

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

H.P. 283 - L.D. 416

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

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

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 ZZZ, §9 and affected by §42, is repealed.

Sec. 2. 15 MRSA §3401, sub-§1, as repealed and replaced by PL 1979, c. 512, §8, is amended to read:

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

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

§3402. Appeals to Supreme Judicial Court

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

- A. An adjudication, ~~provided that no~~ as long as the appeal shall be is taken ~~until~~ after an order of disposition;
- B. An order of disposition, or of any subsequent order modifying disposition, for an abuse of discretion; and
- D. A detention order entered pursuant to section 3203-A, subsection 5 or any refusal to alter a detention order upon petition of the juvenile pursuant to section 3203-A, subsection 11, for abuse of discretion, provided that the appeal must be handled expeditiously.

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

- A. The juvenile; or

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

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

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

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

5. Time for appeals. An appeal from the juvenile court to the ~~Superior~~ Supreme Judicial Court must be taken within ~~7~~ 21 days after the entry of an order of disposition or other appealed order or such further time as the Supreme Judicial Court may provide pursuant to a rule of court.

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

§3403. Rules for appeals

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

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

§3405. Scope of review on appeal; record

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

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

A. The untranscribed sound recording of the proceedings; or

B. An agreed or settled statement of facts with the consent of the parties.

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

A. The untranscribed sound recording of the detention hearing;

B. Evidence presented to the ~~Superior Court~~ trial court, ~~provided as long as~~ the scope of review ~~shall be~~ is as specified in subsection 1;

C. A transcribed record; or

D. A record consisting of a statement of facts as described in subsection 2, paragraph B.

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