

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1248

H.P. 866

House of Representatives, March 15, 2005

An Act Regarding the Initiation of Cases of Murder and Class A, B and C Crimes in Superior Court by Complaint

Reported by Representative PELLETIER-SIMPSON of Auburn for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Committee on Judiciary suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

4 **Sec. 1. 17-A MRSA §9, sub-§3**, as amended by PL 1975, c. 740,
§17, is further amended to read:

6 3. The District Courts shall have jurisdiction to try civil
7 violations, and Class D and E crimes, and to impose sentence in
8 Class A, B and C crimes in which the District Court has accepted
9 a plea of guilty ~~and-to-bind-over-for-the-grand-jury-all-ether~~
10 ~~crimes~~.

12 **Sec. 2. 17-A MRSA §15-A, sub-§1**, as amended by PL 2003, c.
13 657, §2, is further amended to read:

14 1. A law enforcement officer who has probable cause to
15 believe a crime has been or is being committed by a person may
16 issue or have delivered a written summons to that person
17 directing that person to appear in the ~~District-Court~~ appropriate
18 trial court to answer the allegation that the person has
19 committed the crime. The summons must include the signature of
20 the officer, a brief description of the alleged crime, the time
21 and place of the alleged crime and the time, place and date the
22 person is to appear in court. The form used must be the Uniform
23 Summons and Complaint. A person to whom a summons is issued or
24 delivered must give a written promise to appear. If the person
25 refuses to sign the summons after having been ordered to do so by
26 a law enforcement officer, the person commits a Class E crime.
27 As soon as practicable after service of the summons, the officer
28 shall cause a copy of the summons to be filed with the court.

30 **Sec. 3. 17-A MRSA §1205-A, sub-§2**, as amended by PL 1995, c.
31 502, Pt. F, §14, is further amended to read:

32 2. The preliminary hearing must be held before an official
33 designated by the Commissioner of Corrections. It must be held
34 at a location as near to the place where the violation is alleged
35 to have taken place as is reasonable under the circumstances. If
36 it is alleged that the person violated probation because of the
37 commission of a new offense, the preliminary hearing is limited
38 to the issue of identification, if probable cause on the new
39 offense has been found by the District Court or by the Superior
40 Court, or the person has been indicted, has waived indictment or
41 has been convicted.

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45 **SUMMARY**

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48 This bill makes statutory changes to the Maine Criminal Code
49 in light of recent amendments to the Maine Rules of Criminal
50 Procedure that eliminate the need for a bind-over hearing by
starting a case that involves murder or at least one Class A,

2 Class B or Class C crime, accompanied or unaccompanied by related
3 Class D or Class E crimes, in the Superior Court rather than the
4 District Court. Such a case is commenced by filing a criminal
5 complaint directly in the Superior Court, unless an indictment
6 has already been returned or an information filed, except as to a
7 murder charge. The Superior Court will be responsible for
8 conducting probable cause determinations to comply with County of
Riverside v. McLaughlin, 500 U.S. 44 (1991) in these cases as
well.