

Maine Revised Statute Title 15, Chapter 505: ARREST AND DETENTION

Table of Contents

Part 6. MAINE JUVENILE CODE.....

Section 3201. WARRANTLESS ARRESTS..... 3

Section 3202. ARREST WARRANTS FOR JUVENILES..... 3

Section 3203. ARRESTED JUVENILES, RELEASE OR DETENTION, NOTIFICATION
(REPEALED)..... 4

Section 3203-A. ARRESTED JUVENILES; RELEASE; DETENTION; NOTIFICATION....
4

Section 3204. STATEMENTS NOT ADMISSIBLE IN EVIDENCE..... 12

Section 3205. JUVENILE IN ADULT-SERVING JAIL..... 12

Section 3206. DETENTION OF JUVENILES..... 13

15 §3201. WARRANTLESS ARRESTS

1. Warrantless arrests. Arrests without warrants of juveniles for juvenile crimes defined by section 3103, subsection 1, paragraphs A, E, F, G and H by law enforcement officers or private persons must be made pursuant to the provisions of Title 17-A, sections 15 and 16. For purposes of this section, a juvenile crime defined under section 3103, subsection 1, paragraph H is deemed a Class D or Class E crime. A law enforcement officer or private person may not arrest a juvenile for a juvenile crime defined by section 3103, subsection 1, paragraph B or C.

[2009, c. 93, §4 (AMD) .]

2. Contact police or sheriff. Any private person who makes an arrest without a warrant pursuant to this section shall immediately contact the police or sheriff's department whose responsibility it shall be to immediately take charge of the juvenile.

[1977, c. 520, §1 (NEW) .]

3. Enforcement of other juvenile crimes. A law enforcement officer who has probable cause to believe that a juvenile crime, as defined by section 3103, subsection 1, paragraph B or C has been committed may request that the juvenile provide the officer with reasonably credible evidence of the juvenile's name, address and date of birth. The evidence may consist of oral representations by the juvenile. If the juvenile furnishes the officer with evidence of the juvenile's name, address and date of birth and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period the verification is being attempted, the officer may require the juvenile to remain present for a period not to exceed 2 hours. The officer may not arrest the juvenile for the juvenile crime defined by section 3103, subsection 1, paragraph B or C.

After informing the juvenile of the provisions of this subsection, the officer may arrest the juvenile for conduct that, if committed by an adult, would be considered criminal as described in Title 17-A, section 17, subsection 2 if the juvenile intentionally refuses to furnish any evidence of the juvenile's correct name, address or date of birth, or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the juvenile has intentionally failed to provide reasonably credible evidence of the juvenile's name, address or date of birth.

[2005, c. 328, §7 (AMD) .]

SECTION HISTORY

1977, c. 520, §1 (NEW). 1979, c. 681, §§7,8 (AMD). 1987, c. 277, §2 (AMD). 1989, c. 445, §4 (AMD). 1995, c. 470, §6 (AMD). 2003, c. 305, §4 (AMD). 2005, c. 328, §§6,7 (AMD). 2009, c. 93, §4 (AMD).

15 §3202. ARREST WARRANTS FOR JUVENILES

An arrest warrant for a juvenile must be issued in the manner provided by Rule 4 of the Maine Rules of Criminal Procedure, except that affidavits alone must be presented and a petition is not necessary. Following arrest, the juvenile is subject to the procedures specified in sections 3203-A and 3301. [2005, c. 328, §8 (AMD) .]

SECTION HISTORY

1977, c. 520, §1 (NEW). 1979, c. 681, §9 (RPR). 2001, c. 4, §1 (AMD). 2005, c. 328, §8 (AMD).

15 §3203. ARRESTED JUVENILES, RELEASE OR DETENTION, NOTIFICATION

(REPEALED)

SECTION HISTORY

1977, c. 520, §1 (NEW). 1977, c. 664, §§13-19 (AMD). 1979, c. 127, §118 (AMD). 1979, c. 373, §1 (AMD). 1979, c. 512, §3 (AMD). 1979, c. 681, §§10-13 (AMD). 1981, c. 392, §§2,3 (AMD). 1983, c. 581, §1 (AMD). 1985, c. 439, §8 (RP).

