

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

**§3311-C. Court hearing as to final disposition**

**1. Court hearing; final disposition.** Unless a court hearing is sooner held under subsection 2, at the conclusion of the period of deferment, after notice, a juvenile who was granted deferred disposition pursuant to section 3311-B shall return to court for a hearing on final disposition under section 3314. If the juvenile demonstrates by a preponderance of the evidence that the juvenile has complied with the court-imposed deferment requirements, the court shall impose a dispositional alternative authorized for the juvenile crime to which the juvenile has entered an admission and consented to in writing at the time disposition was deferred or as amended by agreement of the parties in writing prior to disposition, unless the attorney for the State, prior to disposition, moves the court to allow the juvenile to withdraw the admission. Except over the objection of the juvenile, the court shall grant the State's motion. Following the granting of the State's motion, the attorney for the State shall dismiss the pending petition with prejudice. If the court finds that the juvenile has inexcusably failed to comply with the court-imposed deferment requirements, the court shall impose a dispositional alternative authorized for the juvenile crime to which the juvenile entered an admission.

**2. Violation of deferment requirement.** If during the period of deferment the attorney for the State has probable cause to believe that a juvenile who was granted deferred disposition pursuant to section 3311-B has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose disposition. Following notice and hearing, if the attorney for the State proves by a preponderance of the evidence that the juvenile has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the period of deferment and conduct a dispositional hearing and impose a disposition authorized for the juvenile crime to which the juvenile entered an admission. If the court finds that the juvenile has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter.

**3. Hearing.** A hearing under this section or section 3311-B need not be conducted by the judge who originally ordered the deferred disposition.

**4. Rights of juvenile at hearing.** The juvenile at a hearing under this section or section 3311-B must be afforded the opportunity to confront and cross-examine witnesses against the juvenile, to present evidence on the juvenile's own behalf and to be repre-

ented by counsel. If the juvenile who was granted deferred disposition pursuant to section 3311-B cannot afford counsel, the court shall appoint counsel for the juvenile. Assignment of counsel and withdrawal of counsel must be in accordance with the Maine Rules of Criminal Procedure.

**5. Summons; failure to appear.** A summons, served in accordance with section 3304, may be used to order a juvenile who was granted deferred disposition pursuant to section 3311-B to appear for a hearing under this section. If the juvenile fails to appear after having been served with a summons, the court may issue a warrant for the arrest of the juvenile.

**6. Warrant for arrest.** If during the period of deferment the attorney for the State has probable cause to believe that a juvenile who was granted deferred disposition pursuant to section 3311-B has violated a court-imposed deferment requirement, the attorney for the State may apply for a warrant for the arrest of the juvenile.

**Sec. 4. 15 MRSA §3311-D** is enacted to read:

**§3311-D. Limited review by appeal**

A juvenile is precluded from seeking to attack the legality of a deferred disposition, including a final disposition, except that a juvenile who has been determined by a court to have inexcusably failed to comply with a court-imposed deferment requirement and thereafter has had imposed a dispositional alternative authorized for the juvenile crime may appeal to the Superior Court, but not as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

See title page for effective date.

**CHAPTER 385****S.P. 142 - L.D. 509**

**An Act To Establish  
Emergency Shelter Family  
Homes To Host Youth  
Referred by the Department  
of Corrections**

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

**Sec. 1. 22 MRSA §4099-H** is enacted to read:

**§4099-H. Emergency shelter family homes for youth**

This section applies to emergency shelter family homes for youths in order to provide the youths with voluntary, safe, emergency housing with individuals or

