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An Act To Allow Young Adult Offenders To Be Confined in Juvenile Correctional Facilities and To Comply with Federal Law Requirements

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

Sec. 1. 15 MRSA §3101, sub-§4, ¶E-1, as amended by PL 1997, c. 645, §5, is repealed.

Sec. 2. 15 MRSA §3101, sub-§4, ¶E-2, as enacted by PL 2003, c. 706, Pt. A, §1, is amended to read:

E-2. If the Juvenile Court binds a juvenile over to Superior Court and has not directed the detention of the juvenile in a section of a jail that is used primarily for the detention of adults pursuant to paragraph E-1, the court shall order that, if the juvenile attains 18 years and 6 months of age and is being detained, the juvenile must be detained in an adult section of a jail.

Sec. 3. 15 MRSA §3203-A, sub-§7, ¶A, as amended by PL 2009, c. 93, §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 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 section 3101, subsection 4, paragraph E-2.

Sec. 4. 15 MRSA §3203-A, sub-§7, ¶B-4, as amended by PL 2009, c. 93, §6, 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 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~~; E-2 or section 3205, subsection 2.

Sec. 5. 15 MRSA §3203-A, sub-§7, ¶C, as amended by PL 1997, c. 752, §13, is repealed.

Sec. 6. 15 MRSA §3203-A, sub-§7, ¶D, as repealed and replaced by PL 1991, c. 824, Pt. A, §24, is repealed.

Sec. 7. 15 MRSA §3205, sub-§1, as amended by PL 2005, c. 507, §6, is further amended to read:

1. Generally. A juvenile may not be committed to or detained or confined in a jail or other secure detention facility intended or primarily used for the detention of adults, except when bound over as an adult and as provided in section 3101, subsection 4, paragraph E-2, or as provided in section 3203-A, subsection 1, paragraph B-1 or section 3203-A, subsection 7. A juvenile who is detained in a jail or other secure detention facility intended or primarily used for the detention of adults may be detained only in a section of a facility that meets the requirements of section 3203-A, subsection 7, paragraph A, unless bound over as an adult and held in an adult section of a facility pursuant to ~~court order~~section 3101, subsection 4, paragraph E-2.

Sec. 8. 15 MRSA §3205, sub-§2, ¶B, as enacted by PL 2009, c. 93, §8, is amended to read:

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. 17-A MRSA §1259, as enacted by PL 2007, c. 686, §1, is further amended to read:

§ 1259. Commitments to the Department of Corrections of bound-over juveniles who have not attained 18 years of age at the time of sentence imposition

A juvenile who has been bound over, pursuant to Title 15, section 3101, subsection 4, for a juvenile crime for which the juvenile had the burden of proof with respect to the finding of appropriateness, who is subsequently, as to the juvenile crime's adult counterpart, convicted and sentenced to a sentence alternative involving imprisonment and who has not attained ~~16~~18 years of age at the time of sentence

imposition must be committed to a Department of Corrections juvenile correctional facility for an indeterminate period not to extend beyond the juvenile's 18th birthday to serve the term of imprisonment or any unsuspended portion until discharge from the juvenile correctional facility and once discharged must be transferred to a ~~Department of Corrections~~ adult correctional facility in which adult offenders are confined to serve out the remainder of the imprisonment term or unsuspended portion, if any.

Sec. 10. 34-A MRS §3061, sub-§1, as amended by PL 1991, c. 845, §5, is further amended to read:

1. Transfer. The commissioner may transfer any client from one correctional or detention facility or program, including prerelease centers, work release centers, halfway houses, supervised community confinement or specialized treatment facilities, to another, ~~except that no.~~ A juvenile may not be transferred to another facility or program for adult offenders and an adult offender may not be transferred to another facility or program for juveniles, except that an adult offender may be housed in the Long Creek Youth Development Center or the Mountain View Youth Development Center pursuant to section 3816 or 4117 or Title 17-A, section 1259.

Sec. 11. 34-A MRS §3816 is enacted to read:

§ 3816. Young adult offenders

The commissioner may confine adults sentenced and committed to the custody of the department who have not attained 26 years of age in the Long Creek Youth Development Center as long as the housing facilities for adult offenders are fully separated from the housing facilities for juvenile clients and the commissioner maintains at all times full compliance with mandatory sight and sound separation standards established by federal law. All provisions of this Title that are applicable to prisoners apply to adult offenders confined in the Long Creek Youth Development Center as if they were confined in a correctional facility housing only adults.

Sec. 12. 34-A MRS §4117 is enacted to read:

§ 4117. Young adult offenders

The commissioner may confine adults sentenced and committed to the custody of the department who have not attained 26 years of age in the Mountain View Youth Development Center as long as the housing facilities for adult offenders are fully separated from the housing facilities for juvenile clients and the commissioner maintains at all times full compliance with mandatory sight and sound separation standards established by federal law. All provisions of this Title that are applicable to prisoners apply to adult offenders confined in the Mountain View Youth Development Center as if they were confined in a correctional facility housing only adults.

SUMMARY

This bill permits the Department of Corrections to incarcerate young adult offenders who are at least 18 years of age and under 26 years of age and who are subjects of the adult criminal justice system at the Long Creek Youth Development Center and the Mountain View Youth Development Center. The

SP0133, LD 353, item 1, 126th Maine State Legislature
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Commissioner of Corrections is required to maintain full sight and sound separation of the young adult population from the juvenile population.

This bill also ensures compliance with federal law requirements for the housing of juveniles bound over for adult criminal proceedings.