

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

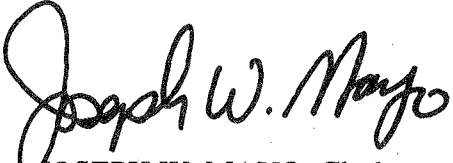
No. 787

H.P. 596

House of Representatives, February 4, 1997

An Act to Provide Services for Children in Need of Supervision.

Reference to the Committee on Criminal Justice suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BRENNAN of Portland.
Cosponsored by Senator DAGGETT of Kennebec and
Representatives: FARNSWORTH of Portland, KANE of Saco.

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

4 Sec. 1. 5 MRSA Pt. 16-A is enacted to read:

6 PART 16-A

8 STATUS OF YOUTH AND FAMILIES

10 CHAPTER 362

12 MAINE COMMISSION FOR YOUTH AND FAMILIES

14 §7019. Maine Commission for Youth and Families

16 1. Established. The Maine Commission for Youth and
18 Families, referred to in this chapter as the "commission," is
20 established as an independent commission to improve the status of
22 services to the State's youth and families.

24 2. Membership. The commission consists of 16 members
26 appointed as provided in this subsection. Initial appointments
28 must be made within 30 days of the effective date of this section.

30 A. The President of the Senate shall appoint the following
32 members:

34 (1) One Senator; and

36 (2) Two persons who represent the general public.

38 B. The Speaker of the House of Representatives shall
40 appoint the following members:

42 (1) One member of the House of Representatives; and

44 (2) Two persons who represent the general public.

46 C. The Governor shall appoint the following members:

48 (1) Three persons who are using or have used the
50 services provided by the State to youth and families;

(2) Three persons who are youth and family service
providers at the community level; and

(3) Three persons who represent the general public.

D. The Governor shall designate one member who is a
nonvoting member of the commission.

2 3. Terms of office; vacancies. The term of office for each
3 member is 2 years, except for the first appointed members. Of
4 the first appointed members, the Governor shall designate 6 of
5 the gubernatorial appointees at the time they are appointed to
6 serve for terms of one year. The President of the Senate and the
7 Speaker of the House of Representatives each shall designate one
8 of their appointees at the time they are appointed to serve for a
9 term of one year. The remaining members serve for terms of 2
10 years.

11 When a member's term expires, that member continues to serve
12 until a successor is appointed. Any member may be removed for
13 cause, including excessive absences from commission meetings, by
14 the appointing authority. The commission shall determine when a
15 member's absences have been excessive.

16 The appointing authority shall fill any vacancies on the
17 commission in the same manner in which a regular appointment is
18 made.

19 4. Chair. The commission shall elect a chair and
20 vice-chair from among its members.

21 5. Meetings. The commission shall meet at least 4 times a
22 year. Additional meetings may be held as necessary at the call
23 of the chair or any 2 members. Meetings must be announced in
24 advance and open to the public as required by Title 1, chapter
25 13, subchapter I.

26 6. Quorum. Eight members of the commission constitute a
27 quorum. Action may not be taken by the commission except by
28 affirmative vote of a majority of those present and voting.

29 7. Compensation. Members serve without compensation, but
30 are entitled to reimbursement for necessary expenses incurred in
31 the work of the commission as provided in chapter 379.

32 §7020. Commission duties

33 The commission shall:

34 1. Advise and consult. Advise and consult with the
35 Governor and the Legislature about the status of services to the
36 State's youth and families;

37 2. Advocacy. Serve as an advocate for the State's youth
38 and families by making recommendations on proposed budgetary,
39 legislative and policy actions to the Governor, the Legislature
40 and other officials with respect to policies, programs and other
41 activities affecting or relating to youth and families in the
42 State;

2 3. Acquire expertise. Work with departments of State
Government, planning groups and organizations to acquire
4 information, participate in planning and share expertise;

6 4. Research. Explore creative or innovative program and
funding options;

8 5. Information. Inform the public about the presence or
absence of opportunities and services for youth and families;

