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Legislative Document

No. 353

S.P. 133

In Senate, February 12, 2013

**An Act To Allow Young Adult Offenders To Be Confined in
Juvenile Correctional Facilities and To Comply with Federal Law
Requirements**

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered
printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator PLUMMER of Cumberland.
Cosponsored by Representative DION of Portland and
Senator: DUTREMBLE of York, Representatives: MARKS of Pittston, PEASE of Morrill.

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

2 **Sec. 1. 15 MRSA §3101, sub-§4, ¶E-1**, as amended by PL 1997, c. 645, §5, is
3 repealed.

4 **Sec. 2. 15 MRSA §3101, sub-§4, ¶E-2**, as enacted by PL 2003, c. 706, Pt. A, §1,
5 is amended to read:

6 E-2. If the Juvenile Court binds a juvenile over to Superior Court and has ~~not~~
7 directed the detention of the juvenile ~~in a section of a jail that is used primarily for the~~
8 ~~detention of adults pursuant to paragraph E-1, the court shall order that~~, if the
9 juvenile attains 18 years ~~and 6 months~~ of age and is being detained, the juvenile must
10 be detained in an adult section of a jail.

11 **Sec. 3. 15 MRSA §3203-A, sub-§7, ¶A**, as amended by PL 2009, c. 93, §5, is
12 further amended to read:

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

15 (1) Contains an area where juveniles are under direct staff observation at all
16 times, in a separate section for juveniles that complies with mandatory sight and
17 sound separation standards established by the Department of Corrections
18 pursuant to Title 34-A, section 1208;

19 (2) Provides for no regular contact between the juveniles with the adult detainees
20 or inmates; and

21 (3) Has an adequate staff to provide direct observation and supervise the
22 juvenile's activities at all times during emergency detention.

23 Juveniles detained in adult-serving facilities may be placed only in the separate
24 juvenile sections that comply with mandatory separation standards established by the
25 Department of Corrections pursuant to Title 34-A, section 1208, unless the juvenile is
26 held in an adult section of a facility under section 3205, subsection 2 or is bound over
27 as an adult and held in an adult section of a facility pursuant to ~~court order~~ section
28 3101, subsection 4, paragraph E-2.

29 **Sec. 4. 15 MRSA §3203-A, sub-§7, ¶B-4**, as amended by PL 2009, c. 93, §6, is
30 further amended to read:

31 B-4. The State is responsible for all physically restrictive juvenile detention
32 statewide, except that the detention for up to 6 hours provided under subsection 1
33 remains the responsibility of the counties. At the discretion of the sheriff, if the
34 requirements of paragraph B-5 are met, a county may assume responsibility for the
35 detention of a juvenile for up to 48 hours, excluding Saturdays, Sundays and legal
36 holidays. Upon mutual agreement of the Commissioner of Corrections and the
37 sheriff and upon terms mutually agreeable to them, a juvenile may be detained by a
38 county for a longer period of time in an approved detention facility or temporary
39 holding resource complying with paragraph B. Any detention of a juvenile by a
40 county must be in a section of a jail or other secure detention facility in compliance

1 with paragraph A or in an approved detention facility or temporary holding resource
2 in compliance with paragraph B. This paragraph does not apply to a juvenile who is
3 held in an adult section of a jail pursuant to ~~court order under paragraph C or D;~~
4 section 3101, subsection 4, paragraph ~~E-1;~~ E-2 or section 3205, subsection 2.

5 **Sec. 5. 15 MRSA §3203-A, sub-§7, ¶C**, as amended by PL 1997, c. 752, §13, is
6 repealed.

7 **Sec. 6. 15 MRSA §3203-A, sub-§7, ¶D**, as repealed and replaced by PL 1991, c.
8 824, Pt. A, §24, is repealed.

9 **Sec. 7. 15 MRSA §3205, sub-§1**, as amended by PL 2005, c. 507, §6, is further
10 amended to read:

11 **1. Generally.** A juvenile may not be committed to or detained or confined in a jail
12 or other secure detention facility intended or primarily used for the detention of adults,
13 except when bound over as an adult and as provided in section 3101, subsection 4,
14 paragraph E-2, or as provided in section 3203-A, subsection 1, paragraph B-1 or section
15 3203-A, subsection 7. A juvenile who is detained in a jail or other secure detention
16 facility intended or primarily used for the detention of adults may be detained only in a
17 section of a facility that meets the requirements of section 3203-A, subsection 7,
18 paragraph A, unless bound over as an adult and held in an adult section of a facility
19 pursuant to ~~court order~~ section 3101, subsection 4, paragraph E-2.

