

**TITLE 15
COURT PROCEDURE – CRIMINAL**

**PART 6
MAINE JUVENILE CODE**

**CHAPTER 501
GENERAL PROVISIONS**

§3001. Title

This Part shall be known and may be cited as the Maine Juvenile Code.

§3002. Purposes and construction

1. Purposes. The purposes of this Part are:

- A. To secure for each juvenile subject to these provisions such care and guidance, preferably in the juvenile's own home, as will best serve the juvenile's welfare and the interests of society;
- B. To preserve and strengthen family ties whenever possible, including improvement of home environment;
- C. To remove a juvenile from the custody of the juvenile's parents only when the juvenile's welfare and safety or the protection of the public would otherwise be endangered or, when necessary, to punish a child adjudicated, pursuant to chapter 507, as having committed a juvenile crime;
- D. To secure for any juvenile removed from the custody of the juvenile's parents the necessary treatment, care, guidance and discipline to assist that juvenile in becoming a responsible and productive member of society;
- E. To provide procedures through which the provisions of the law are executed and enforced and that ensure that the parties receive fair hearings at which their rights as citizens are recognized and protected; and
- F. To provide consequences, which may include those of a punitive nature, for repeated serious criminal behavior or repeated violations of probation conditions.

2. Construction. To carry out these purposes, the provisions of this Part shall be liberally construed.

§3003. Definitions

As used in this Part, unless the context otherwise indicates, the following words and phrases shall have the following meanings.

1. Adjudicatory hearing. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition under chapter 507 are supported by evidence that satisfies the standard of proof required.

2. Adult. "Adult" means a person 18 years of age or over.

2-A. Attendant; attendant care. "Attendant" means an agent of a county sheriff or of the Department of Corrections who is authorized to provide temporary supervision of a juvenile alleged to have committed a juvenile crime or of a juvenile adjudicated as having committed a juvenile crime when supervision is appropriate as an interim measure pending the completion of a procedure authorized by law to be taken in regard to such juvenile. Supervision must be exercised during that period beginning with receipt of the juvenile by the attendant and ending upon the release of the juvenile to the juvenile's legal custodian or other responsible adult. This supervision constitutes "attendant care." Attendant care may not be ordered by the juvenile court except with the consent of the county sheriff or the Department of Corrections.

3. Bind-over hearing. "Bind-over hearing" means a hearing at which the Juvenile Court determines whether to permit the State to proceed against a juvenile as if the juvenile were an adult.

4. Commit. "Commit" means to transfer legal custody.

4-A. Diagnostic evaluation. "Diagnostic evaluation" means an examination of a juvenile, to assess the risks the juvenile may pose and determine the needs the juvenile may have, which may include, but is not limited to, educational, vocational or psychosocial evaluations, psychometric testing and psychological, psychiatric or medical examinations, which may take place on either a residential or a nonresidential basis.

4-B. Detention. "Detention" means the holding of a person in a facility characterized by either physically restrictive construction or intensive staff supervision that is intended to prevent a person who is placed in or admitted to the facility from departing at will.

4-C. Court-generated information. "Court-generated information" means records, information and documents created by the Juvenile Court to document activity in a case, including docket entries and other similar records.

4-D. Disclosure. "Disclosure" means the transmission of information contained in juvenile case records by any means, including orally, in writing or electronically, upon request.

5. Dispositional hearing. "Dispositional hearing" means a hearing to determine what order of disposition should be made concerning a juvenile who has been adjudicated as having committed a juvenile crime.

5-A. Dissemination. "Dissemination" means release of, transmission in any manner of and access to information contained in juvenile case records expressly authorized by statute, executive order, court rule, court decision or court order.

6. Emancipation. "Emancipation" means the release of a juvenile from the legal control of the juvenile's parents.

7. Facility. "Facility" means any physical structure.

8. Guardian. "Guardian" means a person lawfully invested with the power, and charged with the duty, of taking care of a person and managing the property and rights of the person, who, because of age, is considered incapable of administering the person's own affairs.