10 6. Public meetings. Conduct public hearings, conferences
12 and other meetings to obtain information about and discuss and
publicize the needs of youth and families and to find solutions
14 to problems of youth and families;

16 7. Administration and staff. Appoint an executive director
and secretary and request staff assistance from other departments
18 of State Government. The executive director shall serve at the
pleasure of the commission and is not subject to the Civil
20 Service Law. The executive director is entitled to compensation
by the commission within salary range 81. The executive director
22 shall perform those duties assigned by the commission; and

24 8. Reports. Prepare a biennial report to be presented to
the Governor and the Legislature concerning the work and
26 interests of the commission. The first report must be presented
by February 1, 1998.

28
30 **Sec. 2. 5 MRSA §12004-J, sub-§12 is enacted to read:**

32	<u>12.</u>	<u>Maine</u>	<u>Expenses</u>	<u>5 MRSA</u>
34	<u>Youth and</u>	<u>Commission</u>	<u>Only</u>	<u>\$7019</u>
	<u>Families</u>	<u>for Youth</u>		
		<u>and Families</u>		

36 **Sec. 3. 34-B MRSA c. 1, sub-c. III, art. III is enacted to read:**

38 **ARTICLE III**

40 **FACILITIES**

42 **§1451. Mental illness and likelihood of serious harm**

44 The commissioner shall create a capacity within the State to
46 provide secure facilities to provide care and treatment to
persons with chronic mental illness and whose chronic violent
48 tendencies present the likelihood of serious harm.

50 **Sec. 4. 34-B MRSA §6201, sub-§1-A is enacted to read:**

2 1-A. Child in need of supervision. "Child in need of
supervision" means:

4 A. A child of compulsory school age who is habitually
absent from school without legal excuse;

6 B. A child who has run away from home or is otherwise
8 beyond the control of the child's parent, guardian or
custodian; or

10 C. A child whose behavior or condition endangers the
12 child's own welfare or the welfare of others.

14 **Sec. 5. 34-B MRSA §6204, sub-§1, ¶B,** as enacted by PL 1985, c.
16 503, §12, is amended to read:

18 B. Facilitate the planning, promoting, coordination,
20 delivery and evaluation of a complete and integrated
statewide system of services to children in need of
treatment and their families; and

22 **Sec. 6. 34-B MRSA §6204, sub-§1, ¶C,** as amended by PL 1987, c.
24 349, Pt. H, §27, is further amended to read:

26 C. Support those services appropriate to children in need
of treatment and their families, including, but not
necessarily limited to, the following:

- 28 (1) Advocacy;
- 30 (2) Assessment and diagnosis;
- 32 (3) Child development;
- 34 (4) Consultation and education;
- 36 (5) Crisis intervention;
- 38 (6) Family guidance and counseling;
- 40 (7) Preventive intervention;
- 42 (8) Professional consultation and training;
- 44 (9) Respite care and other family support services;
- 46 and
- 48 (10) Treatment; and

50 **Sec. 7. 34-B MRSA §6204, sub-§1, ¶D** is enacted to read:

2 D. Ensure that a full spectrum of services is available to
3 address the problems of children in need of supervision.

4 (1) The department shall provide or arrange for the
5 provision of at least the following services:

6 (a) Administrative services, including the
7 establishment of:

10 (i) Regional service delivery coordination
11 sites;

12 (ii) A central placement review committee;
13 and

14 (iii) A statewide program evaluation
15 component; and

16 (b) Service delivery systems, including:

17 (i) A statewide primary prevention program;

18 (ii) A statewide public education program;

19 (iii) Early intervention;

20 (iv) Peer counseling and support;

21 (v) Information and referral;

22 (vi) Case management;

23 (vii) Transportation to necessary services;

24 (viii) Aftercare;

25 (ix) Mediation;

26 (x) Evaluation and assessment services;

27 (xi) Outpatient mental health services;

28 (xii) Outpatient substance abuse services;

29 (xiii) Family support services;

30 (xiv) Home-based service teams;

31 (xv) Homeless shelters and emergency
32 shelters;

33 (xvi) Semi-independent living programs;

2 As used in this subchapter, unless the context otherwise
3 indicates, the following terms have the following meanings.

4 1. Adjudicatory hearing. "Adjudicatory hearing" means a
5 hearing to determine whether the allegations of a petition
6 alleging a child to be in need of supervision are supported
7 beyond a reasonable doubt.

8
9 2. Advisory hearing. "Advisory hearing" means the initial
10 hearing conducted by the court to inform the child and the
11 child's parent, guardian, custodian or other interested parties
12 of their statutory and constitutional rights.

13 3. Child in need of supervision. "Child in need of
14 supervision" means:

15
16 A. A child of compulsory school age who is habitually
17 absent from school without legal excuse;

18
19 B. A child who has run away from home or is otherwise
20 beyond the control of the child's parent, guardian or
21 custodian; or

22
23 C. A child whose behavior or condition endangers the
24 child's own welfare or the welfare of others.

25
26 4. Court. "Court" means the District Court.

27
28 5. Custodian. "Custodian" means any foster parent,
29 employee of a public or private residential home or facility,
30 other person legally responsible for a child's welfare in a
31 residential setting or person providing in-home or out-of-home
32 care.

33
34 6. Detention. "Detention" means the temporary custody of a
35 child in a secured physically restricting facility.

36
37 7. Detention facility. "Detention facility" means a
38 secured physically restricting facility designed, staffed and
39 operated exclusively for children and separated by sight and
40 sound from adult prisoners.

41
42 8. Disposition hearing. "Disposition hearing" means a
43 hearing after adjudication at which the court makes an interim or
44 final decision in a case.

45
46 9. Intake officer. "Intake officer" means an agent of the
47 department authorized to perform all casework functions
48 established by this subchapter for a child alleged to be in need
49 of supervision.

2 10. Noticed hearing. "Noticed hearing" means a court
4 hearing for which the parent, legal guardian or other custodian
is required to receive and has received notice.

6 11. Parent or parents. "Parent" or "parents" means the
8 biological or adoptive parents of a child, including either
parent, any single or surviving parent and any custodial or
noncustodial parent, jointly or severally.

10 12. Shelter. "Shelter" means a physically unrestricting
12 home or facility for temporary care of a child.

14 13. Temporary care. "Temporary care" means the care given
to a child in temporary custody.

16 14. Temporary custody. "Temporary custody" means the
18 physical and legal control of a child prior to final disposition.

20 **§6212. Jurisdiction**

22 The court has original jurisdiction in all proceedings under
24 this subchapter concerning a child alleged to be or adjudicated
as being a child in need of supervision.

26 **§6213. Proceedings in best interest of child**

28 Proceedings under this subchapter must be in the best
interest of the child.

30 **§6214. Preliminary investigation; action**

32 1. Preliminary investigation. When an intake officer is
34 informed by a law enforcement officer or any other person that a
child is or may be in need of supervision, the intake officer
36 shall make a preliminary investigation to determine whether
further action should be taken.

38 2. Further action. On the basis of the preliminary
40 investigation, the intake officer may:

42 A. Decide that no further action is required;

44 B. Refer the matter to a court-ordered juvenile diversion
program for any informal action outside the court system
46 that is practicable without the filing of a petition; or

48 C. File a petition to commence appropriate proceedings.

50 **§6215. Informal action referral**

2 A report of a preliminary investigation involving an
3 apparent child in need of supervision may be referred under
4 section 6214, subsection 2, paragraph B only if:

5 1. Informed of rights. The child and the child's parent,
6 guardian or other custodian were informed of their statutory and
7 constitutional rights, including being represented by an
8 attorney, at every stage of the proceedings if a petition is
9 filed;

10 2. Jurisdiction. The facts are admitted and establish
11 prima facie jurisdiction; and

12 3. Consent. Written consent is obtained from the child's
13 parent, guardian or other custodian and the child, if the child
14 is of sufficient age and understanding. Efforts to effect
15 informal action may not extend longer than 3 months from the date
16 of consent.

