

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

CHAPTER 91

H.P. 593 - L.D. 862

An Act To Improve the Health of Maine Citizens and Safety of Pedestrians

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

Sec. 1. 29-A MRSA §2056, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Pedestrian on way. Where sidewalks are not provided, a pedestrian shall walk facing approaching traffic on the left side of the public way or the way's shoulder when practicable. An operator of a motor vehicle who is passing a pedestrian on a public way or the way's shoulder shall exercise due care by leaving a distance between the motor vehicle and the pedestrian of not less than 3 feet while the motor vehicle is passing the pedestrian. A motor vehicle operator may pass a pedestrian in a no-passing zone only when it is safe to do so.

See title page for effective date.

CHAPTER 92

H.P. 343 - L.D. 481

An Act To Allow the Department of Corrections To Certify Community Intervention Programs

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

Sec. 1. 34-A MRSA §1206-A is enacted to read:

§1206-A. Certification of community intervention programs

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Community agency" means a person, a public or private nonprofit organization or a firm, partnership or business corporation operated for profit that:

- (1) Operates a community intervention program; and
- (2) Is not an administrative unit of the Federal Government or State Government.

B. "Community intervention program" means a program operated at the community level provid-

ing services designed to intervene in the risk factors for reoffending, including, but not limited to, mental health, sex offender treatment, social service and substance abuse treatment programs, but not including a batterers' intervention program under Title 19-A, section 4014.

C. "Nonprofit organization" means any agency, institution or organization that is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and that has a territory of operations that extends to a neighborhood, community or region or the State.

2. Rules establishing standards and procedures for certification. The department may adopt rules in consultation with other appropriate state agencies that establish standards and procedures for certification of community intervention programs. The department may review and certify programs that meet the standards and may require certification of programs providing services to clients of the department, regardless of whether the department disburses funds to the community agency. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 93

H.P. 542 - L.D. 793

An Act To Improve Juvenile Correctional Services

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

Sec. 1. 15 MRSA §712, sub-§2, ¶A, as amended by PL 1997, c. 361, §3, is further amended to read:

A. Either the sender or receiver of that communication is a person residing in an adult or juvenile correctional facility administered by the Department of Corrections; and

Sec. 2. 15 MRSA §3103, sub-§1, ¶D, as amended by PL 1995, c. 470, §3, is repealed.

Sec. 3. 15 MRSA §3105-A, sub-§2, ¶C, as amended by PL 2005, c. 87, §2, is further amended to read:

C. A prosecution for conduct specified in section 3103, subsection 1, paragraph B, C, D, E, F or H must be commenced within one year after it is committed.

Sec. 4. 15 MRSA §3201, sub-§1, as amended by PL 2005, c. 328, §6, is further amended to read:

1. Warrantless arrests. Arrests without warrants of juveniles for juvenile crimes defined by section 3103, subsection 1, paragraphs A, ~~D~~, E, F, G and H by law enforcement officers or private persons must be made pursuant to the provisions of Title 17-A, sections 15 and 16. For purposes of this section, a juvenile crime defined under section 3103, subsection 1, paragraph ~~D~~ or H is deemed a Class D or Class E crime. A law enforcement officer or private person may not arrest a juvenile for a juvenile crime defined by section 3103, subsection 1, paragraph B or C.

Sec. 5. 15 MRSA §3203-A, sub-§7, ¶A, as amended by PL 2005, c. 507, §5, is further amended to read:

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

- (1) Contains an area where juveniles are under direct staff observation at all times, in a separate section for juveniles that complies with mandatory sight and sound separation standards established by the Department of Corrections pursuant to Title 34-A, section 1208;
- (2) Provides for no regular contact between the juveniles with the adult detainees or inmates; and
- (3) Has an adequate staff to provide direct observation and supervise the juvenile's activities at all times during emergency detention.

