

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1581

H. P. 1244

House of Representatives, April 7, 1977

Referred to Committee on Judiciary. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Spencer of Standish.

Cosponsors: Messrs. Hobbins of Saco, Gauthier of Sanford, Mrs. Kane of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Establish the Maine Juvenile Code.

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

Sec. 1. 15 MRSA Pt. 6 is enacted to read:

§ 3001. Title

This Act shall be known and may be cited as the Maine Juvenile Code.

§ 3002. Purposes and construction

1. Purposes. The purposes of this Part are:

A. To secure for each child subject to these provisions such care and guidance, preferably in his own home, as will best serve his welfare and the interests of society;

B. To preserve and strengthen family ties whenever possible, including improvement of home environment;

C. To remove a child from the custody of his parents only when his welfare and safety or the protection of the public would otherwise be endangered or where necessary to punish a child adjudicated delinquent pursuant to chapter 507.

D. To secure for any child removed from the custody of his parents the necessary treatment, care, guidance, and discipline to assist him in becoming a responsible and productive member in society;

E. To provide procedures through which the provisions of the law are executed and enforced which will assure the parties fair hearing at which their rights as citizens are recognized and protected.

2. Construction. To carry out these purposes, the provisions of this Part shall be liberally construed.

§ 3003. Definitions

As used in this Part, unless the context otherwise indicates, the following words and phrases shall have the following meanings:

1. Act or action. "Act or action" means a voluntary bodily movement.
2. Adjudicatory hearing. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition under chapter 507 are supported by evidence beyond a reasonable doubt.
3. Adult. "Adult" means a person 18 years of age or over, except as provided in section 3101, subsection 2, paragraph E.
4. Authorized agent. "Authorized agent" means a person assigned by a state department to perform duties prescribed in this Part. A person may be assigned to perform several of the functions prescribed in this Part concurrently.
5. Child or juvenile. "Child" or "juvenile" means any person under the age of 18 years or any person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.
6. Classes of crimes. "Class A, Class B, Class C, Class D and Class E crimes" are defined here as they are in the Maine Criminal Code, Title 17-A.
7. Commit. "Commit" means to transfer legal custody.
8. Corrective and supportive services. "Corrective and supportive services" means services recommended by a pupil evaluation team which are provided in addition to regular school program services and are determined to be necessary to enable the exceptional child to benefit from his educational experience.
9. Delinquent child. "Delinquent child" means any child who has violated:
 - A. Any Maine state criminal law; or
 - B. Any lawful order of the court made under this Part.
10. Dispositional hearing. "Dispositional hearing" means a hearing to determine what order of disposition should be made concerning a child adjudicated as delinquent.
11. Evaluation study. "Evaluation study" means a study of diagnostic and all other relevant information from appropriate professional personnel concerning a child which is required for purposes of determining the special education needs of the child.

12. Foster home. "Foster home" or "group care home" means a person or a facility licensed to provide care for small groups of children.

13. Habitual truant. "Habitual truant" is a child who without sufficient excuse is willfully absent from school or fails without such excuse to attend school for 5-day sessions or for 10 half-day sessions within any period of 6 months.

14. Halfway houses. "Halfway houses" means facilities licensed to provide care for small or large groups of children.

15. He. "He" means, where appropriate, "she" or an organization.

16. Intake. "Intake" means the acceptance of complaints and the screening of them to eliminate those which do not require action by the court, the disposition of the complaint without court action when appropriate, the referral of the child to another public or private agency when appropriate and the instigation of court action when it is necessary.

17. Intake worker. "Intake worker" means the authorized agent of the Department of Mental Health and Corrections who is authorized to perform the intake functions for a child alleged to be delinquent.

18. Juvenile court. "Juvenile court" means the juvenile division of the District Court.

19. Juvenile crime. "Juvenile crime" means any conduct which would be a crime as defined in Title 17-A; and the possession, use, purchase, sale or transportation of marijuana by a juvenile; and the possession, use, purchase, sale or transportation of alcohol by a juvenile; and engaging in prostitution by a juvenile.

20. Law enforcement officer. "Law enforcement officer" means any person who by virtue of his public employment is vested by law with a duty to maintain public order, to prosecute offenders to make arrests for crimes, or to perform probation functions, whether that duty extends to all crimes or is limited to specific crimes.

21. Legal custody. "Legal custody" means the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education and discipline for a child and, in an emergency, to authorize surgery or other extraordinary care.

22. Parent. "Parent" means either a natural parent or the adopted parent of a child.

23. Person. "Person" means a human being or an organization.

24. Probation. "Probation" means a legal status created by court order in cases involving a delinquent child which permits the child to remain in his own home or other placement designated by an agent of the Department of Mental Health and Corrections, subject to being returned to the court for violation of any general or special condition imposed by the court.

25. Probation officer; juvenile probation officer. "Probation officer" or "juvenile probation officer" means the authorized agent of the Department of Mental Health and Corrections who is authorized to perform the juvenile probation functions for a delinquent child.

26. Resource room. "Resource room" means a room where truanting children are provided special education instruction which supplements the major portion of their instructional program.

27. Shelter. "Shelter" means the temporary care of a child in physically unrestricting facilities.

28. Special education. "Special education" means classroom, home, institutional or other instruction, diagnosis, evaluation, transportation, corrective, and supporting services.

29. Taken into custody. "Taken into custody" means the status of temporary physical control of a child by a person authorized by this Part pending his release or placement.

30. Waiver hearing. "Waiver hearing" means a hearing at which the juvenile court determines whether it shall continue to exercise the jurisdiction given it by this Part over the child alleged to be delinquent or waive that jurisdiction in order that the State may proceed against the child as it would were he an adult.

CHAPTER 503 JURISDICTION

§ 3101. Jurisdiction

1. District Court as juvenile court. Each District Court shall exercise the jurisdiction conferred by this Part and, while sitting in the exercise of such jurisdiction, shall be known and referred to as the juvenile court.

2. Juvenile court jurisdiction.

A. The juvenile court shall have exclusive original jurisdiction of proceedings in which a child is alleged to be delinquent.

B. A juvenile will be alleged to be delinquent only when he has violated any Maine state criminal law or any lawful order of the court made pursuant to this Title.

C. Juvenile courts shall have no jurisdiction over offenses in which any juvenile is charged with the violation of any provision of Title 12, chapters 304 and 308; Title 28, chapter 25; Title 29; and Title 38, chapter 1, or over any other traffic law or ordinance, if such offense is a misdemeanor or traffic infraction, except that juvenile courts shall have exclusive, original jurisdiction over offenses in which any juvenile is charged with a violation of Title 12, section 1978, subsection 2; Title 12, section 2073, subsection 2 or Title 29, sections 1312 and 1315.

D. Juvenile courts shall have jurisdiction over all petitions brought under the Uniform Interstate Compact on Juveniles, Title 34, Chapter 9, pertain-

ing to juveniles who have been adjudged delinquent in other states, but who are found within the territorial jurisdiction of Maine.

E. Juvenile courts shall have exclusive original jurisdiction over proceedings in which an adult is alleged to have committed a juvenile crime before his 18th birthday. For purposes of such proceedings, the subject adult shall be considered a juvenile.

F. The juvenile court is exclusively authorized to assume jurisdiction over any child who is found or living or domiciled in a district for which the juvenile court is established.

3. Children mistakenly tried as adults. If, during the pendency of any prosecution for a violation of law, in any court in the State against any person presumed to be an adult, it shall be ascertained that the person is a child, or was a child at the time the offense was committed, that court shall forthwith transfer the case, together with the physical custody of the person and all physical evidence, papers, documents and testimony, original and duplicate, connected therewith to the appropriate juvenile court for proceeding under this chapter.

4. Bind-over.

A. If the juvenile court finds, pursuant to paragraph B, that a child will be bound over to the Superior Court, the court may enter an order waiving jurisdiction and certifying the case for proceedings before the grand jury as if the child were an adult, and thereafter the child shall be subject to the jurisdiction of the appropriate Superior Court as if the child were an adult.

B. The judge shall waive jurisdiction and certify the case for proceedings before the grand jury as if the child were an adult if: the juvenile court concludes and so states in its probable cause finding, that having considered the record and previous history of the child; and whether the alleged offense was committed in an aggressive, or violent, or premeditated, or willful manner, greater weight being given to offenses against person than property; and whether there is a reasonable likelihood that like future conduct will not be deterred by continuing the child under the juvenile court jurisdiction, the court finds that the maturity of the child as determined by considerations of his home, environment, emotional attitude and pattern of living indicates that the child would be more appropriately prosecuted under the general law; and that the nature and seriousness of the offense indicates that the protection of the community requires detention of the child in facilities which are more secure than those available as dispositional alternatives to juvenile courts.