17 §6216. Temporary custody by law enforcement officer; release and
18 detention

19 1. Taking into custody permitted. A child may be taken
20 into the temporary custody of a law enforcement officer without
21 order of the court if:

22 A. The child is seriously endangered in the child's
23 surroundings or is seriously endangering others and
24 immediate removal of the child appears to be necessary for
25 the protection of the child or others;

26 B. There are reasonable grounds to believe that the child
27 has run away or escaped from the child's parent, guardian or
28 custodian; or

29 C. The child is under the influence of alcohol or other
30 drugs.

31 2. Release. An apparent or alleged child in need of
32 supervision taken into custody by a law enforcement officer prior
33 to a temporary custody hearing must be released to the child's
34 parent, guardian or other custodian unless the parent, guardian
35 or other custodian can not be located or in the judgment of the
36 intake officer is not suitable to receive the child, in which
37 case the child must be placed in a shelter.

38 3. Detention. A child may not be placed in detention
39 unless the intake officer finds that the parent, guardian or
40 other custodian is not available or is not suitable to receive
41 the child and finds at least one of the following circumstances
42 exists.

- 2 A. The child has failed to comply with court services or a
 court-ordered program.
- 4 B. The child is being held for another jurisdiction as a
6 parole or probation violator, as a runaway or as a child
 under other court-ordered detention.
- 8 C. The child has a demonstrated propensity to run away from
10 the child's home, from court-ordered placement outside the
 child's home or from an agency charged with providing
12 temporary care for the child.
- 14 D. The child is under court-ordered home detention.
- 16 E. There are specific, articulated circumstances that
 justify the detention for the protection of the child from
18 potentially immediate harm to the child's self or to others.

20 The shelter or detention authorized must be the least restrictive
 alternative available.

22 **§6217. Court-ordered temporary custody**

24 1. Noticed hearing. The court may order temporary custody
 of any child within the jurisdiction of the court during any
26 noticed hearing.

28 2. No hearing. Without noticed hearing, the court may
 immediately issue a written temporary custody directive upon
30 receipt of an affidavit or, in the absence of a written affidavit
 when circumstances make it reasonable, upon receipt of sworn oral
32 testimony communicated by telephone or other appropriate means
 from an intake officer or law enforcement officer regarding an
34 apparent, alleged or adjudicated child in need of supervision, as
 applicable, that:

36 A. The child seriously endangers others or there is need
38 for protection of others from the child; or

40 B. The child has run away or escaped from the child's
 parent, guardian or other custodian.

42 **§6218. Temporary care of child by caretaker designated by the**
44 **court**

46 1. Temporary caretaker. A child apparently in need of
 supervision taken into temporary custody and not released to the
48 child's parent, guardian or other custodian may be placed in
 foster care, a shelter or detention as designated by the court to
50 be the least restrictive alternative for the child. The
 temporary caretaker of the child shall promptly notify the
52 department of the child's placement.

2 **2. Delivery of child to temporary custodian.** The law
enforcement officer taking a child into custody shall deliver the
4 child to the temporary caretaker as directed by the court.

6 **3. Duration of temporary custody.** A child may not be held
in temporary custody longer than 24 hours, excluding Saturdays
8 and Sundays, unless a petition is filed, the child is within the
jurisdiction of the court and the court orders longer custody
10 during a noticed hearing or a telephonic hearing.

12 **4. Release.** The court may at any time order the release of
a child from temporary custody without holding a hearing either
14 with or without restriction or condition or upon written promise
of the child's parent, guardian or other custodian regarding the
16 custody and appearance in court of an apparent child in need of
supervision at a time, date and place to be determined by the
18 court.

20 **§6219. Notice to parent, guardian or other custodian of child**
 taken into temporary custody and hearing

22 **1. Immediate notice of custody and hearing.** The law
24 enforcement officer or other person who takes a child into
temporary custody, with or without a court order, except under a
26 court order issued during a noticed hearing after an action has
been commenced, shall immediately and without unnecessary delay
28 given the circumstances inform the child's parent, guardian or
other custodian of the temporary custody and of the right to a
30 prompt hearing by the court to determine whether temporary
custody should be continued.

