

§3203-A. Arrested juveniles; release; detention; notification

1. Notification of a juvenile community corrections officer. A juvenile community corrections officer receives notification under the following circumstances.

A. When, in the judgment of a law enforcement officer, Juvenile Court proceedings should be commenced against a juvenile, but detention is not necessary, the law enforcement officer shall notify a juvenile community corrections officer as soon as possible after such a determination is made; but if the juvenile has been arrested, the law enforcement officer shall notify the juvenile community corrections officer within 12 hours following the arrest. [PL 1999, c. 624, Pt. B, §3 (AMD).]

A-1. If the law enforcement officer determines that detention is not necessary but the officer is unable to immediately return the juvenile to the custody of the juvenile's legal custodian or another suitable person, the officer, with the juvenile's consent, may deliver the juvenile to any public or private agency that provides nonsecure services to juveniles, including an agency that provides attendant care. [PL 1999, c. 624, Pt. B, §3 (AMD).]

B. When, in the judgment of a law enforcement officer, a juvenile should be detained prior to the juvenile's initial appearance in juvenile court, the law enforcement officer shall immediately notify a juvenile community corrections officer.

(1) Detention under this section must be requested by the law enforcement officer within 2 hours after the juvenile's arrest or the juvenile must be released.

(2) After the law enforcement officer notifies the juvenile community corrections officer and requests detention, the juvenile community corrections officer shall order the conditional or unconditional release or shall effect a detention placement within 12 hours following the juvenile's arrest. [PL 1999, c. 624, Pt. B, §3 (AMD).]

B-1. If, in the judgment of a law enforcement officer, immediate secure detention is required to prevent a juvenile from imminently inflicting bodily harm on others or the juvenile, the officer may refer the juvenile for temporary, emergency detention in a jail or other secure facility intended or primarily used for the detention of adults approved pursuant to subsection 7, paragraph A or a facility approved pursuant to subsection 7, paragraph B, prior to notifying a juvenile community corrections officer. Such a facility may detain the juvenile for up to 2 hours on an emergency basis, as long as the law enforcement officer immediately notifies the juvenile community corrections officer and requests authorization to detain the juvenile beyond the term of the temporary, emergency detention pursuant to paragraph B. The juvenile community corrections officer may, if continued emergency detention is required to prevent the juvenile from imminently inflicting bodily harm on others or the juvenile, authorize temporary emergency detention in that facility for an additional 4 hours. Following any temporary emergency detention, the juvenile community corrections officer shall order the conditional or unconditional release of a juvenile or shall effect a detention placement. Except as otherwise provided by law, any detention beyond 6 hours must be in a placement other than a facility intended or primarily used for the detention of adults and must be authorized by a juvenile community corrections officer. It is the responsibility of the law enforcement officer to remain at the facility until the juvenile community corrections officer has released the juvenile or has authorized detention. [PL 1999, c. 624, Pt. B, §3 (AMD).]

C. In cases under Title 5, section 200-A, the law enforcement officer shall immediately notify the juvenile community corrections officer and the Department of the Attorney General. In all other cases the law enforcement officer shall immediately notify the juvenile community corrections officer if the law enforcement officer believes that immediate secure detention is required. If the juvenile community corrections officer determines not to order the detention or continued detention of the juvenile, the community corrections officer shall inform the law enforcement officer and the

attorney for the State prior to the juvenile's release. The attorney for the State, with or without a request from a law enforcement officer, shall consider the facts of the case, consult with the juvenile community corrections officer who made the initial determination, consider standards for detention under subsection 4, paragraph C and subsection 4, paragraph D, subparagraphs (1) to (6) and may order detention or continued detention of the juvenile under the same or any authorized conditions pending the juvenile's initial appearance before the court. If detention or continued detention is ordered, the detention placement must be made by the juvenile community corrections officer within 12 hours following the juvenile's arrest. [PL 1999, c. 624, Pt. B, §3 (AMD).]

[PL 1999, c. 624, Pt. B, §3 (AMD).]