§ 3102. Superior Court; juveniles before it on grand jury indictment

In cases involving juveniles which come before the Superior Court as a result of the juvenile's being bound over by the juvenile court for grand jury action, the Superior Court shall have jurisdiction not only of the offense for which the juvenile has been bound over but of any offense of lesser degree contained in the original offense and shall function in the same manner and with the same powers and duties as in criminal proceedings in the Superior Court.

§ 3103. Venue

Proceedings in cases brought under the provisions of section 3101 shall be commenced in the district in which the alleged violation of law or court order took place.

§ 3104. Juvenile crimes

1. Possession of marijuana. A juvenile is guilty of possession of marijuana by a minor if, being less than 18 years old, he possesses a usable amount of what he knows or believes to be marijuana.

2. Possession of alcohol. A juvenile is guilty of possession of alcohol by a minor if, being less than 18 years old, he possesses a usable amount of what he knows or believes to be alcohol.

3. Prostitution. A juvenile is guilty of prostitution if he engages in or agrees to engage in sexual intercourse of a sexual act as defined in Title 17-A in return for a pecuniary benefit to be received by the juvenile engaged in prostitution or by a 3rd party.

4. Dispositional powers. All of the dispositional powers of the juvenile court provided in chapter 507 shall apply to a juvenile who is found to have violated this section.

5. Adult criminal conduct. A juvenile is guilty of a crime if, being less than 18 years old, he commits an act which would be a crime as defined in Title 17-A.

§ 3105. Jurisdiction conferred by general law

Nothing in this chapter shall be deemed to take away from the juvenile court any jurisdiction or duties conferred upon the court by general law.

CHAPTER 505

ARREST, TEMPORARY CUSTODY, SHELTER AND DETENTION

§ 3201. Warrantless arrests by law enforcement officers

1. Authority. Except as otherwise specifically provided, a law enforcement officer shall have the authority to arrest without a warrant:

A. Any juvenile who he has probable cause to believe has committed or is committing:

(1) Criminal homicide in the first degree or criminal homicide in the 2nd degree; or

(2) Any Class A, Class B or Class C crimes; and

B. Any juvenile who has committed or is committing in his presence:

(1) A Class D or Class E crime; or

(2) A juvenile crime, as specified in section 3104.

2. Criminal conduct committed in the presence of an officer. For purposes of subsection 1, paragraph B, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officers present know, from personal knowledge, facts which are sufficient to warrant the prudent and cautious law enforcement officer believing that a Class D or Class E crime is being or has just been committed and that the person to be arrested has committed or is committing it. An arrest pursuant to subsection 1, paragraph B, shall be made at the time of the commission of the criminal conduct or some part thereof, or within a reasonable time thereafter, or while in fresh pursuit.

§ 3202. Warrantless arrests by a private person

1. Authority. Except as otherwise specifically provided, a private person shall have the authority to arrest without a warrant:

A. Any juvenile he has reasonable cause to believe has committed or is committing:

(1) Criminal homicide in the first degree or criminal homicide in the 2nd degree; or

(2) Any Class A, Class B or Class C crime; and

B. Any juvenile who in fact committed, in his presence, and in a public place any of the Class D or Class E. crimes described in Title 17-A, sections 207; 209; 211; 254; 255; 501, subsection 2; 503; 751; 752, subsection 1, paragraph A; 806 and 1002.

For any purposes of this paragraph, in his presence, has the same meaning as in section 3201, subsection 2.

2. Contact police or sheriff. Any private person who makes an arrest without a warrant pursuant to this section shall immediately contact the police or sheriff's department whose responsibility it shall be to immediately take charge of the juvenile.

§ 3203. Temporary custody

1. Temporary custody without court order. A child may be taken into temporary custody by a law enforcement officer or by an authorized agent of either the Department of Mental Health and Corrections or the Department of Human Services without order by the court:

A. When he is abandoned, lost or reasonably appears to be seriously endangered in his surroundings and immediate removal appears to be necessary for his protection; or

B. When there are reasonable grounds to believe that he has run away or escaped from his parents, guardian or legal custodian or he is habitually truant.

2. Probation officers. A juvenile probation officer may take a child into temporary custody:

A. Under any of the circumstances stated in subsection 1; or

B. If he has violated the conditions of probation and he is under the continuing jurisdiction of the juvenile court.

3. Custody does not constitute arrest. The taking of a child into temporary custody under this section is not an arrest nor does it constitute a police record.

§ 3204. Arrest warrants for children

1. When an arrest warrant will be issued. An arrest warrant will be issued by the juvenile court to search any place for the recovery of any child within the jurisdiction of the court who is believed to be a delinquent child.

2. Arrest warrant pursuant to Rule 41. Such warrant shall be issued in accordance with the Maine Rules of Criminal Procedure, Rule 41.

§ 3205. Release or detention, notification

1. Notification of parents, guardian or custodian. When a child is arrested or is taken into temporary custody, the law enforcement officer or the intake worker shall notify a parent, guardian or legal custodian without unnecessary delay and inform him of the child's whereabouts, the name and telephone number of the intake worker who has been contacted and, if a child has been arrested and has been placed in a detention facility, that all parties have a right to hearing within 48 hours to determine whether the child is to be detained further. Such notification may be made to a person with whom the child is residing if a parent, guardian or legal custodian cannot be located.

2. Notification of intake worker. When a child is arrested or is taken into temporary custody, the law enforcement officer shall immediately notify an intake worker.

3. Temporary detention, interrogation, removal to intake worker.

A. A child shall not be detained by law enforcement officials longer than is reasonably necessary to obtain his name, age and residence, to contact his parent, guardian or legal custodian and an intake officer.

B. Once the information described in paragraph A is obtained and the parent, guardian or legal custodian and intake worker are contacted, the law enforcement officer shall take the child directly to the intake officer or to the shelter placement or detention placement or agent of the Department of Human Services designated by the intake officer without unnecessary delay.

C.

(1) No statements, admissions or confessions of a child made as a result of interrogation of the child by a law enforcement official concerning acts alleged to have been committed by the child which would constitute a crime if committed by an adult shall be admissible in evidence against that child unless a parent, guardian or legal custodian of the child was present at such interrogation and the child and his parent, guardian or

legal custodian were advised of the child's right to remain silent, that any statements made may be used against him in a court of law, the right to the presence of an attorney during such interrogation, the right to have counsel appointed if so requested at the time of the interrogation, and that, after having been so advised, the child and his parents, guardian or legal custodian voluntarily waived them, except that, if a public defender or counsel representing the child is present at such interrogation, such statements, admissions or confessions may be admissible in evidence even though the child's parent, guardian or legal custodian was not present.

(2) Notwithstanding the provisions of subparagraph (1), statements, admissions or confessions of a child shall not be inadmissible in evidence by reason of the absence of a parent, guardian or legal custodian if the child is emancipated from the parent, guardian or legal custodian.

(3) Notwithstanding the provisions of subparagraphs (1) and (2), no statements, admissions or confessions of any child under the age of 14 years made as a result of interrogation of the child by a law enforcement official concerning acts alleged to have been committed by the child which would constitute a violation of state or federal law shall be admissible in evidence against the child unless the child is represented by an attorney.

(4) The officer who arrests a child or takes a child into custody shall within 24 hours of the child being taken into custody or arrested, excluding Saturdays, Sundays and legal holidays, file a brief written report with the intake worker stating the facts which led to the child being taken into custody or arrested. The report shall:

- (a) Identify the child, his parents, guardian or legal custodian;
- (b) Describe the circumstances of the arrest or of taking the child into custody; and
- (c) Contain sufficient information to establish the jurisdiction of the juvenile court in cases of alleged delinquent behavior.

(5) Notwithstanding the provisions of subparagraphs (3) and (4), an intake officer, when contacted by a law enforcement officer about a child who has been taken into custody or arrested, shall direct that the child be released to the care of his parents or other responsible adult, unless his immediate welfare or the protection of the community requires that he be detained. The parent or other person to whom the child is released shall be required to sign a written promise on standardized forms prepared by the Department of Mental Health and Corrections and supplied by the intake officer or law enforcement officer to bring the child to the intake officer at a time set or to be set.

(6) The records of law enforcement officers concerning all children taken into temporary custody under the provisions of this Part shall be maintained separately from the records of arrest and may not be inspected by or disclosed to the public, including the names of children taken into temporary custody except:

(a) By order of the court;

(b) When the court orders the child to be held for criminal proceedings, as provided in section 3101; or

(c) When there has been a finding of delinquency and a predisposition investigation is being made on the juvenile's application for probation.

(7) No fingerprint, photograph, name, address or other information concerning identity of a child taken into temporary custody under the provisions of this Part may be transmitted to the Federal Bureau of Investigation or any other person or agency, except a local law enforcement agency when necessary to assist in apprehension or to conduct a current investigation, or when the court orders the child to be held for criminal proceedings, as provided in section 3101.