32 **2. Notice of hearing.** If the child's parent, guardian or
34 other custodian can not be located after reasonable inquiry, the
law enforcement officer shall report that fact and circumstances
36 immediately to the intake officer. The intake officer shall
notify the child's parent, guardian or other custodian without
38 unnecessary delay of the date, time and place of the temporary
custody hearing to be held under section 6220.

40 **§6220. Temporary custody hearing**

42 **1. Temporary custody hearing.** The temporary custody
44 hearing must be held by the court within 24 hours, excluding
Saturdays, Sundays and court holidays, after taking the child
46 into temporary custody. Failure to notify the child's parent,
guardian or other custodian of the temporary custody hearing is
48 not cause for delay of the hearing if the child is represented by
an attorney at the hearing.

50 **2. Need for continuing temporary custody.** At the temporary
52 custody hearing, the court shall consider evidence of the need

2 for continued temporary custody of the child in consideration of
3 the best interest of the child. The temporary custody hearing
4 may be conducted telephonically when necessary as determined by
5 the court.

6 **§6221. Options for court following temporary custody hearing**

8 **1. Release unless continued custody appropriate.** After the
9 temporary custody hearing, the court shall release the child from
10 temporary custody to the child's parent, guardian or other
11 custodian with or without restriction or condition or upon
12 written promise of the parent, guardian or other custodian
13 regarding care and supervision of the child, unless the court
14 finds that the child should be held in temporary custody for any
15 of the following reasons.

16 A. The child has failed to comply with court services or a
17 court-ordered program.

18 B. The child is being held for another jurisdiction as a
19 parole or probation violator, as a runaway or as a child
20 under other court-ordered detention.

21 C. The child has a demonstrated propensity to run away from
22 the child's home, from court-ordered placement outside the
23 child's home or from an agency charged with providing
24 temporary care for the child.

25 D. The child is under court-ordered home detention.

26 E. There are specific, articulated circumstances that
27 justify the detention for the protection of the child from
28 potentially immediate harm to the child's self or to others.

29 **2. Violation only upon violation of valid court order.** An
30 apparent, alleged or adjudicated child in need of supervision may
31 not be placed in detention after the temporary custody hearing
32 unless the child has been found to be in violation of a valid
33 court order.

34 **§6222. Rights of child and parent, guardian and custodian**

35 The court shall advise the child and the child's parent,
36 guardian or other custodian involved in action under this
37 subchapter of their statutory and constitutional rights,
38 including the right to be represented by an attorney, at the
39 first appearance of the parties before the court. The court
40 shall also advise them of the right of the parties to file, at
41 the conclusion of the proceedings, a motion for a new hearing
42 and, if the motion is denied, the right to appeal according to
43 the Maine Rules of Civil Procedure governing appeals in civil
44 actions.

2 **§6223. Court-appointed attorney**

4 **1. Appointment of attorney upon request.** If the child or
6 the child's parent, guardian or other custodian requests an
8 attorney in proceedings under this subchapter and if the court
10 finds the party to be without sufficient financial means to
12 employ an attorney, the court shall appoint an attorney for the
14 party.

16 **2. Appointment of attorney when necessary.** The court may
18 appoint an attorney for any child or other party to the
20 proceedings without request of the party if the court determines
22 that representation by an attorney is necessary to protect the
24 interests of that party.

26 **§6224. Petition alleging child in need of supervision**

28 **1. Petition; contents.** The department may file with the
30 court a written petition alleging that a child, located within
32 the geographic jurisdiction of that court, is in need of
34 supervision. The petition must include the following:

36 **A. The child's name, birth date and place of residence;**

38 **B. The name and residence of the child's parent, guardian
40 or other custodian or, if not known, of the child's nearest
42 known relatives;**

44 **C. A statement of the facts that bring the child within the
46 court's jurisdiction; and**

48 **D. A request that the court adjudicate the child to be a
50 child in need of supervision.**

52 **2. Affidavits.** Affidavits of social workers or law
54 enforcement officers may be incorporated by reference as part of
56 the petition.

