

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

CHAPTER 101**S.P. 474 - L.D. 1376****Resolve, Directing the Department of Corrections To Establish a Pilot Project at the Department's Juvenile Correctional Facilities**

Sec. 1. Pilot project established. Resolved: That the Commissioner of Corrections, referred to in this resolve as "the commissioner," shall establish a pilot project to determine the need for judicial review of the services provided to at-risk juveniles committed to a juvenile correctional facility of the Department of Corrections, referred to in this resolve as "the department"; and be it further

Sec. 2. Criteria for participation in pilot project. Resolved: That the commissioner shall determine criteria for participation in the pilot project in section 1 for juveniles committed to a department juvenile correctional facility under the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraph F on or after January 1, 2006. The criteria must be designed to identify up to 15 juveniles at each of the department's juvenile correctional facilities who are in special need of intensive services. The criteria may include, but need not be limited to, such factors as young age, serious mental health needs and low level of parental involvement; and be it further

Sec. 3. Long Creek Youth Development Center. Resolved: That the commissioner shall appoint a selection committee, consisting of the Associate Commissioner for Juvenile Services or the associate commissioner's designee, a juvenile prosecutor and a juvenile defense attorney. The selection committee shall recommend an appropriate guardian ad litem for each juvenile committed to the Long Creek Youth Development Center who is chosen for participation in the pilot project in section 1. The juvenile court shall give great weight to the recommendation of the selection committee in making its appointment of the guardian ad litem. The guardian ad litem selected must be on the current Maine District Court roster of guardians ad litem but may not be a member of the selection committee or the defense attorney for the juvenile. A person serving as a guardian ad litem under this resolve acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the guardian ad litem. In consultation with the selection committee, the department shall develop and provide orientation and training specific to the role of a guardian ad litem for a juvenile committed to a juvenile correctional facility prior to the guardian ad litem's assuming the guardian's responsibilities, and the department may offer ongoing training. At least quarterly, the selection committee shall review the

guardian ad litem's performance. If the selection committee determines at any time that a guardian ad litem is not performing the guardian's responsibilities appropriately, the selection committee may recommend the removal of the guardian ad litem and recommend a replacement. The juvenile court shall give great weight to the recommendations of the selection committee to remove and replace a guardian ad litem. The recommendations of the selection committee to select, remove and replace a guardian ad litem must be made by at least majority vote, and the court's decisions to accept or reject those recommendations are not appealable; and be it further

Sec. 4. Mountain View Youth Development Center. Resolved: That the chief advocate of the department shall, with the approval of the commissioner, select an advocate for the Mountain View Youth Development Center. In addition to the provisions of the Maine Revised Statutes, Title 34-A, section 1203 that apply to the advocate, the advocate has the duties set out in this resolve with respect to the juveniles at the Mountain View Youth Development Center who are chosen for participation in the pilot project in section 1; and be it further

Sec. 5. Duties. Resolved: That for each juvenile chosen for participation in the pilot project in section 1 the selected guardian ad litem or the advocate shall meet with the juvenile at the facility and with the juvenile's parents, guardian or legal custodian within 7 days of being assigned to the juvenile's case and at least once every 3 months thereafter. Within 30 days of being assigned to the juvenile's case and at least every 3 months thereafter, the guardian ad litem or the advocate shall review the following documents if generated by or for the department since the juvenile's commitment: the integrated assessment, or its equivalent; the resident case plan, or its equivalent; any modifications to the case plan; any psychological evaluation, including any sexual behavior treatment assessment, if applicable; any sexual behavior treatment plan, if applicable; any psychiatric evaluation; any assessment of the juvenile prepared by a treatment provider under contract with the department; and, with the juvenile's written consent, any substance abuse treatment assessment and treatment plan, if applicable. The guardian ad litem or advocate shall attend all classification committee meetings regarding the juvenile and must have access to minutes of the classification committee meetings and unit treatment team meetings or their equivalents. Access includes being provided copies of the documents upon reasonable notice. Any information obtained by the guardian ad litem or the advocate must be kept confidential except to the extent necessary to perform the duties set out in this resolve; and be it further