(8)

(a) If an intake worker directs that a child is to be placed in a detention center, such placement must be reviewed and approved by the juvenile court for the district where the child was arrested or taken into custody within 48 hours, excluding Saturdays, Sundays and legal holidays.

(b) An order pursuant to such a hearing to continue the placement of a juvenile in a detention center shall be entered only if a juvenile judge finds, by a preponderance of the evidence, that such detention is required:

(i) To protect the person or property of others or of the juvenile; or

(ii) To secure the juvenile's presence at the next hearing.

(c) The Chief Judge of this District Court shall make provision so that a juvenile court judge, not necessarily a judge of the district where a child is being held, is available to preside at the hearings described in division (b) on all days except Saturdays, Sundays and legal holidays.

(d) If no judge is available in the district where a child is being held, the juvenile shall be transported to the nearest available juvenile court judge.

(e) Notwithstanding the provisions of divisions (a), (b) or (c), no child held in a detention center shall be released from such facility before the initial hearing on his detention is held, if a law enforcement agency has requested that a detention hearing be held.

(9) If, as provided by subparagraph (8), a juvenile court orders further detention of a child, it shall refer the child's case to an intake worker, who shall determine whether the interests of the child or of the community require that further action be taken, such as the filing of a petition in delinquency, or that further analysis of the child's case be made.

(10)

(a) After making a reasonable effort to obtain the consent of the parent, guardian or other legal custodian, the court may authorize or consent to medical, surgical or dental treatment or care for a child placed in detention or shelter care.

(b) When the court finds that emergency medical, surgical or dental treatment is required for a child in detention or shelter care, it may authorize such treatment or care if the parents, guardian or legal custodian are not immediately available.

(11)

(a) An intake worker or a juvenile court judge may not direct the delivery of a juvenile to a jail or other facility intended or used for the detention of adults except:

(i) When the jurisdiction of the matter as a juvenile case has been waived pursuant to section 3101, subsection 4; or

(ii) When the judge or intake worker determines, after consultation with the superintendent of a juvenile detention center that the child is beyond the control of the detention home staff; and

(iii) That the receiving facility contains a separate section for juveniles and has an adequate staff to supervise and monitor the child's activities at all times.

(b) The official in charge of a jail or other facility for the detention of adult offenders or other persons charged with crime shall inform the intake worker immediately when a child who is or appears to be under 18 years of age is received at the facility, except for a child ordered by the court to be held for criminal proceedings pursuant to section 3101.

(c) A juvenile shall not, under any circumstances, be placed or transported in any police or other vehicle which at the same time contains an adult under arrest, unless the adult is involved in the same criminal transaction that instigated the child's arrest.

§ 3206. Temporary placement for juveniles not accused of delinquent behavior

1. Restriction on placement. A child taken into custody pursuant to section 3203 shall not be placed, under any circumstances, in a correctional facility, or in a facility intended or used to detain juveniles accused or adjudicated of delinquent behavior.

2. Voluntary shelter care. An intake worker shall refer juveniles not accused of delinquent behavior only to a shelter care facility licensed by the Department of Mental Health and Corrections or the Department of Human Services. In no case shall a juvenile not accused of delinquent behavior be forced to accept such shelter placement or be held in such shelter placement involuntarily.

3. Restriction on transportation. A juvenile taken into custody pursuant to section 3203 shall not, under any circumstances, be placed or transported in any police or other vehicle which at the same time contains an adult under arrest.

4. Social services. Notwithstanding the provisions of subsections 2 or 3, an intake worker shall offer and encourage the child and his family, guardian or legal custodian to voluntarily accept social services.

§ 3207. The Department of Mental Health and Corrections'
24-hour referral services

1. Emergency placement decisions. The Department of Mental Health and Corrections shall provide for a placement referral service, staffed by intake workers, 24 hours a day. This referral service shall make emergency placement decisions pursuant to the provisions of this Part for all juveniles referred to it by law enforcement officers.

2. Provision of shelter and detention placements. It shall be the responsibility of the Department of Mental Health and Corrections to work through the Department of Human Services to establish, maintain, purchase or otherwise provide for the foster home, group care home, halfway house and other shelter and detention placements necessary for the referral service described in subsection 1 to discharge its responsibilities as outlined in this Part.

CHAPTER 507

PETITION, ADJUDICATION AND DISPOSITION

§ 3301. Preliminary investigation, informal adjustment and petition initiation

1. Preliminary investigation. When a juvenile accused of delinquent behavior is referred to an intake officer by a law enforcement officer, a representative of the Department of Mental Health and Corrections or a juvenile court after a detention hearing held pursuant to section 3205, the intake worker shall conduct a preliminary investigation to determine whether the interests of the child or of the community require that further action be taken.

On the basis of the preliminary investigation, the intake worker may:

- A. Decide that no further action is required, either in the interests of the public or of the child;
- B. Authorize a petition to be filed; or
- C. Make whatever informal adjustment is practicable without a petition if:
 - (1) The child and his parents, guardian or other legal custodian were informed of their constitutional and legal rights, including being represented by counsel, at every stage of the proceedings;
 - (2) The facts are admitted and establish prima facie jurisdiction, except that such admission shall not be used in evidence if a petition is filed; and
 - (3) Written consent is obtained from the parents, guardian or other legal custodian and also from the child, if of sufficient age and understanding.

2. Referral for voluntary services. If the intake officer determines that the facts in the report prepared for him by the referring officer pursuant to section 3205, subsection 3, paragraph C, subparagraph (4) are sufficient to file a delinquent petition, but in his judgment the interest of the child and the public will be served best by providing the child care or other treatment voluntarily accepted by the child and his parents or legal custodians, he may refer the child for such care and treatment.

3. Refusals to file delinquency petition. If the intake officer refuses to request that a delinquency petition be filed, the complainant and victim shall be informed of the refusal and of the reasons therefor and shall be advised that they may submit the complaint to the district attorney for the county in which the alleged delinquent act occurred for review. The district attorney, upon receiving a request for a review, shall consider the facts presented by the complainant, consult with the intake worker who made the initial decision, and then make the final decision as to whether the petition shall or shall not be filed.

4. Informal adjustment.

A. Efforts to effect informal adjustment may extend no longer than 6 months.

B. No child shall be handled by informal adjustment where the child referred to the intake worker by any person who has had any sustained petition for delinquency in the preceding 12 months or has been handled by informal adjustment for a delinquent act in the preceding 12 months.

5. Request for filing of delinquency petition. If the intake officer determines that the facts are legally sufficient to file a delinquency petition, he may request the district attorney for the county where the alleged delinquent act occurred to file it.

§ 3302. Delinquency petition form and contents

1. Form. The petition and all subsequent court documents in any proceedings brought under chapter 503 shall be entitled "The People of the State of Maine versus . . . a child (or children)." The petition shall be verified, and the statements made in the petition may be made upon information and belief.

2. Contents. The petition shall set forth plainly the facts which bring the child within the jurisdiction of the juvenile court. The petition shall cite the law which the child is alleged to have violated. The petition shall also state the name, age and residence of the child and the names and residences of his parents, guardian or other legal custodian.

§ 3303. Dismissal of delinquent petition with prejudice

On motion made by or in behalf of a child, a petition alleging delinquency shall be dismissed with prejudice if it is not filed within 30 days from the date the complaint was referred to the intake worker.

§ 3304. Summons

1. **Issuance and contents.** After a petition has been filed, the court shall promptly issue a summons reciting briefly the substance of the petition. The summons shall also set forth the constitutional and legal rights of the child, his parents, guardian or any other respondent, including the right to have an attorney present at the hearing on the petition.

2. **Voluntary appearance; waiver of service.** No summons shall issue to any respondent who appears voluntarily, or who waives service or who has promised in writing to appear at the hearing as provided in section 3205, subsection 3, paragraph C, subparagraph (5), but any such person shall be provided with a copy of the petition and summons upon appearance or request.

3. **Service.** The summons shall be directed to, and shall be served upon, the following persons:

A. The child, alleged to be delinquent in the same manner as if he were an adult;

B. A parent of the child or both parents if available; and

C. The legal custodians, actual custodians and guardian ad litem, if there be any other than the parents.

4. **Service at least 48 hours before appearance demanded.** The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. The time shall not be less than 2 days after service of the summons. If the child is not detained by an order of the court, the summons shall require the custodian to produce the child at the said time and place. A copy of the petition shall be attached to the summons.

5. **Service on parents of child alleged to be delinquent.** If the person or persons to whom a summons is issued are not the parents or guardian of the child, then summons shall also be issued to the parents or guardian, or both, notifying them of the pendency of the case and of the time and place set for hearing.

6. **Summons of necessary parties.** The court on its own motion or on the motion of any party may join as a respondent or require the appearance of any person it deems necessary to the action and authorize the issuance of a summons directed to such person. Any party to the action may request the issuance of compulsory process by the court requiring the attendance of witnesses on his own behalf or on the behalf of the child.

