

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 851

H. P. 607

House of Representatives, February 14, 1967

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Fecteau of Biddeford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Relating to Children Needing Protective Custody.

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

R. S., T. 22, § 3792, repealed and replaced. Section 3792 of Title 22 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 3792. Neglect; petition; hearings and custody

Whenever a duly authorized agent of the department, sheriff or police officer, or 3 or more citizens of any municipality believe that a minor child under the age of 18 years is living in circumstances which are seriously jeopardizing the health, welfare or morals of such child, he or they may petition the probate court or the District Court in the county where such minor child resides, alleging that such minor child is in need of protective custody and praying that suitable and proper provision be made for the care, custody, support and education of the child named in the petition. The court shall fix a time for hearing of said petition and shall order that notice be given to the parents or guardian of such child in such manner and such length of time as the court deems proper, provided that unless notice is waived in writing by said parents or guardian, hearing shall not be fixed for a time less than 10 days after service is made. The court shall order notice in writing to be given by mail to the department at least 10 days before the date set for the hearing, unless the petitioner is the duly authorized agent of the department. The department may waive such notice in writing. If requested, the county attorney shall represent the department at the hearing.

The probate court or District Court shall have jurisdiction to hear such a petition in all cases involving the alleged needs for protective custody of a minor child, without regard to the existence of a valid decree of custody in any other

court. If, after hearing, it appears that the minor child named in the petition is being cruelly treated or willfully or grossly neglected by the person having physical custody of such child, or has been abandoned by his parents, or by the failure of the person having physical custody of such child is not provided with adequate food, clothing or privileges of education, or is kept in or allowed to frequent any disorderly house, house of ill fame, gambling place or place where intoxicating liquors are sold, or in other places injurious to health or morals, or is living under conditions which, if allowed to continue, will jeopardize his health, welfare or morals, or is an orphan, or is the child whose mother is an inmate of a state institution and who is without means of support or kindred of sufficient ability who will furnish support, the court may order such child committed into the custody of the department or into the custody of any suitable person, provided that such person consents to accept custody of such child. The court will cause a copy of the order of commitment and of any subsequent modifications thereof to be sent forthwith to the department. Pending hearing on any such petition, the court may order said child committed into the custody of the department or into the custody of any suitable person approved by the court, without regard to section 3794 as to bond, and direct such department or person to make such provision for the child's care as may be necessary pending hearing. The expense of any care provided for any child committed under this section shall be paid by the department or person to whom the child is committed. When any child has been committed into the custody of the department or into the custody of any suitable person under this section, the court may order the parent of such child to contribute to the support of his or her minor child such sums payable weekly, monthly or quarterly as deemed reasonable and just, and may enforce obedience by appropriate decrees. Execution may issue for said sums, when payable, and for costs.

When a parent is committed to jail on execution issued under a decree of support under this section, the county having jurisdiction of the process shall bear the expense of his support and commitment, and he may be discharged from imprisonment by the payment of the execution and all costs and expenses of his commitment and support, and he shall not be entitled to relief therefrom under Title 14, chapters 503 and 505. He may petition the court issuing the execution for relief, whereupon a judge of such court, after due notice to the department or person to whom support is payable, and hearing thereon, may order his discharge from imprisonment on such terms and conditions as justice may require.

STATEMENT OF FACTS

The child neglect statute of Maine has for many years made it possible to protect children who have been in need of protective custody. However, as a result of extensive use of this statute, certain inconsistencies and gaps have been identified which have delayed provision of this basic service to children in need of care and protection.

This bill modifies somewhat the existing statute to correct these inconsistencies and gaps.