

CHAPTER 507

PETITION, ADJUDICATION AND DISPOSITION

§3301. Preliminary investigation, informal adjustment and petition initiation

1. Preliminary investigation. When a juvenile accused of having committed a juvenile crime is referred to a juvenile community corrections officer, the juvenile community corrections officer shall, except in cases in which an investigation is conducted pursuant to Title 5, section 200-A, conduct a preliminary investigation to determine whether the interests of the juvenile or of the community require that further action be taken.

On the basis of the preliminary investigation, the juvenile community corrections officer shall:

A. Decide that action requiring ongoing supervision is not required either in the interests of the public or of the juvenile; [PL 1999, c. 260, Pt. A, §6 (AMD).]

B. Make whatever informal adjustment is practicable without a petition; or [PL 1981, c. 679, §6 (AMD).]

C. Request a petition to be filed. [PL 1977, c. 520, §1 (NEW).]
[PL 1999, c. 624, Pt. B, §8 (AMD).]

2. No further action.

[PL 1977, c. 664, §21 (RP).]

3. Informal adjustment.

[PL 1977, c. 664, §21 (RP).]

4. Request for filing of petition.

[PL 1977, c. 664, §21 (RP).]

5. Juvenile community corrections officer alternatives. On the basis of the preliminary investigation, the juvenile community corrections officer shall choose one of the following alternatives:

A. Decide that action requiring ongoing supervision is not required either in the interests of the public or of the juvenile. If the juvenile community corrections officer determines that the facts in the report prepared for the community corrections officer by the referring officer pursuant to section 3203-A, subsection 3 are sufficient to file a petition, but in the community corrections officer's judgment the interest of the juvenile and the public will be served best by providing the juvenile with services voluntarily accepted by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, the juvenile community corrections officer may refer the juvenile for that care and treatment and not request that a petition be filed; [PL 1999, c. 624, Pt. B, §9 (AMD).]

B. Make whatever informal adjustment is practicable without a petition. The juvenile community corrections officer may effect whatever informal adjustment is agreed to by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime and the performance of community service. Informal adjustments may extend no longer than 6 months and may not be commenced unless:

(1) The juvenile community corrections officer determines that the juvenile and the juvenile's parents, guardian or legal custodian, if the juvenile is not emancipated, were advised of their constitutional rights, including the right to an adjudicatory hearing, the right to be represented by counsel and the right to have counsel appointed by the court if indigent;

(2) The facts establish prima facie jurisdiction, except that any admission made in connection with this informal adjustment may not be used in evidence against the juvenile if a petition based on the same facts is later filed; and

(3) Written consent to the informal adjustment is obtained from the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; [PL 1999, c. 624, Pt. B, §9 (AMD).]

C. If the juvenile community corrections officer determines that the facts are sufficient for the filing of a petition, the juvenile community corrections officer shall request the prosecuting attorney to file a petition; or [PL 1999, c. 624, Pt. B, §9 (AMD).]

D. If the juvenile community corrections officer makes a determination pursuant to paragraph A or B, the community corrections officer shall notify the juvenile and the juvenile's parents, guardian or legal custodian at least 2 weeks prior to the date for which they are summonsed. [PL 1999, c. 624, Pt. B, §9 (AMD).]

[PL 1999, c. 624, Pt. B, §9 (AMD).]

5-A. Community resolution teams.

[PL 2007, c. 96, §3 (RP).]

6. Review by attorney for the State. If the juvenile community corrections officer decides not to request the attorney for the State to file a petition, the juvenile community corrections officer shall inform the attorney for the State, the complainant, the law enforcement officer and the victim of the decision and of the reasons for the decision as soon as practicable. The juvenile community corrections officer shall advise the complainant, the law enforcement officer and the victim that they may submit their complaint to the attorney for the State for review.

If the juvenile community corrections officer makes a determination pursuant to subsection 5, paragraph A or B and decides not to request the attorney for the State to file a petition for a violation of Title 22, section 2389, subsection 2 or Title 28-A, section 2052, the juvenile community corrections officer shall inform the Secretary of State of the violation. The Secretary of State shall suspend for a period of 30 days that juvenile's license or permit to operate a motor vehicle, right to operate a motor vehicle and right to apply for and obtain a license. After the suspension is terminated, any record of the suspension is confidential and may be released only to a law enforcement officer or the courts for prosecution of violations of Title 29-A, section 2412-A.

The attorney for the State on that attorney's own motion or upon receiving a request for review by the law enforcement officer, the complainant or the victim, shall consider the facts of the case, consult with the juvenile community corrections officer who made the initial decision and then make a final decision as to whether to file the petition. The attorney for the State shall notify the juvenile community corrections officer of the final decision within 30 days of being informed by the juvenile community corrections officer of the initial decision. If a juvenile community corrections officer has not yet made an initial decision, the attorney for the State may file a petition at any time more than 30 days after the juvenile community corrections officer has been given notice pursuant to section 3203-A.

[PL 2011, c. 580, §1 (AMD).]

6-A. Records confidential.

[PL 2019, c. 525, §12 (RP).]

7. Nonapplication of section. The provisions of this section do not apply to a juvenile charged with either of the juvenile crimes defined in section 3103, subsection 1, paragraph E or F, and a petition may be filed without recommendation by a juvenile community corrections officer. The provisions of section 3203-A apply in the case of a juvenile charged with either of the juvenile crimes defined in section 3103, subsection 1, paragraph E or F.

[PL 2019, c. 525, §13 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §§21,22 (AMD). PL 1979, c. 127, §119 (AMD). PL 1979, c. 681, §15 (AMD). PL 1981, c. 204, §1 (AMD). PL 1981, c. 392, §§4,5 (AMD). PL 1981, c. 679, §§6,7 (AMD). PL 1985, c. 439, §11 (AMD). PL 1985, c. 737, §A38 (AMD). PL 1989, c. 502, §A41 (AMD). PL 1989, c. 599, §7 (AMD). PL 1997, c. 350, §1 (AMD). PL 1997, c. 421, §§A2,3 (AMD). PL 1997, c. 645, §9 (AMD). PL 1999, c. 167, §1 (AMD). PL 1999, c. 260, §§A6-8 (AMD). PL 1999, c. 266, §§1-3 (AMD). PL 1999, c. 624, §§B8-12 (AMD). PL 1999, c. 790, §A54 (AFF). PL 2003, c. 305, §5 (AMD). PL 2005, c. 487, §1 (AMD). PL 2005, c. 507, §9 (AMD). PL 2007, c. 96, §3 (AMD). PL 2007, c. 196, §2 (AMD). PL 2011, c. 580, §1 (AMD). PL 2019, c. 525, §§12, 13 (AMD).

§3301-A. School safety

1. Sharing information. Nothing in this Part precludes a law enforcement officer or criminal justice agency from sharing information with a school superintendent or principal, whether or not the information is contained in records, pertaining to a juvenile when the information is credible and indicates an imminent danger to the safety of students or school personnel on school grounds or at a school function. The superintendent or principal may disseminate this information only to the extent necessary to protect students and school personnel and as governed by subsection 2.

[PL 2003, c. 190, §1 (NEW).]

2. Process for further dissemination. Any information received by a superintendent or principal pursuant to subsection 1 may only be further distributed through a notification team as described in Title 20-A, section 1055, subsection 11.

[PL 2003, c. 190, §1 (NEW).]

3. Information prohibited from inclusion in student's education record. The superintendent or principal shall ensure that information provided pursuant to this section may not become part of the student's education record.

[PL 2003, c. 190, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 190, §1 (NEW).

§3302. Petition, form and contents

The form and content of a petition in any proceeding brought under chapter 503 must be substantially the same as the form and content of a complaint under Rule 3 of the Maine Rules of Unified Criminal Procedure. [PL 2015, c. 431, §29 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1989, c. 741, §11 (AMD). PL 2015, c. 431, §29 (AMD).

§3303. Dismissal of petition with prejudice

On motion made by or on behalf of a juvenile, or by the court itself, a petition must be dismissed with prejudice if it was not filed within 9 months from the date the juvenile was referred to the juvenile community corrections officer for an intake assessment, unless the prosecuting attorney either before or after the expiration of the 9-month period files a motion for an extension of time for the filing of a petition, accompanied by the reasons for this extension. The court may for good cause extend the time for bringing a petition for any period of time that is less than the limitation established in section 3105-A. [PL 1999, c. 624, Pt. B, §13 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §23 (AMD). PL 1983, c. 176, §A6 (AMD). PL 1985, c. 439, §12 (AMD). PL 1995, c. 133, §1 (AMD). PL 1999, c. 624, §B13 (AMD).

§3304. Summons

1. Issuance and contents. The summons issued by the law enforcement officer must include the signature of the law enforcement officer, a brief description of the alleged juvenile crime, the time and place of the alleged juvenile crime and the time and place the juvenile is to appear in court. The summons must also include a statement of the constitutional rights of the juvenile, including the right to have an attorney present at the hearing on the petition and to have an attorney appointed, if indigent. The summons must also include a notice that the case may be informally adjusted by a juvenile community corrections officer.

[PL 1999, c. 624, Pt. B, §14 (AMD).]

2. Voluntary appearance; waiver of service. No summons need issue to any person who appears voluntarily, or who waives service, but any such person shall be provided with a copy of the petition and summons upon appearance or request.

[PL 1977, c. 520, §1 (NEW).]

3. Service. The summons must be directed to and served upon the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated. The summons must be served in hand or by leaving it at the juvenile's and parents', guardian's or legal custodian's dwelling house or usual place of abode with a person of suitable age and discretion residing in that house or by mailing it to the last known address of the juvenile. A copy of the summons must be mailed to the juvenile community corrections officer and the attorney for the State.

A. [PL 1999, c. 266, §5 (RP).]

B. [PL 1999, c. 266, §5 (RP).]

[PL 1999, c. 624, Pt. B, §15 (AMD).]

4. Service at least 48 hours before appearance demanded. The summons must require the person on whom it is served to appear for a hearing at the time and place specified. The time may not be less than 48 hours after service of the summons. If the juvenile is not detained by an order of the court, the summons must require the custodian to produce the juvenile at that time and place.

[PL 1997, c. 350, §4 (AMD).]

5. Service on parents of juvenile. The following applies to service of the summons under subsection 3.

A. If the person or persons to whom a summons is served are the parents of the juvenile and if the juvenile principally resides with only one parent, then service on that parent is sufficient. [PL 1989, c. 741, §13 (NEW).]

B. If the person or persons to whom a summons is served are not the parents or guardian of the juvenile, the summons must also be issued to the parents or guardian or both, notifying them of the pendency of the cause and of the time and place for hearing. The court may waive this requirement if the court finds that the service of the summons is not possible and explains this finding in writing, except as required by section 3314, subsection 1, paragraph C-1 or C-2. [PL 1989, c. 741, §13 (NEW).]

[PL 1989, c. 741, §13 (RPR).]

6. Summons of necessary parties. The court on its own motion or on the motion of any party may require the appearance of any person the court determines necessary to the action and authorize the issuance of a summons directed to that person. Any party to the action may request the issuance of compulsory process by the court requiring the attendance of witnesses on the party's behalf or on the behalf of the juvenile.

[PL 2019, c. 525, §14 (AMD).]

6-A. Attendance of parent, guardian or legal custodian; contempt. The parent, guardian or legal custodian shall appear in response to the summons served pursuant to subsection 5 and shall attend all proceedings concerning the juvenile. The failure of a parent, guardian or legal custodian to appear in response to the summons or for a later hearing, or the inability to serve such a party, may not prevent the court from continuing with the proceedings against a juvenile who is before the court, except as required in section 3314, subsection 1, paragraphs C-1 and C-2.

A. The court may excuse the attendance of a parent, guardian or legal custodian at a particular proceeding or all proceedings for good cause or if appearing in court will result in undue hardship to the parent, guardian or legal custodian. [PL 2003, c. 142, §1 (NEW); PL 2003, c. 142, §3 (AFF).]

B. If the parent, guardian or legal custodian fails to appear with the juvenile and the court has not found good cause for not appearing, the court, after notice and hearing on the issue of contempt, may find the parent, guardian or legal custodian in contempt of court in accordance with the Maine Rules of Civil Procedure, Rule 66(d). [PL 2007, c. 475, §7 (AMD).]

C. This subsection does not create a right for the juvenile to have the juvenile's parent, guardian or legal custodian present at any proceeding or court-ordered program that the juvenile attends or is required to attend. [PL 2003, c. 142, §1 (NEW); PL 2003, c. 142, §3 (AFF).]
[PL 2007, c. 475, §7 (AMD).]