58 **§6225. Summons**

60 **1. Directed to child's parent, guardian or other
62 custodian.** Upon the filing of the petition, the court shall
64 issue a summons stating the date, time and place for the hearing
66 on the petition that is directed to the child's parent, guardian
68 or custodian, if any. If the petition declares the parties are
70 unknown, then "To All Whom It May Concern" is sufficient to
72 authorize the court to hear and determine the action as though
74 the parties had been described by their proper names.

76 **2. Contents.** The summons must:

2 A. Require the persons named in it to appear, either in
4 person or by attorney, at a stated date, time and place and
6 to respond to the petition. It must state that failure to
 appear is an admission to the allegations contained in the
 petition;

8 B. State that the persons named and the child who is the
10 subject of the petition have the right to an attorney at all
 stages of the proceeding; and

12 C. Require the parent, guardian or custodian of the child
14 to appear, either in person or by attorney, with the child
 at the date, time and place stated in the summons.

16 3. Service. The summons must be served in the same manner
18 as a personal service of summons according to the Maine Rules of
20 Civil Procedure or by publication as a legal notice not less than
22 5 days before the date of the hearing. The child and the other
 persons named in the summons must be served. Proofs of service
 must be filed with the court before commencement of the hearing
 on the petition.

24 §6226. Failure to appear

26 If the party having custody of an alleged child in need of
28 supervision without reasonable cause fails to bring the child
30 before the court and to appear in person or by attorney with the
 child as required in the summons, the party may be proceeded
 against as in civil contempt.

32 §6227. Advisory hearing before adjudicatory hearing

34 1. Advisory hearing upon appearance of parties. Upon
36 appearance of the parties pursuant to a summons or at any
 adjournment or continuance of an appearance, the court shall
 conduct an advisory hearing on the petition.

38 2. Procedure. The court shall conduct the advisory hearing
40 as follows.

42 A. The court shall:

44 (1) Ascertain the need for any joinder or deletion of
46 parties, determine accurate names and addresses of
48 parties and their relationships to the child and
 determine the accurate name, date and place of birth,
 address and custodial status of the child;

50 (2) Advise the parties of the nature of the
52 proceedings, the allegations contained in the petition,
 the burden of proof of the State and the statutory and
 constitutional rights of the parties; and

2 (3) Advise the parties of their right to be
4 represented by attorneys and requirements for
6 court-appointed attorneys, if appropriate, and, if
8 requested by any party or if required by the court, the
 court may adjourn and continue the advisory hearing to
 a date, time and place set by the court to afford the
 opportunity for the parties to consult with their
 attorneys.

10 B. The court shall allow the parent, guardian or other
12 custodian and the child to admit the allegations contained
14 in the petition. The court may accept the admissions if the
 court is satisfied that there is a factual basis for the
 admissions.

16 §6228. Disposition and adjudicatory hearings

18 1. Petition admitted to by all parties. If all the
20 necessary parties admit the allegations in the petition and the
22 court accepts their admissions, the court may find, conclude and
24 make a decision as to adjudication of the child. The court may
26 then proceed with the disposition phase of the proceedings
 without conducting a formal adjudicatory hearing on the petition
 with the concurrence of all parties. The court shall then
 determine interim disposition arrangements concerning the child
 and the parties.

28 2. Petition not admitted to by all parties. If the
30 petition is not admitted to by all parties, including the child
32 if appropriate, or if the petition is denied by any party or the
34 child, if appropriate, the court shall proceed with the
 adjudicatory hearing on the petition or schedule the adjudicatory
 hearing for a later date and time.

36 3. Interim order for temporary custody. If the advisory
38 hearing is adjourned and continued or if the advisory hearing is
40 completed and the adjudicatory hearing is scheduled for a later
 date and time, the court shall issue an interim order regarding
 temporary custody of the child as determined by the court.

42 §6229. Adjudicatory hearing

44 Following an advisory hearing on a petition, the court shall
46 conduct an adjudicatory hearing.

48 1. Standard. The court shall consider whether the
50 allegations in the petition are supported by evidence beyond a
 reasonable doubt.

