2, is amended to read:

**3. Psychiatric hospitalization.** The commissioner has all the power over a juvenile client that a guardian has over a ward and that a parent has over a child with regard to necessary psychiatric hospitalization, including hospitalization in a nonstate mental health institution or hospital for the mentally ill. If a juvenile client is or becomes 18 years of age while still under commitment, the statutory guardianship of the commissioner over the juvenile client terminates, but the juvenile client remains subject to the control of the commissioner and staff and rules of the facility until the expiration of the period of commitment or until discharge from the facility. Nothing in this subsection may be construed to override the requirement to make application for psychiatric hospitalization in accordance with Title 34-B, section 3863, unless hospitalization is made with the juvenile client's consent in accordance with Title 34-B, section 3831. The commissioner may make application for necessary psychiatric hospitalization of a juvenile detainee, including hospitalization in a nonstate mental health institution or hospital for the mentally ill, in accordance with Title 34-B, section 3863.

**Sec. 20. 34-A MRSA §4112**, as enacted by PL 1999, c. 583, §45 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

**§4112. Community reintegration status**

**1. Commissioner's powers.** During a juvenile client's commitment to the Mountain View Youth Development Center, the commissioner may, at the commissioner's discretion:

A. Keep the juvenile client at the Mountain View Youth Development Center; or

B. Place the juvenile client on ~~aftercare~~ community reintegration status for a period not exceeding the term of the juvenile's commitment.

**2. Reports.** As often as the commissioner requires, the person or agency caring for the juvenile client while on ~~aftercare~~ community reintegration status shall report to the commissioner:

A. The progress and behavior of the juvenile client, whether or not the juvenile client remains under the care of the person or agency; and

B. If the juvenile client is not under the care of the person or agency, where the client is.

**3. Facility services.** The commissioner shall provide ~~aftercare~~ community reintegration services to a juvenile client.

**4. Cancellation.** If the commissioner is satisfied at any time that the welfare of the juvenile client will be promoted by return to the Mountain View Youth Development Center, the commissioner may cancel the ~~aftercare~~ community reintegration status and resume charge of the client with the same powers as before the placement on ~~aftercare~~ community reintegration status was made.

**Sec. 21. 34-A MRSA §4113, first ¶,** as enacted by PL 1999, c. 583, §45 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

When a juvenile client who has been placed on ~~aftercare~~ community reintegration status, who has been granted a furlough or work or education release or who has been absent from the Mountain View Youth Development Center without leave is taken into custody for the purpose of return to the Mountain View Youth Development Center by an officer or employee of the Mountain View Youth Development Center, at the direction of the commissioner, or by a law enforcement officer, at the request of the commissioner, and, because of the juvenile client's distance from the Mountain View Youth Development Center at the time of being taken into custody, it becomes necessary to detain the client overnight:

**Sec. 22. 34-A MRSA §4116, sub-§2,** as enacted by PL 1999, c. 583, §45 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

**2. Reversion.** Upon discharge or placement on ~~aftercare~~ community reintegration status from the Mountain View Youth Development Center, the custody of the juvenile reverts to the Department of Human Services, if the juvenile is still under 18 years of age.

**Sec. 23. 34-A MRSA §5602, sub-§2, ¶C,** as amended by PL 1999, c. 583, §46, is further amended to read:

C. To provide appropriate services to juveniles committed to a juvenile correctional facility who are in the community on ~~aftercare~~ community reintegration status.

See title page for effective date.

## CHAPTER 411

### H.P. 1131 - L.D. 1542

#### An Act To Effectively Separate Children's Homes from Adult Residential Care Facilities Regarding Fire Safety

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

**Sec. 1. 22 MRSA §8103,** as amended by PL 2001, c. 515, §1 and c. 596, Pt. B, §19 and affected by §25, is further amended to read:

#### **§8103. Fire safety; inspections for children's homes**

~~**1. Procedures.** All procedures and other provisions included in section 7904 A, subsections 1 and 2, for boarding care facilities also apply to children's homes, except that the written statement referred to in section 7904 A, subsection 1 need not be furnished annually by the Commissioner of Public Safety to the department for a facility licensed as a family foster home or a specialized children's home. In these instances an inspection must be performed every 2 years.~~

~~**1. Procedures.** All procedures and other provisions included in section 7855, subsections 1 and 2 for residential care facilities also apply to children's homes, except that the written statement referred to in section 7855, subsection 1 need not be furnished annually by the Commissioner of Public Safety to the department when a children's home serves only one or 2 children.~~

**1-A. Inspection required.** Except as provided in subsection 2, the department may not issue a license to operate to a children's home until the department has received from the Commissioner of Public Safety a written statement signed by one of the officials designated under Title 25, section 2360, 2391 or 2392 to make fire safety inspections. This statement must indicate that the children's home has complied with applicable fire safety provisions referred to in Title 25, section 2452.

**2. Temporary license.** The department may issue a temporary license to operate a family foster home, as defined by section 8101, subsection 3, without complying with the requirement to receive a written, signed statement under subsection 1-A prior to issuing the license, as long as a preliminary evaluation of the home reveals no obvious fire safety violations.