7. **Witness fees and travel expenses.** The court may authorize the payment of necessary witness fees and travel expenses incurred by persons summoned or otherwise required to appear, which payments shall not exceed the amount allowed to witnesses for travel by the District Court.

8. **Personal service of summons.** Summons shall be served personally, pursuant to the Maine Rules of Civil Procedure. If personal service is used, it shall be sufficient to confer jurisdiction if service is effected not less than

2 days before the time fixed in the summons for the appearance of the persons served.

9. Jurisdiction over absent parents. If the parents, guardian or other legal custodian of the child required to be summoned under subsection 4 cannot be found within the State, the fact of the child's presence in the State shall confer jurisdiction on the court as to any absent parent, guardian or legal cusodian, if due notice has been given in the following manner:

A. When the residence of the person to be served outside the State is known, a copy of the summons and petition shall be sent by certified mail with postage prepaid to such person at his place of residence with a return receipt requested. Service of summons shall be deemed complete within 5 days after return of the requested receipt.

B. When the person to be served has no residence within Maine and his place of residence is not known or when he cannot be found within the State after due diligence, service must be made according to the order of the court.

§ 3305. Contempt, warrant

1. Failure to appear when summoned, contempt. Any person summoned or required to appear as provided in section 3304, who has acknowledged service and fails to appear without reasonable cause may be proceeded against for contempt of court.

2. Failure to serve summons, bench warrant. If after reasonable efforts the summons cannot be served, a bench warrant may be issued for the parents, guardian or other legal custodian of a child alleged to be delinquent or for the child himself.

3. Failure to appear when summoned, bench warrant. When a parent or other person who signed a written promise to appear and bring the child alleged to be delinquent to an intake officer pursuant to section 3205, subsection 3, paragraph C. subparagraph (5), or who has waived or acknowledged service of a summons pursuant to section 3304 fails to appear with the child on the date set in the summons or written promise, a bench warrant may be issued for the parent or other person, the child himself, or both.

§ 3306. Answer

1. Answer, admitting allegations. No answer to the petition or any other pleading need be filed by any child, parent or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. An answer admitting the allegations of the petition may be filed by the child joined by the child's counsel. The answer must acknowledge that the child has been advised of his right to counsel, of his right to remain silent and of the possible dispositions available to the court. It shall provide for a waiver of the adjudicatory hearing, a statement of consent to an order of adjudication and an authorization for the court to proceed with a dispositional hearing.

2. **Acceptance of answer admitting allegations.** Such an answer shall be accepted by the juvenile court if the juvenile judge finds that there is a factual basis for the answer admitting the allegations of a petition.

3. **Dispositional hearing after answer admitting allegations.** Upon the acceptance of such an answer, a dispositional hearing shall be set at the earliest practicable time that will allow for the completion of a predisposition study conducted pursuant to section 3311.

4. **Conduct of dispositional hearing after answer admitting allegations.** The dispositional hearing scheduled pursuant to subsection 3 shall be conducted pursuant to section 3312.

§ 3307. Right to counsel

1. Notice and appointment.

A. At his first appearance before the court, the child and his parents, guardian or other legal custodian shall be fully advised by the court of their constitutional and legal rights, including the child's right to be represented by counsel at every stage of the proceedings.

B. If the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court.

C. The court may appoint counsel without such request if it deems representation by counsel necessary to protect the interests of the child.

2. **State's attorney.** The district attorney shall represent the State in all delinquency proceedings.

§ 3308. Hearings, publicity, record

1. Juvenile hearings conducted as they would be for adults. Hearings shall be held before the court without a jury but in all other respects shall be conducted in a formal manner as if the child were an adult accused of a crime, except that juveniles accused of Class A, Class B or Class C offenses may elect a jury trial.

2. Juveniles who elect a jury trial. If a juvenile accused of a Class A, Class B or Class C crime elects a jury trial, the juvenile court shall notify the district attorney and shall forthwith transfer the case, together with the physical custody of the juvenile and all physical evidence, papers, documents and testimony, original and duplicate, connected therewith to the appropriate Superior Court for a jury trial.

3. Juveniles who elect jury trial, dispositional powers of Superior Court. A Superior Court shall only have the same dispositional options as does a juvenile court when it hears the case of a juvenile who has elected a jury trial.

4. Certain juvenile hearings made public.

A. The general public shall not be excluded from adjudicatory and dispositional hearings on alleged delinquent behavior that would constitute a Class A, Class B or Class C crime if the child were an adult.

B. The general public shall be excluded from hearings and all other proceedings on alleged delinquent behavior that would constitute a Class D or Class E crime or uniquely juvenile.

3. Transcript. A verbatim record shall be taken of all proceedings which might result in a finding of delinquency.

§ 3309. Court records, inspection, expungement

1. Who may inspect records of juvenile proceedings.

A. Records of court proceedings shall be open to inspection by the child, his parents, guardian and attorneys and to any agency to which legal custody of the child has been transferred.

B. With consent of the court, records of court proceedings excluding the names of the child, his parents, guardian, attorneys or any other parties, may be inspected by persons having a legitimate interest in the proceedings and by persons conducting pertinent research studies.

C. Intake workers' records and probation officers' records and all other reports of social and clinical studies shall not be open to inspection except by consent of the court.

2. Expungement, who may file petition.

A. Any juvenile who was the subject of a petition dismissed pursuant to section 3303 or 3310, subsection 5 may petition the court for expungement of his record and shall be so informed at the time of such dismissal.

B. The court, on its own motion or on the motion of any interested party, may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court.

3. Expungement, when petition may be filed.

A. A petition to initiate expungement proceedings shall be filed or such court order entered no sooner than 2 years after the date of termination of the court's jurisdiction over the juvenile or 2 years after his unconditional release from parole or probation supervision or 2 years after his discharge from any other placement to which he had been remanded by the court.

B. Only by stipulation of all parties involved may expungement be applied for prior to the expiration of 2 years from the date of termination of the court's jurisdiction or termination of court's supervision under an informal adjustment.

C. Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the district attorney and anyone else whom the court has reason to believe may have relevant information related to the expungement of the record.

4. What court must find to allow expungement. The court shall order expunged all records in the petitioner's case in the custody of the court and any records in the custody of any other agency or official if at the hearing the court finds that:

A. The subject of the hearing has not been adjudicated a delinquent nor convicted of a crime since the termination of the court's jurisdiction or his unconditional release from parole or probation supervision or his discharge from any other placement to which he had been remanded by the court.

B. No proceeding concerning delinquent or criminal behavior is pending or being instituted against him.

C. Upon the entry of an order to expunge the records, the proceedings in the case shall be deemed never to have occurred, and all index references shall be deleted, and the person and the court may properly reply that no record exists with respect to such person upon inquiry in the matter; and

D. Copies of the order shall be sent to each agency or official named therein.

§ 3310. Adjudicatory hearing, findings, adjudication

1. Evidence to be heard. At the adjudicatory hearing, which shall be conducted as provided in section 3308, subsection 1, the court shall consider whether the allegations of the petition are supported by evidence beyond a reasonable doubt, except that jurisdictional matters of age and residence of the child shall be deemed admitted by or on behalf of the child unless specifically denied prior to the adjudicatory hearing.

2. Consideration of additional evidence.

A. When it appears that the evidence presented at the hearing discloses facts not alleged in the petition, the court may proceed immediately to consider the additional or different matters raised by the evidence if all the parties consent.

B. In such event, the court, on the motion of any interested party or on its own motion, shall order the petition to be amended to conform to the evidence.

C. If the amendment results in a substantial departure from the original allegations in the petition, the court shall continue the hearing on the motion of any interested party, or the court may grant a continuance on its own motion if it finds a continuance to be in the interests of the child or any other party to the proceedings.

D. If it appears from the evidence that the child may be mentally ill or mentally retarded or otherwise developmentally disabled, as those terms are defined in the Revised Statutes, paragraphs A, B and C shall not apply and the court shall proceed under section 3319.

3. Continuation of hearing. After making a finding as provided by subsection 6, paragraph A but before making an adjudication, the court may continue the hearing from time to time, allowing the child to remain in his own home or in the temporary custody of another person or agency subject to such conditions of conduct and of visitation or supervision by a probation officer as the court may prescribe if:

A. Consent is given by the child and his parent, guardian or other legal custodian after being fully informed by the court of their rights in the proceeding, including their right to have an adjudication made either dismissing or sustaining the petition;

B. Such continuation shall extend no longer than 6 months without review by the court. Upon review, the court may continue the case for an additional period not to exceed 6 months, after which the petition shall either be dismissed or sustained.

4. Continuation for investigation of allegation of Class A, Class B or Class C offense. When the petition alleges a child to be a delinquent child as defined by section 3003, by virtue of having committed an act which would constitute a Class A, Class B, or Class C crime pursuant to Title 17-A, the court shall:

A. Proceed as otherwise provided in this section; or

B. Upon request of the district attorney, continue the case for further investigation and a waiver hearing to determine whether the jurisdiction of the juvenile court over the child should be waived, in which event the court shall advise the child and his parents, guardian or legal custodian of the possible consequences of a waiver hearing, the right to be represented by counsel, and other constitutional and legal rights in connection therewith.