52 2. Adjudication; intermediate order. If the court finds
 that the allegations in the petition are supported by evidence

2 beyond a reasonable doubt, the court shall adjudicate the child
4 as a child in need of supervision and issue findings of fact,
6 conclusions of law and an order of adjudication stating that the
8 child is a child in need of supervision. The order of
10 adjudication is an intermediate order and is subject to appeal as
12 provided in the Maine Rules of Civil Procedure.

14 3. Disposition phase. The court shall proceed with the
16 disposition phase of the proceedings and shall issue an order
18 setting the date, time and place of the initial disposition
20 hearing and prescribing notice of the hearing. The court may
22 proceed immediately with the initial disposition hearing with the
24 consent of the department, the child and the child's parent,
26 guardian or other custodian or other parties named in the case.

28 4. Interim disposition decree. Upon completion of the
30 adjudicatory hearing resulting in adjudication of the child, the
32 court may issue an interim disposition decree governing custody,
34 placement, care, shelter or detention of the child as determined
36 by the court pending the initial disposition hearing and any
38 continuance of it.

40 §6230. Examination, investigation and reports of adjudicated
42 child before final disposition

44 After adjudication of a child as a child in need of
46 supervision, the court may require the following examinations,
48 investigations and reports.

50 1. Medical and mental examinations and evaluations. The
52 court may order the child's parent, guardian, custodian and other
54 party or any relative of the child who might be considered a
56 potential caretaker of the child upon disposition to submit to
58 psychological, psychiatric or medical examination and evaluation
60 by a qualified mental health professional or physician and submit
62 the report to the court. The court may issue the order on the
64 motion of the department, the child or any party or on the
66 court's own motion. The order directing the examination and
68 evaluation must state the time, place, manner, conditions and
70 scope of the examination to be made and the person or persons by
72 whom it is to be made.

74 2. Home study investigations. The court may order home
76 study investigations and reports of the investigations submitted
78 to the court concerning the child's parent, guardian, custodian
80 or any other party or relative of the child who might be a
82 potential caretaker of the child upon disposition. The order for
84 home study investigation and a report of the investigation must
86 generally state the conditions and scope of the investigation
88 considered necessary or appropriate by the court under the
90 circumstances.

2 3. Reports. Reports received by the court under this
3 section may be released by the court to attorneys of record for
4 the parties and may be received by the court as evidence in the
5 disposition phase of the proceeding.

6 **§6231. Disposition hearing; interim and final decrees**

8 1. Disposition evidence. After adjudication, the court
9 shall conduct disposition hearings and consider evidence
10 regarding proper disposition of the child best serving the
11 interests of the child with due regard to the rights and
12 interests of the child's parent, guardian, custodian, other
13 parties, the public and the department. Disposition evidence may
14 include social study reports, mental and medical examination and
15 evaluation reports, home study investigation reports and any
16 other information related to appropriate disposition of the child.

18 2. Interim decree of disposition. Following the
19 disposition hearing, the court shall issue an interim decree of
20 disposition. During the disposition phase, the court shall
21 balance the rights and interests of the child and the respective
22 parties, including the public and the department.

24 3. Findings, conclusions and final decree of disposition.
25 Upon completion of the final disposition hearing, the court shall
26 issue findings of fact, conclusions of law and a final decree of
27 disposition. The decree is the final order of the court for the
28 purpose of an appeal by any party according to the Maine Rules of
29 Civil Procedure governing appeals.

30 **§6232. Decree of disposition**

32 1. Alternatives. If a child has been adjudicated as a
33 child in need of supervision, the court shall enter a final
34 decree of disposition according to the least restrictive
35 alternative available consistent with the best interest of the
36 child. The decree must contain one or more of the following
37 alternatives.

40 A. The court may place the child on probation or under
41 protective supervision in the custody of one or both
42 parents, a guardian, a custodian, a relative or another
43 suitable person under conditions imposed by the court.

