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S.P. 31

In Senate, January 4, 2023

An Act to Amend the Maine Juvenile Code

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BEEBE-CENTER of Knox.

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

2 **Sec. 1. 15 MRSA §3003, sub-§14**, as amended by PL 2021, c. 326, §1, is further
3 amended to read:

4 **14. Juvenile.** "Juvenile" means a person who has not attained 18 years of age and a
5 person 18 years of age or older during the period of a disposition that includes probation or
6 commitment to a Department of Corrections juvenile correctional facility who was
7 adjudicated ~~before 18 years of age~~ as having committed a juvenile crime. This definition
8 does not apply to a person whose disposition includes probation or commitment to a
9 Department of Corrections juvenile correctional facility when that person engages in new
10 criminal conduct and is 18 years of age or older at the time of the new criminal conduct.

11 **Sec. 2. 15 MRSA §3203-A, sub-§5**, as amended by PL 2021, c. 326, §3, is further
12 amended to read:

13 **5. Detention hearing.** Upon petition by a juvenile community corrections officer who
14 ordered the detention or an attorney for the State who ordered the detention, the Juvenile
15 Court shall review the decision to detain a juvenile within 48 hours following the detention,
16 excluding Saturday, Sunday and legal holidays, except that if a juvenile is detained
17 pursuant to subsection 7, paragraph B-5, the Juvenile Court shall review the decision to
18 detain the juvenile within 24 hours following the detention, excluding Saturday, Sunday
19 and legal holidays. If the juvenile is not emancipated, the Juvenile Court shall provide
20 notice of a detention hearing to the juvenile's parent or parents, guardian or legal custodian.
21 When a petition to review detention is filed, the Juvenile Court shall assign counsel to
22 represent the juvenile. The assignment must be reviewed at the juvenile's first appearance
23 before the Juvenile Court. If a juvenile petition with charges based on the conduct at issue
24 in the detention hearing is filed, the assignment continues with respect to the petition to
25 review detention but must be reviewed at the juvenile's first appearance on the juvenile
26 petition.

27 A. A detention hearing must precede and must be separate from a bind-over or
28 adjudicatory hearing. Evidence presented at a detention hearing may include
29 testimony, affidavits and other reliable hearsay evidence as permitted by the Juvenile
30 Court and may be considered in making any determination in that hearing.

31 B. Following a detention hearing, the Juvenile Court shall order a juvenile's release,
32 in accordance with subsection 4, unless it finds, by a preponderance of the evidence,
33 that continued detention is necessary to meet one of the purposes of detention provided
34 in that subsection. The Juvenile Court shall ensure, by appropriate order, that any such
35 continued detention is otherwise in accordance with the requirements of subsection 4.
36 The Juvenile Court may order that detention be continued pending further appearances
37 before the Juvenile Court or pending conditional release to a setting satisfactory to the
38 juvenile community corrections officer.

39 C. Continued detention or conditional release may not be ordered unless a Juvenile
40 Court Judge or justice of the peace has determined pursuant to subsection 4-A or the
41 Juvenile Court determines at the detention hearing that there is probable cause to
42 believe that the juvenile has committed a juvenile crime.

43 D. When the Juvenile Court orders detention or a conditional release that authorizes,
44 even temporarily, the juvenile's removal from the juvenile's home, the Juvenile Court

1 shall determine whether reasonable efforts have been made to prevent or eliminate the
2 need for removal of the juvenile from the juvenile's home or that no reasonable efforts
3 are necessary because of the existence of an aggravating factor as defined in Title 22,
4 section 4002, subsection 1-B, and whether continuation in the juvenile's home would
5 be contrary to the welfare of the juvenile. This determination does not affect whether
6 the Juvenile Court orders detention or a conditional release, which continues to be
7 governed by the other provisions of this section.