5. Standard of proof. When the court finds that the allegations of the petition are not supported by evidence beyond a reasonable doubt, the court shall order the petition dismissed and the child discharged from any detention or restriction previously ordered. His parents, guardian or other legal custodian shall also be discharged from any restriction or other temporary order.

6. Adjudication of delinquency.

A. When the court finds that the allegations of the petition are supported by evidence beyond a reasonable doubt in cases concerning delinquent children, except when the case is continued as provided in subsection 3, the court shall sustain the petition and shall make an order of adjudication setting forth the basis for its finding that a child is delinquent.

B. The court shall then hold the dispositional hearing, but such hearing may be continued for not more than 2 weeks on the motion of any interested party or on the motion of the court.

§ 3311. Social study and other reports

1. Reports as evidence. For the purpose of determining proper disposition of a child, written reports and other material relating to the child's mental, physical and social history may be received and considered by the court along with other evidence; but the court, if so requested by the child, his parent or guardian, or other interested party, shall require that the person who wrote the report or prepared the material appear as a witness and be subject to both direct and cross-examination. In the absence of such request, the

court may order the person who prepared the report or other material to appear if it finds that the interest of the child, his parent or guardian, or other party to the proceedings so requires.

2. Right to cross-examination. The court shall inform the child, his parent or legal guardian, or other interested party of the right of cross-examination concerning any written report or other material as specified in subsection 1.

3. Requirement for dispositional hearing. Unless waived by the court, the Department of Mental Health and Corrections shall make a social study and report about every child adjudicated of delinquent behavior in writing and shall present it to the juvenile court prior to that child's dispositional hearing and be available for cross-examination.

§ 3312. Dispositional hearing

1. Evidence of proper disposition. After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the child and the public. If not waived by the court, such evidence shall include, but not necessarily be limited to, the social study and other reports as provided in section 3311.

2. Examination of adjudicated juvenile. The court may have the child examined by a physician, psychiatrist or psychologist, and the court may place the child in a hospital or other suitable facility or nonresidential program for this purpose. The costs of such examinations and placements shall be paid by the court ordering them.

3. Continuation of dispositional hearing.

A. The court may continue the dispositional hearing, either on its own motion or on the motion of any interested party, for a reasonable period not to exceed one month to receive reports or other evidence.

B. If the hearing is continued, the court shall make an appropriate order for detention of the child or for his release in the custody of his parents, guardian or other responsible person or agency under such conditions of supervision as the court may impose during continuance.

C. In scheduling investigations and hearings, the court shall give priority to proceedings concerning a child who is in detention or who has otherwise been removed from his home before an order of disposition has been made.

§ 3313. Disposition

1. Dispositional alternatives. When a child has been adjudicated as being a delinquent, the court shall enter a decree of disposition containing one or more of the following provisions which the court finds appropriate:

A. The court may place the child on probation or under protective supervision in the legal custody of one or both parents or a guardian under such conditions as the court may impose.

B. The court may place the child in the legal custody of a relative or other suitable person under such conditions as the court may impose, which may include placing the child on probation.

C. The court may require as a condition of probation that the child report for assignment to a supervised work program if:

(1) The child is not deprived of the schooling which is appropriate to his age, needs and specific rehabilitative goals; and

(2) The supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the child, and is combined with counseling from a probation counselor or other guidance personnel; and

(3) The supervised work program assignment is made for a period of time not exceeding 180 days.

D.

(1) The court may commit a person to the Department of Mental Health and Corrections or the Department of Human Services for placement in a foster home, group care home or halfway house.

(2) The court may commit a person over the age of 18 years to the Department of Mental Health and Corrections or to the Department of Human Services if he is adjudicated delinquent for an act committed prior to his 18th birthday or upon revocation of probation.

E. The court may require the child to pay for any damage done to persons or property, upon such reasonable conditions as the court may deem best.

F. The court may commit the child to the Maine Youth Center.

G. The court may impose a fine.

H. The court may grant a new hearing as provided in section 3317.

I. The court may sentence the child to a determined period of detention, not to exceed 30 days, and a period of probation.

2. Suspended sentence. The court may impose any of the dispositional alternatives provided in subsection 1, and may suspend its sentence.

§ 3314. Criteria for withholding an institutional disposition

1. Standard. The court shall deal with a juvenile who has been adjudicated delinquent without imposing placement in a secure institution as disposition unless, having regard to the nature and circumstances of the crime and the history, character and condition of the juvenile, it finds that his confinement is necessary for protection of the public because:

A. There is undue risk that during the period of a suspended sentence or probation, the juvenile will commit another crime; or

B. The juvenile is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or

C. A lesser sentence will depreciate the seriousness of the juvenile's delinquent conduct.

2. Additional considerations. The following grounds, while not controlling the discretion of the court, shall be accorded weight in favor of withholding placement in a secure institution:

A. The juvenile's delinquent conduct neither caused nor threatened serious harm;

B. The juvenile did not contemplate that his delinquent conduct would cause or threaten serious harm;

C. The juvenile acted under a strong provocation;

D. There were substantial grounds tending to excuse or justify the juvenile's delinquent conduct, though failing to establish a defense;

E. The victim of the juvenile's delinquent conduct induced or facilitated its commission;

F. The juvenile has compensated or will compensate the victim of his delinquent conduct for the damage or injury that he sustained;

G. The juvenile has no history of prior delinquency or has led a law-abiding life for a substantial period of time before the commission of the present delinquent act;

H. The juvenile's delinquent conduct was the result of circumstances unlikely to recur;

I. The character and attitudes of the juvenile indicate that he is unlikely to commit another delinquent act;

J. The juvenile is particularly likely to respond affirmatively to probationary treatment;

K. The confinement of the juvenile would entail excessive hardship to himself or his dependents.

§ 3315. Right to periodic review

1. Right to review. Every child for whom a disposition is fashioned pursuant to section 3313 shall be reviewed not less than once in every 12 months until he is discharged from juvenile court jurisdiction, by a representative of the Department of Mental Health and Corrections, who shall report in writing to the juvenile's parents or guardian. The written report shall be prepared in accordance with subsection 2.

2. Contents of review. The facility or program in which a child resides or is participating shall maintain a record of each review under this section, which record shall include:

- A. A report of the review ;
- B. A brief description of the services provided to the juvenile during the period preceding the review and the results of those services ;
- C. An individualized plan for the provision of services to the child for the next period ;
- D. An explanation why such plan imposes the least restrictive alternative consistent with adequate care of the child and protection of the community ; and
- E. A certification that the services recommended are available and will be afforded to the child.

§ 3316. Commitment to the Department of Mental Health and Corrections or the Department of Human Services

1. Sharing of information about a committed juvenile.

A. When a child is committed to the Department of Mental Health and Corrections or the Department of Human Services, the court shall transmit, with the commitment order, a copy of the petition, the order of adjudication, copies of the social study, any clinical or educational reports and other information pertinent to the care and treatment of the child.

B. The Department of Mental Health and Corrections or the Department of Human Services shall provide the court with any information concerning a child committed to its care which the court at any time may require.

2. Indeterminate sentence. A commitment of a child to the Department of Mental Health and Corrections or to the Department of Human Services pursuant to sections 3313, 3314 and 3315 shall be for an indeterminate period not to exceed the child's 21st birthday.

§ 3317. New hearing authorized

1. Petition. A parent, guardian, custodian or attorney of any child adjudicated under this chapter, or any person affected by a decree in a proceeding under this chapter, may petition the court for a new hearing on the grounds specified in the Maine Rules of Criminal Procedure.

2. Standard. If it appears to the court that the motion should be granted, it shall order a new hearing and shall make such disposition of the case as warranted by all the facts and circumstances.

§ 3318. Disposition after return to juvenile court

In instances of commitment of a juvenile to the Maine Youth Center, the superintendent thereof following such commitment may for good cause petition the juvenile court having original jurisdiction in the case for a judicial review of the disposition. In all cases in which a juvenile is returned to a juvenile court from the Maine Youth Center, the juvenile court may make any of the dispositions otherwise provided in this chapter.

§ 3319. Mentally ill or incapacitated persons

1. Suspension of hearing. If it appears from the evidence presented at an adjudicatory hearing that a child may be mentally ill or incapacitated as these terms are defined in Title 34, sections 2066, subsection 1 and 2251, subsection 5, the court shall suspend the hearing on the petition and shall either:

A. Order that the child be examined by a physician, psychiatrist or psychologist and refer the child to a suitable facility or program for the purpose of examination, the costs of such examination to be paid by the court ordering them; or

B. Transfer the child to the appropriate court for proceedings for voluntary or involuntary commitments for mental health care as provided in Title 34, sections 2152, 2290 and 2333.