7. Witness fees and travel expenses. The court may authorize the payment of necessary witness fees and travel expenses incurred by persons summoned or otherwise required to appear, which payments shall not exceed the amount allowed to witnesses for travel by the District Court. [PL 1977, c. 520, §1 (NEW).]

8. Authority of juvenile community corrections officer to issue and serve summons. The Commissioner of Corrections, at the commissioner's discretion, may authorize a juvenile community corrections officer to issue and serve a summons, subject to conditions the commissioner may impose as to when and under what circumstances such authority may be exercised. [PL 2003, c. 16, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §24 (AMD). PL 1979, c. 681, §§16,17 (AMD). PL 1985, c. 439, §13 (AMD). PL 1987, c. 720, §§1,2 (AMD). PL 1989, c. 741, §§12,13 (AMD). PL 1997, c. 350, §§2-4 (AMD). PL 1999, c. 266, §§4,5 (AMD). PL 1999, c. 624, §§B14,15 (AMD). PL 1999, c. 624, §B15 (AMD). PL 2003, c. 16, §1 (AMD). PL 2003, c. 142, §1 (AMD). PL 2003, c. 142, §3 (AFF). PL 2007, c. 475, §7 (AMD). PL 2019, c. 525, §14 (AMD).

§3305. Answer

A juvenile must personally appear, and the juvenile or the juvenile's counsel may enter an answer asserting the absence of criminal responsibility by reason of insanity or denying, admitting or not contesting the allegations of the petition, in accordance with Rules 11 and 11A of the Maine Rules of Unified Criminal Procedure, except that, if the case has been continued for investigation and for a bind-over hearing pursuant to section 3101, subsection 4, paragraph A, the court may not accept an answer to the petition other than a denial or assertion of the absence of criminal responsibility by reason of insanity until the court has conducted a bind-over hearing and has decided to retain jurisdiction of the juvenile in the Juvenile Court or until the prosecuting attorney has withdrawn the request to have the juvenile tried as an adult. An answer may be both a denial and an assertion of the absence of criminal responsibility by reason of insanity. If the juvenile or the juvenile's counsel declines to enter an answer, the court shall enter an answer of denial. [PL 2015, c. 431, §30 (AMD).]

If the court accepts an answer admitting or not contesting the allegations of the petition, a dispositional hearing must be set at the earliest practicable time that will allow for the completion of a

predisposition study conducted pursuant to section 3311 and for service of notice as required by section 3314, subsection 1, paragraph C-1 or C-2. If the answer entered is a denial or an assertion of the absence of criminal responsibility by reason of insanity, or both, or if the court declines to accept an answer admitting or not contesting the allegations of the petition, the matter must be set for further proceedings. [PL 2013, c. 234, §9 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1987, c. 720, §3 (AMD). PL 1989, c. 741, §14 (AMD). PL 2011, c. 336, §3 (AMD). PL 2013, c. 234, §9 (AMD). PL 2015, c. 431, §30 (AMD).

§3306. Right to counsel

1. Notice and appointment.

A. At a juvenile's first appearance before the court, the juvenile and the juvenile's parent or parents, guardian or legal custodian must be fully advised by the court of their constitutional and legal rights, including the juvenile's right to be represented by counsel at every stage of the proceedings. At every subsequent appearance before the court, the juvenile must be advised of the juvenile's right to be represented by counsel. [PL 2019, c. 525, §15 (AMD).]

B. If the juvenile requests an attorney and if the juvenile and the juvenile's parent or parents, guardian or legal custodian are found to be without sufficient financial means, counsel must be appointed by the court. [PL 2019, c. 525, §15 (AMD).]

C. The court may appoint counsel without a request under paragraph B if the court determines representation by counsel necessary to protect the interests of the juvenile. [PL 2019, c. 525, §15 (AMD).]

[PL 2019, c. 525, §15 (AMD).]

2. State's attorney. The district attorney or the attorney general shall represent the State in all proceedings under this chapter.

[PL 1977, c. 520, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §25 (AMD). PL 2019, c. 525, §15 (AMD).

§3306-A. Release or detention at first appearance

At the juvenile's first appearance or at a subsequent appearance before the court, the court may order the juvenile's unconditional release, conditional release or detention in accordance with section 3203-A. Unless the court orders otherwise, a juvenile put on conditional release by a juvenile community corrections officer remains on conditional release until the juvenile commences an informal adjustment pursuant to section 3301, subsection 5, paragraph B, the attorney for the State determines that no petition will be filed or the juvenile court enters a final dispositional order pursuant to section 3314. [PL 2007, c. 196, §3 (AMD).]

Conditional release or detention may not be ordered at any appearance unless it has been determined by a Juvenile Court Judge or a justice of the peace that there is probable cause to believe that the juvenile has committed a juvenile crime. [PL 2003, c. 706, Pt. A, §4 (NEW).]

When a court orders detention or a conditional release that authorizes even temporarily the juvenile's removal from the juvenile's home or when a court allows a conditional release ordered by a juvenile community corrections officer that authorizes, even temporarily, the juvenile's removal from the juvenile's home to remain in effect, 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 detention or a conditional release or allows a conditional release to remain in effect. [PL 2003, c. 706, Pt. A, §4 (AMD).]

SECTION HISTORY

PL 1989, c. 741, §15 (NEW). PL 1991, c. 493, §18 (AMD). PL 1999, c. 624, §B16 (AMD). PL 2001, c. 696, §2 (AMD). PL 2003, c. 706, §A4 (AMD). PL 2007, c. 196, §3 (AMD).

§3307. Publicity and record

1. Juvenile hearings conducted as they would be for adults.

[PL 1979, c. 681, §18 (RP).]

1-A. Disclosure of identity. A law enforcement officer, officer of the court, juvenile community corrections officer or other representative of the Department of Corrections may not disclose the identity of any juvenile until a petition is filed charging the juvenile with a juvenile crime described in subsection 2. This section does not preclude the disclosure of the identity of a juvenile to a complainant or victim if a juvenile community corrections officer decides not to file a petition in accordance with section 3301, subsection 5, paragraph A or B or if the juvenile community corrections officer requests the prosecuting attorney to file a petition in accordance with section 3301, subsection 5, paragraph C. [PL 2019, c. 525, §16 (AMD).]

2. Certain hearings public.

A. Once a petition is filed, the general public may not be excluded from a proceeding on a juvenile crime that would constitute murder or a Class A, Class B or Class C crime if the juvenile involved were an adult; from a proceeding on a juvenile crime that would constitute a Class D crime if the juvenile involved were an adult and the juvenile has previously been adjudicated of committing a juvenile crime that would constitute a Class D or higher class crime not arising from the same underlying transaction; or from a subsequent dispositional hearing in such cases. [PL 2007, c. 196, §4 (AMD).]

B. The general public is excluded from all other juvenile hearings and proceedings, except that a juvenile charged with a juvenile crime that would constitute murder or a Class A, Class B or Class C offense and with a juvenile crime that would constitute a juvenile's first Class D offense or Class E offense or with conduct described in section 3103, subsection 1, paragraph B, C or E, arising from the same underlying transaction may elect to have all charges adjudicated in one hearing, and, when a juvenile does so elect, the general public is not excluded from that hearing. [PL 2009, c. 93, §9 (AMD).]

C. [PL 1979, c. 681, §19 (RP).]
[PL 2009, c. 93, §9 (AMD).]

3. Record. A verbatim record shall be made of all detention, bind over, adjudicatory and dispositional hearings.
[PL 1979, c. 512, §4 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §§26-29 (AMD). PL 1979, c. 233, §1 (AMD). PL 1979, c. 373, §§2,3 (AMD). PL 1979, c. 512, §4 (AMD). PL 1979, c. 681, §§18,19 (AMD). PL 1981, c. 361 (AMD). PL 1989, c. 421 (AMD). PL 1989, c. 445, §5 (AMD). PL 1991, c. 493, §19 (AMD). PL 1991, c. 776, §1 (AMD). PL 1995, c. 470, §7 (AMD). PL 1999, c. 624, §B17 (AMD). PL 2003, c. 180, §8 (AMD). PL 2007, c. 196, §4 (AMD). PL 2009, c. 93, §9 (AMD). PL 2019, c. 525, §16 (AMD).

§3308. Juvenile case records; inspection and sealing

1. Inspection.

[PL 2019, c. 525, §17 (RP).]

1-A. Confidentiality. Juvenile case records are confidential and may not be disclosed, disseminated or inspected except as expressly authorized by this Part.

[PL 2019, c. 525, §17 (NEW).]

2. Hearings open to public. In the case of a hearing open to the general public under section 3307, the petition, the record of the hearing and the order of adjudication are open to public inspection, provided that any court subsequently sentencing the juvenile after the juvenile has become an adult may consider only murder and Class A, Class B and Class C offenses committed by the juvenile. The petition, the record of the hearing and the order of adjudication, regardless of whether the hearing is open to the general public under section 3307, are open to inspection by:

A. The victim; [PL 2019, c. 525, §17 (NEW).]

B. If the victim is a minor, a parent or parents, guardian or legal custodian of the victim; and [PL 2019, c. 525, §17 (NEW).]

C. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or other reason, an immediate family member, guardian, legal custodian of the victim or a licensed professional investigator under Title 32, chapter 89. [PL 2019, c. 525, §17 (NEW).]

[PL 2019, c. 525, §17 (AMD).]

3. Dissemination of juvenile case records. Juvenile case records must be open to inspection by and, upon request, be disseminated to the juvenile, the juvenile's parent or parents, guardian or legal custodian, the juvenile's attorney, the prosecuting attorney and to any agency to which legal custody of the juvenile was transferred as a result of adjudication. Juvenile case records may also be open to inspection by and, upon request, be disseminated to the Department of Health and Human Services prior to adjudication if commitment to the Department of Health and Human Services is a proposed disposition.

[PL 2019, c. 525, §17 (AMD).]

3-A. Disclosure of juvenile's identity to victims. Upon request, the identity of a juvenile subject to Juvenile Court proceedings must be disclosed by the Juvenile Court to:

A. The victim; [PL 2019, c. 525, §17 (NEW).]

B. If the victim is a minor, a parent or parents, guardian or legal custodian of the victim; or [PL 2019, c. 525, §17 (NEW).]

C. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or other reason, an immediate family member, guardian, legal custodian of the victim or a licensed professional investigator under Title 32, chapter 89. [PL 2019, c. 525, §17 (NEW).]

[PL 2019, c. 525, §17 (AMD).]

4. Access to juvenile case records by other persons. With the consent of the court and subject to reasonable limitations to protect the identity, privacy and safety of 3rd parties, including, but not limited to, victims and other accused or adjudicated juveniles, and the interests of justice, juvenile case records, excluding the names of the juvenile and the juvenile's parent or parents, guardian or legal custodian, the juvenile's attorney or any other parties, may be inspected by or disseminated to persons having a legitimate interest in the proceedings or by persons conducting pertinent research studies.

[PL 2019, c. 525, §17 (AMD).]

5. Access to other records. Except as otherwise authorized under section 3307 or this section, juvenile intelligence and investigative record information as defined in section 3308-A, subsection 1,

paragraph E, juvenile community corrections officers' records and all other reports of social and clinical studies contained in juvenile case records may not be open to inspection or disclosed or disseminated except with consent of the court or except to the extent that such records, reports and studies were made a part of the record of a hearing that was open to the general public under section 3307. The names and identifying information regarding any alleged victim and minors contained in the juvenile case records must be redacted prior to disclosure, dissemination or inspection.

The court may not order the disclosure, dissemination or inspection of juvenile case records unless the juvenile, the juvenile's attorney or, if the juvenile does not have an attorney, the juvenile's attorney of record and the prosecuting attorney are given notice of the request and an opportunity to be heard regarding the request. In deciding whether to allow the disclosure, dissemination or inspection of any portion of juvenile case records under this subsection, the court shall consider the purposes of this Part and the reasons for which the request is being made and may restrict the disclosure, dissemination or inspection of the juvenile case records in any manner the court determines necessary or appropriate. The names and identifying information regarding any alleged victims and minors contained in the juvenile case records must be redacted prior to disclosure, dissemination or inspection.

[PL 2019, c. 525, §17 (AMD).]

6. Records to Secretary of State. Whenever a juvenile has been adjudicated as having committed a juvenile crime involving the operation of a motor vehicle, the court shall transmit to the Secretary of State an abstract, duly certified, setting forth the name of the juvenile, the offense, the date of the offense, the date of the adjudicatory hearing and any other pertinent facts. These juvenile case records are admissible in evidence in hearings conducted by the Secretary of State or any of the Secretary of State's deputies and are open to public inspection.

Nothing in this Part may be construed to limit the authority of the Secretary of State, pursuant to Title 29-A, to suspend a person's license or permit to operate a motor vehicle, right to operate a motor vehicle or right to apply for or obtain a license

[PL 2019, c. 525, §17 (AMD).]

