

MAINE STATE LEGISLATURE

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Review of the Maine juvenile code

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15 § 3004
Repealed

§ 3004. Repealed. Laws 1979, c. 663, § 114, eff. March 28, 1980

§ 3005. Forms, other than court forms, reporting formats, and other standardized written materials

Historical and Statutory Notes

Change of name. "Department of Mental Health and Corrections" as meaning "Department of Mental Health and Mental Retardation" see note under § 1 of title 34.

§ 3006. Review of Maine Juvenile Code

The Department of Corrections shall review the provisions of this Part that relate to detention, custody and supervision of juveniles and submit reports and recommended legislation to the joint committee having jurisdiction over juvenile corrections matters and to the Office of the Executive Director of the Legislative Council on January 15, 1992 and on January 15, 1994.

1989, c. 925, § 3.

CHAPTER 503

JURISDICTION

Section

3105-A. Statute of limitations.

§ 3101. Jurisdiction

[See main volume for text of 1]

2. Juvenile court jurisdiction.

[See main volume for text of A to D]

E. Juvenile Courts shall have jurisdiction concurrent with the District Courts over petitions for emancipation brought under section 3506-A.

[See main volume for text of 3]

4. Bind-over.

[See main volume for text of A]

B. Every bind-over hearing shall precede and shall be conducted separately from any adjudicatory hearing.

The Maine Rules of Evidence shall apply only to the probable cause portion of the bind-over hearing.

For the purpose of making the findings required by paragraph E, subparagraph (2), written reports and other material may be received by the court along with other evidence, but the court, if so requested by the juvenile, the juvenile's parent or guardian or other party, shall require that the person or persons who wrote the report or prepared the material appear as witness and be subject to examination, and the court may require that the persons whose statements appear in the report appear as witnesses and be subject to examination.

[See main volume for text of C]

D. The Juvenile Court shall consider the following factors in deciding whether to bind a juvenile over to Superior Court:

(1) Seriousness of the crime: The nature and seriousness of the offense, greater weight being given to offenses against the person than against property; whether the offense was committed in an aggressive, violent, premeditated or willful manner;

(2) Characteristics of the juvenile: The record and previous history of the juvenile; his emotional attitude and pattern of living; and

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Review of the Maine Juvenile Code

Pursuant to Title 15, MRSA, Section 3006, the Department of Corrections has reviewed Maine's Juvenile Code and offers the following recommendations:

1. The Department recommends that a Commission to Review the Maine Juvenile Code be established.

The Juvenile Code was last reviewed in its entirety in 1978. Since then, many sections of the Code have been revised, some more than once. Many of these revisions have been significant. The Department believes a broad-based group should be convened to review the Juvenile Code for consistency and impact on both juveniles and the juvenile justice system.

The Commission should comprise no more than 15 to 20 members and should include representatives of the Departments of Corrections, Mental Health and Mental Retardation, Human Services, Education, and the Attorney General; the Judiciary; the Legislature; prosecutors and defense attorneys; law enforcement; former clients of the juvenile justice system; the Juvenile Justice Advisory Group; community providers of services to juveniles, and interested citizens.

The Commissioner should review the entire Code, to include, but not be limited to, arrest, detention, commitment, supervision, diversion, alternative sanctions, confidentiality, and resources necessary to implement the provisions of the Code.

Funds should be made available to hire part-time staff, cover operating expenses, and pay for travel expenses of members who are not state employees. The Commission should report the results of its review to the Governor and the Legislature by February 15, 1995.

2. The Department proposes amending a few provisions of Title 15, during this session. The proposed legislation is attached, as is the Statement of Fact, explaining the reasons for the proposal.

The Department believes the attached legislation should be enacted during this session to clarify existing provisions of the Juvenile Code. Other, more major, revisions should be delayed until the proposed review of the Juvenile Code is completed.

An Act to Clarify the Maine Juvenile Code

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

Section 1. 15 M.R.S.A. section 3307 subsection 1-A is amended to read:

1-A. Release of identity. No law enforcement officer, officer of the court or juvenile caseworker may release the identity of any juvenile until a petition is filed charging the juvenile with a juvenile crime described in subsection 2. This section does not preclude the release of the identity of a juvenile to a complainant or victim if a juvenile caseworker decides not to file a petition in accordance with section 3301, subsection 5, paragraph A or B or if the juvenile caseworker requests the prosecuting attorney to file a petition in accordance with section 3301, subsection 5, paragraph C.

Section 2. 15 M.R.S.A. section 3314 (1) (H) is amended to read:

The court may commit the juvenile to the Maine Youth Center and order that the disposition be suspended or may commit the juvenile for a period of detention that may not exceed 30 days, with or without an underlying suspended disposition to the Maine Youth Center, which detention may be served intermittently as the court may order and must be ordered served in a detention facility approved or operated by the Department of Corrections exclusively for juveniles but may not be ordered served in the Maine Youth Center. The court may order such a disposition to be served as a part of and with a period of probation, which is subject to such provisions of Title 17-A, section 1204 as the court may order and which must be administered pursuant to Title 34-A, chapter 5, subchapter IV. Revocation of probation is governed by the procedure contained in subsection 2. Any disposition

under this paragraph is subject to Title 17-A, section 1253, subsection 2, but not to Title 17-A, section 1253, subsection 3-B, 4 or 5. Any disposition under this paragraph ordering a period of detention to be served in a county operated detention facility by a juvenile from another county shall be governed by Title 15, section 1705.

