

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1305

S.P. 425

In Senate, April 21, 1987

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator BRANNIGAN of Cumberland.

Cosponsored by Representative PARADIS of Augusta,
Representative THISTLE of Dover-Foxcroft, Representative HANDY
of Lewiston.

STATE OF MAINE

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

1 AN ACT to Modify the Statute of Limitations'
2 Provision of the Maine Criminal Code
3 and Maine Juvenile Code so they
4 Clearly Cross-reference One Another.
5

6 Be it enacted by the People of the State of Maine as
7 follows:

8 Sec. 1. 15 MRSA §3105, as enacted by PL 1977, c.
9 664, §12, is repealed.

10 Sec. 2. 15 MRSA §3105-A is enacted to read:

11 §3105-A. Statute of limitations

12 1. Expiration of limitation; defense. It is a
13 defense that prosecution was commenced after the ex-
14 piration of the applicable period of limitations pro-

1 vided in this section, provided that a prosecution
2 for the juvenile crime of murder or criminal homicide
3 in the first or 2nd degree may be commenced at any
4 time.

5 2. Limitations. Prosecution for juvenile crimes
6 other than murder or criminal homicide in the first
7 or 2nd degree are subject to the following periods of
8 limitations.

9 A. A prosecution for conduct which, if committed
10 by an adult, is a Class A, Class B or Class C
11 crime, shall be commenced within 6 years after it
12 is committed.

13 B. A prosecution for conduct which, if committed
14 by an adult, is a Class D or Class E crime shall
15 be commenced within 3 years after it is commit-
16 ted.

17 C. A prosecution for conduct specified in sec-
18 tion 3103, subsection 1, paragraph B, C, D or E,
19 shall be commenced within one year after it is
20 committed.

21 3. Limitations not to run. The periods of limi-
22 tations shall not run:

23 A. During any time when the accused is absent
24 from the State, but in no event shall this provi-
25 sion extend the period of limitation otherwise
26 applicable by more than 5 years;

27 B. During any time when a prosecution against
28 the accused for the same juvenile crime based on
29 the same conduct is pending in the Juvenile Court
30 of this State; or

31 C. During any time when, notwithstanding that
32 the court lacks jurisdiction for a reason stated
33 in Title 17-A, section 10-A, subsection 1, an
34 adult prosecution against the accused for the
35 adult offense based on the same conduct is pend-
36 ing in the District Court or the Superior Court.

37 4. Commencement after dismissal. If a timely
38 juvenile petition is dismissed for any error, defect,

1 insufficiency or irregularity, a new prosecution for
2 the same juvenile crime based on the same conduct may
3 be commenced within 3 months after the dismissal,
4 even though the period of limitation has expired at
5 the time of the dismissal or will expire within the
6 period of time.

7 5. Elements; commencement of prosecution. For
8 purposes of this section:

9 A. A juvenile crime is committed when every ele-
10 ment of the crime has occurred, or if the juve-
11 nilite crime consists of a continuing course of
12 conduct, at the time when the course of conduct
13 or the defendant's complicity in the conduct is
14 terminated; and

15 B. A prosecution is commenced when a juvenile
16 petition is filed.

17 6. Lesser included crime; effect. The defense
18 established by this section does not bar a conviction
19 of a juvenile crime included in the juvenile crime
20 charged, notwithstanding that the period of limita-
21 tion has expired for the included juvenile crime, if,
22 as to the juvenile crime charged, the period of limi-
23 tation has not expired or there is no such period,
24 and there is evidence which sustains an adjudication
25 for the juvenile crime charged.

26 Sec. 3. 17-A MRSA §8, sub-§3, as enacted by PL
27 1975, c. 499, §1, is amended to read:

28 3. The periods of limitations shall not run:

29 A. During any time when the accused is absent
30 from the State, but in no event shall this provi-
31 sion extend the period of limitation otherwise
32 applicable by more than 5 years; or

33 B. During any time when a prosecution against
34 the accused for the same crime based on the same
35 conduct is pending in this State; or

36 C. During any time when a prosecution against
37 the accused for the corresponding juvenile crime
38 based on the same conduct is pending in the Juve-

1 nile Court. For purposes of this section, pend-
2 ing includes any appeal period and, if an appeal
3 is taken, any period pending its final disposi-
4 tion.

5 Sec. 4. 17-A MRSa §8, sub-§6, ¶B, as enacted by
6 PL 1975, c. 499, §1, is repealed and the following
7 enacted in its place:

8 B. A prosecution is commenced whenever one of
9 the following occurs:

10 (1) A criminal complaint is filed;

11 (2) An indictment is returned; or

12 (3) Following waiver of an indictment, an
13 information is filed.

14 STATEMENT OF FACT

15 This bill is designed to accomplish 3 things.

16 1. The bill completely rewrites the statute of
17 limitations' section of the Maine Juvenile Code, the
18 Maine Revised Statutes, Title 15, section 3105, in
19 order that, to the extent possible, it reflect in
20 both form and substance the statute of limitations'
21 section of the Maine Criminal Code, Title 17-A, sec-
22 tion 8. On the matter of substance incorporation, it
23 is important to note that Title 17-A, section 8, sub-
24 section 5, has not been included within new Title 15,
25 section 3105-A, since it arguably has no relevance to
26 juveniles.

27 2. Title 15, section 3105-A, subsection 3, para-
28 graph C, and Title 17-A, section 8, subsection 3,
29 paragraph C, are drafted as a legislative response to
30 State v. Gammon, No. 4319 (Me. Jan. 6, 1987).

1 3. Title 17-A, section 8, subsection 6, para-
2 graph B, is modified to expressly include an informa-
3 tion in addition to a criminal complaint and indict-
4 ment.

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