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Date: (Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 224, L.D. 320, “An Act To Provide the Right to Counsel for Juveniles and Improve Due Process for Juveniles”

Amend the bill in section 1 in subsection 14 in the last line (page 1, line 7 in L.D.) by inserting after the following: "age." the following: '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.'

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 15 MRSA §3203-A, sub-§4, ¶G is enacted to read:

G. Notwithstanding any provision of law to the contrary, a juvenile who has not attained 12 years of age may not be detained at a secure detention facility for more than 7 days except by agreement of the parties.'

Amend the bill in section 3 in subsection 5 in the 11th line (page 2, line 11 in L.D.) by striking out the following: "juvenile petition" and inserting the following: 'petition to review detention'

Amend the bill in section 5 in subsection 1 in paragraph D in the last line (page 3, line 17 in L.D.) by striking out the following: "the juvenile's primary counsel" and inserting the following: 'any other counsel representing the juvenile'

Amend the bill in section 10 in paragraph M in the 3rd and 4th lines (page 3, lines 37 and 38 in L.D.) by striking out the following: "criminal episode giving rise to the conviction" and inserting the following: 'juvenile criminal episode giving rise to the adjudication'

Amend the bill by inserting after section 10 the following:

'Sec. 11. 15 MRSA §3314, sub-§1, ¶F, as amended by PL 2001, c. 696, §4, is further amended to read:

COMMITTEE AMENDMENT

1 F. The court may commit the juvenile to a Department of Corrections juvenile
2 correctional facility, except that, beginning October 1, 2021, the juvenile must be at
3 least 12 years of age at the time of commitment to be committed to such a facility.
4 Whenever a juvenile is committed to a Department of Corrections juvenile correctional
5 facility, the court shall determine whether reasonable efforts have been made to prevent
6 or eliminate the need for removal of the juvenile from the juvenile's home or that no
7 reasonable efforts are necessary because of the existence of an aggravating factor as
8 defined in Title 22, section 4002, subsection 1-B, and whether continuation in the
9 juvenile's home would be contrary to the welfare of the juvenile. This determination
10 does not affect whether the court orders a commitment to a Department of Corrections
11 juvenile correctional facility, which continues to be governed by section 3313.'

12 Amend the bill in section 11 in subsection 3 in paragraph A in the last line (page 4, line
13 14 in L.D.) by striking out the following: "a judicial review of the juvenile's commitment"
14 and inserting the following: 'this review'

15 Amend the bill in section 13 in §3317 in the first indented paragraph in the 7th line
16 (page 4, line 42 in L.D.) by striking out the following: "or reduction"

17 Amend the bill in section 13 in §3317 in the first indented paragraph in the 12th and
18 13th lines (page 5, lines 3 and 4 in L.D.) by striking out the following: ", including a
19 reduction of the period of commitment or probation,"

20 Amend the bill in section 13 in §3317 in the first indented paragraph in the last line
21 (page 5, line 13 in L.D.) by inserting after the following: "days." the following: 'A juvenile
22 who has not attained 21 years of age must be represented by counsel at this review.'

23 Amend the bill by striking out all of section 14 and inserting the following:

24 '**Sec. 14. 15 MRSA §3402, sub-§1**, as amended by PL 2021, c. 23, §§1 to 3, is
25 further amended to read:

26 **1. Matters for appeal.** Appeals of the following matters may be taken from the
27 ~~juvenile court~~ Juvenile Court to the Supreme Judicial Court by a party specified in
28 subsection 2:

29 A. An adjudication, as long as the appeal is taken after an order of disposition;

30 B. An order of disposition, or of any subsequent order modifying disposition, for an
31 abuse of discretion;

32 D. A detention order entered pursuant to section 3203-A, subsection 5 or any refusal
33 to alter a detention order upon petition of the juvenile pursuant to section 3203-A,
34 subsection 11, for abuse of discretion, ~~provided that the.~~ The appeal must be handled
35 expeditiously; ~~and~~

36 H. An order binding a juvenile over for prosecution as an adult, which may be taken
37 following issuance of the bind-over order, or, at the election of the appellant, following
38 a judgment of conviction as an adult, but not both; and

39 I. A judicial review decision pursuant to section 3317.'

40 Amend the bill in section 16 in the blocked paragraph in the first line (page 5, line 37
41 in L.D.) by striking out the following: "2022" and inserting the following: '2021'

1 Amend the bill in section 17 in subsection 1-A in the first line (page 5, line 39 in L.D.)
2 by striking out the following: "2022" and inserting the following: '2021'

3 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
4 number to read consecutively.

5 **SUMMARY**

6 This amendment revises the definition of "juvenile" to make clear it does not apply to
7 a person whose disposition includes probation or commitment to a Department of
8 Corrections juvenile correctional facility when that person engages in new criminal conduct
9 and is 18 years of age or older at the time of the new criminal conduct

10 It deletes from the bill the limitation on the Juvenile Court's jurisdiction over those who
11 have not attained 12 years of age and instead provides that, beginning October 1, 2021, a
12 juvenile who has not attained 12 years of age may not be committed to a secure detention
13 facility, which includes the Long Creek Youth Development Center. It also provides that
14 a juvenile who has not attained 12 years of age may not be detained in a secure detention
15 facility for more than 7 days except upon agreement of the parties. This amendment
16 clarifies that a juvenile who has not attained 21 years of age must be represented by counsel
17 when the court is conducting a review under the Maine Revised Statutes, Title 15, section
18 3315 or Title 15, section 3317.

19 This amendment deletes from the bill the authority of the Juvenile Court to reduce the
20 period of commitment or probation upon review. The amendment makes additional
21 technical corrections.

22 **FISCAL NOTE REQUIRED**

23 **(See attached)**