2. Transfer of mentally disabled juveniles. If the report of the examination made pursuant to subsection 1, paragraph A, states that the child is mentally ill or incapacitated to the extent that short-term or long-term hospitalization or institutional confinement is required, the juvenile court shall transfer jurisdiction to the appropriate court or administrative agency for proceedings for voluntary or involuntary commitments for mental health care as provided in Title 34, sections 2152, 2290 and 2333.

3. Continuation of petition. The court shall continue the original petition when a child is committed to a hospital or other institution pursuant to proceedings for voluntary or involuntary commitment for mental health care,

4. Resumption of hearing on petition. The court shall set a time for resuming the hearing on the original petition when:

A. The report of the examination made pursuant to subsection 1, paragraph A states that the child is not mentally ill or incapacitated to the extent that short-term or long-term hospitalization or institutional confinement is required; or

B. The child is not found by the appropriate court to be mentally ill or incapacitated as defined in Title 34, sections 2066, subsection 1 and 2251, subsection 5.

CHAPTER 509

APPEALS

§ 3401. Jurisdiction, goals of juvenile appellate structure

1. Jurisdiction of juvenile appeals. Juvenile appeals shall be heard by the Superior Court. Where there is a record below, the appeal shall be on the record only.

2. Goals of juvenile appellate structure. The goals of the juvenile appellate structure are:

A. To insure substantial uniformity of treatment to persons in like situations;

B. To correct errors in the application and interpretation of law and in the finding of facts;

C. To provide for review of juvenile court decisions so that the legislatively defined goals of the juvenile justice system as a whole are realized.

3. No right to jury trial. There shall be no right to a jury trial on appeal.

§ 3402. Appeal as a right, who may appeal

1. What may be appealed. Upon claim properly filed, review shall be had of any final order of the juvenile court. A "final order" includes but is not limited to:

A. Any order finding presence or absence of jurisdiction over the matter in question;

B. Any order which terminates juvenile court jurisdiction in favor of another court;

C. Any order terminating or modifying custodial rights;

D. Any order of disposition after adjudication;

E. Any order modifying any of the above; or

F. Any order denying a stay of judgment or release on bond.

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

A. The juvenile;

B. His parents, custodian, guardian or attorney; or

C. The State to the extent permitted by subsection 3.

3. What the State may appeal. The State may appeal only the following orders:

A. An order adjudicating a state statute unconstitutional;

B. An order finding an absence of juvenile court jurisdiction;

C. Any pretrial order which, by depriving the prosecution of evidence, results in dismissal of juvenile court delinquency charges; or

D. An order refusing to waive jurisdiction over a juvenile for proceedings before the grand jury.

4. Appeals to juvenile court. Any party who may appeal to the Superior Court may request the juvenile court to review any of its orders pursuant to chapter 507.

5. Time for appeals. An appeal of right may be taken from any final order to the Superior Court within and for the same county by giving written notice of appeal to the juvenile court within 5 days after the entry of the 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. Further appeals shall be by leave of the Superior Court.

6. Record of appeal. When notice is given of an appeal from a juvenile court's adjudication that a juvenile has committed a juvenile crime, 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.

§ 3403. Procedure for appeals

1. Information about right to appeal. It shall be the duty of the juvenile court judge to inform the parties immediately after judgment and disposition orally and in writing of the right to appeal, the time limits and manner in which that appeal must be taken, and the right to court appointed counsel for the juvenile and a copy of the transcript in the case of indigency.

2. Appellant's brief. The appellant shall file his brief on appeal in the Superior Court within 30 days after the filing of the claim of appeal or the entry of the order granting leave to appeal.

3. Appellee's response. The appellee shall file his response to appellant's brief within 20 days after the filing of appellant's brief.

4. Copy of transcript. The appellant is entitled to a copy of the transcript of the adjudication and dispositional hearings and any matter appearing in the court file, upon the filing of a request for same.

5. Indigents. Upon a determination of indigency, the above material shall be provided appellant at public expense.

6. Time for provision of transcripts. A copy of the transcript shall be provided by the court reporter within 14 days of the filing of the request for same.

§ 3404. Counsel on appeal

1. Counsel for indigents. Any juvenile alleged to come within the provisions of this chapter is entitled to the appointment of counsel at public expense upon a determination of indigency.

2. Parent's right to appeal. When a parent of the juvenile desires to effect an appeal against the wishes of the child, that parent is entitled to the appointment of counsel at public expense upon a determination of indigency.

§ 3405. Stays of orders and release on bond

1. Who may apply for stay or bond. The juvenile or his representative may, after the filing of a claim of appeal or the entry of an order granting leave to appeal, request the juvenile court to stay the effect of its order and release the juvenile on bond pending appeal.

2. When stay or release on bond shall issue. Upon application, a stay of judgment and disposition and releasing appellant on bond shall issue in every case unless the juvenile court orders otherwise.

3. **Factors to be considered for stay of bond.** In making a determination under this section, the court shall consider the following factors on the record:

- A. Whether stay and release to his family or guardian would be beneficial to the juvenile;
- B. Whether the appeal is taken in good faith with substantial issues, or is taken as a delaying or avoidance tactic;
- C. Whether the stay or release of the juvenile would endanger the lives or safety of others; and
- D. The likelihood that the juvenile would appear before any court as ordered.

4. **Double jeopardy.** No person who attains the age of 18 years during the pendency of an appeal, other than from a grant of waiver to adult criminal court, may thereafter be criminally prosecuted as an adult for any conduct arising from the same transaction which was the cause of juvenile court intervention.

In those cases where a stay of judgment or disposition is denied, the Superior Court shall place the matter on an expedited docket.

§ 3406. Bail

Notwithstanding any other provisions of law, any juvenile, adjudged by the juvenile court to have committed a juvenile offense, shall be admitted to bail upon appeal unless the juvenile court shall make a finding of fact with a stenographic record that the juvenile is a danger to himself or the community. If bail is denied, the juvenile may appeal for review to the Superior Court in the same manner as provided in this chapter.

§ 3407. 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 crime 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 crime 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 by this chapter.

§ 3408. 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 maintained according to section 3309.

§ 3409. Appeals to Supreme Judicial 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 in the same manner and form as appeals in criminal actions.

Whenever an appeal is taken in any juvenile case from the Superior Court to the Supreme Judicial 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.

CHAPTER 511

JUVENILE DELINQUENCY PREVENTION AND REHABILITATION

§ 3501. Responsibility of the Department of Mental Health and Corrections

The Department of Mental Health and Corrections is charged with responsibility for:

1. Services. Ensuring the provision of all services necessary to:
 - A. Prevent children and youth from coming into contact with the juvenile court system; and
 - B. Support and rehabilitate those children and youth who do come into contact with the juvenile court;
2. Information. Gathering standardized information on the present and past services needs of children who have come into contact with the juvenile court and gathering standardized information on the extent to which such services needs are being met; and
3. Proposals. Making proposals for meeting the services needs which are not being addressed. In discharging this responsibility, the Department of Mental Health and Corrections shall coordinate its efforts with those of other state or local agencies in order to effectively use existing resources to the maximum extent possible to achieve the purposes of this Part.

§ 3502. Functions of the Department of Mental Health and Corrections

The Department of Mental Health and Corrections shall perform the following functions, as necessary to carry out the responsibility defined in section 3501:

1. Services. Provide direct services to children and their families including, but not limited to:
 - A. Administering, supervising and ensuring the provision of correctional programs for delinquent offenders;
 - B. Assisting communities to establish and provide the necessary range of local services for children and their families, through technical assistance and additional financial resources;
 - C. Working with the Department of Human Services to use to best advantage the available resources of both the income maintenance and social service programs in appropriate titles of the Social Security Act and other federal statutes;
 - D. Working with other public and voluntary agencies as resources for the purchase of care and services;

- E. Stimulating the creation of voluntary services ; and
 - F. Intervening if local agencies fail to provide adequate services for which they are responsible.
2. Planning. Provide leadership in statewide program planning for services to children and families, including, but not limited to :
- A. Collecting and reporting all pertinent data on services recipients, programs and unmet needs ;
 - B. Analyzing needs of children and families ;
 - C. Promoting the development of comprehensive children and families services systems based on needs ;
 - D. Ensuring effective utilization not only of social services, but of all existing services and resources for children and their families, under both public and private auspices, and, when necessary, encouraging their development and expansion.
 - E. Promoting a teamwork approach and bringing together the various fields interested in developing services for children and their families ;
 - F. Providing planning grants for local communities ; and
 - G. Seeing that state planning is implemented and that comprehensive services are available in all communities.
3. Regulation. Work with other appropriate state departments to regulate agencies that provide services to children and their families, including, but not limited to :
- A. Setting standards and minimum requirements ;
 - B. Licensing voluntary agencies and others in the private sector ;
 - C. Approving program agencies as meeting the minimum requirements of the licensing authority ; and
 - D. Supervising public agencies and providing consultation to assist voluntary agencies and others in the private sector to improve services.
4. Evaluation. Work with other appropriate state departments to evaluate agencies, individuals and institutions that provide services to children and their families, including, but not limited to :
- A. Ensuring compliance with the regulations for use of public funds ;
 - B. Evaluating quality and cost effectiveness of services ; and
 - C. Monitoring and assisting local agencies and service contractors, including proprietary agencies, to assure that they are carrying out their service responsibilities appropriately and effectively.
5. Appeals. Provide structure for appeals, fair hearings and a review of grievances about service provision by children and their families, includ-

ing, but not limited to protecting the rights of individuals to appeal against denials of or exclusion from the services to which they are entitled, actions that negate the individual's right of choice to specific programs, or actions that force involuntary participation in a service program.

