

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

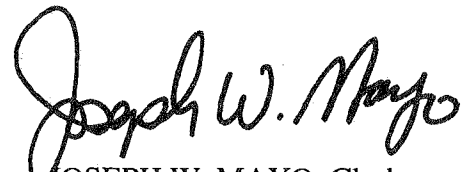
No. 915

H.P. 662

House of Representatives, February 6, 1997

**An Act to Amend the Laws Concerning Juvenile Petition, Adjudication
and Disposition.**

Reference to the Committee on Criminal Justice suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BUNKER of Kossuth Township.
Cosponsored by Representatives: McALEVEY of Waterboro, PAUL of Sanford, WHEELER
of Bridgewater.

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

2
3 **Sec. 1. 15 MRSA §3002, sub-§1, ¶D**, as amended by PL 1979, c.
4 663, §113, is further amended to read:

6 D. To secure for any juvenile removed from the custody of
7 ~~his~~ the juvenile's parents the necessary treatment, care,
8 guidance and discipline to assist ~~him~~ that juvenile in
9 becoming a responsible and productive member of society; and

10 **Sec. 2. 15 MRSA §3002, sub-§1, ¶E**, as enacted by PL 1977, c.
11 520, §1, is amended to read:

14 E. To provide procedures through which the provisions of
15 the law are executed and enforced and ~~which will assure~~
16 ensure the parties fair hearings at which their rights as
17 citizens are recognized and protected; and

18 **Sec. 3. 15 MRSA §3002, sub-§1, ¶F** is enacted to read:

20 F. To provide consequences, which may include those of a
21 punitive nature, for repeated criminal behavior or repeated
22 violations of probation conditions.

24 **Sec. 4. 15 MRSA §3003, sub-§14**, as enacted by PL 1977, c. 520,
25 §1, is amended to read:

28 **14. Juvenile.** "Juvenile" means any person who has not
29 attained the age of ~~18~~ 17 years.

30 **Sec. 5. 15 MRSA §3101, sub-§4, ¶E**, as repealed and replaced by
31 PL 1979, c. 681, §5, is amended to read:

34 E. The Juvenile Court shall bind a juvenile over to the
35 Superior Court ~~if it finds~~ at the request of the prosecuting
36 attorney unless the defendant, within 5 days of the
37 prosecuting attorney's request, requests a bind-over hearing
38 and the court finds at that hearing:

40 (1) That there is no probable cause to believe that a
41 juvenile crime has been committed that would constitute
42 murder or a Class A, Class B or Class C crime if the
43 juvenile involved were an adult and that the juvenile
44 to be bound over committed it; and or

46 (2) By a preponderance of the evidence that, after a
47 consideration of the seriousness of the crime, the
48 characteristics of the juvenile and the dispositional
49 alternatives available to the Juvenile Court, as
50 specified in paragraph D, it is ~~appropriate~~
51 inappropriate to prosecute the juvenile as if he ~~the~~
52 juvenile were an adult.

2 **Sec. 6. 15 MRSA §3101, sub-§4, ¶E-1**, as enacted by PL 1987, c.
398, §2, is amended to read:

4
5 ~~E-1. If the juvenile court finds, pursuant to paragraph E,~~
6 ~~that it is appropriate to prosecute the juvenile as if he~~
7 ~~were an adult~~ Juvenile Court binds the juvenile over to
8 ~~Superior Court,~~ the court may direct detention of any such
9 juvenile who is to be detained pending an adjudication
10 hearing in a section of a jail which that is used primarily
11 for the detention of adults, when it finds by clear and
12 convincing evidence that:

13 (1) The juvenile's behavior presents an imminent
14 danger of harm to himself that juvenile or to others;
15 and

16 (2) There is no less restrictive alternative to
17 detention in an adult section which that serves the
18 purposes of detention.