44 B. The court may require as a condition of probation that
45 the child report for assignment to a supervised work
46 program, provided the child is not placed in a detention
47 facility and is not deprived of the schooling that is
48 appropriate to the child's age, needs and specific
49 rehabilitative goals. The supervised work program must be
50 of a constructive nature designed to promote rehabilitation,
51 must be appropriate to the age level and physical ability of
52

2 the child and must be combined with counseling by persons
3 approved by the department. The supervised work program
4 assignment must be made for a period of time consistent with
5 the child's best interest, but may not exceed 90 days.

6 C. If the court finds that the child has violated a valid
7 court order, the court may place the child in a detention
8 facility for purposes of disposition, if:

10 (1) The child is not deprived of the schooling that is
11 appropriate for the child's age, needs and specific
12 rehabilitative goals;

14 (2) The child had a due process hearing before the
15 order was issued; and

16 (3) Before issuance of the order, a local interagency
17 team authorized pursuant to section 6234:

20 (a) Reviews the behavior of the child and the
21 circumstances under which the child was brought
22 before the court and made subject to the order;

24 (b) Determines the reasons for the behavior that
25 caused the child to be brought before the court
26 and made subject to the order;

28 (c) Determines that all dispositions, including
29 treatment other than placement in a detention
30 facility or the Maine Youth Center, have been
31 exhausted or are clearly inappropriate; and

32 (d) Submits to the court a written report stating
33 the results of the review and the determinations
34 made.

36 D. The court may transfer custody of the child to a public
37 or licensed private child placement agency or other suitable
38 person for placement.

40 E. The court may require the child to pay for any damage
41 done to property under conditions set by the court if
42 payment can be enforced without serious hardship or
43 injustice to the child.

46 F. The court may place the child in a group care facility
47 or a foster home under the supervision of the department.

48 G. The court may place a child in an alternative education
49 program.

52 H. The court may impose a fine not to exceed \$200.

2 State. The commission shall submit its report, with any
recommended legislation, to the First Regular Session of the
4 119th Legislature by February 1, 1999.

6 **SUMMARY**

8 This bill establishes a procedure for identifying children
in need of supervision and addressing their needs. A child in
10 need of supervision is defined as:

12 1. A child of compulsory school age who is habitually
absent from school without legal excuse;

14 2. A child who has run away from home or is otherwise
16 beyond the control of the child's parent, guardian or custodian;
or

18 3. A child whose behavior or condition endangers the
20 child's own welfare or the welfare of others.

22 This bill contains the following changes to state law
recommended by the Commission on Children in Need of Supervision
24 and Treatment in 1989.

26 1. The bill creates the Maine Commission for Youth and
Families, modeled upon existing advocacy commissions in State
28 Government, to provide a centralized office to serve inquiries
regarding state-provided child and family services, to assist in
30 developing and evaluating state policy toward children and
families and to serve as an advocate for children and families
32 within State Government.

34 2. The bill provides authority to the Department of Mental
Health, Mental Retardation and Substance Abuse Services to
36 implement a broad spectrum of services for children in need of
supervision. These needed services will ensure that appropriate
38 treatment services are available to children in need of
supervision and that no gaps exist in the services. Under the
40 bill, services will be delivered by the State and through
contract with private service providers on a regional basis to
42 ensure adequate coverage of the entire State.

44 3. The bill calls for a further study to be conducted by
the Maine Commission for Youth and Families and directs the
46 commission to evaluate the efficacy of the current youth and
family service system in Maine. The commission will employ a
48 consultant to perform the study at the direction of the
commission. In particular, the study will focus on efforts to
50 coordinate the provision of youth and family services by the
various departments of State Government. The commission shall

2 submit its report, with any recommended legislation, to the First
Regular Session of the 119th Legislature.

4 The bill also provides for secure facilities for children in
need of supervision who do not comply with valid court orders.

6 The bill also requires the Department of Mental Health,
8 Mental Retardation and Substance Abuse Services to develop a
capacity to provide facilities within the State for children who
10 require long-term care for mental illness and who have additional
conditions that make the use of secure facilities appropriate in
12 providing necessary treatment and care.