

**§3809. Observation**

**1. Generally.** When the behavior of a juvenile residing at the Long Creek Youth Development Center presents a high likelihood of imminent harm to that juvenile or to others, presents a substantial and imminent threat of destruction of property or demonstrates a proclivity to be absent from the facility without leave as evidenced by a stated intention to escape from the facility or by a recent attempted or actual escape from any detention or correctional facility, the juvenile may be placed under observation if the juvenile demonstrates that anything less restrictive would be ineffectual for the control of the juvenile's behavior.

[PL 1991, c. 314, §64 (RPR); PL 2001, c. 439, Pt. G, §6 (AMD).]

**2. Conditions.** Placing a juvenile under observation is subject to the following conditions.

A. Placement under observation must first be approved by the superintendent. [PL 1991, c. 314, §64 (RPR).]

B. The conditions under which a juvenile is placed under observation must conform with all applicable federal and state standards relating to the health and safety of clients in correctional facilities. [PL 1991, c. 314, §64 (RPR).]

C. Placement under observation may not exceed the period of time necessary to alleviate and prevent the reoccurrence of the behavior described in subsection 1 and it may not be used as punishment. [PL 1991, c. 314, §64 (RPR).]

D. When placement under observation exceeds 12 hours, the superintendent shall direct the facility physician or a member of the facility medical staff to visit the juvenile immediately and at least once in each succeeding 24-hour period the juvenile remains under observation to examine the juvenile's state of health.

(1) The superintendent shall give full consideration to recommendations of the physician or medical staff member concerning the juvenile's dietary needs and the conditions of the juvenile's confinement required to maintain the juvenile's health. If the recommendations of the physician or medical staff member are not carried out, the superintendent shall immediately convey the reasons and circumstances for this decision to the commissioner for review and final disposition.

(2) Placement under observation must be discontinued if the superintendent on the advice of the physician determines that placement under observation is harmful to the mental or physical health of the juvenile, except that placement under observation may be continued if the behavior of the juvenile presents a high likelihood of imminent physical harm to that juvenile or others and there is no less restrictive setting in which that juvenile's safety or that of others can be ensured. If placement under observation is continued, the physician or a member of the medical staff shall visit the juvenile at least once every 12 hours. [PL 1991, c. 314, §64 (RPR).]

E. When placement under observation exceeds 24 hours, the superintendent shall direct appropriate facility staff to develop a plan for the further care of the juvenile. The plan must be revised as needed to meet the changing needs of the juvenile. [PL 1991, c. 314, §64 (RPR).]

F. Placement under observation may not exceed 72 hours without the commissioner's approval, which must:

(1) Be in writing;

(2) State the reasons for that approval; and

(3) Be kept on file. [PL 1991, c. 314, §64 (RPR).]

G. If the recommendations of the physician or medical staff member regarding the juvenile's dietary or other health needs while under observation are not carried out, the superintendent shall send a written justification to the commissioner. [PL 1991, c. 314, §64 (RPR).]

H. A juvenile held under observation must be under sight and sound supervision by facility staff, which must be constant if necessary to prevent imminent harm to the juvenile. [PL 1995, c. 163, §1 (AMD).]

[PL 1995, c. 163, §1 (AMD).]

#### SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1983, c. 581, §§50,59 (AMD). PL 1991, c. 314, §64 (RPR). PL 1995, c. 163, §1 (AMD). PL 1999, c. 401, §J4 (AMD). PL 2001, c. 439, §G6 (AMD).

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