7. Dissemination of information. The following provisions apply to the dissemination of information contained in juvenile case records.

A. For purposes of this subsection the following terms have the following meanings.

(1) "Administration of criminal justice" has the same meaning as found in Title 16, section 703, subsection 1.

(2) "Administration of juvenile criminal justice" means activities related to the apprehension or summoning, detention, conditional or unconditional release, informal adjustment, initial appearance, bind over, adjudication, disposition, custody and supervision or rehabilitation of accused juveniles or adjudicated juvenile criminal offenders. It includes the collection, storage and dissemination of juvenile case records.

(3) "Criminal justice agency" has the same meaning as found in Title 16, section 703, subsection 4. [PL 2019, c. 525, §17 (AMD).]

B. Nothing in this section precludes sharing of any information contained in juvenile case records by one criminal justice agency with another criminal justice agency for the administration of criminal justice or juvenile criminal justice or for criminal justice agency employment. [PL 2019, c. 525, §17 (AMD).]

B-1. Nothing in this section precludes dissemination of any information contained in juvenile case records if:

(1) The juvenile has been adjudicated as having committed a juvenile crime;

(2) The information is disseminated by and to persons who directly supervise or report on the health, behavior or progress of the juvenile, the superintendent of the juvenile's school and the superintendent's designees, criminal justice agencies or agencies that are or might become responsible for the health or welfare of the juvenile as a result of a court order or by agreement with the Department of Corrections or the Department of Health and Human Services; and

(3) The information is relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into a school.

Any information received under this paragraph is confidential and may not be further disseminated, except as otherwise provided by law. [PL 2019, c. 525, §17 (AMD).]

C. Nothing in this section precludes dissemination of any information in the juvenile case records in the possession of the Department of Corrections if the person concerning whom the juvenile case records are sought, the person's legal guardian, if any, and, if the person is a minor, the person's parent or parents, guardian or legal custodian has given informed written consent to the dissemination of the juvenile case records. [PL 2019, c. 525, §17 (AMD).]

D. When a juvenile who is adjudicated of a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1 is committed to a Department of Corrections juvenile correctional facility or placed on probation, the Department of Corrections shall provide, while the juvenile is committed or on probation, a copy of the juvenile's judgment and commitment to the Department of Health and Human Services, to all law enforcement agencies that have jurisdiction in those areas where the juvenile may reside, work or attend school and to the superintendent of any school system in which the juvenile attends school during the period of commitment or probation. The Department of Corrections shall provide a copy of the juvenile's judgment and commitment to all licensed and registered day-care facility operators located in the municipality where the juvenile resides, works or attends school during the period of commitment or probation. Upon request, the Department of Corrections shall also provide a copy of the juvenile's judgment and commitment to other entities that are involved in the care of children and are located in the municipality where the juvenile resides, works or attends school during the period of commitment or probation. The Department of Corrections may provide a copy of the juvenile's judgment and commitment to any other agency or person whom the Department of Corrections determines is appropriate to ensure public safety. Neither the failure of the Department of Corrections to perform the requirements of this paragraph nor compliance with this paragraph subjects the Department of Corrections or its employees to liability in a civil action. [PL 1997, c. 752, §15 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

E. [PL 2019, c. 525, §17 (RP).]
[PL 2019, c. 525, §17 (AMD).]

8. Juvenile case records sealed. This subsection governs the sealing of juvenile case records of a person adjudicated to have committed a juvenile crime.

A. A person adjudicated to have committed a juvenile crime may petition the court to seal from public inspection all juvenile case records pertaining to the juvenile crime and its disposition, and to any prior juvenile case records and their dispositions if:

- (1) At least 3 years have passed since the person's discharge from the disposition ordered for that juvenile crime;
- (2) Since the date of disposition, the person has not been adjudicated to have committed a juvenile crime and has not been convicted of committing a crime; and
- (3) There are no current adjudicatory proceedings pending for a juvenile or other crime. [PL 2019, c. 525, §17 (AMD).]

B. The court may grant the petition if it finds that the requirements of paragraph A are satisfied, unless it finds that the general public's right to information substantially outweighs the juvenile's interest in privacy. [PL 1989, c. 744, §5 (NEW).]

C. Notwithstanding subsections 3, 3-A, 4 and 5, the court order sealing the juvenile case records permits only the following persons to have access to the sealed records:

- (1) The courts and criminal justice agencies as provided by this section; and
- (2) The person whose juvenile case records are sealed or that person's designee. [PL 2019, c. 525, §17 (AMD).]

D. If the petition is granted, the person may respond to inquiries from other than the courts and criminal justice agencies about that person's juvenile crimes, the juvenile case records of which have been sealed, as if the juvenile crimes had never occurred, without being subject to any sanctions. [PL 2019, c. 525, §17 (AMD).]

[PL 2019, c. 525, §17 (AMD).]

8-A. Transmission of information about a committed juvenile. Information regarding a juvenile committed to the custody of the Department of Corrections or the custody of the Department of Health and Human Services must be provided as follows.

A. If a juvenile is committed to the custody of the Department of Corrections or the custody of the Department of Health and Human Services, the court shall transmit with the commitment order a copy of the petition, the order of adjudication, copies of any social studies, any clinical or educational reports and information pertinent to the care and treatment of the juvenile. [PL 2019, c. 525, §17 (NEW).]

B. The Department of Corrections or the Department of Health and Human Services shall provide the court with any information concerning a juvenile committed to either department's custody that the court at any time may request. [PL 2019, c. 525, §17 (NEW).]

[PL 2019, c. 525, §17 (NEW).]

9. Victims' Compensation Board. Notwithstanding any other provision of this section, juvenile case records must be open to inspection by or be disseminated to the Victims' Compensation Board if a juvenile is alleged to have committed an offense upon which an application to the board is based.

[PL 2019, c. 525, §17 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §30 (AMD). PL 1979, c. 681, §§20,21 (AMD). PL 1981, c. 204, §2 (AMD). PL 1981, c. 679, §8 (AMD). PL 1983, c. 480, §B15 (AMD). PL 1985, c. 426 (AMD). PL 1985, c. 439, §14 (AMD). PL 1989, c. 744, §5 (AMD). PL 1991, c. 493, §20 (AMD). PL 1993, c. 354, §§6,7 (AMD). PL 1995, c. 65, §A47 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 690, §1 (AMD). PL 1997, c. 278, §§1,2 (AMD). PL 1997, c. 378, §13 (AMD). PL 1997, c. 421, §§A4-6 (AMD). PL 1997, c. 548, §A1 (AMD). PL 1997, c. 645, §10 (AMD). PL 1997, c. 752, §15 (AMD). PL 1999, c. 345, §1 (AMD). PL 1999, c. 624, §B18 (AMD). PL 2001, c. 452, §2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2013, c. 267, Pt. B, §6 (AMD). PL 2019, c. 525, §17 (AMD).

§3308-A. Dissemination of juvenile intelligence and investigative record information by a Maine criminal justice agency

The following provisions apply to the dissemination of juvenile intelligence and investigative record information collected by or at the direction of or kept in the custody of any Maine criminal justice agency. [PL 2013, c. 267, Pt. D, §1 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Administration of juvenile justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible juvenile crimes. "Administration of juvenile justice" includes the collection, storage and dissemination of juvenile intelligence and investigative record information relating to the administration of juvenile justice. [PL 2013, c. 267, Pt. D, §1 (NEW).]

B. "Criminal justice agency" has the same meaning as in Title 16, section 803, subsection 4. [PL 2013, c. 267, Pt. D, §1 (NEW).]

C. [PL 2019, c. 525, §18 (RP).]

D. "Executive order" has the same meaning as in Title 16, section 803, subsection 6. [PL 2013, c. 267, Pt. D, §1 (NEW).]

E. "Juvenile intelligence and investigative record information" means information of record collected by a criminal justice agency or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency while performing the administration of juvenile justice. "Juvenile intelligence and investigative record information" includes information of record concerning investigative techniques and procedures and security plans and procedures prepared or collected by a criminal justice agency or another agency. "Juvenile intelligence and investigative record information" does not include criminal history record information as defined in Title 16, section 703, subsection 3 or intelligence and investigative record information as defined in Title 16, section 803, subsection 7. [PL 2013, c. 267, Pt. D, §1 (NEW).]

F. "State" has the same meaning as in Title 16, section 803, subsection 8. [PL 2013, c. 267, Pt. D, §1 (NEW).]

G. "Statute" has the same meaning as in Title 16, section 803, subsection 9. [PL 2013, c. 267, Pt. D, §1 (NEW).]

[PL 2019, c. 525, §18 (AMD).]

2. Information part of juvenile case records. To the extent juvenile intelligence and investigative record information has been made part of the juvenile case records, dissemination of that juvenile intelligence and investigative record information by the court having actual custody of the juvenile case records must be as provided by section 3307 and section 3308.

[PL 2019, c. 525, §19 (AMD).]

3. Limited dissemination. Except as otherwise provided in subsection 2, juvenile intelligence and investigative record information is confidential and may be disseminated by a Maine criminal justice agency only to:

A. Another criminal justice agency; [PL 2013, c. 267, Pt. D, §1 (NEW).]

B. A person or public or private entity as part of performing the administration of juvenile justice; [PL 2013, c. 267, Pt. D, §1 (NEW).]

B-1. A health care provider. "Health care provider" has the same meaning as in 45 Code of Federal Regulations, Section 160.103; [PL 2019, c. 525, §20 (NEW).]

C. A juvenile accused of a juvenile crime or that juvenile's agent or attorney for adjudicatory or dispositional purposes if authorized by:

(1) The responsible prosecutorial office or prosecutor; or

(2) A court rule or court order of this State or of the United States.

As used in this paragraph, "agent" means a licensed professional investigator, an expert witness or the juvenile's parents, guardian or legal custodian; [PL 2013, c. 267, Pt. D, §1 (NEW).]

D. A juvenile crime victim or that victim's agent or attorney if authorized by:

- (1) Statute; or
- (2) A court order pursuant to section 3307 or 3308.

As used in this paragraph, "agent" means a licensed professional investigator or an immediate family member if, due to death, age, physical or mental disease, disorder or intellectual disability or autism, the victim cannot realistically act on the victim's own behalf; [PL 2019, c. 525, §21 (AMD).]

E. A federal court, the District Court, including when it is exercising the jurisdiction conferred by section 3101, the Superior Court or the Supreme Judicial Court and an equivalent court in another state; and [PL 2013, c. 267, Pt. D, §1 (NEW).]

F. A person or public or private entity expressly authorized to receive the juvenile intelligence and investigative record information by statute, executive order, court rule, court decision or court order. "Express authorization" means language in the statute, executive order, court rule, court decision or court order that specifically speaks to intelligence or investigative record information or specifically refers to a type of intelligence or investigative record. [PL 2013, c. 267, Pt. D, §1 (NEW).]

[PL 2019, c. 525, §§20, 21 (AMD).]

4. Dissemination of juvenile intelligence and investigative record information subject to reasonable limitations. The dissemination of juvenile intelligence and investigative record information by a criminal justice agency pursuant to subsection 3 is subject to limitations to reasonably ensure that dissemination of the information will not:

- A. Interfere with law enforcement proceedings relating to crimes; [PL 2019, c. 525, §22 (NEW).]
- B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury; [PL 2019, c. 525, §22 (NEW).]
- C. Constitute an unwarranted invasion of personal privacy, including, but not limited to, the personal privacy of juveniles and victims; [PL 2019, c. 525, §22 (NEW).]
- D. Disclose the identity of a confidential source; [PL 2019, c. 525, §22 (NEW).]
- E. Disclose confidential information furnished only by a confidential source; [PL 2019, c. 525, §22 (NEW).]
- F. Disclose investigative techniques and procedures or security plans and procedures not known by the general public; [PL 2019, c. 525, §22 (NEW).]
- G. Endanger the life or physical safety of any individual, including law enforcement personnel; [PL 2019, c. 525, §22 (NEW).]
- H. Disclose information designated confidential by statute; and [PL 2019, c. 525, §22 (NEW).]
- I. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office. [PL 2019, c. 525, §22 (NEW).]

To comply with this subsection a criminal justice agency may deny access in whole or in part to records that contain or constitute juvenile intelligence and investigative record information. A criminal justice agency also may prepare and provide redacted copies of such records to a person or public or private entity authorized to receive the information under this section.

[PL 2019, c. 525, §22 (NEW).]

5. Secondary dissemination of confidential juvenile intelligence and investigative record information restricted. A person or public or private entity authorized to receive juvenile intelligence and investigative record information under this section may not further disseminate such information unless expressly authorized to do so by statute, court decision or court order. "Express authorization" means language in the statute, court decision or court order that specifically speaks of juvenile intelligence and investigative record information or specifically refers to a type of juvenile intelligence or investigative record.