2. Notification of legal custodian. A legal custodian shall receive notification under the following circumstances.

A. When a juvenile is arrested, the law enforcement officer or the juvenile community corrections officer shall notify the legal custodian of the juvenile without unnecessary delay and inform the legal custodian of the juvenile's whereabouts, the name and telephone number of the juvenile community corrections officer who has been contacted and, if a juvenile has been placed in a secure juvenile detention facility, that a detention hearing will be held within 48 hours following this placement, excluding Saturday, Sunday and legal holidays. Notwithstanding this provision, if a juvenile has been placed in a secure detention facility pursuant to subsection 7, paragraph B-5, the law enforcement officer or the juvenile community corrections officer shall notify the legal custodian that a detention hearing will be held within 24 hours following this placement, excluding Saturday, Sunday and legal holidays. [PL 1999, c. 624, Pt. A, §1 (AMD).]

B. Notification required by paragraph A may be made to a person of sufficient maturity with whom the juvenile is residing if the juvenile's legal custodian cannot be located. [PL 1985, c. 439, §9 (NEW).]

[PL 1999, c. 624, Pt. A, §1 (AMD).]

2-A. Questioning. When a juvenile is arrested, no law enforcement officer may question that juvenile until:

A. A legal custodian of the juvenile is notified of the arrest and is present during the questioning; [PL 1987, c. 367 (NEW).]

B. A legal custodian of the juvenile is notified of the arrest and gives consent for the questioning to proceed without the custodian's presence; or [PL 1987, c. 367 (NEW).]

C. The law enforcement officer has made a reasonable effort to contact the legal custodian of the juvenile, cannot contact the custodian and seeks to question the juvenile about continuing or imminent criminal activity. [PL 1987, c. 367 (NEW).]

[PL 1987, c. 367 (NEW).]

3. Law enforcement officer's report. An officer who notifies a juvenile community corrections officer pursuant to subsection 1, paragraph A or B shall file a brief written report with the juvenile community corrections officer, stating the juvenile's name, date of birth and address; the name and address of the juvenile's legal custodian; and the facts that led to the notification, including the offense that the juvenile is alleged to have committed. The report must contain sufficient information to establish the jurisdiction of the Juvenile Court.

A report of a notification pursuant to subsection 1 must be filed within 24 hours of the notification, excluding nonjudicial days. If a juvenile community corrections officer orders the conditional release of a juvenile and a report of the notification is not filed with the juvenile community corrections officer within 15 days, excluding nonjudicial days, the juvenile community corrections officer shall review the conditions imposed at the time of the release. Following the review, the juvenile community corrections officer may lessen or eliminate the conditions.

The date on which the report is received by the juvenile community corrections officer is the date of referral to the juvenile community corrections officer for an intake assessment.

[PL 1999, c. 624, Pt. B, §4 (AMD).]

4. Release or detention ordered by juvenile community corrections officer. The release or detention of a juvenile may be ordered by a juvenile community corrections officer as follows.

A. Upon notification from a law enforcement officer, a juvenile community corrections officer shall direct the release or detention of a juvenile pending that juvenile's initial appearance before the court. If a juvenile is released unconditionally, whether by a law enforcement officer without notification to a juvenile community corrections officer or by a juvenile community corrections officer, and the law enforcement officer subsequently acquires information that makes detention or conditional release necessary, the law enforcement officer may apply to the court for a warrant of arrest. Following the arrest of the juvenile, the law enforcement officer immediately shall notify the juvenile community corrections officer. The juvenile community corrections officer shall direct the unconditional or conditional release of the juvenile or order the juvenile detained in accordance with paragraphs C and D. [PL 1999, c. 624, Pt. B, §5 (AMD).]

B. Release may be unconditional or conditioned upon the juvenile's promise to appear for subsequent official proceedings or, if a juvenile can not appropriately be released on one of these 2 bases, upon the least onerous of the following conditions, or combination of conditions, necessary to ensure the juvenile's appearance or to ensure the protection of the community or any member of the community, including the juvenile:

- (1) Upon the written promise of the juvenile's legal custodian to produce the juvenile for subsequent official proceedings or at any place or time when so ordered by the juvenile community corrections officer or the Juvenile Court;
- (2) Upon the juvenile's voluntary agreement to placement in the care of a responsible person or organization, including one providing attendant care;
- (3) Upon prescribed conditions, reasonably related to securing the juvenile's presence at subsequent official proceedings or at any place or time when so ordered by the juvenile community corrections officer or the court, restricting the juvenile's activities, associations, residence or travel;
- (4) Upon such other prescribed conditions as may be reasonably related to securing the juvenile's presence at subsequent official proceedings or at any place or time when so ordered by the juvenile community corrections officer or the court; or
- (5) Upon prescribed conditions, reasonably related to ensuring the protection of the community or any member of the community, including the juvenile.