Juveniles detained in adult-serving facilities may be placed only in the separate juvenile sections that comply with mandatory separation standards established by the Department of Corrections pursuant to Title 34-A, section 1208, ~~unless the detainee must be detained with adults as a result of having attained 21 years of age or unless the court orders that the person be detained with adults for any period of detention occurring after the detainee has attained 18 years of age or unless the juvenile is held in an adult section of a facility under section 3205, subsection 2 or is bound over as an adult and held in an adult section of a facility pursuant to court order.~~

Sec. 6. 15 MRSA §3203-A, sub-§7, ¶B-4, as amended by PL 1999, c. 624, Pt. A, §4, 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 up to ~~24~~ 48 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 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. 7. 15 MRSA §3203-A, sub-§7, ¶B-5, as amended by PL 2005, c. 328, §11, is further amended 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 48 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. 8. 15 MRSA §3205, sub-§2, as amended by PL 2007, c. 196, §1, is repealed and the following enacted in its place:

2. Exception. Subsection 1 applies to any person who has not attained 18 years of age or is considered a juvenile by virtue of section 3101, subsection 2, paragraph D except that:

A. If the person has attained 18 years of age, or has been convicted as an adult in another jurisdiction, any detention pursuant to section 3203-A and any confinement pursuant to section 3314,

subsection 1, paragraph H or section 3314, subsection 7 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; and

B. If the person has attained 21 years of age or has been convicted as an adult in another jurisdiction and has attained 18 years and 6 months of age, any detention pursuant to section 3203-A and any confinement pursuant to section 3314, subsection 1, paragraph H or section 3314, subsection 7 must be 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.

Sec. 9. 15 MRSA §3307, sub-§2, ¶B, as amended by PL 1995, c. 470, §7, is further amended to read:

B. The general public is excluded from all other juvenile hearings and proceedings, except that a juvenile charged with a juvenile crime that would constitute murder or a Class A, Class B or Class C offense and with a juvenile crime that would constitute a juvenile's first Class D offense or Class E offense or with conduct described in section 3103, subsection 1, paragraph B, C, ~~D~~ or E, arising from the same underlying transaction may elect to have all charges adjudicated in one hearing, and, when a juvenile does so elect, the general public is not excluded from that hearing.

Sec. 10. 15 MRSA §3310, sub-§4, as amended by PL 2005, c. 87, §3, is further amended to read:

4. Standard of proof. If the court finds that the elements of the juvenile crime as defined in section 3103, subsection 1, paragraph A, ~~D~~, E, F, G or H are not supported by evidence beyond a reasonable doubt or that the elements of a juvenile crime as defined in section 3103, subsection 1, paragraph B or C are not supported by a preponderance of the evidence, the court shall order the petition dismissed and the juvenile discharged from any detention or restriction previously ordered. The juvenile's parents, guardian or other legal custodian must also be discharged from any restriction or other temporary order.

Sec. 11. 15 MRSA §3310, sub-§5, ¶A, as amended by PL 2005, c. 87, §4, is further amended to read:

A. If the court finds that the allegations of the petition alleging a juvenile crime as defined in section 3103, subsection 1, paragraph A, ~~D~~, E, F, G or H are supported by evidence beyond a reasonable doubt or that the allegations of a petition alleging a juvenile crime as defined in section 3103, subsection 1, paragraph B or C are sup-

ported by a preponderance of the evidence, the court shall adjudge that the juvenile committed a juvenile crime and shall, in all such adjudications, issue an order of adjudication.

Sec. 12. 15 MRSA §3314, sub-§1, ¶G, as amended by PL 2005, c. 507, §11, is further amended to read:

G. Except for a violation of section 3103, subsection 1, paragraph ~~D~~ or H, the court may impose a fine, subject to Title 17-A, sections 1301 to 1304, except that there is no mandatory minimum fine amount. For the purpose of this section, juvenile offenses defined in section 3103, subsection 1, paragraphs B and C are deemed Class E crimes.

Sec. 13. 15 MRSA §3314-A, as amended by PL 1993, c. 354, §10, is further amended to read:

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

The period of probation of a juvenile, its modification and discharge, 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, paragraph B, C, ~~D~~ or E may not exceed one year. The period of probation may extend beyond the juvenile's 21st birthday.

Sec. 14. 30 MRSA §6209-A, sub-§1, ¶B, as enacted by PL 1995, c. 388, §6 and affected by §8, is amended to read:

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B ~~to D~~ and C, committed by a juvenile member of either the Passamaquoddy Tribe or the Penobscot Nation on the reservation of the Passamaquoddy Tribe;

See title page for effective date.

CHAPTER 94

H.P. 345 - L.D. 483

An Act To Improve the Service of Protection from Harassment and Protection from Abuse Orders and the Collection of Restitution by the Department of Corrections

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

Sec. 1. 5 MRSA §4654, sub-§5, as amended by PL 2003, c. 658, §7, is further amended to read: