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Date: (Filing No. S-)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 402, L.D. 1299, Bill, “An Act To Allow Deferred Disposition in Juvenile Cases”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 15 MRSA §3311-A is enacted to read:

§3311-A. Eligibility for deferred disposition

A juvenile who has entered an admission to a juvenile crime that would be a Class C, Class D or Class E crime or a civil offense if committed by an adult and who consents in writing to a deferred disposition is eligible for a deferred disposition pursuant to section 3311-B.

Sec. 2. 15 MRSA §3311-B is enacted to read:

§3311-B. Deferred disposition

1. Imposition. Following the acceptance of an admission of commission of a juvenile crime for which a juvenile is eligible for a deferred disposition under section 3311-A, the court may order disposition deferred to a date certain or determinable and impose requirements upon the juvenile to be in effect during the period of deferment that are considered by the court to be reasonable and appropriate to meet the purposes of the Juvenile Code. The court-imposed deferment requirements must include a requirement that the juvenile refrain from conduct that would constitute a juvenile crime, crime or civil offense. In exchange for the deferred disposition, the juvenile shall abide by the court-imposed deferment requirements. Unless the court orders otherwise, the department requirements are immediately in effect.

2. Amendment of requirements. During the period of deferment and upon application by the juvenile granted deferred disposition pursuant to subsection 1 or by the attorney for the State or upon the court's own motion, the court may, after a hearing upon notice to the attorney for the State and the juvenile, modify the requirements imposed by

COMMITTEE AMENDMENT

1 the court, add further requirements or relieve the juvenile of any requirement imposed by
2 the court that, in the court's opinion, imposes an unreasonable burden on the juvenile.

3 **3. Motion.** During the period of deferment, if the juvenile cannot meet a deferment
4 requirement imposed by the court, the juvenile shall bring a motion pursuant to
5 subsection 2.

6 **4. Finally adjudicated.** For purposes of a deferred disposition, a juvenile is deemed
7 to have been finally adjudicated when the court imposes a disposition under section 3314.

8 **Sec. 3. 15 MRSA §3311-C** is enacted to read:

9 **§3311-C. Court hearing as to final disposition**

10 **1. Court hearing; final disposition.** Unless a court hearing is sooner held under
11 subsection 2, at the conclusion of the period of deferment, after notice, a juvenile who
12 was granted deferred disposition pursuant to section 3311-B shall return to court for a
13 hearing on final disposition under section 3314. If the juvenile demonstrates by a
14 preponderance of the evidence that the juvenile has complied with the court-imposed
15 deferment requirements, the court shall impose a dispositional alternative authorized for
16 the juvenile crime to which the juvenile has entered an admission and consented to in
17 writing at the time disposition was deferred or as amended by agreement of the parties in
18 writing prior to disposition, unless the attorney for the State, prior to disposition, moves
19 the court to allow the juvenile to withdraw the admission. Except over the objection of
20 the juvenile, the court shall grant the State's motion. Following the granting of the State's
21 motion, the attorney for the State shall dismiss the pending petition with prejudice. If the
22 court finds that the juvenile has inexcusably failed to comply with the court-imposed
23 deferment requirements, the court shall impose a dispositional alternative authorized for
24 the juvenile crime to which the juvenile entered an admission.

25 **2. Violation of deferment requirement.** If during the period of deferment the
26 attorney for the State has probable cause to believe that a juvenile who was granted
27 deferred disposition pursuant to section 3311-B has violated a court-imposed deferment
28 requirement, the attorney for the State may move the court to terminate the remainder of
29 the period of deferment and impose disposition. Following notice and hearing, if the
30 attorney for the State proves by a preponderance of the evidence that the juvenile has
31 inexcusably failed to comply with a court-imposed deferment requirement, the court may
32 continue the running of the period of deferment with the requirements unchanged, modify
33 the requirements, add further requirements or terminate the running of the period of
34 deferment and conduct a dispositional hearing and impose a disposition authorized for the
35 juvenile crime to which the juvenile entered an admission. If the court finds that the
36 juvenile has not inexcusably failed to comply with a court-imposed deferment
37 requirement, the court may order that the running of the period of deferment continue or,
38 after notice and hearing, take any other action permitted under this chapter.

39 **3. Hearing.** A hearing under this section or section 3311-B need not be conducted
40 by the judge who originally ordered the deferred disposition.

41 **4. Rights of juvenile at hearing.** The juvenile at a hearing under this section or
42 section 3311-B must be afforded the opportunity to confront and cross-examine witnesses
43 against the juvenile, to present evidence on the juvenile's own behalf and to be

1 represented by counsel. If the juvenile who was granted deferred disposition pursuant to
2 section 3311-B cannot afford counsel, the court shall appoint counsel for the juvenile.
3 Assignment of counsel and withdrawal of counsel must be in accordance with the Maine
4 Rules of Criminal Procedure.

5 **5. Summons; failure to appear.** A summons, served in accordance with section
6 3304, may be used to order a juvenile who was granted deferred disposition pursuant to
7 section 3311-B to appear for a hearing under this section. If the juvenile fails to appear
8 after having been served with a summons, the court may issue a warrant for the arrest of
9 the juvenile.

10 **6. Warrant for arrest.** If during the period of deferment the attorney for the State
11 has probable cause to believe that a juvenile who was granted deferred disposition
12 pursuant to section 3311-B has violated a court-imposed deferment requirement, the
13 attorney for the State may apply for a warrant for the arrest of the juvenile.

14 **Sec. 4. 15 MRSA §3311-D** is enacted to read:

15 **§3311-D. Limited review by appeal**

16 A juvenile is precluded from seeking to attack the legality of a deferred disposition,
17 including a final disposition, except that a juvenile who has been determined by a court to
18 have inexcusably failed to comply with a court-imposed deferment requirement and
19 thereafter has had imposed a dispositional alternative authorized for the juvenile crime
20 may appeal to the Superior Court, but not as of right. The time for taking the appeal and
21 the manner and any conditions for the taking of the appeal are as the Supreme Judicial
22 Court provides by rule.'

23 **SUMMARY**

24 This amendment replaces the bill. The amendment creates the option of deferred
25 disposition in juvenile cases but instead of providing the same option for juveniles that is
26 provided in the Maine Criminal Code, it enacts this procedure in the Maine Juvenile Code
27 with appropriate terminology and procedures for juveniles.