

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Make Technical Amendments to the Maine Juvenile Code**

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

**Sec. 1. 15 MRSA §3101, sub-§4, ¶D**, as repealed and replaced by PL 1997, c. 645, §3, is amended to read:

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

- (1) Seriousness of the crime: the nature and seriousness of the offense with greater weight being given to offenses against the person than against property; whether the offense was committed in an aggressive, violent, premeditated or intentional manner;
- (2) Characteristics of the juvenile: the record and previous history of the juvenile; the age of the juvenile; the juvenile's emotional attitude and pattern of living;
- (3) Public safety: whether the protection of the community requires commitment of the juvenile for a period longer than the greatest commitment authorized; whether the protection of the community requires commitment of the juvenile to a facility that is more secure than any dispositional alternative under section 3314; and
- (4) Dispositional alternatives: whether future criminal conduct by the juvenile will be deterred by the dispositional alternatives available; whether the dispositional alternatives would diminish the gravity of the offense.

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

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

- (1) That there is probable cause to believe that a juvenile crime has been committed that would constitute murder or a Class A, Class B or Class C crime if the juvenile involved were an adult and that the juvenile to be bound over committed it; and
- (2) After a consideration of the seriousness of the crime, the characteristics of the juvenile, the public safety and the dispositional alternatives in paragraph D, that:

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

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

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

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

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

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

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

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

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

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

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

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

A juvenile is precluded from seeking to attack the legality of a deferred disposition, including a final disposition, except that a juvenile who has been determined by a court to have inexcusably failed to comply with a court-imposed deferment requirement and thereafter has had imposed a dispositional

alternative authorized for the juvenile crime may appeal to the ~~Superior~~Supreme Judicial Court, but not as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

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

**10. Competency to proceed after bind over.** Notwithstanding a finding by the Juvenile Court that the juvenile is competent to proceed in a juvenile proceeding, if the juvenile is subsequently bound over for prosecution ~~in the Superior Court or a court with a unified criminal docket~~as an adult pursuant to section 3101, subsection 4, the issue of the juvenile's competency may be revisited.

## SUMMARY

This bill implements the recommendations of the Criminal Law Advisory Commission to make technical amendments to the Maine Juvenile Code. Specifically, the bill makes changes to the Maine Revised Statutes, Title 15, Part 6 as follows.

1. It amends references in the Maine Juvenile Code to the Superior Court to more accurately identify that, following a bind-over hearing, a juvenile is prosecuted as an adult.
2. It corrects a cross-reference in the laws concerning hunting and operating under the influence.
3. It corrects a headnote and the term "conviction" in reference to the disposition of a juvenile crime.
4. It changes a reference to the Superior Court to the Supreme Judicial Court to reflect that juvenile appeals are to the Supreme Judicial Court.
5. It establishes that if a juvenile is bound over for prosecution as an adult the issue of the juvenile's competency may be revisited.