

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1674

H.P. 1183

House of Representatives, March 26, 1997

An Act Related to Bind-over of Older Juveniles Who Commit Certain Offenses.

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.
Cosponsored by Senator BENOIT of Franklin and
Representatives: JONES of Greenville, MUSE of South Portland, POVICH of Ellsworth,
Senators: BENNETT of Oxford, MITCHELL of Penobscot.

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

2
398, §2, is repealed.

6
read:

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
E-2. When a petition alleges that a juvenile has committed an act that, if committed by an adult, would constitute murder or a crime under Title 17-A, section 203, subsection 1, paragraph A or B; Title 17-A, section 208; Title 17-A, section 253, subsection 1; or Title 17-A, section 253, subsection 2, paragraph A, B, C or D and that the juvenile was 16 years of age or older at the time of commission, the court shall, upon request of the prosecuting attorney, bind the juvenile over to the Superior Court unless, within 10 days of such request, the juvenile requests a bind-over hearing. In the event of such a request by the prosecuting attorney, the court shall advise the juvenile and the juvenile's parents, guardian or legal custodian of the right to request a bind-over hearing, the possible consequences of not requesting a bind-over hearing, the right to be represented by counsel and other constitutional and legal rights in connection with a bind-over hearing. If a bind-over hearing is requested, the Juvenile Court shall bind a juvenile over to the Superior Court, unless it finds:

29
30
31
32
33
34
35
36
(1) That there is no probable cause to believe that a juvenile crime has been committed that, if committed by an adult, would constitute murder or a crime under Title 17-A, section 203, subsection 1, paragraph A or B; Title 17-A, section 208; Title 17-A, section 253, subsection 1; or Title 17-A, section 253, subsection 2, paragraph A, B, C or D or that the juvenile to be bound over committed the juvenile crime;

37
38
39
40
(2) That there is no probable cause to believe that the juvenile was 16 years of age or over at the time of commission; or

41
42
43
44
45
46
47
48
(3) By a preponderance of the evidence that, after a consideration of the seriousness of the crime, the characteristics of the juvenile and the dispositional alternatives available to the Juvenile Court, as specified in paragraph D, it is inappropriate to prosecute the juvenile as if the juvenile were an adult.

49
50
E-3. If the Juvenile Court binds the juvenile over to Superior Court, the court may direct detention of the

2 juvenile who is to be detained in a section of a jail used
3 primarily for the detention of adults, when it finds by
4 clear and convincing evidence that:

5 (1) There is no less restrictive alternative to
6 detention in an adult section that serves the purposes
7 of detention; and

8 (2) The juvenile's behavior presents an imminent
9 danger of harm to the juvenile or to others.

10 In determining whether the juvenile's behavior presents
11 a danger to the juvenile or to others, the Juvenile
12 Court shall consider, among other factors:

13 (a) The nature of and the circumstances
14 surrounding the offense with which the juvenile is
15 charged, including whether the offense was
16 committed in an aggressive, violent, premeditated
17 or willful manner;

18 (b) The record and previous history of the
19 juvenile, including the juvenile's emotional
20 attitude and pattern of living; and

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

24 **Sec. 3. 34-A MRSA §4110**, as amended by PL 1995, c. 112, §1,
25 is further amended to read:

26 **§4110. State responsible for detention**

27 Notwithstanding any other provision of law, on the date that
28 the Northern Maine Regional Juvenile Detention Facility begins
29 operating, the State is responsible for all physically
30 restrictive juvenile detention statewide, except that the
31 detention provided under Title 15, section 3203-A, subsection 1
32 remains the responsibility of the counties. This provision does
33 not apply to a juvenile who is held in an adult section of a jail
34 pursuant to court order under Title 15, section 3101, subsection
35 4, paragraph E-1 E-3, Title 15, section 3203-A, subsection 7,
36 paragraph C or D or Title 15, section 3205, subsection 2.

37 **SUMMARY**

38 This bill requires that, at the request of the prosecuting
39 attorney, a juvenile be bound over for trial as an adult if the
40

2 juvenile has committed what would be murder, Class A or B
3 manslaughter, aggravated assault, or Class A or B gross sexual
4 assault and was at least 16 years of age at the time, unless a
5 bind-over hearing is requested by the juvenile. As well, it puts
6 on the juvenile the burden at such a hearing of showing the
inappropriateness of bind-over.