[PL 2019, c. 525, §22 (NEW).]

6. Confirming existence or nonexistence of confidential juvenile intelligence and investigative record information prohibited. A criminal justice agency may not confirm the existence or nonexistence of juvenile intelligence and investigative record information that is confidential under this section to any person or public or private entity that is not eligible to know of or receive the information itself.

[PL 2019, c. 525, §22 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. D, §1 (NEW). PL 2019, c. 525, §§18-22 (AMD).

§3308-B. Mandatory notice to schools

1. Mandatory notice to school administrative unit. When a juvenile is charged in a juvenile petition that alleges the use or threatened use of physical force against a person or when a juvenile is adjudicated as having committed one or more juvenile crimes that involve the use or threatened use of physical force against a person, the prosecuting attorney in the district where the charges were brought shall disseminate to the superintendent of the juvenile's school administrative unit or the superintendent's designee:

- A. The name of the juvenile; [PL 2019, c. 525, §23 (NEW).]
- B. The offense alleged or adjudicated; [PL 2019, c. 525, §23 (NEW).]
- C. The date of the offense; [PL 2019, c. 525, §23 (NEW).]
- D. The date of the petition; [PL 2019, c. 525, §23 (NEW).]
- E. The date of the adjudication, if applicable; and [PL 2019, c. 525, §23 (NEW).]
- F. The location of the court where the case was brought, if applicable. [PL 2019, c. 525, §23 (NEW).]

[PL 2019, c. 525, §23 (NEW).]

2. Confidentiality. Information provided under subsection 1 is confidential, may not be distributed except as provided in subsection 1 and in Title 20-A, section 1055, subsection 11 and may not be included in the juvenile's education record.

[PL 2019, c. 525, §23 (NEW).]

SECTION HISTORY

PL 2019, c. 525, §23 (NEW).

§3309. Procedure

To the extent not inconsistent with or inapplicable to Part 6, procedure in juvenile proceedings must be in accordance with the Maine Rules of Unified Criminal Procedure. The Supreme Judicial Court may promulgate rules for juvenile proceedings as provided under Title 4, section 8. [PL 2015, c. 431, §31 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1979, c. 512, §5 (RPR). PL 1989, c. 741, §16 (AMD). PL 2015, c. 431, §31 (AMD).

§3309-A. Limitation on diagnostic evaluations

The court shall not order a juvenile to undergo a diagnostic evaluation, as defined in section 3003, subsection 4-A, except as follows: [PL 1985, c. 213 (RPR).]

1. Information to assist findings in bind-over. When the prosecutor has moved for a bind-over hearing pursuant to section 3101, subsection 4, or certifies in writing to the court that the results of such an evaluation are required in order to determine whether or not to so move; [PL 1985, c. 213 (RPR).]

2. Information needed to make a disposition. Following an order of adjudication pursuant to section 3310, subsection 5, paragraph A, for the purposes of making a disposition; [PL 1995, c. 690, §2 (AMD); PL 1995, c. 690, §7 (AFF).]

3. By consent of the parties. When the juvenile and the prosecuting attorney consent and the court finds that such an evaluation may be of assistance to it in carrying out the purposes of the Maine Juvenile Code; or [PL 1995, c. 690, §3 (AMD); PL 1995, c. 690, §7 (AFF).]

4. Juvenile adjudicated of gross sexual assault. After adjudication and before disposition when a juvenile is adjudicated of a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1, the court shall order the juvenile to undergo a diagnostic evaluation and may order the evaluation to take place at a detention facility described in section 3203-A, subsection 7, paragraph B. [PL 1999, c. 65, §1 (AMD).]

Nothing in this section may be construed to limit court-ordered examinations pursuant to sections 3318-A and 3318-B. [PL 2011, c. 282, §1 (AMD).]

SECTION HISTORY

PL 1981, c. 619, §4 (NEW). PL 1983, c. 480, §A11 (AMD). PL 1985, c. 213 (RPR). PL 1995, c. 690, §§2-4 (AMD). PL 1995, c. 690, §7 (AFF). PL 1997, c. 752, §16 (AMD). PL 1999, c. 65, §1 (AMD). PL 2011, c. 282, §1 (AMD).

§3309-B. Limitations on diagnostic evaluations in a secure detention facility

Except as provided in section 3309-A, subsection 4, the court may not order a juvenile to undergo a diagnostic evaluation at a detention facility unless the juvenile meets the requirements of section 3203-A, subsection 4, paragraphs C and D, the facility is one in which the juvenile may otherwise be detained and the diagnostic evaluation is unable to take place outside the facility on either a residential or nonresidential basis. [PL 1999, c. 65, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 369 (NEW). PL 1989, c. 502, §A42 (AMD). PL 1997, c. 24, §RR5 (AMD). PL 1997, c. 752, §17 (AMD). PL 1999, c. 65, §2 (AMD).

§3310. Adjudicatory hearing, findings, adjudication

1. Evidence and fact-finding. The Maine Rules of Evidence shall apply in the adjudicatory hearing. There shall be no jury. [PL 1979, c. 681, §22 (RPR).]

2. Consideration of additional evidence.

A. When it appears that the evidence presented at the hearing discloses facts not alleged in the petition, the court may proceed immediately to consider the additional or different matters raised

by the evidence without amendment of the petition if all the parties consent. [PL 1979, c. 681, §23 (AMD).]

B. In the event all of the parties do not consent as provided in paragraph A, the court, on the motion of any party or on its own motion, shall:

- (1) Order that the petition be amended to conform to the evidence;
- (2) Order that hearing be continued if the amendment results in substantial surprise or prejudice to the juvenile; or
- (3) Request a separate petition alleging the additional facts be filed. [PL 1979, c. 681, §24 (AMD).]

[PL 1979, c. 681, §§23,24 (AMD).]

3. Evidence of mental illness or incapacity.

[PL 2011, c. 282, §2 (RP).]

4. Standard of proof. If the court finds that the elements of the juvenile crime as defined in section 3103, subsection 1, paragraph A, E, F, G or H are not supported by evidence beyond a reasonable doubt or that the elements of a juvenile crime as defined in section 3103, subsection 1, paragraph B or C are not supported by a preponderance of the evidence, the court shall order the petition dismissed and the juvenile discharged from any detention or restriction previously ordered. The juvenile's parents, guardian or other legal custodian must also be discharged from any restriction or other temporary order.

[PL 2009, c. 93, §10 (AMD).]

5. Adjudication.

A. If the court finds that the allegations of the petition alleging a juvenile crime as defined in section 3103, subsection 1, paragraph A, E, F, G or H are supported by evidence beyond a reasonable doubt or that the allegations of a petition alleging a juvenile crime as defined in section 3103, subsection 1, paragraph B or C are supported by a preponderance of the evidence, the court shall adjudge that the juvenile committed a juvenile crime and shall, in all such adjudications, issue an order of adjudication. [PL 2009, c. 93, §11 (AMD).]

B. Following the issuance of the order of adjudication, a dispositional hearing must be commenced. Upon motion of any interested party or on the court's own motion, the time for the commencement of the dispositional hearing may be increased to 2 weeks or, upon cause shown, for a longer period. Once commenced, the dispositional hearing may be continued one or more times for any of the reasons specified in section 3312, subsection 3 or, upon cause shown, for any other reason. [PL 1995, c. 253, §1 (RPR).]

[PL 2009, c. 93, §11 (AMD).]

6. Adjudication not deemed conviction. An adjudication of the commission of a juvenile crime shall not be deemed a conviction of a crime.

[PL 1977, c. 520, §1 (NEW).]

7. Default judgment on certain juvenile crimes. If a juvenile fails to appear in response to a juvenile summons served pursuant to section 3304 for a juvenile crime described in section 3103, subsection 1, paragraph B or C, the judge may enter the juvenile's default, adjudicate that the juvenile has committed the juvenile crime alleged and impose a fine pursuant to section 3314, subsection 1, paragraph G. For good cause shown, the court may set aside the default and adjudication.

[PL 2011, c. 336, §4 (NEW).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §§31,32 (AMD). PL 1979, c. 373, §4 (AMD). PL 1979, c. 663, §117 (AMD). PL 1979, c. 681, §§22-25 (AMD). PL 1995, c. 253, §1 (AMD). PL

2001, c. 471, §F2 (AMD). PL 2005, c. 87, §§3,4 (AMD). PL 2009, c. 93, §§10, 11 (AMD). PL 2011, c. 282, §2 (AMD). PL 2011, c. 336, §4 (AMD).

§3310-A. Attendant care

Whenever a juvenile who is adjudicated as having committed a juvenile crime is taken into custody as an interim measure pending the completion of a procedure authorized by law to be taken in regard to such juvenile, the juvenile may be placed into attendant care under the same circumstances and upon the same conditions as if the juvenile were one alleged to have committed a juvenile crime. [PL 1987, c. 698, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 698, §4 (NEW).

§3311. Social study and other reports

1. Reports as evidence. For the purpose of determining proper disposition of a juvenile who has been adjudicated as having committed a juvenile crime, written reports and other material relating to the juvenile's mental, physical and social history may be received by the court along with other evidence, but the court, if so requested by the juvenile, the juvenile's parent or parents, guardian or legal custodian or other party, shall require that the person who wrote the report or prepared the material appear as a witness and be subject to examination by the court and any party. In the absence of the request, the court may order the person who prepared the report or other material to testify if it finds that the interests of justice require it. The parent or parents, guardian or legal custodian of the juvenile must be informed that information for the report is being gathered. [PL 2019, c. 525, §24 (AMD).]

2. Notice of right to inspect. The court shall inform the juvenile or the juvenile's parent or parents, guardian or legal custodian of the right to inspect any written report or other material specified in subsection 1. [PL 2019, c. 525, §25 (AMD).]

3. Requirement for dispositional hearing. If ordered by the court, the Department of Corrections shall make a social study and prepare a written report on every juvenile adjudicated as having committed a juvenile crime and shall present that report to the juvenile court prior to that juvenile's dispositional hearing. The person who prepared the report may be ordered to appear, as provided in subsection 1. [PL 1995, c. 253, §2 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §33 (AMD). PL 1979, c. 681, §§26,27 (AMD). PL 1983, c. 480, §B16 (AMD). PL 1995, c. 253, §2 (AMD). PL 2019, c. 525, §§24, 25 (AMD).

§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 violation 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. [PL 2011, c. 480, §1 (AMD).]

SECTION HISTORY

PL 2011, c. 384, §1 (NEW). PL 2011, c. 480, §1 (AMD).

§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 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. 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. [PL 2011, c. 480, §2 (AMD).]

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 the court, add further requirements or relieve the juvenile of any requirement imposed by the court that, in the court's opinion, imposes an unreasonable burden on the juvenile. If the requirements proposed for amendment are conditional release requirements, the juvenile community corrections officer must also receive notice of the hearing. In addition, the juvenile community corrections officer may make an application under this subsection for an amendment of conditional release requirements. [PL 2011, c. 480, §3 (AMD).]

3. Motion. During the period of deferment, if the juvenile cannot meet a deferment requirement imposed by the court, the juvenile shall bring a motion pursuant to subsection 2. [PL 2011, c. 384, §2 (NEW).]

4. Finally adjudicated. For purposes of a deferred disposition, a juvenile is deemed to have been finally adjudicated when the court imposes a disposition under section 3314. [PL 2011, c. 384, §2 (NEW).]

SECTION HISTORY

PL 2011, c. 384, §2 (NEW). PL 2011, c. 480, §§2, 3 (AMD).

§3311-C. Court hearing as to final disposition

1. Court hearing; final disposition. Unless a court hearing is sooner held under subsection 2, at the conclusion of the period of deferment, after notice, a juvenile who was granted deferred disposition pursuant to section 3311-B shall return to court for a hearing on final disposition under section 3314. If the juvenile demonstrates by a preponderance of the evidence that the juvenile has complied with the court-imposed deferment requirements, the court shall impose a dispositional alternative authorized for the juvenile crime to which the juvenile has entered an admission and consented to in writing at the time disposition was deferred or as amended by agreement of the parties in writing prior to disposition, unless the attorney for the State, prior to disposition, moves the court to allow the juvenile to withdraw the admission. Except over the objection of the juvenile, the court shall grant the State's motion. Following the granting of the State's motion, the attorney for the State shall dismiss the pending petition with prejudice. If the court finds that the juvenile has inexcusably failed to comply with the court-imposed deferment requirements, the court shall impose a dispositional alternative authorized for the juvenile crime to which the juvenile entered an admission. [PL 2011, c. 384, §3 (NEW).]

