

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 416

H.P. 283

House of Representatives, February 12, 2015

**An Act To Provide for Direct Appeals under the Maine Juvenile
Code to the Supreme Judicial Court**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DION of Portland.

Cosponsored by Representatives: BECK of Waterville, FREDETTE of Newport, FREY of Bangor, GATTINE of Westbrook, HOBBS of Saco, TUCKER of Brunswick.

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

2 **Sec. 1. 15 MRSA §1, sub-§2, ¶D**, as enacted by PL 1999, c. 731, Pt. ZZZ, §9 and
3 affected by §42, is repealed.

4 **Sec. 2. 15 MRSA §3401, sub-§1**, as repealed and replaced by PL 1979, c. 512,
5 §8, is amended to read:

6 **1. Structure.** Except as otherwise provided, appeals from the juvenile court ~~shall be~~
7 ~~are~~ to the ~~Superior~~ Supreme Judicial Court and appeals from the ~~Superior Court shall be~~
8 ~~to the Law Court.~~

9 **Sec. 3. 15 MRSA §3402**, as amended by PL 2013, c. 234, §11, is further amended
10 to read:

11 **§3402. Appeals to Supreme Judicial Court**

12 **1. Matters for appeal.** Appeals of the following matters may be taken from the
13 juvenile court to the ~~Superior~~ Supreme Judicial Court by a party specified in subsection 2:

14 A. An adjudication, ~~provided that no~~ as long as the appeal shall be ~~is~~ taken ~~until~~ after
15 an order of disposition;

16 B. An order of disposition, or of any subsequent order modifying disposition, for an
17 abuse of discretion; and

18 D. A detention order entered pursuant to section 3203-A, subsection 5 or any refusal
19 to alter a detention order upon petition of the juvenile pursuant to section 3203-A,
20 subsection 11, for abuse of discretion, provided that the appeal must be handled
21 expeditiously.

22 **2. Who may appeal.** An appeal may be taken by the following parties:

23 A. The juvenile; or

24 B. The juvenile's parents, guardian or legal custodian on behalf of the juvenile, if the
25 juvenile is not emancipated and the juvenile does not wish to appeal.

26 **2-A. Appeal from a bind-over order of the juvenile court.** A bind-over order of
27 the juvenile court by a party specified in subsection 2 may be reviewed only by the
28 Supreme Judicial Court pursuant to an appeal of a judgment of conviction following
29 bind-over.

30 **3. Appeals by the State.** The State may appeal from a decision or order of the
31 juvenile court to the Supreme Judicial Court to the same extent and in the same manner as
32 in criminal cases under section 2115-A. The State may appeal from the juvenile court to
33 the ~~Superior~~ Supreme Judicial Court for the failure of the juvenile court to order a bind-
34 over.

35 **4. Stays and releases.** On an appeal pursuant to subsection 1, paragraphs A and B,
36 the ~~Superior~~ Supreme Judicial Court shall consider a stay of execution and release
37 pending the appeal.

1 **5. Time for appeals.** An appeal from the juvenile court to the ~~Superior~~ Supreme
2 Judicial Court must be taken within 7 days after the entry of an order of disposition or
3 other appealed order or such further time as the Supreme Judicial Court may provide
4 pursuant to a rule of court.

5 **Sec. 4. 15 MRSA §3403**, as repealed and replaced by PL 1979, c. 512, §10, is
6 amended to read:

7 **§3403. Rules for appeals**

8 Procedure for appeals from the juvenile court to the ~~Superior~~ Supreme Judicial Court,
9 including provision for a record, subject to section 3405, ~~shall be~~ is as provided by rule
10 ~~promulgated~~ adopted by the Supreme Judicial Court.

11 **Sec. 5. 15 MRSA §3405**, as amended by PL 1997, c. 645, §14, is further amended
12 to read:

13 **§3405. Scope of review on appeal; record**

14 **1. Scope of review.** Review on all appeals from juvenile court to ~~Superior~~ the
15 Supreme Judicial Court ~~shall be~~ is for errors of law or abuses of discretion. The ~~Superior~~
16 Supreme Judicial Court may affirm, reverse or modify any order of the ~~Juvenile Court~~
17 juvenile court or remand for further proceedings. The ~~Superior~~ Supreme Judicial Court
18 ~~shall~~ may enter a new order of disposition if it finds that the ~~Juvenile Court's~~ juvenile
19 court's disposition was an abuse of discretion.

20 **2. Record on appeals.** In appeals taken pursuant to section 3402, subsection 1,
21 paragraphs A and B, review must be on the basis of the record of the proceedings in
22 ~~Juvenile Court~~ juvenile court. In the interest of justice, the ~~Superior~~ Supreme Judicial
23 Court may order that the record ~~must~~ consist of:

- 24 A. The untranscribed sound recording of the proceedings; or
- 25 B. An agreed or settled statement of facts with the consent of the parties.

26 **3. Record on appeals of detention orders.** In appeals taken pursuant to section
27 3402, subsection 1, paragraph D, the court shall order a review by the most expeditious of
28 the following methods that is consistent with the interests of justice:

- 29 A. The untranscribed sound recording of the detention hearing;
- 30 B. Evidence presented to the ~~Superior Court~~ trial court, ~~provided~~ as long as the scope
31 of review ~~shall be~~ is as specified in subsection 1;
- 32 C. A transcribed record; or
- 33 D. A record consisting of a statement of facts as described in subsection 2, paragraph
34 B.

35 **Sec. 6. 15 MRSA §3407**, as amended by PL 1997, c. 645, §§15 and 16, is
36 repealed.

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SUMMARY

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The purpose of this bill is to eliminate duplicative appeals from the juvenile court. Under current law, all appeals from adjudications in juvenile court go first to the Superior Court, with a second appeal available at the Supreme Judicial Court. This bill provides

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instead that appeals are brought directly to the Supreme Judicial Court.

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