



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1244

H.P. 864

House of Representatives, March 21, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative MORRISON of Bangor. Cosponsored by Representative SMALL of Bath and Representative COTE of Auburn.

STATE OF MAINE

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

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

	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 17-A MRSA §106, sub-§4, as enacted by PL 1975, c. 499,
4	§1, is amended to read:
б	4. The justification extended in subsections 1, 2 and 3 does not apply to the purposeful or reckless use of force that
8	creates a substantial risk of death, serious bodily injury, or extraordinary pain. For the purposes of subsections 1 to 3, the
10	following actions are presumed unreasonable when used to restrain a child:
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14	A. Throwing, kicking, burning or cutting a child;
16	B. Striking a child with a closed fist;
18	<u>C. Shaking a child under 3 years of age;</u>
20	D. Interfering with a child's breathing;
	E. Threatening a child with a deadly weapon; or
22	F. Doing any other act that is likely to cause and that
24	<u>does cause bodily harm greater than transient pain or minor temporary marks.</u>
26	The age, size and condition of the child and the location of the
28	injury must be considered when determining whether the bodily harm is reasonable or moderate.
30	Sec. 2. 17-A MRSA §202, sub-§1, as amended by PL 1979, c. 701,
32	§20, is further amended to read:
34	 A person is guilty of felony murder if acting alone or with one or more other persons in the commission of, or an
36	attempt to commit, or immediate flight after committing or attempting to commit murder, robbery, burglary, kidnapping,
38	arson, rape, gross sexual misconduct, er escape <u>or aggravated</u> <u>assault under section 208, subsection 1, paragraph D</u> , he <u>that</u>
40	<u>person</u> or another participant in fact causes the death of a human being, and such <u>the</u> death is a reasonably foreseeable consequence
42	of such that commission, attempt or flight.
44	Sec. 3. 17-A MRSA §207, sub-§2, as amended by PL 1985, c. 495, §4, is further amended to read:
46	2. Assault is a Class D crime, except in instances of
48	bodily injury to another who has not attained his-6th-birthday <u>14</u> years of age, provided-that <u>if</u> the actor has attained his-18th
50	birthday <u>18 years of age</u> , in which case, it is a Class C crime.

Sec. 4. 17-A MRSA §208, sub-§1, ¶B, as repealed and replaced by PL 1977, c. 510, §44, is amended to read:

B. Bodily injury to another with use of a dangerous weapon; er

Sec. 5. 17-A MRSA §208, sub-§1, ¶C, as amended by PL 1981, c. 8 317, §6, is further amended to read:

C. Bodily injury to another under circumstances manifesting extreme indifference to the value of human life. Such circumstances include, but are not limited to, the number, location or nature of the injuries, the manner or method inflicted, or the observable physical condition of the victim-; or

Sec. 6. 17-A MRSA §208, sub-§1, ¶D is enacted to read:

D. Bodily injury to a person who is under 14 years of age, if the actor has attained 18 years of age, that results from one or more incidents of assaults committed by the actor against such a person, or if the injury results from the cumulative effects of a pattern or incidents.

STATEMENT OF FACT

This bill amends the criminal code to afford more 30 protections to children who may be the subject of abuse. The bill provides presumptions that certain actions against children 32 are unreasonable when used to restrain a child.

34 The bill establishes a new set of circumstances that constitute aggravated assault. Those circumstances are that the 36 adult actor intentionally, knowingly or recklessly causes bodily injury to a person under 14 years of age if the injury results 38 from one or more assaults or cumulative effects of a pattern or incidents. These same circumstances are also added to the list 40 of crimes that may become an element of felony murder.

42 Currently, if an adult actor assaults a child under 6 years of age, the assault is a Class C crime rather than a Class D
44 crime. This bill changes the age of the victim to 14 years of age or under.

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