

# 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.

Augusta, Maine 2011

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

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-

sented 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:

<u>§4099-H. Emergency shelter family homes for</u> 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

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families in locations as close as reasonably possible to the home communities of the youths.

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

A. "Emergency shelter family home" means a home that provides community-based emergency shelter with an individual or a family that is operated 24 hours a day under the auspices of an emergency shelter licensed by the department in accordance with rules adopted by the department under sections 7801 and 8102.

B. "Youth" means a child 12 to 20 years of age.

2. Placement. A licensed emergency shelter may place in an emergency shelter family home operated by the shelter a youth who was referred to the shelter by the Department of Corrections if the shelter has obtained the agreement of the parent or legal guardian of the youth.

**3. Requirements.** A licensed emergency shelter that operates an emergency shelter family home must be licensed as a child placing agency by the department under rules adopted pursuant to sections 7801 and 8202 and must operate the home under a contract with the Department of Corrections and in accordance with an agreement between the department and the Department of Corrections. An emergency shelter family home may be, but is not required to be, licensed as a children's home by the department under rules adopted pursuant to sections 7801 and 8202.

See title page for effective date.

## CHAPTER 386

### S.P. 327 - L.D. 1094

#### An Act To Improve the Delivery of School Psychological Services to Children

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

Sec. 1. 5 MRSA §12004-I, sub-§12-A, as enacted by PL 1993, c. 207, §2, is amended to read:

12-A.

Education	Advisory Com-	20-A MRSA
	mittee on School	§13022
	Psychological	
	Service Providers	
	Psychologists	

**Sec. 2. 20-A MRSA §13022,** as enacted by PL 1993, c. 207, §3, is amended to read:

#### §13022. School psychologists

**1. Definitions.** For purposes of this section, a "school psychological service provider" is a professional who provides psychological assessment, consultation or direct services, other than psychotherapy, to students enrolled in a public school or approved private school unless the context otherwise indicates, the following terms have the following meanings.

A. "School psychologist" means a professional certified by the department as a school psychologist who provides school psychological services consistent with the national standards articulated by the most current Model for Comprehensive and Integrated School Psychological Services as published by the National Association of School Psychologists. "School psychologist" includes a school psychologist - doctoral and a school psychologist - specialist.

B. "School psychologist - doctoral" means a professional who meets the qualifications established in subsection 3 and holds a doctoral degree in psychology or a related field as determined by the advisory committee established in subsection 7.

C. "School psychologist - specialist" means a professional who meets the qualifications established in subsection 3 and holds a master's degree or specialist-level degree.

**1-A. Scope of services.** A school psychologist delivers services to children from birth to grade 12 who are eligible to be enrolled in educational and intermediate educational units, special education programs and approved private schools. The services delivered are the services articulated under the domains of practice in the current Model for Comprehensive and Integrated School Psychological Services developed and published by the National Association of School Psychologists.

2. Certification by commissioner. The commissioner shall certify school psychological service providers psychologists pursuant to rules adopted by the state board. The rules must include a code of ethics and practice standards for school psychologists that follow national standards set forth by the National Association of School Psychologists or a successor organization and ethics standards set forth by the National Association of School Psychologists or a successor organization and the American Psychological Association or a successor organization, violation of which constitutes grounds for suspension or revocation of the certification.

**3.** Qualifications. State board rules governing the qualifications for a school psychological service provider psychologist certificate must require that a certificate be issued only to an applicant who has met the academic and preprofessional requirements estab-