

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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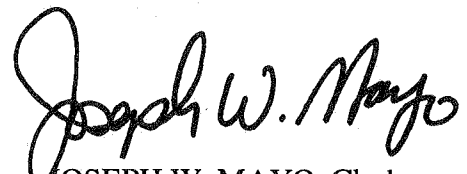
House of Representatives, February 25, 1997

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**An Act to Permit Disclosure of the Identity of Certain Juvenile Offenders.**

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

  
JOSEPH W. MAYO, Clerk

Presented by Representative BROOKS of Winterport.  
Cosponsored by Senator PARADIS of Aroostook and  
Representatives: BAKER of Bangor, BRAGDON of Bangor, CAMPBELL of Holden,  
KASPRZAK of Newport, LINDAHL of Northport, MACK of Standish, O'BRIEN of  
Augusta, SAXL of Bangor.

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

4 **Sec. 1. 15 MRSA §3101, sub-§4, ¶B,** as amended by PL 1989, c.  
502, Pt. B, §16, is further amended to read:

6 B. Every bind-over hearing shall must precede and shall be  
7 conducted separately from any adjudicatory hearing.

8  
9 The Maine Rules of Evidence shall apply only to the probable  
10 cause portion of the bind-over hearing.

11  
12 For the purpose of making the findings required by paragraph  
13 E, subparagraph ~~(2)~~ (1), division (b), written reports and  
14 other material may be received by the court along with other  
15 evidence, but the court, if so requested by the juvenile,  
16 the juvenile's parent or guardian or other party, shall  
17 require that the person or persons who wrote the report or  
18 prepared the material appear as witness and be subject to  
19 examination, and the court may require that the persons  
20 whose statements appear in the report appear as witnesses  
21 and be subject to examination.

22 **Sec. 2. 15 MRSA §3101, sub-§4, ¶E,** as repealed and replaced by  
23 PL 1979, c. 681, §5, is repealed and the following enacted in its  
24 place:

25 E. The Juvenile Court shall bind a juvenile over to the  
26 Superior Court if:

27  
28 (1) It finds:

29  
30 (a) That there is probable cause to believe that  
31 a juvenile crime has been committed that would  
32 constitute murder or a Class A, Class B or Class C  
33 crime if the juvenile involved were an adult and  
34 that the juvenile to be bound over committed it;  
35 and

36  
37 (b) By a preponderance of the evidence that,  
38 after a consideration of the seriousness of the  
39 crime, the characteristics of the juvenile and the  
40 dispositional alternatives available to the  
41 Juvenile Court, as specified in paragraph D, it is  
42 appropriate to prosecute the juvenile as if the  
43 juvenile were an adult; or

44  
45 (2) The juvenile has previously been adjudicated twice  
46 as having committed any juvenile crime.  
47  
48

2           **Sec. 3. 15 MRSA §3101, sub-§4, ¶E-1**, as enacted by PL 1987, c.  
398, §2, is amended to read:

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

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

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

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

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

30           (b) The record and previous history of the  
31 juvenile, including ~~his~~ the juvenile's emotional  
32 attitude and pattern of living; and

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

38           **Sec. 4. 15 MRSA §3307, sub-§1-A**, as amended by PL 1991, c.  
40 776, §1, is further amended to read:

42           **1-A. Release of identity.** No law enforcement officer,  
43 officer of the court or juvenile caseworker may release the  
44 identity of any juvenile until a petition is filed charging the  
45 juvenile with a juvenile crime described in subsection 2. A law  
46 enforcement officer, officer of the court or juvenile caseworker  
47 may release the identity of a juvenile before a petition is filed  
48 charging the juvenile with any juvenile crime if the juvenile has  
49 previously been adjudicated twice as having committed any  
50 juvenile crime. The judge has discretion to release the identity

2 of a juvenile at any time regardless of whether the juvenile has  
3 been previously adjudicated to have committed a juvenile crime.  
4 This section does not preclude the release of the identity of a  
5 juvenile to a complainant or victim if a juvenile caseworker  
6 decides not to file a petition in accordance with section 3301,  
7 subsection 5, paragraph A or B or if the juvenile caseworker  
8 requests the prosecuting attorney to file a petition in  
9 accordance with section 3301, subsection 5, paragraph C.

10  
11 **SUMMARY**

12  
13 This bill provides that a juvenile must be tried as an adult  
14 if the juvenile has previously been adjudicated twice as having  
15 committed any juvenile crime as defined by the Maine Revised  
16 Statutes, Title 15, section 3103. The bill also permits law  
17 enforcement officers, officers of the court and juvenile  
18 caseworkers to release a juvenile's identity before a petition is  
19 filed charging the juvenile with a juvenile crime, if the  
20 juvenile has previously been adjudicated twice as having  
21 committed any juvenile crime. The bill further gives the judge  
22 discretion to disclose a juvenile's identity regardless of any  
previous adjudications.