

MAINE STATE LEGISLATURE

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CHAPTER 407

APPEALS

Sec.

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§ 2661. Review or appeal

1. **Petition for review.** Review of a finding by a juvenile court of probable cause to hold the juvenile for action by the grand jury may be had upon the presentation by the juvenile or any person acting in his behalf or in his interest, of a written petition addressed to and filed with any Justice of the Superior Court or of the Supreme Judicial Court. Said petition shall set forth a succinct summary of the pertinent facts in the proceedings before the juvenile court and shall ask that said justice review the probable cause finding by the juvenile court. The petition shall be filed prior to the first day of the term of the Superior Court to which the juvenile has been bound over for grand jury action and, in no event, later than 10 days after the finding of probable cause by the juvenile court. On the same day that the petition is filed with the Justice of the Superior Court or the Supreme Judicial Court, the person filing the same shall cause to be filed with the county attorney and with the juvenile court whose finding is sought to be reviewed, a copy of the petition seeking review. The Justice of the Superior or Supreme Judicial Court with whom such petition has been filed, or any other justice of said courts who has agreed to hear such petition, shall give it the highest priority and shall assign it for hearing and decide it at the earliest time reasonably possible under all the circumstances. The Justice of the Superior or of the Supreme Judicial Court shall in no manner be bound by the finding of the juvenile court but shall hear the matter de novo. After hearing, said justice shall adjudicate that the juvenile court finding of probable cause to hold the juvenile for the grand jury is either "affirmed" or "vacated". The decision of the Justice of the Superior or Supreme Judicial Court shall not be subject to further review. The finding of probable cause to hold

for the grand jury, made by the juvenile court, shall remain in full force and effect unless and until there is an adjudication by a Justice of the Superior or Supreme Judicial Court that said finding is vacated. The case shall not be submitted by the county attorney to the grand jury for action when a petition for review of the probable cause finding is pending, until said Justice of the Superior or Supreme Judicial Court has affirmed the juvenile court's finding of probable cause. Upon an adjudication by a Justice of the Superior or Supreme Judicial Court vacating a juvenile court finding of probable cause to hold the juvenile for the grand jury, the said Justice of the Superior or Supreme Judicial Court shall remand the case to the juvenile court which made the original finding of probable cause and said justice shall make such order as to him seems appropriate regarding the custody or detention of the juvenile until further action is taken by the juvenile court to which the case has been remanded. The juvenile court, after such remand by a Justice of the Superior or Supreme Judicial Court, shall thereafter dispose of the case in any manner within its power except that it may not make a finding of probable cause to hold the juvenile for action by the grand jury.

2. Appeal. Any juvenile adjudged by the juvenile court to have committed a juvenile offense may, by his parent or parents, his next friend, guardian or attorney, appeal from such judgment or any orders based thereon, to the Superior Court within and for the same county by giving written notice of appeal to the juvenile court within 5 days next after the entry of such judgment or order. Said appeal shall be taken to the same term of the Superior Court to which an appeal from the District Court adjudication in a criminal proceeding would be taken. (1963, c. 402, § 263.)

1959, c. 342, § 1; 1963, c. 402, § 263.

§ 2662. Record on appeal

When notice is given of an appeal from the juvenile court's adjudication that a juvenile has committed a juvenile offense, the juvenile court shall deliver the record of proceedings in the juvenile court to the Superior Court in the same manner and form as in appeals from the District Court in criminal cases.

1959, c. 342, § 1; 1963, c. 402, § 264.

§ 2663. Custody or detention pending appeal

1. Custody or detention. Upon the filing of an appeal by a juvenile in the juvenile court, the detention custody of the ju-

venile, as previously ordered by the juvenile court during the pendency of the juvenile court proceeding, shall be reviewed by the juvenile court. Said custody or detention may be continued in similar form pending the appeal or may be modified to any form permissible in accordance with chapters 401 to 409.

2. Power of Superior Court. The Superior Court shall have the same powers as the juvenile court to continue or modify the custody or detention of the juvenile pending disposition of the appeal by the Superior Court.

1959, c. 342, § 1.

§ 2664. Hearings on appeal in Superior Court

The hearings in the Superior Court on an appeal from a juvenile court adjudication shall be informal, and all findings whether of fact or otherwise shall be made by the Superior Court sitting without a jury. Said hearing on appeal in the Superior Court shall not be criminal in nature and shall be conducted separately from any criminal proceeding. It shall be held in a room other than the superior courtroom wherever feasible and shall be private, except that any juvenile appeal hearing in the Superior Court regarding motor vehicle violations shall be public and may be heard in the superior courtroom.

Any person, other than an enforcement, correctional or welfare official furnishing information in a discharge of his official functions to any other enforcement, correctional or welfare official, who divulges or publishes without the consent of the Superior Court the name of any juvenile brought, or to be brought, before the Superior Court in a juvenile appeal case, or who, being present at any juvenile appeal hearing before the Superior Court which is private, divulges or publishes, without the consent of the Superior Court, any of the matters which occurred at said hearing may be found guilty by the Superior Court of criminal contempt and may be punished by said court accordingly.

1959, c. 342, § 1.

§ 2665. Disposition of appeals

The Superior Court, on an appeal from the judgment of the juvenile court, may affirm the adjudication of commission of a juvenile offense and any order based thereon; or the Superior Court may reverse said judgment and order the proceedings dismissed; or, if the Superior Court should find that the juvenile court abused its discretion in disposing of the case, the Superior Court may affirm the adjudication of commission of a juvenile of-

fense but modify any order thereon made by the juvenile court, in which case the Superior Court shall have the same powers of disposition as are conferred on the juvenile court under section 2611, subsection 4.

1959, c. 342, § 1.

§ 2666. Superior Court appeal record

The record in the Superior Court of all matters transpiring in the Superior Court in cases before the Superior Court upon an appeal from the judgment of a juvenile court shall be kept separate from the other records of the Superior Court. Said record in juvenile appeal cases shall not be open to the inspection of the general public. With the consent of the Superior Court, such record may be examined by a parent, guardian or other interested party. It may be used by the state probation-parole officers, the Cumberland County Juvenile Probation Department or other correctional, enforcement or welfare authorities as a matter of course. No such record of the Superior Court concerning juvenile appeal cases may be admissible as evidence in any proceeding, other than proceedings under chapters 401 to 409, except that the Superior Court juvenile appeal records pertaining to motor vehicle violations by juveniles shall be transmitted by the Superior Court, together with a summary of the pertinent facts of the violation, to the Secretary of State, and shall be admissible in evidence in hearings conducted by the Secretary of State regarding motor vehicle violations or motor vehicle licenses and registrations.

1959, c. 342, § 1.

§ 2667. Appeals to law court

Appeals, for the purpose only of raising questions of law, from decisions of the Superior Court rendered in cases before the Superior Court on appeal from decisions of juvenile courts, may be taken to the Supreme Judicial Court sitting as the law court in manner and form as appeals in civil actions.

Whenever an appeal is taken in any juvenile case from the Superior Court to the Supreme Judicial Court sitting as the law court, the Superior Court shall have the same powers to provide for the custody or detention of the juvenile pending disposition of the appeal by the law court as are conferred upon the Superior Court in regard to juvenile appeal cases pending before the Superior Court.

1959, c. 342, § 1; 1961, c. 317, § 489.