2. Violation of deferment requirement. If during the period of deferment the attorney for the State has probable cause to believe that a juvenile who was granted deferred disposition pursuant to section 3311-B has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose disposition. Following notice and hearing, if the attorney for the State proves by a preponderance of the evidence that the

juvenile has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the period of deferment and conduct a dispositional hearing and impose a disposition authorized for the juvenile crime to which the juvenile entered an admission. If the court finds that the juvenile has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter. If the alleged violation is of a conditional release requirement, the juvenile community corrections officer must receive notice of the hearing.

[PL 2011, c. 480, §4 (AMD).]

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

[PL 2011, c. 384, §3 (NEW).]

4. Rights of juvenile at hearing. The juvenile at a hearing under this section or section 3311-B must be afforded the opportunity to confront and cross-examine witnesses against the juvenile, to present evidence on the juvenile's own behalf and to be represented by counsel. If the juvenile who was granted deferred disposition pursuant to section 3311-B cannot afford counsel, the court shall appoint counsel for the juvenile. Assignment of counsel and withdrawal of counsel must be in accordance with the Maine Rules of Unified Criminal Procedure.

[PL 2015, c. 431, §32 (AMD).]

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

[PL 2011, c. 384, §3 (NEW).]

6. Warrant for arrest. If during the period of deferment the attorney for the State has probable cause to believe that a juvenile who was granted deferred disposition pursuant to section 3311-B has violated a court-imposed deferment requirement, the attorney for the State may apply for a warrant for the arrest of the juvenile. If the alleged violation is of a conditional release requirement, the juvenile community corrections officer must receive notice of the application. In addition, if the alleged violation is of a conditional release requirement, the provisions of section 3203-A, subsection 9 apply.

[PL 2011, c. 480, §4 (AMD).]

SECTION HISTORY

PL 2011, c. 384, §3 (NEW). PL 2011, c. 480, §4 (AMD). PL 2015, c. 431, §32 (AMD).

§3311-D. Limited review by appeal

A juvenile is precluded from seeking to attack the legality of a deferred disposition, including a final disposition, except that a juvenile who has been determined by a court to have inexcusably failed to comply with a court-imposed deferment requirement and thereafter has had imposed a dispositional alternative authorized for the juvenile crime may appeal to the Supreme Judicial Court, but not as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule. [PL 2015, c. 409, §7 (AMD).]

SECTION HISTORY

PL 2011, c. 384, §4 (NEW). PL 2015, c. 409, §7 (AMD).

§3312. Dispositional hearing

1. Evidence of proper disposition. After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the juvenile and the

public. Such evidence must include, but is not necessarily limited to, the social study and written report, if ordered prepared under section 3311, subsection 3, and other reports as provided in section 3311, subsection 1. Any person who would be entitled to address the court pursuant to Title 17-A, section 2104 if the conduct for which the juvenile has been adjudicated had been committed by an adult, as provided in that section, must be accorded notice of the dispositional hearing and the right to address the court. The Maine Rules of Evidence do not apply in dispositional hearings.

[PL 2019, c. 113, Pt. C, §45 (AMD).]

2. Examination of adjudicated juvenile. The court may have the juvenile examined by a physician or psychologist, and may place the juvenile in a hospital or other suitable facility or nonresidential program for this purpose. The cost of such examinations and placements shall be paid in whole or in part by the juvenile's parents. The court shall pay the costs if it finds that the parents are unable to pay or that it is not in the best interest of the juvenile to have the juvenile's parents pay.

[PL 1987, c. 400, §1 (AMD).]

3. Continuation of dispositional hearing. A dispositional hearing may be continued in the following circumstances.

A. The court may continue the dispositional hearing, either on its own motion or on the motion of any interested party:

- (1) For a period not to exceed one month to receive reports or other evidence;
- (2) For a period not to exceed 2 months to allow for service of notice as required in section 3314, subsection 1, paragraph C-1 or C-2;
- (3) For a period not to exceed 12 months in order to place the juvenile in a supervised work or service program or a restitution program, or for such other purpose as the court in its discretion determines appropriate. If a supervised work or service program or restitution program has been ordered, the court shall on final disposition consider whether or not there has been compliance with the program so ordered; or
- (4) For a period not to exceed 15 months in order to place the juvenile in a juvenile drug treatment court program. If a juvenile drug treatment court program has been ordered, the court shall on final disposition consider whether or not there has been compliance with the program so ordered. [PL 2001, c. 508, §1 (AMD).]

B. If the hearing is continued, the court shall make an appropriate order for detention of the juvenile or for the juvenile's release in the custody of the juvenile's parents, guardian, legal custodian or other responsible person or agency under such conditions of supervision as the court may impose during the continuance. The court may order a juvenile into the temporary custody of the Department of Health and Human Services only if the following conditions are met:

- (1) That service of notice of the dispositional hearing as required under section 3314, subsection 1, paragraph C-1, has not been made on parents who reside outside the State or whose whereabouts are unknown after a diligent search;
- (2) That the Department of Health and Human Services has:
 - (a) Received written notice of the hearing on temporary custody at least 10 days before the hearing, provided that the department may waive this 10-day requirement in writing; and
 - (b) Had an opportunity to be heard before any order of temporary custody;
- (3) That notice under section 3314, subsection 1, paragraph C-1, has been served on the juvenile's legal custodian at least 10 days before any order of temporary custody to the Department of Health and Human Services and that the legal custodian has had an opportunity to be heard before the issuance of a temporary order, provided that the juvenile's custodian may

waive the 10-day notice requirement if the waiver is in writing and voluntarily and knowingly executed in court before a judge;

(4) That the court finds that either:

- (a) The juvenile does not meet the criteria for detention; or
- (b) It is not necessary or appropriate to detain the juvenile; and

(5) That the court finds by a preponderance of the evidence that:

- (a) Reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home;
- (b) Continuation in the juvenile's home during the period required for service of notice under section 3314, subsection 1, paragraph C-1, would be contrary to the welfare of the juvenile; and
- (c) Temporary custody is necessary to provide for the care and support of the juvenile during this period.

Any order of temporary custody terminates upon an order of disposition under section 3314, or automatically 2 months after issuance, whichever occurs first. [PL 1987, c. 720, §4 (RPR); PL 2003, c. 689, Pt. B, §6 (REV).]

C. In scheduling investigations and hearings, the court shall give priority to proceedings concerning a juvenile who is in detention or who has otherwise been removed from the juvenile's home before an order of disposition has been made. [PL 1987, c. 720, §4 (RPR).]

D. If the court finds, after opportunity for hearing, that a juvenile released with a condition of participation in a juvenile drug treatment court program has intentionally or knowingly violated that condition, the court may impose a sanction of up to 7 days' confinement in a facility approved or operated by the Department of Corrections exclusively for juveniles. Nothing in this paragraph restricts the ability of the court to impose sanctions other than confinement for the violation of a condition of participation in a juvenile drug treatment court program or the ability of the court to enter any dispositional order allowed under section 3314 on final disposition. [PL 2007, c. 96, §4 (AMD).]

[PL 2007, c. 96, §4 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1979, c. 373, §5 (AMD). PL 1979, c. 681, §28 (AMD). PL 1987, c. 400, §1 (AMD). PL 1987, c. 720, §4 (AMD). PL 1995, c. 253, §3 (AMD). PL 1999, c. 624, §§B19,20 (AMD). PL 2001, c. 508, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 96, §4 (AMD). PL 2019, c. 113, Pt. C, §45 (AMD).

§3313. Criteria for withholding an institutional disposition

(CONFLICT)

1. Standard. The court shall enter an order of disposition for a juvenile who has been adjudicated as having committed a juvenile crime without imposing placement in a secure institution as disposition unless, having regard to the nature and circumstances of the crime and the history, character and condition of the juvenile, it finds that the confinement of the juvenile is necessary for protection of the public because:

A. There is undue risk that, during the period of a suspended sentence or probation, the juvenile will commit another crime; [PL 1979, c. 663, §118 (AMD).]

B. The juvenile is in need of correctional treatment that can be provided most effectively by the juvenile's commitment to an institution; or [PL 2019, c. 525, §26 (AMD).]

C. A lesser sentence will depreciate the seriousness of the juvenile's conduct. [PL 1977, c. 520, §1 (NEW).]
[PL 2019, c. 525, §26 (AMD).]

2. Additional consideration. The following grounds, while not controlling the discretion of the court, must be accorded weight against ordering placement in a secure institution:

A. The juvenile's conduct neither caused nor threatened serious harm; [PL 1977, c. 520, §1 (NEW).]

B. The juvenile did not contemplate that the juvenile's conduct would cause or threaten serious harm; [PL 2019, c. 525, §26 (AMD).]

C. The juvenile acted under a strong provocation; [PL 1977, c. 520, §1 (NEW).]

D. There were substantial grounds tending to excuse or justify the juvenile's conduct, though failing to establish a defense; [PL 1977, c. 520, §1 (NEW).]

E. The victim of the juvenile's conduct induced or facilitated the commission of the conduct; [PL 2019, c. 525, §26 (AMD).]

F. **(CONFLICT: Text as amended by PL 2019, c. 474, §1)** The juvenile has made or has agreed to pay restitution to the victim of the juvenile's conduct for the damage or injury that the victim sustained in an amount that the court has determined is within the juvenile's ability to pay pursuant to section 3314-C; [PL 2019, c. 474, §1 (AMD).]

F. **(CONFLICT: Text as amended by PL 2019, c. 525, §26)** The juvenile has made or has agreed to make restitution to the victim of the juvenile's conduct for the damage or injury that the victim sustained; [PL 2019, c. 525, §26 (AMD).]

G. The juvenile has not previously been adjudicated to have committed a juvenile crime or has led a law-abiding life for a substantial period of time prior to the conduct that formed the basis for the present adjudication; [PL 2019, c. 525, §26 (AMD).]

H. The juvenile's conduct was the result of circumstances unlikely to recur; [PL 1977, c. 520, §1 (NEW).]

I. The character and attitudes of the juvenile indicate that the juvenile is unlikely to commit another juvenile crime; [PL 2019, c. 525, §26 (AMD).]

J. The juvenile is particularly likely to respond affirmatively to probation; and [PL 1979, c. 663, §119 (AMD).]

K. The confinement of the juvenile would entail excessive hardship to the juvenile or the juvenile's dependents. [PL 2019, c. 525, §26 (AMD).]

[PL 2019, c. 474, §1 (AMD); PL 2019, c. 525, §26 (AMD).]

3. Statement of reasons accompanying disposition for juvenile adjudicated of murder or a Class A, Class B or Class C crime. In a disposition for a juvenile crime that if committed by an adult would be murder or a Class A, Class B or Class C crime, the court shall state on the record and in open court the court's reasons for ordering or not ordering placement of the juvenile in a secure institution. [PL 1995, c. 690, §5 (NEW).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1979, c. 663, §§118,119 (AMD). PL 1995, c. 690, §5 (AMD). PL 2019, c. 474, §1 (AMD). PL 2019, c. 525, §26 (AMD).

§3314. Disposition

1. Dispositional alternatives. When a juvenile has been adjudicated as having committed a juvenile crime, the court shall enter a dispositional order containing one or more of the following alternatives.

A. The court may allow the juvenile to remain in the legal custody of the juvenile's parent or parents, guardian or legal custodian under such conditions as the court may impose. Conditions may include participation by the juvenile or the juvenile's parent or parents, guardian or legal custodian in treatment services aimed at the rehabilitation of the juvenile and improvement of the home environment. [PL 2019, c. 525, §27 (AMD).]

B. The court may require a juvenile to participate in a supervised work or service program. Such a program may provide restitution to the victim by requiring the juvenile to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. Such a supervised work or service program may be required as a condition of probation if:

- (1) The juvenile is not deprived of the schooling that is appropriate to the juvenile's age, needs and specific rehabilitative goals;
- (2) The supervised work program is of a constructive nature designed to promote rehabilitation and is appropriate to the age level and physical ability of the juvenile; and
- (3) The supervised work program assignment is made for a period of time not exceeding 180 days.

A juvenile participating in a supervised work or service program, performing community service or providing restitution under this section or section 3301 may not be subject to Title 39-A, Part 1, the Maine Workers' Compensation Act of 1992. [PL 1997, c. 619, §2 (AMD).]

C. [PL 1991, c. 493, §21 (RP).]

C-1. The court may commit a juvenile to the custody of the Department of Health and Human Services when the court has determined 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 therein would be contrary to the welfare of the juvenile. The court may not enter an order under this paragraph unless the parents have had notice and an opportunity to be heard at the dispositional hearing.

Notwithstanding any other provision of law, the court may not commit a juvenile to the custody of the Department of Health and Human Services unless such notice has been served on the parents, custodians and the Department of Health and Human Services in accordance with District Court civil rules at least 10 days prior to the dispositional hearing. A party may waive this time requirement if the waiver is written and voluntarily and knowingly executed in court before a judge.

The Department of Health and Human Services shall provide for the care and placement of the juvenile as for other children in the department's custody pursuant to the Child and Family Services and Child Protection Act, Title 22, chapter 1071, subchapter VII.

The court may impose conditions that may include participation by the juvenile or the juvenile's parents or legal guardian in treatment services aimed at the rehabilitation of the juvenile, reunification of the family and improvement of the home environment. [PL 2001, c. 696, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

C-2. The court may commit a juvenile to the custody of a relative or other person when the court determines that this is in the best interest of the juvenile. The court may not enter an order under this paragraph unless the parents have had notice and an opportunity to be heard at the dispositional hearing. [PL 1985, c. 439, §16 (NEW).]

D. [PL 1991, c. 493, §22 (RP).]

E. The court may require the juvenile to pay restitution pursuant to section 3314-C. [PL 2019, c. 474, §2 (AMD).]

F. The court may commit the juvenile to a Department of Corrections juvenile correctional facility. Whenever a juvenile is committed to a Department of Corrections juvenile correctional facility, 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 commitment to a Department of Corrections juvenile correctional facility, which continues to be governed by section 3313. [PL 2001, c. 696, §4 (AMD).]

G. Except for a violation of section 3103, subsection 1, paragraph H, the court may impose a fine, subject to Title 17-A, sections 1701 to 1711, except that there is no mandatory minimum fine amount. For the purpose of this section, juvenile offenses defined in section 3103, subsection 1, paragraphs B and C are subject to a fine of up to \$1,000. [PL 2019, c. 113, Pt. C, §47 (AMD).]

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; 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 period of confinement, credit is accorded only for the portion of the first day for which the juvenile is actually confined; the juvenile may not be released until the juvenile has served the full term of hours or days imposed by the court. 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. [PL 2019, c. 113, Pt. C, §48 (AMD).]

I. The court may order the juvenile unconditionally discharged. [PL 1977, c. 520, §1 (NEW).] [PL 2019, c. 113, Pt. C, §§46-48 (AMD); PL 2019, c. 474, §2 (AMD); PL 2019, c. 525, §27 (AMD).]

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. 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.

[PL 2019, c. 113, Pt. C, §49 (AMD).]

3. Disposition for violation of section 3103, subsection 1, paragraph E or F. When a juvenile has been adjudicated as having committed the juvenile crime under section 3103, subsection 1, paragraph E or F, the court may impose any of the dispositional alternatives contained in subsection 1. Any incarceration that is imposed may be part of a disposition pursuant to subsection 1, paragraph F or H. Any incarceration in a detention facility must be in a facility designated in subsection 1, paragraph H.

A. For an adjudication under section 3103, subsection 1, paragraph F, the juvenile's license or permit to operate a motor vehicle, right to operate a motor vehicle or right to apply for or obtain a license must be suspended by the court for a period of 180 days. The period of suspension may not be suspended by the court. The court shall give notice of the suspension and take physical custody of an operator's license or permit as provided in Title 29-A, section 2434. The court shall immediately transmit a certified abstract of the suspension to the Secretary of State. A further suspension may be imposed by the Secretary of State pursuant to Title 29-A, section 2451, subsection 3. [PL 1995, c. 65, Pt. A, §48 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

[PL 1995, c. 65, Pt. A, §48 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

3-A. Operator's license suspension for drug offenses. The court may suspend for a period of up to 6 months the license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license of any person who violates Title 17-A, chapter 45; Title 22, section 2383, unless the juvenile is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C; Title 22, section 2389, subsection 2; or Title 28-A, section 2052 and is adjudicated pursuant to this chapter to have committed a juvenile crime.

The court shall give notice of suspension and take physical custody of an operator's license or permit as provided in Title 29-A, section 2434. The court shall immediately forward the operator's license and a certified abstract of suspension to the Secretary of State.

[RR 2009, c. 2, §36 (COR).]

3-B. Operator's license suspension for drug trafficking. If a juvenile uses a motor vehicle to facilitate the trafficking of a scheduled drug, the court may, in addition to other authorized penalties, suspend the juvenile's operator's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed one year. A suspension may not begin until after any period of incarceration is served. If the court suspends a juvenile's operator's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the juvenile's operator's license. The Secretary of State may not reinstate the juvenile's operator's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the juvenile demonstrates that after having been released and discharged from any period of incarceration that may have been ordered, the juvenile has served the period of suspension ordered by the court.

[PL 2005, c. 328, §13 (NEW).]

4. Medical support. Whenever the court commits a juvenile to a Department of Corrections juvenile correctional facility or to the Department of Health and Human Services or for a period of detention or places a juvenile on a period of probation, it shall require the parent or legal guardian to provide medical insurance for or contract to pay the full cost of any medical treatment, mental health treatment, substance use disorder treatment and counseling that may be provided to the juvenile while the juvenile is committed, including while on aftercare status or on probation, unless it determines that such a requirement would create an excessive hardship on the parent or legal guardian, or other dependent of the parent or legal guardian, in which case it shall require the parent or legal guardian to pay a reasonable amount toward the cost, the amount to be determined by the court.

An order under this subsection is enforceable under Title 19-A, section 2603.

[PL 2017, c. 407, Pt. A, §54 (AMD).]

5. Support orders. Whenever the court commits a juvenile to the Department of Health and Human Services, to a Department of Corrections juvenile correctional facility or to a relative or other person, the court shall order either or both parents of the juvenile to pay child support in accordance with the child support guidelines under Title 19-A, section 2006. The order is enforceable under Title 19-A, section 2603.

[PL 2005, c. 352, §1 (AMD).]

6. Forfeiture of firearms. As part of every disposition in every proceeding under this code, every firearm that constitutes the basis for an adjudication for a juvenile crime that, if committed by an adult, would constitute a violation of section 393; Title 17-A, section 1105-A, subsection 1, paragraph C-1; Title 17-A, section 1105-B, subsection 1, paragraph C; Title 17-A, section 1105-C, subsection 1, paragraph C-1; Title 17-A, section 1105-D, subsection 1, paragraph B-1; or Title 17-A, section 1118-A, subsection 1, paragraph B and every firearm used by the juvenile or any accomplice during the course of conduct for which the juvenile has been adjudicated to have committed a juvenile crime that would have been forfeited pursuant to Title 17-A, section 1504 if the criminal conduct had been committed by an adult must be forfeited to the State and the juvenile court shall so order unless another person

satisfies the court prior to the dispositional hearing and by a preponderance of the evidence that the other person had a right to possess the firearm, to the exclusion of the juvenile, at the time of the conduct that constitutes the juvenile crime. Rules adopted by the Attorney General that govern the disposition of firearms forfeited pursuant to Title 17-A, section 1504 govern forfeitures under this subsection. [PL 2019, c. 113, Pt. C, §50 (AMD).]

7. Enforcement of a dispositional order or order to appear. After notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court may exercise its inherent contempt power by way of a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to enforce the disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. The court may not order confinement as a contempt sanction for any juvenile who has not attained 14 years of age. Any confinement imposed as a punitive or remedial sanction upon a person who has not attained 18 years of age may not exceed 30 days and must be served in a facility approved or operated by the Department of Corrections exclusively for juveniles. Any confinement imposed as a punitive or remedial sanction upon a person who has attained 18 years of age, if to be served in a facility approved or operated by the Department of Corrections exclusively for juveniles, may not exceed 30 days. To enforce the disposition ordered following an adjudication for a juvenile crime defined in section 3103, subsection 1, paragraph B or C upon a person who has not attained 18 years of age, the court shall, at the time of the disposition, provide written notice to the juvenile of the court's authority to enforce the dispositional order through an exercise of its inherent contempt power and that a contempt order could include an order of confinement for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction. Except as explicitly set out in this subsection, nothing in this subsection affects the court's ability to exercise its contempt powers for persons who have attained 18 years of age. [PL 2019, c. 474, §3 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §§34-38 (AMD). PL 1979, c. 233, §§2,3 (AMD). PL 1979, c. 512, §6 (AMD). PL 1979, c. 681, §§29-32 (AMD). PL 1981, c. 379, §§1,2 (AMD). PL 1981, c. 493, §3 (AMD). PL 1981, c. 679, §9 (AMD). PL 1983, c. 480, §§B17-B19 (AMD). PL 1983, c. 581, §2 (AMD). PL 1985, c. 439, §§15,16 (AMD). PL 1985, c. 715, §1 (AMD). PL 1987, c. 297 (AMD). PL 1987, c. 400, §§2,3 (AMD). PL 1987, c. 720, §5 (AMD). PL 1989, c. 231, §2 (AMD). PL 1989, c. 445, §6 (AMD). PL 1989, c. 502, §§A43,A44 (AMD). PL 1989, c. 599, §8 (AMD). PL 1989, c. 850, §1 (AMD). PL 1989, c. 875, §§E21,22 (AMD). PL 1991, c. 493, §§21-24 (AMD). PL 1991, c. 493, §28 (AFF). PL 1991, c. 776, §§2,3 (AMD). PL 1991, c. 885, §E17 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1993, c. 354, §§8,9 (AMD). PL 1993, c. 658, §2 (AMD). PL 1995, c. 65, §§A48,49 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 253, §4 (AMD). PL 1995, c. 470, §8 (AMD). PL 1995, c. 502, §§F5-7 (AMD). PL 1995, c. 647, §3 (AMD). PL 1995, c. 690, §6 (AMD). PL 1997, c. 24, §RR6 (AMD). PL 1997, c. 339, §1 (AMD). PL 1997, c. 591, §1 (AMD). PL 1997, c. 619, §2 (AMD). PL 1997, c. 752, §§18-23 (AMD). PL 1999, c. 260, §A9 (AMD). PL 1999, c. 367, §1 (AMD). PL 1999, c. 624, §§A7,8 (AMD). RR 2001, c. 2, §A24 (COR). RR 2001, c. 2, §A25 (AFF). PL 2001, c. 696, §§3-5 (AMD). PL 2003, c. 180, §9 (AMD). PL 2003, c. 239, §1 (AMD). PL 2003, c. 305, §6 (AMD). PL 2003, c. 503, §§1,2 (AMD). PL 2003, c. 657, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 328, §§12,13 (AMD). PL 2005, c. 352, §1 (AMD). PL 2005, c. 507, §§10-12 (AMD). PL 2007, c. 96, §§5, 6 (AMD). PL 2007, c. 196, §5 (AMD). PL 2007, c. 536, §3 (AMD). PL 2007, c. 695, Pt. A, §19 (AMD). RR 2009, c. 2, §§35, 36 (COR). PL 2009, c. 93, §12 (AMD). PL 2009, c. 608, §1, 2 (AMD). PL 2015, c. 485, §1 (AMD). PL 2017, c. 377, §2 (AMD). PL 2017, c. 407, Pt. A, §54 (AMD). PL 2019, c. 113, Pt. C, §§46-50 (AMD). PL 2019, c. 474, §§2, 3 (AMD). PL 2019, c. 525, §27 (AMD).

§3314-A. Period of probation; modification and discharge

The period of probation of a juvenile, its modification and discharge, is as provided by Title 17-A, section 1804, except that the period of probation of a juvenile convicted of a juvenile crime as defined by section 3103, subsection 1, paragraph B, C or E may not exceed one year. The period of probation may extend beyond the juvenile's 21st birthday. [PL 2019, c. 113, Pt. C, §51 (AMD).]

SECTION HISTORY

PL 1977, c. 664, §39 (NEW). PL 1993, c. 354, §10 (AMD). PL 2009, c. 93, §13 (AMD). PL 2019, c. 113, Pt. C, §51 (AMD).

§3314-B. Counseling, treatment, education or case management for juveniles and their parents, guardians and legal custodians

1. Counseling, treatment, education or case management. In conjunction with a disposition under section 3314, the court may require the juvenile and the juvenile's parent, guardian or legal custodian to participate in counseling, treatment, education or case management as determined by the court. The counseling, treatment, education or case management must be designed to create a favorable environment for sustained noncriminal behavior.

[PL 2003, c. 142, §2 (NEW); PL 2003, c. 142, §3 (AFF).]

2. Costs. The court may order a parent, guardian or legal custodian to pay or cause to be paid all or part of the reasonable costs of any counseling, treatment, education or case management ordered pursuant to this section.

[PL 2003, c. 142, §2 (NEW); PL 2003, c. 142, §3 (AFF).]

3. Enforcement. After notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court may invoke its contempt powers to enforce its counseling, treatment, education, case management or other order that applies to the juvenile, the juvenile's parent, guardian or legal custodian or any other person before the court who is subject to an order to participate in counseling, treatment, education or case management. If the court invokes its contempt powers against the juvenile, section 3314, subsection 7 applies.