15 §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. [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. [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. [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. [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. [1999, c. 624, Pt. B, §3 (AMD).]

[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. [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. [1985, c. 439, §9 (NEW).]

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

[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.

[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. [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. [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;
- (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. [1999, c. 624, Pt. B, §5 (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. [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. [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. [2005, c. 328, §9 (NEW) .]

[2005, c. 328, §9 (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.

[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.

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. [1999, c. 127, Pt. A, §32 (RPR); 1999, c. 260, Pt. A, §5 (RPR) .]

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. [2003, c. 706, Pt. A, §2 (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. [2003, c. 706, Pt. A, §3 (AMD) .]

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. [2001, c. 696, §1 (NEW) .]

[2003, c. 706, Pt. A, §§2, 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.

[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 court order. [2009, c. 93, §5 (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. [1991, c. 493, §11 (AMD) .]

B-1. [1997, c. 752, §10 (RP) .]

B-2. [1997, c. 752, §11 (RP) .]

B-3. [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 court order under paragraph C or D; section 3101, subsection 4, paragraph E-1; or section 3205, subsection 2. [2009, c. 93, §6 (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. [2009, c. 93, §7 (AMD) .]

C. Upon the request of the Commissioner of Corrections or the commissioner's designee, a judge may approve the transfer of a juvenile, who is detained at a detention facility described in paragraph B and operated by the department, to any section of a jail or other secure facility that is intended for use or used primarily for the detention of adults:

- (1) If the judge finds, by clear and convincing evidence, that:
 - (a) Jurisdiction of the matter as a juvenile case has been waived and the juvenile has been bound over pursuant to section 3101, subsection 4;
- (2) If the judge finds, by clear and convincing evidence, that the juvenile's behavior:
 - (a) Presents an imminent danger of harm to the juvenile or to others; or
 - (b) Presents a substantial likelihood that the juvenile will leave the detention facility; and
- (3) If the judge finds, by clear and convincing evidence, that there is no less restrictive alternative to detention in an adult facility that will meet the purposes of detention.

In determining whether the juvenile's behavior presents a danger to the juvenile or others, the court shall consider, among other factors:

- (a) The nature of and the circumstances surrounding the offense with which the juvenile is charged, including whether the offense was committed in an aggressive, violent, premeditated or willful manner;
- (b) The record and previous history of the juvenile, including the juvenile's emotional attitude and pattern of living; and
- (c) If applicable, the juvenile's behavior and mental condition during any previous or current period of detention or commitment. [1997, c. 752, §13 (AMD) .]

D. Upon the petition of a sheriff or the sheriff's designee, the District Court may approve the transfer of a juvenile who has been bound over pursuant to section 3101, subsection 4 from a separate juvenile section described in paragraph A, or from a detention facility described in paragraph B and operated by the county, to any section of a jail or another secure facility that is intended for use or used primarily for the detention of adults, if the court finds by clear and convincing evidence that the juvenile's behavior presents an imminent danger of harm to that juvenile or to others and that there is no less restrictive alternative to detention in an adult section that serves the purposes of detention.

That determination must be made on the basis of evidence, including reliable hearsay evidence, presented in testimony or affidavits. In determining whether the juvenile's behavior presents a danger to that juvenile or others, the court shall consider, among other factors:

- (1) The nature of and the circumstances surrounding the offense with which the juvenile is charged, including whether the offense was committed in an aggressive, violent, premeditated or willful manner;
- (2) The record and previous history of the juvenile, including the juvenile's emotional attitude and pattern of living; and
- (3) The juvenile's behavior and mental condition during any previous or current period of detention or commitment. [1991, c. 824, Pt. A, §24 (RPR) .]

[2009, c. 93, §§5-7 (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; [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; [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 [1989, c. 925, §8 (NEW).]

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

[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.

[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.

[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.

[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).

[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.

[2005, c. 488, §1 (AMD) .]

SECTION HISTORY

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

15 §3204. STATEMENTS NOT ADMISSIBLE IN EVIDENCE

Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made to a juvenile community corrections officer during the course of a preliminary investigation or made to a community resolution team under section 3301 are not admissible in evidence at an adjudicatory hearing against that juvenile if a petition based on the same facts is later filed. [1999, c. 624, Pt. B, §7 (AMD).]

Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made during the course of screening and assessment for participation in a juvenile drug treatment court program if made to a juvenile community corrections officer or to another person reporting on or supervising the juvenile in connection with the program are not admissible in evidence at an adjudicatory or probation violation hearing against that juvenile if a petition or motion to revoke probation based on the same facts is the subject of the hearing. [1999, c. 624, Pt. B, §7 (NEW).]

SECTION HISTORY

1977, c. 520, §1 (NEW). 1977, c. 664, §20 (RPR). 1979, c. 681, §14 (AMD). 1985, c. 439, §10 (AMD). 1989, c. 741, §10 (AMD). 1997, c. 421, §A1 (AMD). 1999, c. 624, §B7 (AMD).

15 §3205. JUVENILE IN ADULT-SERVING JAIL

1. Generally. A juvenile may not be committed to or detained or confined in a jail or other secure detention facility intended or primarily used for the detention of adults, except when bound over as an adult or as provided in section 3203-A, subsection 1, paragraph B-1 or section 3203-A, subsection 7. A juvenile

who is detained in a jail or other secure detention facility intended or primarily used for the detention of adults may be detained only in a section of a facility that meets the requirements of section 3203-A, subsection 7, paragraph A, unless bound over as an adult and held in an adult section of a facility pursuant to court order.

[2005, c. 507, §6 (AMD) .]

2. Exception. Subsection 1 applies to any person who has not attained 18 years of age or is considered a juvenile by virtue of section 3101, subsection 2, paragraph D except that:

A. If the person has attained 18 years of age, or has been convicted as an adult in another jurisdiction, any detention pursuant to section 3203-A and any confinement pursuant to section 3314, subsection 1, paragraph H or section 3314, subsection 7 may be, upon the order of a court, in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults and may extend beyond the time limits set out in section 3203-A; and [2009, c. 93, §8 (NEW) .]

B. If the person has attained 21 years of age or has been convicted as an adult in another jurisdiction and has attained 18 years and 6 months of age, any detention pursuant to section 3203-A and any confinement pursuant to section 3314, subsection 1, paragraph H or section 3314, subsection 7 must be in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults and may extend beyond the time limits set out in section 3203-A. [2009, c. 93, §8 (NEW) .]

[2009, c. 93, §8 (RPR) .]

SECTION HISTORY

1989, c. 571, §A2 (NEW). 1989, c. 925, §9 (AMD). 1991, c. 493, §17 (RPR). 1997, c. 24, §RR4 (AMD). 1997, c. 752, §14 (AMD). 1999, c. 624, §A6 (AMD). 2005, c. 507, §§6,7 (AMD). 2007, c. 196, §1 (AMD). 2009, c. 93, §8 (AMD).

15 §3206. DETENTION OF JUVENILES

A person under 18 years of age who is arrested for a crime defined under Title 12 or Title 29-A that is not a juvenile crime as defined in section 3103 is not subject to chapter 105-A and may not be detained unless a juvenile community corrections officer has been notified within 2 hours after the person's arrest and the juvenile community corrections officer or attorney for the State has approved the detention. Section 3203-A, subsection 7, paragraphs A and B governing the facilities in which juveniles may be detained apply to any detention of such a juvenile following arrest and section 3203-A, subsection 7, paragraph C applies to the decision whether to release or further detain the juvenile. [2011, c. 336, §2 (AMD) .]

SECTION HISTORY

2003, c. 180, §7 (NEW). 2005, c. 507, §8 (AMD). 2011, c. 336, §2 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 125th Maine Legislature, is current through September 1, 2012, and is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.