6. Training. Develop and train department staff, including, but not limited to:

A. Meeting the need for professional personnel for juvenile services, through inservice training, institutes, conferences and educational leave grants;

B. Upgrading education and competence of professional and other personnel and volunteers; and

C. Making staff and training facilities available for training of staff and volunteers in contractor agencies or facilities to assure effective provision of purchased services.

7. Research and demonstration. Conduct research and demonstration projects, including but not limited to entering into contracts with other agencies and making grants for research, including basic research into the causes of social problems of children and their parents, evaluation of methods of service delivery in use, and development of new approaches.

8. Wards. In regard to individual children for whom the department has accepted responsibility, it should:

A. Make appropriate services available to them, either directly or by purchase of or payments for such services provided by another agency;

B. Assume responsibility, to the extent that parents are unable to do so, for payment for services;

C. Assume legal custody of children or legal guardianship when vested by the court;

D. Take necessary action for the appointment of a guardian of the person of children who do not have a parent to exercise effective guardianship;

E. Carry continuing responsibility for seeing that the children and parents are receiving appropriate services in accordance with their needs.

§ 3503. Department of Mental Health and Corrections administrative plan for juvenile delinquency prevention and rehabilitation

To further effect the intent of this chapter to clearly specify a locus of responsibility for identifying, evaluating and meeting the service needs for delinquency prevention and rehabilitation, the Commissioner of Mental Health and Corrections shall prepare an administrative plan which describes who is responsible for performing the various Department of Mental Health and Corrections' functions described in this chapter. The plan shall describe both supervisory and line responsibilities. The initial plan shall be submitted to the Governor and the Legislature in January of 1979. Subsequent-

ly revised plans shall be submitted to the Governor and the Legislature in January of each year.

§ 3504. Transfers

1. **Approval.** The Department of Mental Health and Corrections may transfer any child committed to its care from one facility or program to another, except that before any child is transferred, he shall be examined and evaluated and such evaluation shall be reviewed and approved by the commissioner or his designee.

2. **Emergency exception.** When the commissioner finds that the welfare and protection of a child or of others requires the child's immediate transfer to another facility, he shall make the transfer prior to having the child examined and evaluated.

3. **Restrictive placements:**

A. Notwithstanding the provisions of subsections 1 and 2, the transfer of any juvenile from a less restrictive placement to a more restrictive placement shall be reviewed by the juvenile court that originally ordered the child's placement within 48 hours of the transfer, excluding Saturdays, Sundays and legal holidays.

B. In order to continue the more restrictive placement, a court must find:

(1) That it is necessary to:

(a) Protect the juvenile; or

(b) Protect the community; and that

(2) No other available less restrictive placement will protect the juvenile or the community.

C. Notwithstanding the provisions of paragraph A, the commissioner shall not have the authority to place any child committed to the department in an adult penal institution.

§ 3505. Contracts and agreements with public and private agencies

1. **Purpose.** The Commissioner of Mental Health and Corrections may enter into agreements or contracts with any governmental unit or agency or private facility or program cooperating or willing to cooperate in a program to carry out the purposes of this Part. Such contracts or agreements may provide, among other things, for the type of work to be performed, for the rate of payment for such work and for other matters relating to the care and treatment of children.

2. **Custody.** Placement of children by the department in any public or private facility or program not under the jurisdiction of the department shall not terminate the legal custody of the department; and

3. **Inspection.** The department shall have the right to inspect all facilities used by it and to examine and consult with persons in its legal custody who have been placed in any such facility.

§ 3506. Directors of programs

A director of a facility or program run by the Department of Mental Health and Corrections or a facility or program with which the department contracts for services shall:

1. Reports. Report to the Commissioner of Mental Health and Corrections at such times and on such matters as the commissioner may require;

2. Responsibilities. Receive, subject to limitations on physical capacity and programs, all children committed to the custody of the department and placed in his care under the provisions of this Part and to keep them for rehabilitation, education and training until discharged by law or under the rules of the department or released on probation; and

3. Evaluations. Secure a careful and thorough evaluation of every child placed under his care at intervals no greater than 6 months, such evaluation to ascertain whether the child should be released, whether his program should be modified or whether his transfer to another facility should be recommended.

§ 3507. Rules and regulations

It is the duty of the Department of Mental Health and Corrections to develop and promulgate by January, 1979 such rules and regulations as may be necessary for imparting instruction, preserving health and enforcing discipline of children pursuant to this chapter.

§ 3508. Expenses for transporting children long distances

The Department of Mental Health and Corrections shall pay any expenses incurred by local agencies for transporting a juvenile more than 100 miles pursuant to the provisions of this Part to an intake worker, a placement directed by the intake worker or a juvenile court.

§ 3509. Transfer of officers and employees

Effective July 1, 1978, such officers and employees who are deemed by their department to have engaged prior to said date in the performance of powers, duties and functions related to the obligations and powers transferred pursuant to the provisions of this Part shall become officers and employees of the Department of Mental Health and Corrections and shall become subject to the State Personnel Law. With respect to retirement benefits, the services of officers and employees transferred under this section shall be deemed continuous. All transfers shall be made and processed in accordance with the State Personnel Law and rules and regulations promulgated pursuant thereto.

§ 3510. Plans for shelter and detention services

1. Process. The Department of Mental Health and Corrections, with the advice of the Department of Human Services, the Department of Educational and Cultural Services, representatives of the District Court Judges and Superior Court Justices, representatives of the Maine Criminal Justice

Planning and Assistance Agency and the State Court Administrator shall develop a statewide plan for providing shelters and services for children:

- A. Referred to intake workers;
- B. Pending court action; and
- C. Following adjudication.

2. Contents. To the best of the department's ability, such plan shall include projected numbers of children to be served by type of service, including diagnosis, evaluation and location; recommend the content and scope of detention and shelter services; and set forth the estimated cost of services and facilities which are recommended, including any alterations or remodeling of existing facilities.

3. Due date. Such plan, with recommendations, shall be made available to the Legislature not later than January, 1979.

CHAPTER 513

JUVENILE PROBATION SERVICES

§ 3601. Department of Mental Health and Corrections probation services

1. Juvenile probation officers. Juvenile probation officers shall be employees of the Department of Mental Health and Corrections.

2. Interagency agreements.

A. The department is authorized to enter into agreements with the state agencies, other public agencies, private nonprofit agencies to provide supervision or other services to children placed on probation by the juvenile court.

B. The conditions and terms of any such agreements shall be set forth in writing, including any payments to be made by the department for the services provided.

C. Any agreement made under this subsection may be terminated upon 90 days' written notice by either party thereto.

§ 3602. Juvenile probation officers, powers and duties

1. Investigations. Juvenile probation officers appointed under the provisions of this chapter shall make such investigations and keep written records thereof as the court may request.

2. Written statement of probation terms. When any child is placed on probation, the juvenile probation officer shall give the child a written statement of the terms and conditions of his probation and shall explain fully such terms and conditions to him.

3. Activities and report of activities.

A. Each juvenile probation officer shall keep himself informed as to the condition and conduct of each child placed under his supervision and shall

report thereon to the court and to the department as they may direct.

B. He shall use all suitable methods including counseling to aid each child under his supervision and shall perform such duties in connection with the care and custody of children as the court may direct.

C. He shall keep complete records of all work done.

4. Change of residence.

A. When a juvenile probation officer learns that a child under his supervision has changed his residence to another district, he shall immediately notify the court.

B. The court may then transfer the probation records of such child to the juvenile court of the district to which the child has moved, together with a request that such court direct the probation supervision of the child. The juvenile court of the district to which the child has moved shall then place the child under probation supervision.

CHAPTER 515

RUNAWAYS

§ 3701. Runaway juveniles, voluntary return home

If a minor who has been taken into temporary custody under the provisions of section 3203 and his parents, guardian or custodian agree to the minor's return home, the minor shall be transported as soon as practicable to the residence of the parent, guardian or custodian at the latter's expense, unless indigent.