Section 3. 15 M.R.S.A. section 3314 subsection 3, the first paragraph is amended to read:

3. Disposition for violation of section 3103, subsection 1, paragraph E or F. When a juvenile has been adjudicated as having committed the juvenile crime under section 3103, subsection 1, paragraph E or F, the court may impose any of the dispositional alternatives contained in subsection 1. Any incarceration which is imposed may be part of a disposition pursuant to subsection 1, paragraph F or H. ~~Any incarceration in a county jail shall be in a county jail designated by the Department of Corrections as a place for the secure detention of juveniles~~ in a detention facility shall be in a facility designated in subsection 1, paragraph H.

Section 4. 15 M.R.S.A. section 3314 subsection 4 is amended to read:

4. Medical support. Whenever the court commits a juvenile to the Maine Youth Center or to the Department of Human Services or places a juvenile on a period of probation it shall notify the juvenile's parents or legal guardian and, after hearing, may, as justice may demand, require the parent or legal guardian to provide medical insurance for or contract to pay the full cost of any medical treatment, mental health treatment, substance abuse treatment and counseling that may be provided to the juvenile while

the juvenile is committed, including while on entrustment, or while on probation.

Section 5. 15 M.R.S.A. section 3316 subsection 1 paragraph A is amended to read:

2. Indeterminate sentence.

A. A commitment of a juvenile to the Department of Corrections, including a commitment to the Maine Youth Center, pursuant to section 3314, shall be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits or extends the indeterminate commitment, provided that the court shall not limit the commitment to less than one year nor extend the commitment beyond a juvenile's 21st birthday and provided that no order shall result in a commitment of less than one year, unless the commitment is for an indeterminate period not to extend beyond the juvenile's 21st birthday.

STATEMENT OF FACT

The purpose of this bill is to clarify several sections of the Maine Juvenile Code.

Section 1 of the bill corrects an oversight when this provision was amended last year. Last year's amendment allowed a juvenile caseworker to release the identity of a juvenile to a victim or complainant prior to the filing of a petition, but neglected to include one of the pertinent situations, specifically, when a juvenile caseworker decides that no further action is required on a complaint. Section 1 would correct this oversight.

With respect to Section 2, under the provisions of the current statute which mandate the removal of juveniles from adult serving facilities after January 1st, 1992, the court can no longer order juveniles committed to county jails, but only to detention facilities operated or approved by the Department of Corrections exclusively for juveniles. It was the intent of the drafters of this legislation that after January 1st, 1992 sentences of up to 30 days would be served at the Androscoggin County Juvenile Detention Facility, until September 30, 1993. At that time the Department of Corrections Northern Maine Regional Juvenile Detention Facility would become operational and the state would assume full responsibility for all physically secure detention of juveniles.

However, the wording of the current statute is unclear, and could be misinterpreted to allow for the commitment of a juvenile to the Maine Youth Center for a period of up to 30 days. This would be in conflict with the statute governing commitments to the Maine Youth Center (15 M.R.S.A. Section 3316 subsection 2 paragraph A) and contrary to the intent of the current legislation.

This section will make it clear, that when a juvenile is sentenced to a period of detention up to 30 days, such sentences must be served at the Androscoggin County Juvenile Detention Facility, and the associated boarding cost shall remain the responsibility of the county having original jurisdiction as prescribed by law.

Section 3 of this bill makes it clear that for a juvenile sentenced to a period of incarceration following adjudication for the offense of operating a snowmobile, watercraft or motor vehicle while under the influence of intoxicating liquor or drugs, the incarceration must be served

in a detention facility approved or operated by the Department of Corrections exclusively for juveniles and in accordance with section 3314 (1) (H). This is in compliance with the Code's requirement (15 M.R.S.A. section 3205) that juveniles not be kept in adult-serving facilities as a general matter..

With regard to Section 4 of the bill, the juvenile court presently has the authority to order a parent or legal guardian to provide insurance or pay for medical or other treatment services provided to the child while the juvenile is committed to either the Maine Youth Center or the Department of Human Services. However, current law does not extend this authority to sentences involving probation. This amended section will allow the court to order a parent or legal guardian to provide insurance or pay for medical or other treatment services deemed necessary by the court or made a condition of probation. In light of current budgetary restraints and limited state funds for the provision of such services, it is appropriate that parents or legal guardian remain responsible for covering the cost of such services when they are able. (The added reference to entrustment is merely a clarification of the existing law.)

Section 5 of the bill serves to clarify that section of the Maine Juvenile Code governing indeterminate sentences to the Maine Youth Center. Recently, this section has been interpreted in a way contrary to its intent with the result that some courts have ordered commitments to the Maine Youth Center for periods of less than one year. Such dispositions are not only contrary to the intent of the statute but also not in the best interest of the juvenile. This amended section will make it very clear that a juvenile may not be committed to the Maine Youth Center for a period of less than one year and thus avoid inappropriate sentences to the Maine Youth Center in the future.