

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1575

H.P. 1067

House of Representatives, January 26, 2016

An Act To Make Technical Amendments to the Maine Juvenile Code

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

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed pursuant to Joint Rule 218.

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

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 15 MRSA §3101, sub-§4, ¶D**, as repealed and replaced by PL 1997, c.
3 645, §3, is amended to read:

4 D. The Juvenile Court shall consider the following factors in deciding whether to
5 bind a juvenile over ~~to Superior Court~~ for prosecution as an adult:

6 (1) Seriousness of the crime: the nature and seriousness of the offense with
7 greater weight being given to offenses against the person than against property;
8 whether the offense was committed in an aggressive, violent, premeditated or
9 intentional manner;

10 (2) Characteristics of the juvenile: the record and previous history of the
11 juvenile; the age of the juvenile; the juvenile's emotional attitude and pattern of
12 living;

13 (3) Public safety: whether the protection of the community requires commitment
14 of the juvenile for a period longer than the greatest commitment authorized;
15 whether the protection of the community requires commitment of the juvenile to
16 a facility that is more secure than any dispositional alternative under section
17 3314; and

18 (4) Dispositional alternatives: whether future criminal conduct by the juvenile
19 will be deterred by the dispositional alternatives available; whether the
20 dispositional alternatives would diminish the gravity of the offense.

21 **Sec. 2. 15 MRSA §3101, sub-§4, ¶E**, as amended by PL 1997, c. 645, §4, is
22 further amended to read:

23 E. The Juvenile Court shall bind a juvenile over ~~to the Superior Court~~ for
24 prosecution as an adult if it finds:

25 (1) That there is probable cause to believe that a juvenile crime has been
26 committed that would constitute murder or a Class A, Class B or Class C crime if
27 the juvenile involved were an adult and that the juvenile to be bound over
28 committed it; and

29 (2) After a consideration of the seriousness of the crime, the characteristics of
30 the juvenile, the public safety and the dispositional alternatives in paragraph D,
31 that:

32 (a) If the State has the burden of proof, the State has established by a
33 preponderance of the evidence that it is appropriate to prosecute the juvenile
34 as if the juvenile were an adult; or

35 (b) If the juvenile has the burden of proof, the juvenile has failed to establish
36 by a preponderance of the evidence that it is not appropriate to prosecute the
37 juvenile as if the juvenile were an adult.

38 **Sec. 3. 15 MRSA §3101, sub-§4, ¶E-2**, as amended by PL 2013, c. 28, §2, is
39 further amended to read:

1 E-2. If the Juvenile Court binds a juvenile over to Superior Court for prosecution as
2 an adult and has directed the detention of the juvenile, if the juvenile attains 18 years
3 of age and is being detained, the juvenile must be detained in an adult section of a
4 jail.

5 **Sec. 4. 15 MRSA §3101, sub-§4, ¶F**, as amended by PL 1979, c. 681, §38, is
6 further amended to read:

7 F. The Juvenile Court shall bind over a child by entering an order finding probable
8 cause, waiving jurisdiction and certifying the case for proceedings before the grand
9 jury. The Juvenile Court shall enter written findings supporting its order finding
10 probable cause and waiving jurisdiction. Proceedings concerning a juvenile who has
11 been bound over to the Superior Court shall for prosecution as an adult must be
12 conducted in the same manner and with the same powers and duties as if the juvenile
13 were an adult.

14 **Sec. 5. 15 MRSA §3103, sub-§1, ¶E**, as amended by PL 2003, c. 414, Pt. B, §29
15 and affected by c. 614, §9, is further amended to read:

16 E. Offenses involving hunting or the operation or attempted operation of a
17 watercraft, ATV or snowmobile while under the influence of intoxicating liquor or
18 drugs, as defined in Title 12, section 10701, subsection ~~1~~ 1-A, and offenses involving
19 failing to aid an injured person or to report a hunting accident as defined in Title 12,
20 section 11223;

21 **Sec. 6. 15 MRSA §3105-A, sub-§6**, as enacted by PL 1987, c. 222, §2, is
22 amended to read:

23 **6. Lesser included juvenile crime; effect.** The defense established by this section
24 does not bar a conviction an adjudication of a juvenile crime included in the juvenile
25 crime charged, notwithstanding that the period of limitation has expired for the included
26 juvenile crime, if, as to the juvenile crime charged, the period of limitation has not
27 expired or there is no such period, and there is evidence ~~which~~ that sustains an
28 adjudication for the juvenile crime charged.

29 **Sec. 7. 15 MRSA §3311-D**, as enacted by PL 2011, c. 384, §4, is amended to
30 read:

31 **§3311-D. Limited review by appeal**

32 A juvenile is precluded from seeking to attack the legality of a deferred disposition,
33 including a final disposition, except that a juvenile who has been determined by a court to
34 have inexcusably failed to comply with a court-imposed deferment requirement and
35 thereafter has had imposed a dispositional alternative authorized for the juvenile crime
36 may appeal to the ~~Superior~~ Supreme Judicial Court, but not as of right. The time for
37 taking the appeal and the manner and any conditions for the taking of the appeal are as
38 the Supreme Judicial Court provides by rule.

39 **Sec. 8. 15 MRSA §3318-A, sub-§10**, as enacted by PL 2011, c. 282, §4, is
40 amended to read:

