

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 295

H.P. 227 House of Representatives, February 6, 1987
Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative MANNING of Portland.
Cosponsored by Representative PARADIS of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Permit a Juvenile to Waive the
2 Protection of the Maine Juvenile Code.
3

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

6 15 MRSA §3101, sub-§5 is enacted to read:

7 5. Petition for waiver of protection of the
8 Maine Juvenile Code. A petition to waive the protec-
9 tion of the Maine Juvenile Code may be made as fol-
10 lows.

11 A. A juvenile who has attained his 16th birthday
12 may petition the Juvenile Court for a waiver of
13 the protection of the Maine Juvenile Code if:

1 (1) The juvenile has been committed to the
2 Maine Youth Center and the juvenile is in
3 resident status at that facility; or

4 (2) The juvenile is charged with an offense
5 which would constitute a Class A, B or C
6 crime if the juvenile were an adult, other
7 than in cases under Title 5, section 200-A,
8 and the juvenile admits the offense or of-
9 fenses charged and consents to undergo a di-
10 agnostic evaluation at the Maine Youth Cen-
11 ter.

12 B. The court shall grant the petition if it
13 finds, by a preponderance of the evidence, that
14 the juvenile understands the consequences of the
15 waiver, the juvenile has filed the petition vol-
16 untarily and that, after a consideration of the
17 seriousness of the crime, the characteristics of
18 the juvenile and the dispositional alternatives
19 available to the Juvenile Court, as specified in
20 subsection 4, paragraph D, it is appropriate to
21 prosecute the juvenile as if he were an adult.

22 C. The juvenile has the right to be represented
23 by counsel at the hearing on the petition and to
24 have counsel appointed at the expense of the
25 State if he is indigent. The juvenile's parents
26 shall be notified of the hearing and shall have a
27 right to be heard. The Maine Youth Center shall
28 report to the court, as applicable, the results
29 of the evaluation and on the juvenile's adjust-
30 ment and progress at that facility and on other
31 matters that may be pertinent to the likelihood
32 of harm to the juvenile if an adult disposition
33 is imposed.

34 D. If the court denies the petition, the juve-
35 nille shall, as applicable, retain his resident
36 status at the Maine Youth Center or become sub-
37 ject to a disposition available to the Juvenile
38 Court. If the court grants the request for a
39 waiver in the case of a juvenile who was in resi-
40 dent status at the Maine Youth Center, it shall
41 transmute the juvenile disposition into a sen-
42 tence to be served as an adult which may not ex-
43 ceed the lessor of the number of years until the

1 juvenile attains his 21st birthday or the maximum
2 sentence provided for the offense. The court
3 shall give equivalent credit for time served as a
4 juvenile. If the court grants such a waiver to a
5 juvenile who is not in resident status at the
6 Maine Youth Center, the court may impose any pen-
7 alty which is permitted for an adult who is con-
8 vinced of the offense.

9 E. A petition to waive the protection of the
10 Maine Juvenile Code and to be treated as an adult
11 applies only to the offense or offenses or status
12 which is the subject of the petition. With re-
13 spect to subsequent offenses, the State must meet
14 its burden on a petition for bind over pursuant
15 to subsection 4, before the juvenile becomes sub-
16 ject to adult proceedings. In determining whether
17 or not a juvenile should be bound over and tried
18 as an adult, the court may take into considera-
19 tion the fact that the juvenile has been granted
20 a waiver of the protection of the Maine Juvenile
21 Code and has served an adult sentence.

22 STATEMENT OF FACT

23 An extremely small minority of juveniles who are
24 committed to the Maine Youth Center commit additional
25 crimes for the expressed purpose of obtaining an
26 adult disposition via bind over and conviction as an
27 adult.

28 The procedure suggested by the bill provides a
29 vehicle for this minority to obtain a determinate
30 disposition, as an adult, without escalating criminal
31 behavior. It provides the same opportunity to elect a
32 determinate sentence, in appropriate cases, to older
33 youths who come before the courts for offenses com-
34 mitted in the community. It preserves the current
35 bind-over procedure as it applies to the vast majori-
36 ty of juveniles.

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