9. He.

10. Informal adjustment. "Informal adjustment" means a voluntary arrangement between a juvenile community corrections officer and a juvenile referred to the officer that provides sufficient basis for a decision by the juvenile community corrections officer not to file a petition under chapter 507.

10-A. Inspection. "Inspection" means access to and review of juvenile case records in a manner prescribed by the Supreme Judicial Court. "Inspection" does not include disclosure or dissemination of juvenile case records.

11. Intake.

12. Intake worker.

13. Interim care. "Interim care" means the status of temporary physical control of a juvenile by a person authorized by section 3501.

14. Juvenile. "Juvenile" means any person who has not attained the age of 18 years.

14-A. Juvenile arrest. "Juvenile arrest" means the taking of an accused juvenile into custody in conformance with the law governing the arrest of persons believed to have committed a crime.

14-B. Juvenile community corrections officer. "Juvenile community corrections officer" means an agent of the Department of Corrections authorized:

- A. To perform juvenile probation functions;
- B. To provide appropriate services to juveniles committed to a Department of Corrections juvenile correctional facility who are on leave or in the community on community reintegration; and

Sec. 1 amends
§3003, sub-§14

C. To perform all community corrections officer functions established by this Part for a juvenile alleged to have committed a juvenile crime.

14-C. Juvenile case records. "Juvenile case records" means all records, regardless of form or means of transmission, that comprise a juvenile court file of an individual case, including, but not limited to, court-generated information, information and documents filed by filers, transcripts of depositions, hearings, proceedings and interviews, documentary exhibits in the custody of the clerk of the court, electronic records, videotapes and records of other proceedings filed with the clerk of the court. "Juvenile case records" does not include administrative or operational records of the judicial branch.

15. Juvenile Court. "Juvenile Court" means the District Court exercising the jurisdiction conferred by section 3101.

16. Juvenile crime. "Juvenile crime" has the meaning set forth in section 3103.

17. Law enforcement officer.

18. Legal custodian. "Legal custodian" means a person who has legal custody of a juvenile.

19. Legal custody. "Legal custody" means the right to the care, custody and control of a juvenile and the duty to provide food, clothing, shelter, ordinary medical care, education and discipline for a juvenile, and, in an emergency, to authorize surgery or other extraordinary care.

19-A. Mental disease or defect. "Mental disease or defect" has the same meaning as in Title 17-A, section 39, subsection 2 except that "mental disease or defect" does not include, in and of itself, the fact that a juvenile has not attained the level of mental or emotional development normally associated with persons 18 years of age or older.

19-B. Officer of the court. "Officer of the court" means a judicial officer, including a judge, an attorney or an employee of the court including a clerk or a marshal.

20. Organization.

21. Parent. "Parent" means either a natural parent or the adoptive parent of a juvenile.

22. Person.

23. Probation. "Probation" means a legal status created by court order in cases involving a juvenile adjudicated as having committed a juvenile crime that permits the juvenile to remain in the juvenile's own home or other placement designated by the Juvenile Court subject to revocation for violation of any condition imposed by the court.

24. Probation officer; juvenile probation officer.

24-A. Secure detention facility. "Secure detention facility" means a facility characterized by physically restrictive construction that is intended to prevent a person who is placed in or admitted to the facility from departing at will.

25. Shelter. "Shelter" means the temporary care of a juvenile in physically unrestricting facilities.

26. Temporary holding resource. "Temporary holding resource" means an area not in a jail or other secure detention facility intended or primarily used for the detention of adults that may be used to provide secure supervision for a juvenile for a period not to exceed 72 hours, excluding Saturday, Sunday and legal holidays, pending the completion of a procedure authorized by law to be taken in regard to a juvenile. Security is provided by intense personal supervision rather than by the physical characteristics of the facility.

27. Temporary supervision. "Temporary supervision" means that supervision provided by an attendant delivering attendant care as defined in subsection 2-A.