8 **Sec. 3. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 2021, c. 330, §4, is further
9 amended to read:

10 H. The court may order the juvenile to serve a period of confinement that may not
11 exceed 30 days, with or without an underlying suspended disposition of commitment
12 to a Department of Corrections juvenile correctional facility, which confinement must
13 be served concurrently with any other period of confinement previously imposed and
14 not fully discharged or imposed on the same date but may be served intermittently as
15 the court may order and must be ordered served in a facility approved or operated by
16 the Department of Corrections exclusively for juveniles. The court may order such a
17 disposition to be served as a part of and with a period of probation that is subject to
18 such provisions of Title 17-A, section 1807 as the court may order and that must be
19 administered pursuant to Title 34-A, chapter 5, subchapter 4. Revocation of probation
20 is governed by the procedure contained in subsection 2. Any disposition under this
21 paragraph is subject to Title 17-A, section 2305 except that a statement is not required
22 to be furnished and the day-for-day deduction must be determined by the facility, but
23 is not subject to Title 17-A, section 2305, subsection 4 or 4-A; section 2307,
24 subsections 2, 3 and 4; section 2308, subsection 2; section 2309, subsection 2; or
25 section 2310, subsections 3, 6 and 7. ~~For purposes of calculating the commencement~~
26 ~~of the~~ The period of confinement, credit is accorded only for the portion of the first day
27 ~~for which the juvenile is actually confined; the~~ commences on the date on which the
28 juvenile is received into the facility to serve the period of confinement, and that day is
29 counted as the first full day of the period of confinement. The juvenile may not be
30 released until the juvenile has served the full term of hours or days imposed by the
31 court at any time on the final day of the period of confinement. When a juvenile is
32 committed for a period of confinement, the court shall determine whether reasonable
33 efforts have been made to prevent or eliminate the need for removal of the juvenile
34 from the juvenile's home or that reasonable efforts are not necessary because of the
35 existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B
36 and whether continuation in the juvenile's home would be contrary to the welfare of
37 the juvenile. This determination does not affect whether the court orders a period of
38 confinement.

39 **Sec. 4. 15 MRSA §3314, sub-§2**, as amended by PL 2019, c. 113, Pt. C, §49, is
40 further amended to read:

41 **2. Suspended disposition.** The court may impose any of the dispositional alternatives
42 provided in subsection 1 and may suspend its disposition and place the juvenile on a
43 specified period of probation that is subject to such provisions of Title 17-A, section 1807
44 as the court may order and that is administered pursuant to the provisions of Title 34-A,
45 chapter 5, subchapter 4, except that the court may not impose the condition set out in Title
46 17-A, section 1807, subsection 5 6. The court may impose as a condition of probation that

1 a juvenile must reside outside the juvenile's home in a setting satisfactory to the juvenile
2 community corrections officer if the court determines that reasonable efforts have been
3 made to prevent or eliminate the need for removal of the juvenile from the juvenile's home
4 or that no reasonable efforts are necessary because of the existence of an aggravating factor
5 as defined in Title 22, section 4002, subsection 1-B, and that continuation in the juvenile's
6 home would be contrary to the welfare of the juvenile. Imposition of such a condition does
7 not affect the legal custody of the juvenile.

8 Modification of probation is governed by the procedures contained in Title 17-A, section
9 1804, subsections 7 and 8. Termination of probation is governed by the procedures
10 contained in Title 17-A, section 1804, subsection 10. Revocation of probation is governed
11 by the procedures contained in Title 17-A, sections 1809 to 1812, except that this
12 subsection governs the court's determinations concerning probable cause and continued
13 detention and those provisions of Title 17-A, section 1812, subsection 6 allowing a vacating
14 of part of the suspension of execution apply only to a suspended fine under subsection 1,
15 paragraph G or a suspended period of confinement under paragraph H. A suspended
16 commitment under subsection 1, paragraph F may be modified to a disposition under
17 subsection 1, paragraph H. When a revocation of probation results in the imposition of a
18 disposition under subsection 1, paragraph F or a period of confinement under subsection 1,
19 paragraph H, the court shall determine whether reasonable efforts have been made to
20 prevent or eliminate the need for removal of the juvenile from the juvenile's home or that
21 no reasonable efforts are necessary because of the existence of an aggravating factor as
22 defined in Title 22, section 4002, subsection 1-B and whether continuation in the juvenile's
23 home would be contrary to the welfare of the juvenile. This determination does not affect
24 whether the court orders a particular disposition upon a revocation of probation. If the
25 juvenile is being detained for an alleged violation of probation, the court shall review within
26 48 hours following the detention, excluding Saturdays, Sundays and legal holidays, the
27 decision to detain the juvenile. Following that review, the court shall order the juvenile's
28 release unless the court finds that there is probable cause to believe that the juvenile has
29 violated a condition of probation and finds, by a preponderance of the evidence, that
30 continued detention is necessary to meet one of the purposes of detention under section
31 3203-A, subsection 4, paragraph C. When a court orders continued detention, the court
32 shall determine whether reasonable efforts have been made to prevent or eliminate the need
33 for removal of the juvenile from the juvenile's home or that no reasonable efforts are
34 necessary because of the existence of an aggravating factor as defined in Title 22, section
35 4002, subsection 1-B and whether continuation in the juvenile's home would be contrary
36 to the welfare of the juvenile. This determination does not affect whether the court orders
37 continued detention.

