

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Amend the Laws Relating to Juveniles

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

**Sec. 1. 15 MRSA §3103, sub-§2**, as amended by PL 1997, c. 752, §6, is further amended to read:

**2. Dispositional powers.** All of the dispositional powers of the Juvenile Court provided in section 3314 apply to a juvenile who is adjudicated to have committed a juvenile crime, except that no commitment to a Department of Corrections juvenile correctional facility or ~~other detention period of confinement~~ may be imposed for conduct described in subsection 1, paragraphs B and C.

**Sec. 2. 15 MRSA §3203-A, sub-§7-B** is enacted to read:

**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.

**Sec. 3. 15 MRSA §3301, sub-§5-A**, as amended by PL 1999, c. 624, Pt. B, §10, is repealed.

**Sec. 4. 15 MRSA §3312, sub-§3, ¶D**, as enacted by PL 1999, c. 624, Pt. B, §20, is further amended to read:

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' ~~detention~~confinement in a ~~detention~~ 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 ~~detention~~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.

**Sec. 5. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 2005, c. 507, §12, is further amended to read:

H. The court may ~~commit the juvenile to a Department of Corrections juvenile correctional facility and order that the disposition be suspended or~~ 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 1204 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 1253, subsection 2 except that a statement is not required to be furnished and the day-for-day deduction must be determined by the facility, but not to Title 17-A, section 1253, subsection 2, paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10. 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. ~~Whenever~~When a juvenile is committed for a period of confinement, the court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that reasonable efforts are not necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders a period of confinement.

**Sec. 6. 15 MRSA §3314, sub-§2,** as amended by PL 2003, c. 503, §2, is further amended to read:

**2. Suspended disposition.** The court may impose any of the dispositional alternatives provided in subsection 1 and may suspend its disposition and place the juvenile on a specified period of probation that is subject to such provisions of Title 17-A, section 1204 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 1204, subsection 1-A. 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 1202, subsection 2. Termination of probation is governed by the procedures contained in Title 17-A, section 1202, subsection 3. Revocation of probation is governed by the procedures contained in Title 17-A, sections 1205, 1205-B, 1205-C and 1206, except that ~~the provisions of those sections requiring a preliminary hearing do not apply~~this subsection governs the court's determinations concerning probable cause and continued detention and those provisions of Title 17-A, section 1206, subsection 7-A allowing a vacating of part of the suspension of execution apply only to a ~~disposition~~suspended fine under subsection 1, paragraph G or a ~~suspended period of confinement under paragraph H; however, a disposition~~suspended commitment under subsection 1, paragraph F may be modified to a disposition under subsection 1, paragraph H. ~~Whenever~~When a revocation of probation results in the imposition of a disposition under subsection 1, paragraph F or a period of ~~detention~~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. ~~Whenever~~When a court orders continued detention, the court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders continued detention.

**Sec. 7. 15 MRSA §3316, sub-§2, ¶A,** as repealed and replaced by PL 1999, c. 127, Pt. B, §6, is amended to read:

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. When the vacating of the suspension of execution of a disposition of commitment to a Department of Corrections juvenile corrections facility as the result of a probation revocation results in a commitment of less than one year after the revocation, the court shall extend the period of commitment to a year or more unless doing so extends the commitment 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.

**Sec. 8. 17-A MRSA §303, sub-§1-A** is enacted to read:

**1-A.** A person is guilty of criminal restraint by parent if the person, being the parent of a child under 18 years of age and knowing the person has no legal right to do so, takes, retains or entices the child from the custody of the Department of Corrections or the Department of Health and Human Services with the intent to remove the child from the State or to secrete the child and hold the child in a place where the child is not likely to be found.

## SUMMARY

This bill amends the laws relating to juveniles as follows.

It provides that when a juvenile detainee or juvenile held in nonsecure custody is being transported or is held in a court holding area, there must be the same sight and sound separation from adults as when the juvenile is in a county jail.

It repeals the provision establishing community resolution teams as a means of informal adjustment of juvenile offenses.

It addresses the issue of a juvenile who receives a suspended order of commitment to a juvenile facility and commits a probation violation shortly before the end of the commitment period by requiring that a court revoking probation ensure that the juvenile receives a commitment of at least one year.

It expands the crime of criminal restraint by parent to cover a parent who removes a child under 18 years of age from state custody.

It substitutes "confinement" for "detention" in several provisions that were inadvertently overlooked in legislation passed in the last legislative session, which clarified that the term "detention" should be used only when a juvenile is being held pending court proceedings.

It clarifies the provisions referring to the disposition of up to 30 days' confinement in a juvenile facility.

It fixes the cross-references to adult probation revocation provisions in light of the changes made to those provisions in the last legislative session.