CHAPTER 503 JURISDICTION

§3101. Jurisdiction

1. District Court as Juvenile Court. The District Court shall exercise the jurisdiction conferred by this Part and, when exercising such jurisdiction, shall be known and referred to as the Juvenile Court.

2. Juvenile Court jurisdiction.

A. The Juvenile Court shall have exclusive original jurisdiction, subject to waiver of jurisdiction as provided in subsection 4, of proceedings in which a juvenile is alleged to have committed a juvenile crime, as defined in section 3103.

B.

C. Juvenile Courts have jurisdiction over all petitions brought under Title 34-A, chapter 9, subchapter 7 pertaining to juveniles who have been adjudicated as having committed juvenile crimes in other states, but who are found within the territorial jurisdiction of the State.

D. Juvenile Courts have exclusive original jurisdiction over proceedings in which an adult is alleged to have committed a juvenile crime before attaining 18 years of age. For purposes of a proceeding under this paragraph, the adult is considered a juvenile.

E. Juvenile Courts shall have jurisdiction concurrent with the District Courts over petitions for emancipation brought under section 3506-A.

3. Juveniles mistakenly tried as adults.

A. If, during the pendency of any prosecution for a violation of law, in any court in the State against any person charged as an adult, it is ascertained that the person is a juvenile, or was a juvenile at the time the crime was committed, the court shall forthwith dismiss the case.

B. When a dismissal is ordered pursuant to paragraph A, a petition under chapter 507, alleging the same violation of law for which the juvenile was charged as an adult may be filed in Juvenile Court.

4. Bind-over.

A. When a petition alleges that a juvenile has committed an act that would be murder or a Class A, B or C crime if committed by an adult, the court shall, upon request of the prosecuting attorney, continue the case for further investigation and for a bind-over hearing to determine whether the jurisdiction of the Juvenile Court over the juvenile should be waived. If a continuance is granted under this paragraph, the court shall advise the juvenile and the juvenile's parent or parents, guardian or legal custodian of the possible consequences of a bind-over hearing, the right to be represented by counsel, and other relevant constitutional and legal rights .

B. Every bind-over hearing shall precede and shall be conducted separately from any adjudicatory hearing.

The Maine Rules of Evidence shall apply only to the probable cause portion of the bind-over hearing.

For the purpose of making the findings required by paragraph E, subparagraph (2), written reports and other material may be received by the court along with other evidence, but the court, if so requested by the juvenile, the juvenile's parent or guardian or other party, shall require that the person or persons who wrote the report or prepared the material appear as witness and be subject to examination, and the court may require that the persons whose statements appear in the report appear as witnesses and be subject to examination.

C. A verbatim record shall be kept in all bind-over proceedings.

C-1. With respect to the finding of probable cause required by paragraph E, subparagraph (1), the State has the burden of proof.

Sec. 2 amends §3101, sub-§2 in ¶A
Adds ¶A-1
Amends ¶C
Amends ¶D
Adds ¶D-1
Amends ¶E
Adds ¶F

C-2. With respect to the finding of appropriateness required by paragraph E, subparagraph (2), the State has the burden of proof, except that in a case involving a juvenile who is charged with one or more juvenile crimes that, if the juvenile were an adult, would constitute murder, aggravated attempted murder, attempted murder, felony murder, Class A manslaughter other than the reckless or criminally negligent operation of a motor vehicle, elevated aggravated assault on a pregnant person, elevated aggravated assault, arson that recklessly endangers any person, causing a catastrophe, Class A robbery or Class A gross sexual assault in which the victim submits as a result of compulsion, the juvenile has the burden of proof.

D. The Juvenile Court shall consider the following factors in deciding whether to bind a juvenile over for prosecution as an adult:

- (1) Seriousness of the crime: the nature and seriousness of the offense with greater weight being given to offenses against the person than against property; whether the offense was committed in an aggressive, violent, premeditated or intentional manner;
- (2) Characteristics of the juvenile: the record and previous history of the juvenile; the age of the juvenile; the juvenile's emotional attitude and pattern of living;
- (3) Public safety: whether the protection of the community requires commitment of the juvenile for a period longer than the greatest commitment authorized; whether the protection of the community requires commitment of the juvenile to a facility that is more secure than any dispositional alternative under section 3314; and
- (4) Dispositional alternatives: whether future criminal conduct by the juvenile will be deterred by the dispositional alternatives available; whether the dispositional alternatives would diminish the gravity of the offense.

E. The Juvenile Court shall bind a juvenile over for prosecution as an adult if it finds:

- (1) That there is probable cause to believe that a juvenile crime has been committed that would constitute murder or a Class A, Class B or Class C crime if the juvenile involved were an adult and that the juvenile to be bound over committed it; and
- (2) After a consideration of the seriousness of the crime, the characteristics of the juvenile, the public safety and the dispositional alternatives in paragraph D, that:
 - (a) If the State has the burden of proof, the State has established by a preponderance of the evidence that it is appropriate to prosecute the juvenile as if the juvenile were an adult; or
 - (b) If the juvenile has the burden of proof, the juvenile has failed to establish by a preponderance of the evidence that it is not appropriate to prosecute the juvenile as if the juvenile were an adult.

E-1.

E-2. If the Juvenile Court binds a juvenile over for prosecution as an adult and has directed the detention of the juvenile, if the juvenile attains 18 years of age and is being detained, the juvenile must be detained in an adult section of a jail.

F. The Juvenile Court shall bind over a child by entering an order finding probable cause, waiving jurisdiction and certifying the case for proceedings before the grand jury. The Juvenile Court shall enter written findings supporting its order finding probable cause and waiving jurisdiction. Proceedings concerning a juvenile who has been bound over for prosecution as an adult must be conducted in the same manner and with the same powers and duties as if the juvenile were an adult.

G. In all prosecutions for subsequent crimes, any person bound over and convicted as an adult must be proceeded against as if the juvenile were an adult.

CHAPTER 505 ARREST AND DETENTION

§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.

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.

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.

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.

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.

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.

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.

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;

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

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.

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.

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.

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.

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;
- (2) To provide physical care for a juvenile who can not return home because there is no parent or other suitable person willing and able to supervise and care for the juvenile adequately;
- (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.

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.

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.

F. Conditional release or detention may not be ordered for a juvenile for conduct described in section 3103, subsection 1, paragraph B or C.

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.

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.

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 court and may be considered in making any determination in that hearing.

B. Following a detention hearing, a 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 court may order that detention be continued pending further appearances before the court or pending conditional release to a setting satisfactory to the juvenile community corrections officer.

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.

Sec. 3 amends
§3203-A, sub-
§5

D. When a court orders detention or a conditional release that authorizes, even temporarily, the juvenile's removal from the juvenile's home, 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, which continues to be governed by the other provisions of this section.

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.

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.

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.

B-1.

B-2.

B-3.

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.

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.

C.

D.

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;
- B. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
- 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
- D. The juvenile is under continuous visual supervision by a law enforcement officer or facility staff person.

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.

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.

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.

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).

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.

**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;
- B. Make whatever informal adjustment is practicable without a petition; or
- C. Request a petition to be filed.

2. No further action.

3. Informal adjustment.

4. Request for filing of petition.

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;

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;

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

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.

5-A. Community resolution teams.

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.

Sec. 4 amend §3301, sub-§6 by adding a new blocked ¶

6-A. Records confidential.

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.

§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.

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.

Sec. 5 amends §3305, sub-§1 and adds ¶D

Sec. 5 amends §3305, sub-§1 and adds ¶D and a blocked ¶ at the end

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.