38 **Sec. 5. 15 MRSA §3314-C, sub-§8** is enacted to read:

39 **8. Payment and collection of restitution.** Payment of restitution by and collection
40 of restitution from a juvenile must be in accordance with Title 17-A, sections 2006, 2007,
41 2011, 2012 and 2016.

42 **Sec. 6. 15 MRSA §3318-A, sub-§7**, as amended by PL 2021, c. 365, §22 and
43 affected by §37, is further amended by enacting at the end a new last blocked paragraph to
44 read:

1 If, following the competency determination hearing, the Juvenile Court refers the juvenile
2 to the Commissioner of Health and Human Services for evaluation and treatment, issues
3 an order for the commissioner to evaluate the juvenile or orders the juvenile into the
4 custody of the commissioner pursuant to section 3318-B, the Juvenile Court shall ensure
5 that a copy of the report of the State Forensic Service examiner is provided to the
6 commissioner or the commissioner's designee. If, following the competency determination
7 hearing, the Juvenile Court orders the juvenile detained in a juvenile detention facility, the
8 Juvenile Court shall ensure that a copy of the report is provided to the Commissioner of
9 Corrections or the commissioner's designee.

10 **Sec. 7. 15 MRSA §3509** is enacted to read:

11 **§3509. Interstate Compact for Juveniles**

12 When a juvenile who has left the care of the juvenile's parent or parents, guardian or
13 legal custodian in another state without the consent of the parent or parents, guardian or
14 legal custodian, who has absconded from probation or parole in another state, who has
15 escaped from a detention or correctional facility in another state or who is accused of an
16 offense in another state is found by a law enforcement officer in the State, the juvenile must
17 be referred immediately to a juvenile community corrections officer and must be processed
18 according to the provisions of the Interstate Compact for Juveniles.

19 **SUMMARY**

20 This bill makes the following changes to the Maine Juvenile Code.

21 1. It changes the definition of "juvenile" to ensure that a person who committed a
22 juvenile crime before attaining 18 years of age but was adjudicated as having committed
23 that offense after attaining 18 years of age continues to be considered a juvenile with
24 respect to any probation or commitment arising from that adjudication.

25 2. It requires the Juvenile Court to provide notice of a detention hearing to a juvenile's
26 parent or parents, guardian or legal custodian if the juvenile is not emancipated.

27 3. It changes the law that requires, when a juvenile is ordered to serve a 30-day or
28 shorter period of confinement in a juvenile facility, that the juvenile be released at an exact
29 time that is dependent on when that juvenile arrived at the facility. It instead counts the
30 day the juvenile is received into the facility as the first full day of the period of confinement,
31 regardless of when the juvenile arrived at the facility, and allows the juvenile to be released
32 at any time on the last day of the period of confinement, as is the case for all other juvenile
33 dispositions and adult sentences.

34 4. It corrects a cross-reference with respect to juvenile probation conditions.

35 5. It adds cross-references with respect to the payment and collection of juvenile
36 restitution.

37 6. It requires the Juvenile Court to provide a copy of the report of the State Forensic
38 Service examiner to the Department of Health and Human Services or the Department of
39 Corrections if either agency will be involved with a juvenile following a competency
40 determination hearing.

41 7. It requires that a juvenile who is a runaway, absconder, escapee or accused offender
42 from another state be referred by a law enforcement officer to a juvenile community

1 corrections officer for processing according to the provisions of the Interstate Compact for
2 Juveniles.