[PL 2007, c. 196, §6 (AMD).]

4. Probation. The court may not revoke a juvenile's probation because of a failure of the juvenile's parent, guardian or legal custodian to comply with an order under this section.

[PL 2003, c. 142, §2 (NEW); PL 2003, c. 142, §3 (AFF).]

SECTION HISTORY

PL 2003, c. 142, §2 (NEW). PL 2003, c. 142, §3 (AFF). PL 2007, c. 196, §6 (AMD).

§3314-C. Juvenile restitution

1. Definitions. Terms used in this section have the same meaning as in Title 17-A, section 2002, unless otherwise indicated.

[PL 2019, c. 474, §4 (NEW).]

2. Mandatory consideration of restitution. This subsection applies to the mandatory consideration of restitution.

A. The court shall, whenever practicable, inquire of a prosecutor, law enforcement officer or victim with respect to the extent of the victim's economic loss and shall order restitution when authorized and appropriate. [PL 2019, c. 474, §4 (NEW).]

B. The order for restitution must designate the amount of restitution to be paid, that the order may be subject to modification or termination pursuant to subsection 6 and the person or persons to whom restitution must be paid. [PL 2019, c. 474, §4 (NEW).]

C. In any case in which the court determines that restitution should not be imposed in accordance with the criteria set forth in subsection 3, the court shall state on the record or in writing the reasons for not imposing restitution. [PL 2019, c. 474, §4 (NEW).]
[PL 2019, c. 474, §4 (NEW).]

3. Criteria for juvenile restitution. The criteria for ordering restitution to be paid by a juvenile are as follows.

A. Restitution as part of a juvenile disposition may be authorized, in whole or in part, as compensation for economic loss. In determining the amount of restitution a court is authorized to order a juvenile to pay, the court shall consider the following:

- (1) The contributory misconduct of the victim;
- (2) Failure by the victim to report the crime to a law enforcement officer within 72 hours after its occurrence, without good cause for failure to report within that time period; and
- (3) The present and future capacity of the juvenile to pay restitution. [PL 2019, c. 474, §4 (NEW).]

B. The court is not authorized to order that a juvenile pay restitution:

- (1) To a victim without that victim's consent;
- (2) To a victim who is an accomplice of the juvenile;
- (3) To a victim who has otherwise been compensated from a collateral source, but economic loss in excess of that collateral compensation may be authorized;
- (4) On a joint and several basis; or
- (5) When the amount and method of payment of monetary restitution places an excessive financial hardship on the juvenile or dependent of the juvenile. In making this determination, the court shall consider all relevant factors, including, but not limited to, the following:
 - (a) The impact a restitution order would have on a juvenile, the juvenile's dependents and the juvenile's family, with particular consideration given to whether or not the juvenile or the juvenile's parents or guardians have been determined to be indigent;
 - (b) The minimum living expenses of the juvenile and the juvenile's dependents, including any other persons who are actually dependent on the juvenile;
 - (c) The special needs of the juvenile and the juvenile's dependents, including necessary travel expenses to and from work;
 - (d) The juvenile's present income and potential future earning capacity;
 - (e) The juvenile's resources;
 - (f) The juvenile's age;
 - (g) The juvenile's educational obligations;
 - (h) The juvenile's participation in substance use disorder treatment or mental health treatment or both;
 - (i) The stability or transience of the juvenile's living situation;
 - (j) The juvenile's access to transportation;
 - (k) Work restrictions on juveniles as set forth in Title 26, chapter 7; and
 - (l) The confinement of the juvenile as part of the juvenile's disposition. [PL 2019, c. 474, §4 (NEW).]

[PL 2019, c. 474, §4 (NEW).]

4. Authorized claimants. A court's order directing a juvenile to pay restitution is authorized only for:

A. The victim or victims, who must be natural persons, or a dependent of a deceased victim. A juvenile's obligation to pay restitution is not affected by the death of the victim to whom the restitution is due. In the case of the death of a victim, the money collected as restitution must be forwarded to the estate of the victim; and [PL 2019, c. 474, §4 (NEW).]

B. Any person legally authorized to act on behalf of the victim. [PL 2019, c. 474, §4 (NEW).]
[PL 2019, c. 474, §4 (NEW).]

5. Burdens of proof. At a hearing on a juvenile's capacity to pay restitution, there exists a rebuttable presumption that a juvenile who has not attained 16 years of age lacks the capacity to pay restitution. The State has the burden to rebut that presumption by a preponderance of the evidence. At a hearing in which a juvenile who has attained 16 years of age asserts a present or future incapacity to pay restitution, the juvenile has the burden of proving the incapacity to pay restitution by a preponderance of the evidence. On appeal of a restitution order, as part of a juvenile disposition, the juvenile has the burden of demonstrating that the court abused its discretion in ordering an amount of restitution.

[PL 2019, c. 474, §4 (NEW).]

6. Modification of orders on juvenile restitution. This subsection governs the modification of juvenile restitution orders.

A. A juvenile who is not able to make restitution payments in the manner ordered by the court shall move the court for a modification of the time or method of payment. If the juvenile establishes by a preponderance of the evidence that the juvenile is unable to pay restitution in the time and manner ordered, the court may modify its prior order to reduce the amount of each installment or to allow additional time for payment. [PL 2019, c. 474, §4 (NEW).]

B. Upon motion of the juvenile, the juvenile's parent or parents or the juvenile's guardian, and upon notice to the State and providing an opportunity for the victim to comment on the motion, pursuant to Title 17-A, sections 2102, 2104 and 2105, the court may review the restitution order and may modify its dispositional order to reduce or eliminate the amount of restitution ordered when the court determines that the juvenile has established by a preponderance of the evidence that payment of the current restitution order would, based on a substantial change in the juvenile's circumstances, constitute an excessive financial hardship on the juvenile or the juvenile's dependents. Additionally, if a court determines that a juvenile's failure to pay restitution was not willful and was excusable, the court may order that the juvenile complete court-approved community service to offset the juvenile's restitution obligations at an hourly rate set by the court that may be no less than the minimum wage established in Title 26, section 664. [PL 2019, c. 474, §4 (NEW).]

[PL 2019, c. 474, §4 (NEW).]

7. Enforcement of an order of juvenile restitution. Notwithstanding section 3314, subsection 7, to enforce an order of restitution upon a finding that the juvenile has inexcusably failed to comply with the order, the court may not order confinement as a remedial or punitive contempt sanction unless the juvenile has in fact attained 16 years of age. Upon a motion by the State to enforce the payment of restitution, the court may order, in addition to other remedial or punitive contempt sanctions for an inexcusable failure to pay restitution, that a juvenile complete court-approved community service at an hourly rate set by the court that may be no less than the minimum wage established in Title 26, section 664.

[PL 2019, c. 474, §4 (NEW).]

SECTION HISTORY

PL 2019, c. 474, §4 (NEW).

§3315. Right to periodic review

1. Right to review. Every disposition pursuant to section 3314 and 3318-B, other than unconditional discharge, must be reviewed not less than once in every 12 months until the juvenile is discharged. The review must be made by a representative of the Department of Corrections unless the juvenile has been committed to the custody of the Commissioner of Health and Human Services, in which case such review must be made by a representative of the Department of Health and Human Services. A report of the review must be made in writing to the juvenile's parents, guardian or legal custodian. A copy of the report must be forwarded to the program or programs that were reviewed, and the department whose personnel made the review shall retain a copy of the report in their files. The written report must be prepared in accordance with subsection 2. When a juvenile is placed in the custody of the Commissioner of Health and Human Services, reviews and permanency planning hearings must be conducted in accordance with Title 22, section 4038. Title 22, sections 4005, 4039 and 4041 also apply.

[PL 2013, c. 234, §10 (AMD).]

2. Contents of review. The written report of each periodic review shall contain the following information:

A. A brief description of the services provided to the juvenile during the period preceding the review and the results of those services; [PL 1977, c. 520, §1 (NEW).]

B. An individualized plan for the provision of services to the juvenile for the next period; [PL 1977, c. 520, §1 (NEW).]

C. A statement showing that the plan imposes the least restricting alternative consistent with adequate care of the juvenile and protection of the community; and [PL 1977, c. 520, §1 (NEW).]

D. A certification that the services recommended are available and will be afforded to the juvenile. [PL 1977, c. 520, §1 (NEW).]

[PL 1977, c. 520, §1 (NEW).]

3. Court review of determination. Whenever a court makes a determination pursuant to section 3314, subsection 1, paragraph F or section 3314, subsection 2 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, that determination must be reviewed by the court not less than once every 12 months until the juvenile is discharged or no longer residing outside the juvenile's home or attains 18 years of age. This review does not affect a juvenile's commitment to a Department of Corrections juvenile correctional facility.

[PL 2003, c. 503, §3 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §40 (AMD). PL 1983, c. 480, §B20 (AMD). PL 1995, c. 502, §F8 (AMD). PL 1997, c. 464, §2 (AMD). PL 1997, c. 752, §24 (AMD). PL 1999, c. 260, §A10 (AMD). PL 2001, c. 696, §6 (AMD). PL 2003, c. 503, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2013, c. 234, §10 (AMD).

§3315-A. Termination of parental rights

When a juvenile is in the custody of the Department of Health and Human Services, Title 22, chapter 1071, subchapter VI also applies. [PL 2001, c. 696, §7 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 2001, c. 696, §7 (NEW). PL 2003, c. 689, §B6 (REV).

§3316. Commitment to the Department of Corrections or the Department of Health and Human Services

1. Sharing of information about a committed juvenile.

[PL 2019, c. 525, §28 (RP).]

2. Indeterminate disposition. The following provisions apply to indeterminate dispositions.

A. A commitment of a juvenile to a Department of Corrections juvenile corrections facility pursuant to section 3314 must be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits or extends the indeterminate commitment, as long as the court does not limit the commitment to less than one year nor extend the commitment beyond a juvenile's 21st birthday and as long as an order does not result in a commitment of less than one year, unless the commitment is for an indeterminate period not to extend beyond the juvenile's 21st birthday. Nothing in this Part may be construed to prohibit the provision to a juvenile following the expiration of the juvenile's term of commitment of services voluntarily accepted by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; except that these services may not be extended beyond the juvenile's 21st birthday. [PL 1999, c. 127, Pt. B, §6 (RPR).]

B. A commitment of a juvenile to the Department of Health and Human Services pursuant to section 3314 must be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits the commitment. [PL 1999, c. 127, Pt. B, §6 (RPR); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 1999, c. 127, Pt. B, §6 (RPR); PL 2003, c. 689, Pt. B, §6 (REV).]

3. Provision of services. Nothing in this chapter may prevent juveniles who are receiving services from the Department of Corrections from receiving services from the Department of Health and Human Services.

[PL 1999, c. 127, Pt. B, §6 (RPR); PL 2003, c. 689, Pt. B, §6 (REV).]

4. Voluntary services. The following applies to voluntary services agreement provisions.

A. This chapter does not prevent a juvenile from receiving services from the Department of Corrections pursuant to a voluntary agreement with the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated. [PL 1999, c. 127, Pt. B, §6 (RPR).]

B. If a juvenile is placed in a residence outside the juvenile's home pursuant to a voluntary services agreement, the Commissioner of Corrections or the commissioner's designee may request the court to make a determination 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. If requested, the court shall make that determination prior to the expiration of 180 days from the start of the placement and shall review that determination not less than once every 12 months until the juvenile is no longer residing outside the juvenile's home. [PL 2001, c. 696, §8 (AMD).]

[PL 2001, c. 696, §8 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §41 (AMD). PL 1979, c. 318 (AMD). PL 1979, c. 512, §7 (AMD). PL 1981, c. 493, §3 (AMD). PL 1983, c. 480, §B21 (AMD). PL 1993, c. 354, §11 (AMD). PL 1995, c. 502, §F9 (AMD). PL 1997, c. 591, §2 (AMD). PL 1997, c. 752, §25 (AMD). PL 1999, c. 127, §B6 (RPR). PL 2001, c. 696, §8 (AMD). PL 2003, c. 689, §B6 (REV). PL 2019, c. 525, §28 (AMD).

§3317. Disposition after return to Juvenile Court

In instances of commitment of a juvenile to the Department of Health and Human Services or a Department of Corrections juvenile correctional facility or when the juvenile is under a specified period of probation, the Commissioner of Health and Human Services or the commissioner's designee or the Commissioner of Corrections or the commissioner's designee following the disposition may for good cause petition the Juvenile Court having original jurisdiction in the case for a judicial review of the disposition, including extension of the period of commitment or period of probation. In all cases in which a juvenile is returned to a Juvenile Court, the Juvenile Court may make any of the dispositions otherwise provided in section 3314. When reviewing a commitment to the Department of Health and Human Services, the court shall consider efforts made by the Department of Corrections and the Department of Health and Human Services to reunify the juvenile with the juvenile's parents or custodians, shall make a finding regarding those efforts and shall return custody of the juvenile to a parent or legal custodian if the return of the juvenile is not contrary to the welfare of the juvenile. A petition for judicial review of a disposition committing the child to the Department of Health and Human Services must be served on the parents at least 7 days prior to the hearing. [PL 1997, c. 752, §26 (AMD); PL 2003, c. 689, Pt. B, §§6, 7 (REV).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §§41-A (AMD). PL 1981, c. 379, §3 (AMD). PL 1981, c. 493, §3 (AMD). PL 1983, c. 480, §B22 (AMD). PL 1985, c. 439, §17 (AMD). PL 1987, c. 400, §4 (AMD). PL 1991, c. 493, §25 (AMD). PL 1995, c. 502, §F10 (AMD). PL 1997, c. 752, §26 (AMD). PL 2003, c. 689, §§B6,7 (REV).

§3318. Mentally ill or incapacitated juveniles**(REPEALED)****SECTION HISTORY**

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §§42,43 (AMD). PL 1987, c. 402, §§A113,A114 (AMD). PL 1989, c. 621, §8 (AMD). PL 2001, c. 471, §F3 (AMD). PL 2009, c. 268, §§6, 7 (AMD). PL 2011, c. 282, §3 (RP).

§3318-A. Determination of competency of a juvenile to proceed in a juvenile proceeding

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Chronological immaturity" means a condition based on a juvenile's chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or mental retardation. [PL 2011, c. 282, §4 (NEW).]

B. "Mental illness" means any diagnosable mental impairment supported by the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association. [PL 2011, c. 282, §4 (NEW).]

C. "Mental retardation" means a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social and practical adaptive skills. [PL 2011, c. 282, §4 (NEW).]

[PL 2011, c. 282, §4 (NEW).]

2. Competency to proceed in a juvenile proceeding. A juvenile is competent to proceed in a juvenile proceeding if the juvenile has:

A. A rational as well as a factual understanding of the proceedings against the juvenile; and [PL 2011, c. 282, §4 (NEW).]

B. A sufficient present ability to consult with legal counsel with a reasonable degree of rational understanding. [PL 2011, c. 282, §4 (NEW).]
[PL 2011, c. 282, §4 (NEW).]

3. Determination of competency. The issue as to a juvenile's competency to proceed may be raised by the juvenile, by the State or sua sponte by the Juvenile Court at any point in the juvenile proceeding after a finding of probable cause and prior to the imposition of a final order of disposition. A competency determination is necessary only when the Juvenile Court has a reasonable doubt as to a juvenile's competency to proceed.
[PL 2011, c. 282, §4 (NEW).]

4. Competency examination. If the Juvenile Court determines that a competency determination is necessary, it shall order that a juvenile be examined by the State Forensic Service to evaluate the juvenile's competency to proceed. The examination must take place within 21 days of the court's order.
[PL 2011, c. 282, §4 (NEW).]

5. Suspension of juvenile proceedings. Pending a competency examination, the Juvenile Court shall suspend the proceeding on the petition. The suspension remains in effect pending the outcome of a competency determination hearing pursuant to subsection 7. Suspension of the proceeding does not affect the Juvenile Court's ability to detain or release the juvenile pursuant to section 3203-A, subsection 5.
[PL 2011, c. 282, §4 (NEW).]

6. Criteria for State Forensic Service examiner's report. The following provisions govern criteria for the State Forensic Service examiner's report.

A. To assist the court's determination of competency, the State Forensic Service examiner's report must address the juvenile's capacity and ability to:

- (1) Appreciate the allegations of the petition;
- (2) Appreciate the nature of the adversarial process including:
 - (a) Having a factual understanding of the participants in the juvenile's proceeding, including the judge, defense counsel, attorney for the State and mental health expert; and
 - (b) Having a rational understanding of the role of each participant in the juvenile's proceeding;
- (3) Appreciate the range of possible dispositions that may be imposed in the proceedings against the juvenile and recognize how possible dispositions imposed in the proceedings will affect the juvenile;
- (4) Appreciate the impact of the juvenile's actions on others;
- (5) Disclose to counsel facts pertinent to the proceedings at issue including:
 - (a) Ability to articulate thoughts;
 - (b) Ability to articulate emotions; and
 - (c) Ability to accurately and reliably relate to a sequence of events;
- (6) Display logical and autonomous decision making;
- (7) Display appropriate courtroom behavior;
- (8) Testify relevantly at proceedings; and
- (9) Demonstrate any other capacity or ability either separately sought by the Juvenile Court or determined by the examiner to be relevant to the Juvenile Court's determination. [PL 2011, c. 282, §4 (NEW).]

B. In assessing the juvenile's competency, the State Forensic Service examiner shall compare the juvenile being examined to juvenile norms that are broadly defined as those skills typically possessed by the average juvenile defendant adjudicated in the juvenile justice system. [PL 2011, c. 282, §4 (NEW).]

C. The State Forensic Service examiner shall determine and report if the juvenile suffers from mental illness, mental retardation or chronological immaturity. [PL 2011, c. 282, §4 (NEW).]

D. If the juvenile suffers from mental illness, mental retardation or chronological immaturity, the State Forensic Service examiner shall report the severity of the impairment and its potential effect on the juvenile's competency to proceed. [PL 2011, c. 282, §4 (NEW).]

E. If the State Forensic Service examiner determines that the juvenile suffers from chronological immaturity, the examiner shall report a comparison of the juvenile to the average juvenile defendant. [PL 2011, c. 282, §4 (NEW).]

F. If the State Forensic Service examiner determines that the juvenile suffers from a mental illness, the examiner shall provide the following information:

(1) The prognosis of the mental illness; and

(2) Whether the juvenile is taking any medication and, if so, what medication. [PL 2011, c. 282, §4 (NEW).]

G. The State Forensic Service examiner's report must state an opinion whether there exists a substantial probability that the deficiencies related to competence identified in the report, if any, can be ameliorated in the foreseeable future. [PL 2011, c. 282, §4 (NEW).]

[PL 2011, c. 282, §4 (NEW).]

7. Post-examination report and hearing. Following receipt of the competency examination report from the State Forensic Service examiner, the Juvenile Court shall provide copies of the report to the parties and hold a competency determination hearing. If the Juvenile Court finds that the juvenile is competent to proceed based upon the burden and standard of proof pursuant to subsection 8, the Juvenile Court shall set a time for the resumption of the proceedings. If the Juvenile Court is not satisfied that the juvenile is competent to proceed, the Juvenile Court shall determine how to proceed pursuant to section 3318-B.

The court may consider the report of the State Forensic Service examiner, together with all other evidence relevant to the issue of competency, in its determination whether the juvenile is competent to proceed. No single criterion set forth in subsection 6 may be binding on the court's determination.

[PL 2011, c. 282, §4 (NEW).]

8. Allocation of the burden of proof; standard of proof. The burden of proof of competence is on the State if the juvenile is less than 14 years of age at the time the issue of competence is raised. If the juvenile is at least 14 years of age at the time the issue of competence is raised, the burden of proof is on the juvenile. In the event the State has the burden of proof, it must show by a preponderance of the evidence that the juvenile is competent to proceed. In the event the juvenile has the burden of proof, the juvenile must show by a preponderance of the evidence that the juvenile is not competent to proceed. [PL 2011, c. 282, §4 (NEW).]

9. Statements made in the course of competency examination. Statements made by the juvenile in the course of a competency examination may not be admitted as evidence in the adjudicatory stage for the purpose of proving any juvenile crime alleged.

[PL 2011, c. 282, §4 (NEW).]

10. Competency to proceed after bind over. Notwithstanding a finding by the Juvenile Court that the juvenile is competent to proceed in a juvenile proceeding, if the juvenile is subsequently bound

over for prosecution as an adult pursuant to section 3101, subsection 4, the issue of the juvenile's competency may be revisited.

[PL 2015, c. 409, §8 (AMD).]

SECTION HISTORY

PL 2011, c. 282, §4 (NEW). PL 2015, c. 409, §8 (AMD).

§3318-B. Disposition of a juvenile found incompetent to proceed

1. Substantial probability that juvenile will be competent in the foreseeable future. If, following the competency determination hearing pursuant to section 3318-A, subsection 7, the Juvenile Court finds that the juvenile is not competent to proceed but additionally finds that there exists a substantial probability that the juvenile will be competent in the foreseeable future, the Juvenile Court shall continue the suspension of the proceedings and refer the juvenile to the Commissioner of Health and Human Services for evaluation and treatment of the mental health and behavioral needs identified in the report of the State Forensic Service examiner under section 3318-A.

A. At the end of 60 days or sooner, at the end of 180 days and at the end of one year following referral, the State Forensic Service shall examine the juvenile and forward a report of the examination to the Juvenile Court relating to the juvenile's competency to proceed and its reasons. Upon receipt of the report the Juvenile Court shall forward the report to the parties and without delay set a date for a conference of counsel or, upon a motion of any party, set a hearing on the question of the juvenile's competency to proceed. If the Juvenile Court finds that the juvenile is not yet competent to proceed, but there exists a substantial probability that the juvenile will be competent to proceed in the foreseeable future, the proceedings must remain suspended pending further review or hearing. [PL 2011, c. 282, §5 (NEW).]

B. If more than one year has elapsed since the suspension of the proceedings, the Juvenile Court shall promptly hold a hearing to determine whether based on clear and convincing evidence there exists a substantial probability that the juvenile will be competent in the foreseeable future. Notwithstanding section 3318-A, subsection 8, the burden of proof is on the State in any hearing under this paragraph. If the Juvenile Court finds that there does not exist a substantial probability that the juvenile will be competent in the foreseeable future, the Juvenile Court shall further determine whether or not the court should:

- (1) Order the Commissioner of Health and Human Services to evaluate the appropriateness of providing mental health and behavioral support services to the juvenile; or
- (2) Order the juvenile into the custody of the Commissioner of Health and Human Services utilizing the procedures set forth in section 3314, subsection 1, paragraph C-1 for purposes of placement and treatment.

At the conclusion of the hearing the Juvenile Court shall dismiss the petition or, if post-adjudication, vacate the adjudication order and dismiss the petition. [PL 2011, c. 282, §5 (NEW).]

C. If during the suspension of the proceedings the juvenile reaches 18 years of age, the Juvenile Court may evaluate the appropriateness of placing the juvenile in an appropriate institution for the care and treatment of adults with mental illness or mental retardation for observation, care and treatment. [PL 2011, c. 282, §5 (NEW).]

D. The Juvenile Court shall set a time for resumption of the proceedings if at any point it finds, based upon the burden and standard of proof pursuant to section 3318-A, subsection 8, that the juvenile is now competent to proceed. [PL 2011, c. 282, §5 (NEW).]

[PL 2011, c. 282, §5 (NEW).]

2. No substantial probability that juvenile will be competent in the foreseeable future. If, following the competency determination hearing provided in section 3318-A, subsection 7, the Juvenile Court finds that the juvenile is incompetent to proceed and that there does not exist a substantial probability that the juvenile will be competent in the foreseeable future, the Juvenile Court shall promptly hold a hearing to determine whether or not the Juvenile Court should:

A. Order the Commissioner of Health and Human Services to evaluate the appropriateness of providing mental health and behavioral support services to the juvenile; or [PL 2011, c. 282, §5 (NEW).]

B. Order the juvenile into the custody of the Commissioner of Health and Human Services utilizing the procedures set forth in section 3314, subsection 1, paragraph C-1 for purposes of placement and treatment. [PL 2011, c. 282, §5 (NEW).]

At the conclusion of the hearing the Juvenile Court shall dismiss the petition or, if post-adjudication, vacate the adjudication order and dismiss the petition.
[PL 2013, c. 519, §4 (AMD).]

SECTION HISTORY

PL 2011, c. 282, §5 (NEW). PL 2013, c. 519, §4 (AMD).

§3319. Designation of facility

Immediately after the court orders detention or confinement in or commitment to a juvenile facility, the court shall notify the Commissioner of Corrections or the commissioner's designee and shall inquire as to the juvenile facility to which the juvenile will be transported. The commissioner has complete discretion to make this determination. The commissioner or the commissioner's designee shall immediately inform the court of the location of the juvenile facility to which the juvenile will be transported. [PL 2005, c. 507, §13 (AMD).]

SECTION HISTORY

PL 1997, c. 752, §27 (NEW). PL 2005, c. 507, §13 (AMD).

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