

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Amend the Maine Juvenile Code and Related Statutes**

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

**Sec. 1. 15 MRSA §101-C, sub-§1**, as amended by PL 2009, c. 268, §2, is further amended to read:

**1. Written demand for records.** When a person or entity has been ordered to perform an examination or evaluation pursuant to section 101-D, a diagnostic evaluation pursuant to section 3309-A, a competency examination pursuant to 3318-A, an evaluation and treatment pursuant to section 3318-B, or an examination of a juvenile with reference to insanity or abnormal condition of mind, and the person to be examined has sought the examination, joined in a request or order for the examination or has entered a plea or answer of not criminally responsible by reason of insanity, that person or entity may make written demand upon any individual, partnership, association, corporation, institution or governmental entity to produce the records or copies of the records, in whatever medium preserved, of the subject of the examination or evaluation.

**Sec. 2. 15 MRSA §3003, sub-§1**, as enacted by PL 1977, c. 520, §1, is amended to read:

**1. Adjudicatory hearing.** "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition under chapter 507 are supported by evidence ~~beyond a reasonable doubt~~ that satisfies the standard of proof required.

**Sec. 3. 15 MRSA §3003, sub-§9**, as enacted by PL 1977, c. 520, §1, is repealed.

**Sec. 4. 15 MRSA §3003, sub-§17**, as amended by PL 1989, c. 113, §1, is repealed.

**Sec. 5. 15 MRSA §3003, sub-§19-A** is enacted to read:

**19-A. Mental disease or defect.** "Mental disease or defect" has the same meaning as in Title 17-A, section 39, subsection 2 except that "mental disease or defect" does not include, in and of itself, the fact that a juvenile has not attained the level of mental or emotional development normally associated with persons 18 years of age or older.

**Sec. 6. 15 MRSA §3003, sub-§20**, as enacted by PL 1977, c. 520, §1, is repealed.

**Sec. 7. 15 MRSA §3003, sub-§22**, as enacted by PL 1977, c. 520, §1, is repealed.

**Sec. 8. 15 MRSA §3103-A** is enacted to read:

### **§ 3103-A. Provisions of Title 17-A, Part 1 made applicable**

The following provisions of Title 17-A, Part 1 are applicable to juvenile crimes:

**1. Chapter 1.** Chapter 1, except section 1; section 2, subsections 3-C and 5-B; and sections 6, 8, 9 and 17;

2. **Chapter 2.** Chapter 2, except section 40;
3. **Chapter 3.** Chapter 3, except section 60; and
4. **Chapter 5.** Chapter 5.

**Sec. 9. 15 MRSA §3305**, as amended by PL 2011, c. 336, §3, is further amended to read:

**§ 3305. Answer**

~~An answer to a petition need not be entered by a juvenile or by the juvenile's parents, guardian or legal custodian. A juvenile or the juvenile's counsel may enter an answer asserting the absence of criminal responsibility by reason of insanity or denying, admitting or not contesting the allegations of the petition, in accordance with Rules 11 and 11A, Maine Rules of Criminal Procedure, except that, if the case has been continued for investigation and for a bind-over hearing pursuant to section 3101, subsection 4, paragraph A, the court may not accept an answer to the petition other than a denial or assertion of the absence of criminal responsibility by reason of insanity until the court has conducted a bind-over hearing and has decided to retain jurisdiction of the juvenile in the Juvenile Court or until the prosecuting attorney has withdrawn the request to have the juvenile tried as an adult. An answer may be both a denial and an assertion of the absence of criminal responsibility by reason of insanity. If the juvenile or the juvenile's counsel declines to enter an answer, the court shall enter an answer of denial.~~

~~Upon the acceptance of such an answer~~If the court accepts an answer admitting or not contesting the allegations of the petition, a dispositional hearing shall~~must~~ be set at the earliest practicable time that will allow for the completion of a predisposition study conducted pursuant to section 3311 and for service of notice as required by section 3314, subsection 1, paragraph C-1 or C-2. If the answer entered is a denial or an assertion of the absence of criminal responsibility by reason of insanity, or both, or if the court declines to accept an answer admitting or not contesting the allegations of the petition, an adjudicatory hearing must be set.

