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Date: (Filing No. S- )

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 31, L.D. 39, “An Act to Amend the Maine Juvenile Code”

Amend the bill by striking out all of section 1 and inserting the following:

**'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.'

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

**'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

**COMMITTEE AMENDMENT**

1 telephone number or e-mail address for the juvenile's parent or parents, guardian or legal  
2 custodian, the Juvenile Court shall provide notice of the detention hearing to the juvenile's  
3 parent or parents, guardian or legal custodian. The court may conduct the detention hearing  
4 in the absence of the parent or parents, guardian or legal custodian if the court is unable to  
5 provide notice to the parent or parents, guardian or legal custodian or the parent or parents,  
6 guardian or legal custodian fails to appear after receiving notice. When a petition to review  
7 detention is filed, the Juvenile Court shall assign counsel to represent the juvenile. The  
8 assignment must be reviewed at the juvenile's first appearance before the Juvenile Court.  
9 If a juvenile petition with charges based on the conduct at issue in the detention hearing is  
10 filed, the assignment continues with respect to the petition to review detention but must be  
11 reviewed at the juvenile's first appearance on the juvenile petition.

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

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

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

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

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

39 **1. Imposition.** Following the acceptance of an admission of commission of a juvenile  
40 crime for which a juvenile is eligible for a deferred disposition under section 3311-A, the  
41 court may order disposition deferred to a date certain or determinable and impose  
42 requirements upon the juvenile to be in effect during the period of deferment that are  
43 considered by the court to be reasonable and appropriate to meet the purposes of the Maine  
44 Juvenile Code. The court-imposed deferment requirements must include a requirement  
45 that the juvenile refrain from conduct that would constitute a juvenile crime, crime or civil

1 violation. Unless the juvenile crime is one under section 3103, subsection 1, paragraph B  
2 or C, the court-imposed deferment requirements may include that the juvenile abide by  
3 specific conditional release requirements under supervision by a juvenile community  
4 corrections officer. The court may not impose a requirement that the juvenile pay a  
5 supervision fee. In exchange for the deferred disposition, the juvenile shall abide by the  
6 court-imposed deferment requirements. Unless the court orders otherwise, the deferment  
7 requirements are immediately in effect.'

8 Amend the bill by striking out all of section 5 and inserting the following:

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

10 **8. Payment and collection of restitution.** Payment of restitution by and collection  
11 of restitution from a juvenile must be in accordance with Title 17-A, sections 2006, 2007,  
12 2008, 2009, 2011, 2012, 2013, 2016, 2017 and 2018.'

13 Amend the bill by striking out all of section 6 and inserting the following:

14 '**Sec. 6. 15 MRSA §3318-B, sub-§3** is enacted to read:

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

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

## 25 SUMMARY

26 This amendment makes the following changes to the bill.

27 1. It amends the definition of "juvenile" under the Maine Juvenile Code as a person  
28 who had not attained 18 years of age at the time the person allegedly committed a juvenile  
29 crime.

30 2. It amends the bill by changing the requirement that the Juvenile Court notify the  
31 juvenile's parent or parents, guardian or legal custodian of a detention hearing to allow a  
32 court to conduct a detention hearing in the absence of the juvenile's parent or parents,  
33 guardian or legal custodian if the court is unable to provide them notice or if they fail to  
34 appear after receiving notice.

35 3. It prohibits courts from requiring a juvenile under a deferred disposition to pay a  
36 supervision fee.

37 4. It provides additional cross-references to restitution provisions regarding payment  
38 and collection of juvenile restitution for a deceased victim, a victim unable to be located,  
39 post-conviction relief, waiver of issue of excessiveness and restitution for the benefit of the  
40 victim.

1           5. It removes the requirement from the bill that the court must ensure a copy of the  
2 State Forensic Service examiner report or any other report is sent to the Commissioner of  
3 Corrections or the commissioner's designee if the Juvenile Court orders a juvenile detained  
4 in a juvenile detention facility.

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**FISCAL NOTE REQUIRED**

**(See attached)**