Sec. 6. Report. Resolved: That, within 12 months of a juvenile's commitment, the guardian ad litem or advocate shall prepare a written report regarding the services being provided to the juvenile, including any recommendations for additional or different services. A copy must be provided to the juvenile court and be reviewed by the court at the judicial review provided for in the Maine Revised Statutes, Title 15, section 3315, subsection 3. A copy of the report must also be provided to the superintendent of the facility, the juvenile and the juvenile's parents, guardian or legal custodian at least 2 weeks prior to the review. The guardian ad litem or advocate may request a separate judicial review of the report and, if such a review is requested, a copy of the report must be provided to the superintendent, the juvenile and the juvenile's parents, guardian or legal custodian at least 2 weeks prior to the review. A separate judicial review may be requested by the guardian ad litem only while the juvenile continues to reside in a juvenile correctional facility and not more than once in a 6-month period; and be it further

Sec. 7. Judicial review. Resolved: That the superintendent of the facility, the juvenile and the juvenile's parents, guardian or legal custodian must be notified of the review of the report of the guardian ad litem or advocate at least 2 weeks prior to the review date. The guardian ad litem or advocate shall attend the review. The superintendent or the superintendent's designee may attend the review. The juvenile's parents, guardian or legal custodian may also attend the review. Unless extraordinary circumstances require, as documented by the guardian ad litem or the advocate or unless ordered by the court, the juvenile may not attend the review. The guardian ad litem or advocate shall make the wishes of the juvenile known to the court if the juvenile has expressed the juvenile's wishes, regardless of the recommendations of the guardian ad litem. At the review, the court shall review the guardian ad litem's or advocate's report and any response to the report by the department or the parents, guardian or legal custodian. The court may make recommendations to the department with respect to services for the juvenile, which the department shall consider and may implement as it determines appropriate. If the department determines that a recommendation of the court is not appropriate, the department shall inform the court in writing, with a copy to the guardian ad litem or advocate, the juvenile and the juvenile's parents, guardian or legal custodian. The court may schedule a subsequent review, with 2 weeks' notification to the superintendent, the guardian ad litem, the advocate, the juvenile and the juvenile's parents, guardian or legal custodian. The subsequent review may be attended by an assistant attorney general representing the department, an attorney representing the juvenile, the juvenile and the parties who attended the prior hearing. The court may

reiterate or modify its prior recommendations, which the department shall consider and may implement as it determines appropriate. A judicial review may not affect a juvenile's commitment to a department juvenile correctional facility; and be it further

Sec. 8. Evaluation of pilot project. Resolved: That, in consultation with the selection committee under section 3, the commissioner shall establish a process and criteria for evaluating the effectiveness of the pilot project in section 1 at both of the department's juvenile correctional facilities, including a comparison of the implementation of the project at the department juvenile correctional facilities. The results of the evaluation must be provided to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters in a written report no later than January 15, 2008, along with the department's recommendation as to whether the project should be expanded, modified, reduced or terminated. In lieu of any action by the Legislature, the pilot project terminates on April 1, 2008.

See title page for effective date.

CHAPTER 102

H.P. 819 - L.D. 1190

Resolve, To Study the Establishment of a Controlled Substances Act for the State of Maine

Sec. 1. Feasibility review. Resolved: That the Director of the Office of Substance Abuse within the Department of Health and Human Services shall determine, in consultation with the Department of Professional and Financial Regulation, the Office of the Attorney General and interested parties, the feasibility of establishing a controlled substances act and shall review the revised Uniform Controlled Substances Act to help make this determination; and be it further

Sec. 2. Reporting date established. Resolved: That the Director of the Office of Substance Abuse within the Department of Health and Human Services shall submit a report, along with any proposed legislation, to the Joint Standing Committee on Health and Human Services by January 30, 2006. The joint standing committee may report out legislation to the Second Regular Session of the 122nd Legislature to establish a controlled substances act.

See title page for effective date.