Upon imposition of any condition of release described in subparagraph (2), (3), (4) or (5), the juvenile community corrections officer shall provide the juvenile with a copy of the condition imposed, inform the juvenile of the consequences applicable to violation of the condition and inform the juvenile of the right to have the condition reviewed by the Juvenile Court pursuant to subsection 10. [PL 1999, c. 624, Pt. B, §5 (AMD).]

C. Detention, if ordered, must be in the least restrictive residential setting that will serve the purposes of the Maine Juvenile Code as provided in section 3002 and one of the following purposes of detention:

- (1) To ensure the presence of the juvenile at subsequent court proceedings;
- (3) To prevent the juvenile from harming or intimidating any witness or otherwise threatening the orderly progress of the court proceedings;
- (4) To prevent the juvenile from inflicting bodily harm on others; or

(5) To protect the juvenile from an immediate threat of bodily harm. [PL 2021, c. 398, Pt. KKKK, §1 (AMD).]

D. Detention of a juvenile in a detention facility may be ordered by the Juvenile Court or a juvenile community corrections officer when there is probable cause to believe the juvenile:

- (1) Has committed an act that would be murder or a Class A, Class B or Class C crime if committed by an adult;
- (2) Has refused to participate voluntarily in a conditional release placement or is incapacitated to the extent of being incapable of participating in a conditional release placement;
- (3) Has intentionally or knowingly violated a condition imposed as part of conditional release on a pending offense or has committed an offense subsequent to that release that would be a crime if committed by an adult;
- (4) Has committed the juvenile crime that would be escape if the juvenile was an adult;
- (5) Has escaped from a facility to which the juvenile had been committed pursuant to an order of adjudication or is absent without authorization from a prior placement by a juvenile community corrections officer or the Juvenile Court; or
- (6) Has a prior record of failure to appear in court when so ordered or summonsed by a law enforcement officer, juvenile community corrections officer or the court or has stated the intent not to appear.

If, in the judgment of the juvenile community corrections officer, based on an assessment of risk, or in the judgment of the Juvenile Court, it is not necessary or appropriate to detain a juvenile who satisfies the criteria for detention, the juvenile community corrections officer or the Juvenile Court may order the placement of the juvenile in the juvenile's home or in an alternative facility or service, such as a group home, emergency shelter, foster placement or attendant care, subject to specific conditions, including supervision by a juvenile community corrections officer or a designated supervisor. Such a placement is considered a conditional release.

Detention may not be ordered when either unconditional or conditional release is appropriate. [PL 1999, c. 624, Pt. B, §5 (AMD).]

E. If a juvenile community corrections officer or an attorney for the State orders a juvenile detained, the juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention shall petition the Juvenile Court for a review of the detention in time for the detention hearing to take place within the time required by subsection 5, unless the juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention has ordered the release of the juvenile. The juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention may order the release of the juvenile anytime prior to the detention hearing. If the juvenile is so released, a detention hearing may not be held. [PL 2001, c. 471, Pt. A, §21 (RPR).]

F. Conditional release or detention may not be ordered for a juvenile for conduct described in section 3103, subsection 1, paragraph B or C. [PL 2005, c. 328, §9 (NEW).]

G. Notwithstanding any provision of law to the contrary, a juvenile who has not attained 12 years of age may not be detained at a secure detention facility for more than 7 days except by agreement of the parties. [PL 2021, c. 326, §2 (NEW).]

[PL 2021, c. 326, §2 (AMD); PL 2021, c. 398, Pt. KKKK, §1 (AMD).]