19 In determining whether the juvenile's behavior presents
20 a danger to himself that juvenile or others, the
21 ~~juvenile court~~ Juvenile Court shall consider, among
22 other factors:

23 (a) The nature of and the circumstances
24 surrounding the offense with which the juvenile is
25 charged, including whether the offense was
26 committed in an aggressive, violent, premeditated
27 or willful manner;

28 (b) The record and previous history of the
29 juvenile, including his emotional attitude and
30 pattern of living; and

31 (c) If applicable, the juvenile's behavior and
32 mental condition during any previous and current
33 period of detention or commitment.

34 **Sec. 7. 15 MRSA §3103, sub-§1, ¶B**, as amended by PL 1977, c.
35 664, §11, is repealed.

36 **Sec. 8. 15 MRSA §3103, sub-§1, ¶C**, as amended by PL 1987, c.
37 45, Pt. B, §3, is repealed.

38 **Sec. 9. 15 MRSA §3103, sub-§1, ¶D**, as amended by PL 1995, c.
39 470, §3, is repealed.

40 **Sec. 10. 15 MRSA §3103, sub-§2**, as amended by PL 1995, c. 470,
41 §4, is further amended to read:

2 **2. Dispositional powers.** All of the dispositional powers of
3 the Juvenile Court provided in section 3314 apply to a juvenile
4 who is adjudicated to have committed a juvenile crime, ~~except~~
5 ~~that no commitment to the Maine Youth Center or other detention~~
6 ~~may be imposed for conduct described in subsection 1, paragraphs~~
7 ~~B and C.~~

8 **Sec. 11. 15 MRSA §3105-A, sub-§2, ¶C,** as amended by PL 1995,
9 c. 470, §5, is further amended to read:

10 C. A prosecution for conduct specified in section 3103,
11 subsection 1, paragraph ~~B, C, D,~~ E or F must be commenced
12 within one year after it is committed.

13 **Sec. 12. 15 MRSA §3201, sub-§1,** as amended by PL 1987, c. 277,
14 §2, is further amended to read:

15 **1. Warrantless arrests.** Arrests without warrants of
16 juveniles for juvenile crimes defined by section 3103, subsection
17 1, paragraphs A, D, E and F by law enforcement officers or
18 private persons ~~shall be~~ are made pursuant to the provisions of
19 Title 17-A, sections 15 and 16. For purposes of this section, a
20 juvenile crime defined under section 3103, subsection 1,
21 paragraph D, ~~shall be~~ is deemed a Class D or Class E crime.

22 **Sec. 13. 15 MRSA §3201, sub-§3,** as amended by PL 1995, c. 470,
23 §6, is repealed.

24 **Sec. 14. 15 MRSA §3203-A, sub-§1, ¶C,** as amended by PL 1991,
25 c. 39, is further amended to read:

26 C. In all cases ~~under Title 5, section 200-A,~~ the law
27 enforcement officer shall immediately notify the juvenile
28 caseworker and the ~~Department of the Attorney General~~ and
29 the prosecuting attorney if the law enforcement officer
30 feels that immediate secure detention is required. If the
31 juvenile caseworker determines not to order the detention or
32 continued detention of the juvenile ~~in a case under Title 5,~~
33 ~~section 200-A,~~ the caseworker shall inform the law
34 enforcement officer and the attorney for the State prior to
35 the juvenile's release. The ~~Attorney General or deputy or~~
36 ~~assistant attorney general~~ prosecuting attorney, with or
37 without a request from a law enforcement officer, shall
38 consider the facts of the case and consult with the juvenile
39 caseworker who made the initial determination and may order
40 detention or continued detention of the juvenile under the
41 same or any authorized conditions pending the juvenile's
42 initial appearance before the court.

2 **Sec. 15. 15 MRSA §3203-A, sub-§2-A**, as enacted by PL 1987, c.
367, is repealed.

4 **Sec. 16. 15 MRSA §3301, sub-§1, ¶C**, as enacted by PL 1977, c.
520, §1, is amended to read:

6
7 C. Request a petition to be filed and issue a summons to
8 the juvenile to appear in Juvenile Court.

