

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 31 - L.D. 39

An Act to Amend the Maine Juvenile Code

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

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

14. Juvenile. "Juvenile" means a person who has had not attained 18 years of age and a person 18 years of age or older during the period of a disposition that includes probation or commitment to a Department of Corrections juvenile facility who was adjudicated before 18 years of age. This definition does not apply to a person whose disposition includes probation or commitment to a Department of Corrections juvenile correctional facility when that person engages in new criminal conduct and is 18 years of age or older at the time of the new criminal conduct at the time the person allegedly committed a juvenile crime.

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

5. Detention hearing. The Department of Corrections shall notify the Juvenile Court when a juvenile is detained and shall provide the court with the name and date of birth of the juvenile, the name of the arresting law enforcement agency, the time of arrest, a description of the juvenile crimes for which the juvenile was arrested and, if available, the current telephone number and e-mail address for the juvenile's parent or parents, guardian or legal custodian. Upon petition by a juvenile community corrections officer who ordered the detention or an attorney for the State who ordered the detention, the Juvenile Court shall review the decision to detain a juvenile within 48 hours following the detention, excluding Saturday, Sunday and legal holidays, except that if a juvenile is detained pursuant to subsection 7, paragraph B-5, the Juvenile Court shall review the decision to detain the juvenile within 24 hours following the detention, excluding Saturday, Sunday and legal holidays. If the juvenile is not emancipated and the court has been provided a telephone number or e-mail address for the juvenile's parent or parents, guardian or legal custodian, the Juvenile Court shall provide notice of the detention hearing to the juvenile's parent or parents, guardian or legal custodian. The court may conduct the detention hearing in the absence of the parent or parents, guardian or legal custodian if the court is unable to

provide notice to the parent or parents, guardian or legal custodian or the parent or parents, guardian or legal custodian fails to appear after receiving notice. When a petition to review detention is filed, the Juvenile Court shall assign counsel to represent the juvenile. The assignment must be reviewed at the juvenile's first appearance before the Juvenile Court. If a juvenile petition with charges based on the conduct at issue in the detention hearing is filed, the assignment continues with respect to the petition to review detention but must be reviewed at the juvenile's first appearance on the juvenile petition.

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

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

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

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

Sec. 3. 15 MRSA §3311-B, sub-§1, as amended by PL 2011, c. 480, §2, is further amended to read:

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 Maine 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 violation. Unless the juvenile crime is one under section 3103, subsection 1, paragraph B or C, the court-imposed deferment requirements may include that the juvenile abide by specific conditional release requirements under supervision by a juvenile community corrections officer. The court may not impose a requirement that the juvenile pay a

supervision fee. In exchange for the deferred disposition, the juvenile shall abide by the court-imposed deferment requirements. Unless the court orders otherwise, the deferment requirements are immediately in effect.

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

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

Sec. 5. 15 MRSA §3314, sub-§2, as amended by PL 2019, c. 113, Pt. C, §49, is further amended to read:

2. Suspended disposition. The court may impose any of the dispositional alternatives provided in subsection 1 and may suspend its disposition and place the juvenile on a specified period of probation that is subject to such provisions of Title 17-A, section 1807 as the court may order and that is administered pursuant to the provisions of Title 34-A, chapter 5, subchapter 4, except that the court may not impose the condition set out in Title 17-A, section 1807, subsection 5 ~~6~~. The court may impose as a condition of probation that a juvenile must reside outside the juvenile's home in a setting satisfactory to the juvenile community corrections officer if the court determines that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor

as defined in Title 22, section 4002, subsection 1-B, and that continuation in the juvenile's home would be contrary to the welfare of the juvenile. Imposition of such a condition does not affect the legal custody of the juvenile.

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

Sec. 6. 15 MRSA §3314-C, sub-§8 is enacted to read:

8. Payment and collection of restitution. Payment of restitution by and collection of restitution from a juvenile must be in accordance with Title 17-A, sections 2006, 2007, 2008, 2009, 2011, 2012, 2013, 2016, 2017 and 2018.

Sec. 7. 15 MRSA §3318-B, sub-§3 is enacted to read:

3. Provision of reports. If, following the competency determination hearing provided in section 3318-A, subsection 7, the Juvenile Court refers the juvenile to the Commissioner of Health and Human Services for evaluation and treatment, issues an order for the commissioner to evaluate the juvenile or orders the juvenile into the custody of the commissioner pursuant to this section, the Juvenile Court shall ensure that a copy of the report of the State Forensic Service examiner or any other report considered for the

competency determination is provided to the commissioner or the commissioner's designee.

Sec. 8. 15 MRSA §3509 is enacted to read:

§3509. Interstate Compact for Juveniles

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