4-A. Probable cause determination. Except in a bona fide emergency or other extraordinary circumstance, when a juvenile arrested without a warrant for a juvenile crime or a violation of conditional release is not released from custody or does not receive a detention hearing within 48 hours after arrest, including Saturdays, Sundays and legal holidays, a Juvenile Court Judge or justice of the

peace shall determine, within that time period, whether there is probable cause to believe that the juvenile has committed a juvenile crime unless it has already been determined by a Juvenile Court Judge or justice of the peace that there is probable cause to believe that the juvenile has committed a juvenile crime. Evidence presented to establish such probable cause may include affidavits and other reliable hearsay evidence as permitted by the Juvenile Court Judge or justice of the peace. If the evidence does not establish such probable cause, the Juvenile Court Judge or justice of the peace shall order the juvenile's discharge from detention.

[PL 2005, c. 328, §10 (AMD).]

5. Detention hearing. Upon petition by a juvenile community corrections officer who ordered the detention or an attorney for the State who ordered the detention, the Juvenile Court shall review the decision to detain a juvenile within 48 hours following the detention, excluding Saturday, Sunday and legal holidays, except that if a juvenile is detained pursuant to subsection 7, paragraph B-5, the Juvenile Court shall review the decision to detain the juvenile within 24 hours following the detention, excluding Saturday, Sunday and legal holidays. When a petition to review detention is filed, the Juvenile Court shall assign counsel to represent the juvenile. The assignment must be reviewed at the juvenile's first appearance before the Juvenile Court. If a juvenile petition with charges based on the conduct at issue in the detention hearing is filed, the assignment continues with respect to the petition to review detention but must be reviewed at the juvenile's first appearance on the juvenile petition.

A. A detention hearing must precede and must be separate from a bind-over or adjudicatory hearing. Evidence presented at a detention hearing may include testimony, affidavits and other reliable hearsay evidence as permitted by the Juvenile Court and may be considered in making any determination in that hearing. [PL 2021, c. 326, §3 (AMD).]

B. Following a detention hearing, the Juvenile Court shall order a juvenile's release, in accordance with subsection 4, unless it finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention provided in that subsection. The Juvenile Court shall ensure, by appropriate order, that any such continued detention is otherwise in accordance with the requirements of subsection 4. The Juvenile Court may order that detention be continued pending further appearances before the Juvenile Court or pending conditional release to a setting satisfactory to the juvenile community corrections officer. [PL 2021, c. 326, §3 (AMD).]

C. Continued detention or conditional release may not be ordered unless a Juvenile Court Judge or justice of the peace has determined pursuant to subsection 4-A or the Juvenile Court determines at the detention hearing that there is probable cause to believe that the juvenile has committed a juvenile crime. [PL 2003, c. 706, Pt. A, §3 (AMD).]

D. When the Juvenile Court orders detention or a conditional release that authorizes, even temporarily, the juvenile's removal from the juvenile's home, the Juvenile Court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B, and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the Juvenile Court orders detention or a conditional release, which continues to be governed by the other provisions of this section. [PL 2021, c. 326, §3 (AMD).]

[PL 2021, c. 326, §3 (AMD).]

6. Availability of judges. The Chief Judge of the District Court shall provide that a Juvenile Court Judge is available to preside at the detention hearing, described in subsection 5, on all days except Saturdays, Sundays and legal holidays.

[PL 1993, c. 675, Pt. B, §13 (AMD).]

7. Restriction on place of detention. The following restrictions are placed on the facilities in which a juvenile may be detained.

A. A juvenile may be detained in a jail or other secure detention facility intended for use or primarily used for the detention of adults only when the serving facility:

- (1) Contains an area where juveniles are under direct staff observation at all times, in a separate section for juveniles that complies with mandatory sight and sound separation standards established by the Department of Corrections pursuant to Title 34-A, section 1208;
- (2) Provides for no regular contact between the juveniles with the adult detainees or inmates; and
- (3) Has an adequate staff to provide direct observation and supervise the juvenile's activities at all times during emergency detention.