10 **Sec. 17. 15 MRSA §3301, sub-§5, ¶C**, as amended by PL 1985, c.
439, §11, is further amended to read:

12
13 C. If the juvenile caseworker determines that the facts are
14 sufficient for the filing of a petition, he the juvenile
15 caseworker may request the prosecuting attorney to file a
16 petition. If the juvenile caseworker decides to request a
17 petition, that juvenile caseworker shall issue a summons to
18 the juvenile or if the juvenile caseworker is unable to
19 serve the juvenile, the juvenile caseworker may request the
20 appropriate local law enforcement agency to issue a summons
21 in accordance with section 3304.

22 **Sec. 18. 15 MRSA §3301, sub-§6**, as amended by PL 1985, c. 439,
23 §11, is further amended to read:

24
25 6. **Review by prosecuting attorney.** If the juvenile
26 caseworker decides not to request the prosecuting attorney to
27 file a petition, the complainant, the law enforcement officer and
28 the victim ~~shall--be~~ are informed of the decision and of the
29 reasons therefor as soon as practicable and ~~shall--be~~ advised that
30 they may submit their complaint to the prosecuting attorney for
31 review.
32

33 The prosecuting attorney on ~~his~~ the prosecutor's own motion or
34 upon receiving a request for review by the law enforcement
35 officer, the complainant or the victim, shall consider the facts
36 of the case, consult with the juvenile caseworker who made the
37 initial decision and then make a final decision as to whether the
38 petition ~~shall~~ will be filed. Notwithstanding any action or
39 inaction by the juvenile caseworker, the prosecuting attorney may
40 elect to file a petition at any time more than 30 days after the
41 juvenile caseworker has been given notice pursuant to section
42 3203-A.

44 **Sec. 19. 15 MRSA §3304, sub-§1**, as enacted by PL 1977, c. 520,
45 §1, is repealed and the following enacted in its place:

46
47 1. **Issuance and contents.** If a juvenile caseworker decides
48 to request a juvenile petition, or if under section 3301,
49 subsection 6, the prosecuting attorney elects to file a petition,
50 a caseworker or the prosecuting attorney shall cause a summons to

2 be issued to the juvenile. If a juvenile caseworker is unable to
3 serve the summons, the juvenile caseworker shall request that the
4 appropriate local law enforcement agency issue a summons. The
5 form and content of a summons issued by a juvenile caseworker or
6 law enforcement agency under this section must be the same as the
7 form and content of a summons under Rule 4(b), Maine Rules of
8 Criminal Procedure.

9
10 **Sec. 20. 15 MRSA §3304, sub-§3**, as amended by PL 1989, c. 741,
11 §12, is repealed and the following enacted in its place:

12 **3. Service.** Any summons issued under section 3304,
13 subsection 1 must be directed to and served upon the juvenile.
14 Service must be made by the juvenile caseworker when possible.
15 If the juvenile caseworker can not serve a summons under this
16 rule, that juvenile caseworker shall request that the appropriate
17 local law enforcement agency serve the summons upon the
18 juvenile. Service of the summons under this section must be made
19 pursuant to, and authorized by, Rule 4(c) of the Maine Rules of
20 Criminal Procedure.

21
22 **Sec. 21. 15 MRSA §3304, sub-§4**, as enacted by PL 1977, c. 520,
23 §1, is repealed.

24
25 **Sec. 22. 15 MRSA §3304, sub-§5**, as repealed and replaced by PL
26 1989, c. 741, §13, is repealed and the following enacted in its
27 place:

28 **5. Notice to parents of juvenile.** If a juvenile caseworker
29 issues a summons to a juvenile under subsection 1, or if a
30 caseworker requests a court summons for a juvenile under
31 subsection 1, that juvenile caseworker or a law enforcement
32 agency shall notify the juvenile's guardian or legal custodian,
33 or one of the juvenile's parents, of the pendency of the cause
34 and of the time and place set for hearing. The notice may be in
35 an oral or written form and may be served in person, by telephone
36 or other electronic means or by first class mail. The person
37 giving notice to the parents shall certify to the district
38 attorney's office, in writing, that notice was made to the
39 juvenile's parent or guardian. The district attorney's office
40 shall file this written certification of notice with the court
41 when filing the juvenile petition.

42
43 **Sec. 23. 15 MRSA §3307, sub-§2, ¶A**, as amended by PL 1981, c.
44 361, is further amended to read:

45
46 **A.** The general public shall may not be excluded from any
47 proceeding on a juvenile crime that would constitute murder
48 or a Class A, Class B or Class C crime if the juvenile
49 involved were an adult or from any proceeding on a juvenile
50

2 crime that would constitute a Class D crime if the juvenile
involved were an adult, and it is the 2nd or subsequent
4 Class D crime for that juvenile not arising from the same
underlying transaction, or from any subsequent dispositional
6 hearings in such cases or from any proceeding in which a
juvenile is charged who at the time of the commission of the
juvenile crime was 16 years of age or older.

8
10 **Sec. 24. 15 MRSA §3307, sub-§2, ¶B,** as amended by PL 1995, c.
470, §7, is further amended to read:

12 B. The general public is excluded from all other juvenile
hearings and proceedings, except that a juvenile charged
14 with a juvenile crime that would constitute murder or a
Class A, Class B or Class C offense and with a juvenile
16 crime that would constitute a juvenile's first Class D
offense or Class E offense or with conduct described in
18 section 3103, subsection 1, paragraph ~~B, C, D or E~~, arising
from the same underlying transaction may elect to have all
20 charges adjudicated in one hearing, and, when a juvenile
does so elect, the general public is not excluded from that
22 hearing.

24 **Sec. 25. 15 MRSA §3308, sub-§2,** as amended by PL 1979, c. 681,
§20, is further amended to read:

26
28 **2. Hearings open to public.** In the case of a hearing open
to the general public under section 3307, the petition, the
record of the hearing and the order of adjudication ~~shall~~ **must** be
30 open to public inspection, provided that any court subsequently
sentencing the juvenile after he the juvenile has become an adult
32 may consider only murder and Class A, Class B and Class C
offenses committed by the juvenile or any offenses committed by a
34 juvenile who was 16 years of age or older at the time the crime
was committed.

36
38 **Sec. 26. 15 MRSA §3308, sub-§7, ¶B,** as amended by PL 1993, c.
354, §6, is further amended to read:

40 B. Nothing in this section precludes dissemination of any
information contained in the records of juvenile proceedings
42 or other records described in subsection 5 by one criminal
justice agency to another criminal justice agency for the
44 purpose of the administration of criminal justice, the
administration of juvenile criminal justice and for criminal
46 justice agency employment, as long as:

48 (1) The person concerning whom the records are sought
has been convicted of a crime as an adult;

50

2 (2) The person concerning whom the records are sought
4 has been adjudicated as having committed a juvenile
6 crime that, if committed by an adult, would be defined
as a Class A, B or C crime by Title 17-A, the Maine
Criminal Code, or by any other criminal statute outside
that code;

8 (3) The person concerning whom the records are sought
10 has been adjudicated as having committed a juvenile
12 crime with the use of a dangerous weapon, as defined in
Title 17-A, section 2, subsection 9;

14 (4) The person concerning whom the records are sought
16 has been adjudicated as having committed 2 or more
18 juvenile crimes that, if committed by an adult, would
be defined as Class D or Class E crimes by Title 17-A,
the Maine Criminal Code, or by any other criminal
statute outside that code; or

20 (5) The person seeking the records is the prosecuting
22 attorney in any proceeding and the person concerning
whom the records are sought is a defendant in that
proceeding; or

24 (6) The person concerning whom the records are sought
26 has been adjudicated as having committed a juvenile
28 crime and was 16 years of age or older at the time the
crime was committed.

30 **Sec. 27. 15 MRSA §3314, sub-§1, ¶G,** as amended by PL 1995, c.
470, §8, is further amended to read:

32 ~~G. Except for a violation of section 3103, subsection 1,~~
34 ~~paragraph D, the~~ The court may impose a fine, subject to
Title 17-A, sections 1301 to 1305. ~~For the purpose of this~~
36 ~~section, juvenile offenses defined in section 3103,~~
38 ~~subsection 1, paragraphs B and C are deemed Class E crimes.~~

40 **Sec. 28. 15 MRSA §3314, sub-§1, ¶H,** as amended by PL 1993, c.
354, §8, is further amended to read:

42 H. The court may commit the juvenile to the Maine Youth
44 Center and order that the disposition be suspended or may
commit the juvenile for a period of detention that may not
46 exceed ~~30~~ 90 days, with or without an underlying suspended
disposition to the Maine Youth Center, which detention may
48 be served intermittently as the court may order and must be
ordered served in a detention facility approved or operated
50 by the Department of Corrections exclusively for juveniles.
The court may order such a disposition to be served as a

2 part of and with a period of probation, which is subject to
such provisions of Title 17-A, section 1204 as the court may
4 order and which must be administered pursuant to Title 34-A,
chapter 5, subchapter IV. Revocation of probation is
6 governed by the procedure contained in subsection 2. Any
disposition under this paragraph is subject to Title 17-A,
8 section 1253, subsection 2, but not to Title 17-A, section
1253, subsection 3-B, 4 or 5. Any disposition under this
10 paragraph ordering a period of detention to be served in a
county-operated detention facility by a juvenile from
another county is governed by section 1705.

12
14 **Sec. 29. 15 MRSA §3314-A**, as amended by PL 1993, c. 354, §10,
is further amended to read:

16 **§3314-A. Period of probation; modification and**
18 **discharge**

The period of probation of a juvenile, its modification and
20 discharge, is as provided by Title 17-A, section 1202, except
that the period of probation of a juvenile convicted of a
22 juvenile crime as defined by section 3103, subsection 1,
paragraph ~~B, C, D or E~~ E may not exceed one year. The period of
24 probation may extend beyond the juvenile's 21st birthday.

26 **Sec. 30. 25 MRSA §2003, sub-§1, ¶D**, as amended by PL 1993, c.
524, §§6 and 7, is further amended by repealing division (s) in
28 subparagraph (5).

30 **Sec. 31. 25 MRSA §2003, sub-§2, ¶B-1**, as amended by PL 1993, c.
524, §9, is further amended to read:

32 B-1. That the applicant understands that an affirmative
34 answer to one or more of the questions in subsection 1,
paragraph D, subparagraph (5), divisions (a), (b), (b-1),
36 (c-1), (l), (m), (n) and (o) to ~~(s)~~ (r) is used by the
issuing authority, along with other information, in judging
38 good moral character under subsection 4; and

40

SUMMARY

42

This bill makes the following changes to the laws governing
44 criminal procedure as it relates to juveniles.

46 1. It establishes, as a purpose of the Maine Juvenile Code,
the provision of consequences, including those of a punitive
48 nature, for repeated criminal behavior.

2 2. Current law defines a juvenile as one who has not yet
4 attained 18 years of age. This bill changes the definition of
6 juvenile to one who has not yet attained 17 years of age.

8 3. It eliminates the need for a bind-over hearing unless
10 the defendant requests one.

12 4. It amends the definition of "juvenile crime."

14 5. It requires immediate notification of the juvenile
16 caseworker if the law enforcement officer feels immediate secure
18 detention is required.

20 6. Current law limits the questioning of an arrested
22 juvenile by a law enforcement officer. This bill removes those
24 limitations.

26 7. It requires a juvenile caseworker to issue a summons to
28 the juvenile to appear in court at the time the caseworker
30 requests that a petition be filed.

32 8. It authorizes the prosecuting attorney to file a
34 petition at any time more than 30 days after the juvenile
36 caseworker has been given notice.

38 9. It amends the provisions governing issuance, contents
40 and service of summonses.

 10. It provides that the general public may not be excluded
 from any proceeding in which a juvenile is charged who at the
 time of the commission of the juvenile crime was 16 years of age
 or older.

 11. It allows dissemination of information contained in
 juvenile records by one criminal justice agency to another if the
 person concerned was at least 16 years of age at the time the
 crime was committed.

 12. It increases from 30 to 90 days the length of time the
 court may commit a juvenile to the Maine Youth Center.