20 **Sec. 8. 15 MRSA §3205, sub-§2, ¶B**, as enacted by PL 2009, c. 93, §8, is
21 amended to read:

22 B. If the person has attained 21 years of age or has been convicted as an adult in
23 another jurisdiction and has attained 18 years ~~and 6 months~~ of age, any detention
24 pursuant to section 3203-A and any confinement pursuant to section 3314, subsection
25 1, paragraph H or section 3314, subsection 7 must be in an adult section of a jail or
26 other secure detention facility intended or primarily used for the detention of adults
27 and may extend beyond the time limits set out in section 3203-A.

28 **Sec. 9. 17-A MRSA §1259**, as enacted by PL 2007, c. 686, §1, is further amended
29 to read:

30 **§1259. Commitments to the Department of Corrections of bound-over juveniles**
31 **who have not attained 18 years of age at the time of sentence imposition**

32 A juvenile who has been bound over, pursuant to Title 15, section 3101, subsection 4,
33 for a juvenile crime for which the juvenile had the burden of proof with respect to the
34 finding of appropriateness, who is subsequently, as to the juvenile crime's adult
35 counterpart, convicted and sentenced to a sentence alternative involving imprisonment
36 and who has not attained ~~16~~ 18 years of age at the time of sentence imposition must be
37 committed to a Department of Corrections juvenile correctional facility for an
38 indeterminate period not to extend beyond the juvenile's 18th birthday to serve the term
39 of imprisonment or any unsuspended portion until discharge from the juvenile
40 correctional facility and once discharged must be transferred to a ~~Department of~~

1 ~~Corrections adult~~ correctional facility in which adult offenders are confined to serve out
2 the remainder of the imprisonment term or unsuspended portion, if any.

3 **Sec. 10. 34-A MRSA §3061, sub-§1**, as amended by PL 1991, c. 845, §5, is
4 further amended to read:

5 **1. Transfer.** The commissioner may transfer any client from one correctional or
6 detention facility or program, including prerelease centers, work release centers, halfway
7 houses, supervised community confinement or specialized treatment facilities, to another;
8 ~~except that no.~~ A juvenile may not be transferred to another facility or program for adult
9 offenders and an adult offender may not be transferred to another facility or program for
10 juveniles, except that an adult offender may be housed in the Long Creek Youth
11 Development Center or the Mountain View Youth Development Center pursuant to
12 section 3816 or 4117 or Title 17-A, section 1259.

13 **Sec. 11. 34-A MRSA §3816** is enacted to read:

14 **§3816. Young adult offenders**

15 The commissioner may confine adults sentenced and committed to the custody of the
16 department who have not attained 26 years of age in the Long Creek Youth Development
17 Center as long as the housing facilities for adult offenders are fully separated from the
18 housing facilities for juvenile clients and the commissioner maintains at all times full
19 compliance with mandatory sight and sound separation standards established by federal
20 law. All provisions of this Title that are applicable to prisoners apply to adult offenders
21 confined in the Long Creek Youth Development Center as if they were confined in a
22 correctional facility housing only adults.

23 **Sec. 12. 34-A MRSA §4117** is enacted to read:

24 **§4117. Young adult offenders**

25 The commissioner may confine adults sentenced and committed to the custody of the
26 department who have not attained 26 years of age in the Mountain View Youth
27 Development Center as long as the housing facilities for adult offenders are fully
28 separated from the housing facilities for juvenile clients and the commissioner maintains
29 at all times full compliance with mandatory sight and sound separation standards
30 established by federal law. All provisions of this Title that are applicable to prisoners
31 apply to adult offenders confined in the Mountain View Youth Development Center as if
32 they were confined in a correctional facility housing only adults.

33 **SUMMARY**

34 This bill permits the Department of Corrections to incarcerate young adult offenders
35 who are at least 18 years of age and under 26 years of age and who are subjects of the
36 adult criminal justice system at the Long Creek Youth Development Center and the
37 Mountain View Youth Development Center. The Commissioner of Corrections is
38 required to maintain full sight and sound separation of the young adult population from
39 the juvenile population.

1 This bill also ensures compliance with federal law requirements for the housing of
2 juveniles bound over for adult criminal proceedings.