**Sec. 10. 15 MRSA §3315, sub-§1**, as amended by PL 2001, c. 696, §6 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**1. Right to review.** Every disposition pursuant to section 3314 and 3318-B, other than unconditional discharge, must be reviewed not less than once in every 12 months until the juvenile is discharged. The review must be made by a representative of the Department of Corrections unless the juvenile ~~was~~has been committed to the ~~Department~~custody of the Commissioner of Health and Human Services, in which case such review must be made by a representative of the Department of Health and Human Services. A report of the review must be made in writing to the juvenile's parents, guardian or legal custodian. A copy of the report must be forwarded to the program or programs that were reviewed, and the department whose personnel made the review shall retain a copy of the report in their files. The written report must be prepared in accordance with subsection 2. When a juvenile is placed in the custody of the ~~Department~~Commissioner of Health and Human Services, reviews and permanency planning hearings must be conducted in accordance with Title 22, section 4038. Title 22, sections 4005, 4039 and 4041 also apply.

**Sec. 11. 15 MRSA §3402, sub-§5**, as amended by PL 1991, c. 202, is further amended to read:

**5. Time for appeals.** An appeal from the juvenile court to the Superior Court must be taken within 57 days ~~o~~after the entry of an order of disposition or other appealed order or such further time as the Supreme Judicial Court may provide pursuant to a rule of court.

## SUMMARY

This bill makes the following changes to the Juvenile Code.

1. It provides that a person or entity performing a court-ordered mental health examination or evaluation of a juvenile may make a written demand for that juvenile's records or copies of those records held by another individual or entity.

2. It corrects an oversight to clarify that the juvenile crimes involving a useable amount of marijuana, drug paraphernalia, illegal transportation and certain types of intoxicating liquor need only be supported by a preponderance of the evidence rather than by evidence beyond a reasonable doubt as required for other juvenile crimes.

3. It adds a definition of "mental disease or defect" to the Maine Juvenile Code that is the same as the definition in the Maine Criminal Code for purposes of establishing lack of criminal responsibility by reason of insanity except it excludes the fact that a juvenile has not attained the level of mental or emotional development normally associated with an adult individual.

4. It removes duplicative or obsolete definitions for "he," "law enforcement officer," "organization" and "person."

5. It clarifies that the general principles contained in the Maine Revised Statutes, Title 17-A, Part 1, except specific provisions that are inconsistent with or inapplicable to the Maine Juvenile Code, are applicable to juvenile crimes.

6. It requires that a juvenile respond by way of an answer to a petition of allegation of a juvenile crime. A juvenile response may be through counsel.

7. It provides that, in addition to admitting the allegations of a petition, a juvenile or a juvenile's counsel may answer a petition by denying allegations, by asserting the absence of criminal responsibility by reason of insanity or by not contesting the allegations.

8. It allows a juvenile or a juvenile's counsel to answer by a denial and by an assertion of the absence of criminal responsibility by reason of insanity.

9. It allows a court to accept a denial or an assertion of the absence of criminal responsibility by reason of insanity, or both, when the case has been continued for investigation and for a bind-over hearing.

10. It provides that a court must enter an answer of denial if a juvenile or a juvenile's counsel declines to enter an answer.

11. It provides that a dispositional hearing will be set for a juvenile if the court accepts an answer admitting or not contesting the allegations of the petition.

12. It provides that if the answer entered by a juvenile is a denial or an assertion of the absence of criminal responsibility by reason of insanity, or both, or if the court declines to accept an answer admitting or not contesting the allegations of the petition, an adjudicatory hearing must be set.

13. It provides for a right to periodic review of a disposition of a juvenile found incompetent to proceed. It also clarifies that the commitment of a juvenile to the Department of Health and Human Services is a commitment to the custody of the Commissioner of Health and Human Services.

14. It changes the period of time within which a juvenile may take an appeal from the juvenile court to the Superior Court from 5 to 7 days after the entry of an order of disposition. This is the same appeal period as is provided for a petition contesting extradition.