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

§3313. Criteria for withholding an institutional disposition

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;
- B. The juvenile is in need of correctional treatment that can be provided most effectively by the juvenile's commitment to an institution; or
- C. A lesser sentence will depreciate the seriousness of the juvenile's conduct.

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;
- B. The juvenile did not contemplate that the juvenile's conduct would cause or threaten serious harm;
- C. The juvenile acted under a strong provocation;
- D. There were substantial grounds tending to excuse or justify the juvenile's conduct, though failing to establish a defense;
- E. The victim of the juvenile's conduct induced or facilitated the commission of the conduct;

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;

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;

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;

H. The juvenile's conduct was the result of circumstances unlikely to recur;

I. The character and attitudes of the juvenile indicate that the juvenile is unlikely to commit another juvenile crime;

J. The juvenile is particularly likely to respond affirmatively to probation; and

K. The confinement of the juvenile would entail excessive hardship to the juvenile or the juvenile's dependents.

Sec. 6 amends §3313, sub-§2 by repealing ¶F as amended by PL 2019, c. 474 and PL 2019, c. 525, and reenacts the c. 474 versions

Sec. 7 amends §3313, sub-§2, ¶J to prepare for new ¶¶

Sec. 8 amends §3313, sub-§2, ¶K to prepare for new ¶¶

Sec. 9 adds ¶L

Sec. 10 adds ¶M

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.

§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.

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;
- B. An individualized plan for the provision of services to the juvenile for the next period;
- 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
- D. A certification that the services recommended are available and will be afforded to the juvenile.

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.

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

1. Sharing of information about a committed juvenile.

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

Sec. 11 amends §3315, sub-§3 and adds ¶A and ¶B

Sec. 12 amends §3316, sub-§2, ¶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.

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.

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.

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.

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.

§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. *****

Sec. 13 amends
§3317

CHAPTER 509 APPEALS

§3401. Appeals structure and goals

1. Structure. Except as otherwise provided, appeals from the juvenile court are to the Supreme Judicial Court.

2. Goals of juvenile appellate structure. The goals of the juvenile appellate structure are:

A. To correct errors in the application and interpretation of law;

- B. To insure substantial uniformity of treatment to persons in like situations; and
- C. To provide for review of juvenile court decisions so that the legislatively defined purposes of the juvenile justice system as a whole are realized.

3. No right to jury trial.

4. Rules.

§3402. Appeals to Supreme Judicial Court

1. Matters for appeal. Appeals of the following matters may be taken from the juvenile court to the Supreme Judicial Court by a party specified in subsection 2:

- A. An adjudication, as long as the appeal is taken after an order of disposition;
- B. An order of disposition, or of any subsequent order modifying disposition, for an abuse of discretion; and
- C.
- D. A detention order entered pursuant to section 3203-A, subsection 5 or any refusal to alter a detention order upon petition of the juvenile pursuant to section 3203-A, subsection 11, for abuse of discretion, provided that the appeal must be handled expeditiously.
- E.
- F.
- G.

2. Who may appeal. An appeal may be taken by the following parties:

- A. The juvenile; or
- B. The juvenile's parents, guardian or legal custodian on behalf of the juvenile, if the juvenile is not emancipated and the juvenile does not wish to appeal.
- C.

2-A. Appeal from a bind-over order of the juvenile court. A bind-over order of the juvenile court by a party specified in subsection 2 may be reviewed only by the Supreme Judicial Court pursuant to an appeal of a judgment of conviction following bind-over.

3. Appeals by the State. The State may appeal from a decision or order of the juvenile court to the Supreme Judicial Court to the same extent and in the same manner as in criminal cases under section 2115-A. The State may appeal from the juvenile court to the Supreme Judicial Court for the failure of the juvenile court to order a bind-over.

- A.
- B.
- C.
- D.

4. Stays and releases. On an appeal pursuant to subsection 1, paragraphs A and B, the Supreme Judicial Court shall consider a stay of execution and release pending the appeal.

