

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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Legislative Document

No. 1244

H.P. 864

House of Representatives, March 21, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MORRISON of Bangor.

Cosponsored by Representative SMALL of Bath and Representative COTE of Auburn.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

**An Act to Expand the Criminal Code Protections Against Abuse to  
Children.**

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

2  
3 Sec. 1. 17-A MRS §106, sub-§4, as enacted by PL 1975, c. 499,  
4 §1, is amended to read:

6 4. The justification extended in subsections 1, 2 and 3  
7 does not apply to the purposeful or reckless use of force that  
8 creates a substantial risk of death, serious bodily injury, or  
9 extraordinary pain. For the purposes of subsections 1 to 3, the  
10 following actions are presumed unreasonable when used to restrain  
11 a child:

12 A. Throwing, kicking, burning or cutting a child;

14 B. Striking a child with a closed fist;

16 C. Shaking a child under 3 years of age;

18 D. Interfering with a child's breathing;

20 E. Threatening a child with a deadly weapon; or

22 F. Doing any other act that is likely to cause and that  
24 does cause bodily harm greater than transient pain or minor  
25 temporary marks.

26 The age, size and condition of the child and the location of the  
28 injury must be considered when determining whether the bodily  
29 harm is reasonable or moderate.

30 Sec. 2. 17-A MRS §202, sub-§1, as amended by PL 1979, c. 701,  
32 §20, is further amended to read:

34 1. A person is guilty of felony murder if acting alone or  
35 with one or more other persons in the commission of, or an  
36 attempt to commit, or immediate flight after committing or  
37 attempting to commit murder, robbery, burglary, kidnapping,  
38 arson, rape, gross sexual misconduct, ~~or~~ escape or aggravated  
39 assault under section 208, subsection 1, paragraph D, he that  
40 person or another participant in fact causes the death of a human  
41 being, and ~~such~~ the death is a reasonably foreseeable consequence  
42 of ~~such~~ that commission, attempt or flight.

44 Sec. 3. 17-A MRS §207, sub-§2, as amended by PL 1985, c. 495,  
45 §4, is further amended to read:

46 2. Assault is a Class D crime, except in instances of  
47 bodily injury to another who has not attained ~~his-6th-birthday~~ 14  
48 years of age, provided-that if the actor has attained ~~his-18th~~  
50 ~~birthday~~ 18 years of age, in which case, it is a Class C crime.