Juveniles detained in adult-serving facilities may be placed only in the separate juvenile sections that comply with mandatory separation standards established by the Department of Corrections pursuant to Title 34-A, section 1208, unless the juvenile is held in an adult section of a facility under section 3205, subsection 2 or is bound over as an adult and held in an adult section of a facility pursuant to section 3101, subsection 4, paragraph E-2. [PL 2013, c. 28, §3 (AMD).]

B. A juvenile may be held in custody or detention in any detention facility approved or operated by the Department of Corrections exclusively for juveniles or a temporary holding resource that provides secure supervision approved by the Department of Corrections, pending the juvenile's release or hearing in the Juvenile Court. [PL 1991, c. 493, §11 (AMD).]

B-1. [PL 1997, c. 752, §10 (RP).]

B-2. [PL 1997, c. 752, §11 (RP).]

B-3. [PL 1995, c. 155, §3 (RP).]

B-4. The State is responsible for all physically restrictive juvenile detention statewide, except that the detention for up to 6 hours provided under subsection 1 remains the responsibility of the counties. At the discretion of the sheriff, if the requirements of paragraph B-5 are met, a county may assume responsibility for the detention of a juvenile for up to 48 hours, excluding Saturdays, Sundays and legal holidays. Upon mutual agreement of the Commissioner of Corrections and the sheriff and upon terms mutually agreeable to them, a juvenile may be detained by a county for a longer period of time in an approved detention facility or temporary holding resource complying with paragraph B. Any detention of a juvenile by a county must be in a section of a jail or other secure detention facility in compliance with paragraph A or in an approved detention facility or temporary holding resource in compliance with paragraph B. This paragraph does not apply to a juvenile who is held in an adult section of a jail pursuant to section 3101, subsection 4, paragraph E-2 or section 3205, subsection 2. [PL 2013, c. 28, §4 (AMD).]

B-5. If the juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention determines there is no reasonable alternative, a juvenile may be detained in a jail or other secure detention facility intended or primarily used for the detention of adults for up to 48 hours, excluding Saturday, Sunday and legal holidays, if:

- (1) The facility meets the requirements of paragraph A;
- (2) The facility is not located in a standard metropolitan statistical area and meets the statutory criteria contained in the federal Juvenile Justice and Delinquency Prevention Act of 1974, 42 United States Code, Section 5601; and
- (3) The juvenile is detained only to await a detention hearing pursuant to subsection 5 or section 3314, subsection 2. [PL 2009, c. 93, §7 (AMD).]

C. [PL 2013, c. 28, §5 (RP).]

D. [PL 2013, c. 28, §6 (RP).]
[PL 2013, c. 28, §§3-6 (AMD).]

7-A. Nonsecure custody in secure detention facility. Notwithstanding other provisions of this Part, a juvenile may be held for up to 12 hours in nonsecure custody in a building housing a jail or other secure detention facility intended or primarily used for the detention of adults if the following criteria are met:

A. The area where the juvenile is held is an unlocked, multipurpose area not designed or intended for use as a residential area, such as a lobby, office or interrogation room which is not designated, set aside or used as a secure detention area or is not a part of such an area, or if a secure area, is used only for processing purposes; [PL 1989, c. 925, §8 (NEW).]

B. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility; [PL 1989, c. 925, §8 (NEW).]

C. Use of the area is limited to providing nonsecure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court; and [PL 1989, c. 925, §8 (NEW).]

D. The juvenile is under continuous visual supervision by a law enforcement officer or facility staff person. [PL 1989, c. 925, §8 (NEW).]
[PL 1989, c. 925, §8 (NEW).]

7-B. Separate nonsecure custody; detention. When a juvenile who is being held in nonsecure custody or is being detained pursuant to this section is transported to or from court or to or from a juvenile facility or is being held in a court holding area awaiting court proceedings, the juvenile must be separated by sight and sound from any adult detainee.
[PL 2007, c. 96, §2 (NEW).]

8. Detention. In the event that the court orders detention, after detention hearing in accordance with subsection 5, paragraph B, a petition shall be filed within 10 days from the date of detention, unless the time is extended by the court by further order for good cause shown. In the event a petition is not so filed, then detention shall be terminated and the juvenile discharged from detention.
[PL 1989, c. 744, §4 (AMD).]