5. Time for appeals. An appeal from the juvenile court to the Supreme Judicial Court must be taken within 21 days after the entry of an order of disposition or other appealed order or such further time as the Supreme Judicial Court may provide pursuant to a rule of court.

6. Record on appeal.

Sec. 14 amends §3402, sub-§1

and adds ¶H

§3405. Scope of review on appeal; record

1. Scope of review. Review on all appeals from juvenile court to the Supreme Judicial Court is for errors of law or abuses of discretion. The Supreme Judicial Court may affirm, reverse or modify any order of the juvenile court or remand for further proceedings. The Supreme Judicial Court may enter a new order of disposition if it finds that the juvenile court's disposition was an abuse of discretion.

2. Record on appeals. In appeals taken pursuant to section 3402, subsection 1, paragraphs A and B *****, review must be on the basis of the record of the proceedings in juvenile court. In the interest of justice, the Supreme Judicial Court may order that the record consist of:

- A. The untranscribed sound recording of the proceedings; or
- B. An agreed or settled statement of facts with the consent of the parties.

3. Record on appeals of detention orders. In appeals taken pursuant to section 3402, subsection 1, paragraph D, the court shall order a review by the most expeditious of the following methods that is consistent with the interests of justice:

- A. The untranscribed sound recording of the detention hearing;
- B. Evidence presented to the trial court, as long as the scope of review is as specified in subsection 1;
- C. A transcribed record; or
- D. A record consisting of a statement of facts as described in subsection 2, paragraph B.

4. Expedited docket.

Sec. 15 amends
§3405, sub-§2

**TITLE 34-A
CORRECTIONS**

**CHAPTER 3
CORRECTIONAL FACILITIES**

**SUBCHAPTER 5
SOUTHERN MAINE JUVENILE FACILITY**

§3801. Establishment

The State shall maintain the Long Creek Youth Development Center, referred to in this subchapter as the "facility," located at South Portland.

- 1. Coeducational.** The facility must be coeducational.
- 2. Separate housing.** The facility must fully separate the housing facilities for boys and girls.

§3802. Purposes

1. Statement. The purposes of the Long Creek Youth Development Center are:

- A. To detain juveniles pending a court proceeding;
- B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section 3318-A;
- C. To rehabilitate juveniles committed to a juvenile correctional facility pursuant to Title 15, section 3314, subsection 1, paragraph F;
- D. To protect the public from dangerous juveniles;
- E. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 1, paragraph H;

- F. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D;
- G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004 and 10608 and Title 29-A, section 115;
- H. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 7; and
- I. To confine juveniles committed to a juvenile correctional facility pursuant to Title 17-A, section 1611.

2. Accomplishment. To accomplish the purposes set out in subsection 1, the disciplines of education, casework, group work, psychology, psychiatry, medicine, nursing, vocational training and religion as they are related to human relations and personality development must be employed. Security measures, whether in the form of physically restrictive construction or intensive staff supervision, when appropriate, may be taken to accomplish these purposes.

§3805. Commitment

1. Eligibility. Only a juvenile, as defined in Title 15, section 3003, subsection 14, who is 11 years of age or older at the time of commitment may be committed to the facility pursuant to this subchapter and Title 15, Part 6.

Sec. 16 amends 34-A, §3805, sub-§1

Sec. 17 amends 34-A, §3805, by enacting a new sub-§1-A

2. Limitations. A person may not be detained or confined in or committed to the facility if, upon petition by the commissioner or the commissioner's designee and after hearing, the court finds by a preponderance of the evidence that the person is more appropriately a subject for intensive treatment services that are available and provided by or through the Department of Health and Human Services. Prior to the hearing, the court shall provide notice of the hearing in writing or orally to the juvenile, the juvenile's parents, the juvenile's guardian or legal custodian, the attorney for the State and the Department of Health and Human Services.

3. Certification. When a person is detained or confined in or committed to the facility, the court making the detention, confinement or commitment shall certify on the mittimus the person's birthplace, parentage and legal residence.