9. Violation of conditions of release. Upon notification that a juvenile has intentionally or knowingly violated a condition of release, whether imposed by a court or a juvenile community corrections officer, a juvenile community corrections officer or a law enforcement officer may apply to the Juvenile Court for a warrant of arrest.

A law enforcement officer or juvenile community corrections officer having probable cause to believe that a juvenile has violated a condition of release may arrest the juvenile without a warrant.

Following the arrest of a juvenile by a law enforcement officer for violation of a condition of release, the law enforcement officer shall immediately notify the juvenile community corrections officer. The juvenile community corrections officer shall either direct the release of the juvenile with or without imposing different or additional conditions for release of the juvenile or shall revoke release and order the juvenile detained in accordance with subsection 4, paragraphs C and D.

If different or additional conditions of release are imposed, the juvenile may request the Juvenile Court to review the conditions pursuant to subsection 10. The review of additional or different conditions must include a hearing to determine if the preponderance of the evidence indicates that the juvenile intentionally or knowingly violated a condition of release.

If detention is ordered, the provisions of subsections 4-A and 5 apply.
[PL 2003, c. 180, §5 (AMD).]

10. Juvenile Court to review for abuse of discretion. Upon the request of a juvenile or legal custodian, the Juvenile Court shall, at the juvenile's first appearance or within 7 days, review for abuse of discretion, any condition of release imposed pursuant to subsection 4, paragraph B, subparagraph (2), (3), (4) or (5).

[PL 1989, c. 741, §9 (AMD).]

11. Review of order. Upon petition by a juvenile community corrections officer, an attorney for the State or a juvenile and after notice and upon a showing of changed circumstances or upon the discovery of new and significant information, the Juvenile Court may review an order for detention, conditional release or unconditional release and may enter a new order in accordance with this section.

[PL 2005, c. 488, §1 (AMD).]

SECTION HISTORY

PL 1985, c. 439, §9 (NEW). PL 1985, c. 737, §A37 (AMD). PL 1987, c. 367 (AMD). PL 1987, c. 398, §§3-8 (AMD). PL 1987, c. 698, §§2,3 (AMD). PL 1989, c. 231, §1 (AMD). PL 1989, c. 318 (AMD). PL 1989, c. 741, §§3-9 (AMD). PL 1989, c. 744, §§3,4 (AMD). PL 1989, c. 925, §§4-8 (AMD). PL 1991, c. 39 (AMD). PL 1991, c. 493, §§4-16 (AMD). PL 1991, c. 824, §A24 (AMD). PL 1993, c. 162, §1 (AMD). PL 1993, c. 238, §1 (AMD). PL 1993, c. 354, §§1-5 (AMD). PL 1993, c. 675, §B13 (AMD). PL 1995, c. 155, §§1-3 (AMD). PL 1995, c. 647, §§1,2 (AMD). PL 1997, c. 24, §§RR1-3 (AMD). PL 1997, c. 393, §B6 (AMD). PL 1997, c. 393, §B7 (AFF). PL 1997, c. 645, §6 (AMD). PL 1997, c. 645, §§6-8 (AMD). PL 1997, c. 645, §7 (AMD). PL 1997, c. 645, §8 (AMD). PL 1997, c. 752, §§7-13 (AMD). PL 1999, c. 127, §A32 (AMD). PL 1999, c. 260, §§A1-5 (AMD). PL 1999, c. 531, §J1 (AMD). PL 1999, c. 624, §§A1-5, B3-6 (AMD). PL 2001, c. 471, §A21 (AMD). PL 2001, c. 696, §1 (AMD). PL 2003, c. 180, §§3-6 (AMD). PL 2003, c. 706, §§A2,3 (AMD). PL 2005, c. 328, §§9-11 (AMD). PL 2005, c. 488, §1 (AMD). PL 2005, c. 507, §5 (AMD). PL 2007, c. 96, §2 (AMD). PL 2009, c. 93, §§5-7 (AMD). PL 2013, c. 28, §§3-6 (AMD). PL 2021, c. 326, §§2, 3 (AMD). PL 2021, c. 398, Pt. KKKK, §1 (AMD).

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