§ 3702. Runaway juveniles, foster care

If the minor refuses to return home and is under the age of 16 years, and if no other living arrangements agreeable to the minor and to the parent, guardian or custodian can be made, an intake worker shall offer the minor shelter in a licensed temporary residential care facility, licensed group home or licensed foster home which is located as close as possible to the residence of the parent, guardian or custodian pursuant to the provisions of sections 3203, 3206 and 3207.

§ 3703. Runaway juveniles, neglect petition

If the parent, guardian or custodian refuses to allow the minor to return home, and no other living arrangements agreeable to the minor and the parent, guardian or custodian can be made, an intake worker shall refer the minor to the Department of Human Services. On referral to the Department of Human Services, a protective services worker shall determine whether a neglect petition shall be filed in court.

§ 3704. Runaway juveniles, emancipation

1. Filing of petition. Notwithstanding the provisions of section 3703, if the minor is 16 years of age or older, and either the minor refuses to return home or the parents, guardian or custodian refuse to permit the minor to

remain away from home, legal counsel shall be appointed for the minor and the minor may file with the court a petition for emancipation. The court shall schedule a hearing date and shall notify the parent, guardian or custodian of the date of the hearing, the legal consequences of an order of emancipation, and their rights to be presented by legal counsel and to present evidence at the hearing. The court shall grant an order of emancipation if it finds either that the refusal of the parent, guardian or custodian to permit the minor to remain away from home is unreasonable, or that the minor is sufficiently mature to assume responsibility for his or her own care.

2. Identification of service resources. It shall be the responsibility of the juvenile to identify available community resources to help in the juvenile's emancipated life to any extent necessary, to develop a plan for the provision of such services and to demonstrate that these social service agencies have agreed to provide such support. Before the court grants a petition for emancipation, it shall review and approve this services plan.

3. Denial of petition. If the court denies the petition for emancipation, it shall offer the minor shelter in a licensed temporary residential care facility in a county of residence of the parent, guardian or custodian. The cost of such return shall be borne by the Department of Mental Health and Corrections.

§ 3705. Runaway minors returned from another state

When a runaway minor is returned to Maine from another state, he shall be referred immediately to an intake worker and shall be processed according to the provisions of this chapter.

§ 3706. Responsibility of the Department of Human Services

1. General services responsibility. The Department of Human Services shall have responsibility for providing substitute care placements, support and rehabilitative services to runaway children and their families, including 24-hour emergency shelter care, respite care and long-term care, family crisis counseling, continuous case follow-up and review and return to home

2. Protective services. All runaway cases shall be reviewed by the department protective services staff to determine whether a neglect petition may be required.

3. Interagency responsibility. In carrying out the responsibility specified in this section, the Department of Human Services shall coordinate its planning and service delivery activities with those of the Department of Mental Health and Corrections. In particular, the Department of Human Services shall provide the Department of Mental Health and Corrections' intake workers with the information necessary for them to effectively perform the functions described in this chapter.

CHAPTER 517

HABITUAL TRUANTS AND DROPOUTS

§ 3801. Truants, referral to pupil evaluation team

1. Referral. Any person under the age of 17 years who is an habitual truant from school, within the meaning of any law of this State, shall be referred to a pupil evaluation team pursuant to section 3805.

2. Uncooperative parents. In the event that a parent or guardian in charge of a minor described in Subsection 1 fails to respond to directives of the pupil evaluation team or to services offered on behalf of the minor, the pupil evaluation team shall direct that the minor and his family be referred to the Department of Human Services with a request that a protective services evaluation be conducted and the pupil evaluation team may request the school district to file a criminal complaint, pursuant to Title 20, section 911 against the parent, guardian or other person in charge of such minor.

§ 3802. Truants, arrest

1. No power to arrest. No person shall have any power to arrest a minor described in section 3801, subsection 1 for that behavior alone.

2. Custody. An habitual truant may be taken into custody pursuant to section 3203.

§ 3803. Pupil evaluation teams, establishment and composition

1. Establishment. There shall be within every administrative unit of the Department of Educational and Cultural Services one or more pupil evaluation teams, as needed.

2. Composition. Each pupil evaluation team shall include, but not be restricted to, administrative, instructional and pupil personnel staff of the administrative unit and parents of school age children.

§ 3804. Pupil evaluation teams, powers and duties

The pupil evaluation team shall be responsible for doing an evaluative study of all students referred to as habitual truants. Each team shall gather necessary diagnostic data, evaluate the educational significance of such data and formulate appropriate plans for the child's program. The pupil evaluation team shall review the diagnostic-evaluation data for each child identified as possibly requiring special education and shall recommend an appropriate program to the superintendent. If additional data or special consultants are necessary, the pupil evaluation team shall recommend such services to the superintendent of schools.

§ 3805. Pupil evaluation teams, proceedings

1. Referral for evaluation. Each pupil evaluation team shall act upon such habitual truancy cases as are referred to it by a school district, principal, teacher, an intake worker, probation officer, law enforcement officer, the juvenile court or by the habitual truant minor or his parent or guardian.

2. Who may appeal at hearings. Upon referral of the case of a minor, the pupil evaluation team shall set a date for a hearing, at which the minor and his parents shall appear. The minor, his parent or the team may also

invite any other person to be present who is acquainted with the minor and may be able to make a contribution to the proceedings.

3. **Informal proceedings.** Proceedings before the pupil evaluation team shall be of an informal nature. They shall entirely avoid the appearance of formal judicial proceedings. Their purpose is not to assign blame to the minor or others, but to determine what might be done to better insure that the minor attend school on a regular basis.

4. **Confidential proceedings.** The proceedings shall be confidential, and shall not be used directly or indirectly as evidence in any judicial proceedings, except with the consent of the minor or where specifically permitted by this chapter.

5. **Continuation of hearing.** At the minor's initial hearing before the team, the team may order the hearing to be continued to a date certain to permit the appearance of any person who the team wishes to interview. The team may also request any public or private agency having knowledge of the minor to appear before them and the hearing may be continued as necessary to permit a representative of such agency to appear.

6. **Conclusion of hearings.** The proceedings should ordinarily be concluded within 30 days after the minor is referred.

7. **Decision.** At the conclusion of the proceedings, the team shall announce its decision and findings as to what, if any, services should be provided to correct any deficiency in the minor's education, health or behavior, and circumstances which appear to be responsible for the act or situation which caused the minor to be referred to the team and which appear necessary to best insure that the minor regularly attends school.

8. **Referral for services.** The team may refer the minor to a locally provided program or any program approved by the Department of Human Services or the Department of Mental Health and Corrections, except that no minor, for habitual truancy alone, shall be referred to a residential program or facility that is secure or that houses juveniles accused of or adjudicated of delinquent behavior, or adults accused of or adjudicated of criminal behavior.

9. **Custody.** No order of the team and no program to which a minor is referred by the team shall require that the minor be removed from the custody of his parent.

10. **Appeal.** An appeal from a finding of the pupil evaluation team may be made pursuant to the Maine Rules of Civil Procedure, Rule 80B.

§ 3806. Provision of special education services to truant children

1. **Special school programs.** When the pupil evaluation team and the superintendent of schools agree that an habitually truant child needs a special education program, the administrative unit shall provide such a program as soon as possible. Such a program may be provided directly by the student's school district or through arrangements between that district and another local school administrative unit.

2. Regular school programs.

A. Insofar as possible and consistent with their educational needs, habitually truant children shall be maintained in the regular school program by the provision of supplementary instruction or special services. However, when special class placement is the desirable program, such special class shall be provided.

B. Children in special classes are entitled to such other regular and special instruction or services as may be needed.

C. If establishment of such a class or program is not feasible, the administrative unit shall seek to place each such child in an appropriate special education program on a regional basis or in a private school. Regional basis shall be defined as any 2 or more administrative units joining together to provide programming that insures equal educational opportunities for children who are habitually truant.

D. Exception to the policy of local or regional public school programming shall be based on appropriate supporting documentation provided to the department by the school administrative unit, explicitly indicating why a special education program cannot be established on a local or regional public school basis. Appropriate documentation for program placement of all habitually truant children shall be maintained by the local administrative unit.

E. Special classrooms, resource rooms and other areas provided for special services for habitually truant children shall be conveniently located, well lighted, comfortable and free of interruptions and environmental noise, and shall have adequate emergency exits. In most cases, instruction shall be provided within a regular public school serving children approximately the same chronological age as the habitually truant child.

F. An appropriate curriculum designed to help the child make maximum progress shall include opportunities to participate in all aspects of the total school program within the limits of his ability.

§ 38c7. Pupil evaluation teams, contracts

1. Contracts. From moneys that shall be made available for that purpose by the Department of Educational and Cultural Services, the Commissioner of Educational and Cultural Services or his designee shall enter into contracts with public and private agencies to provide services to habitually truant juveniles.

2. Competitive basis. Such contracts shall be let on a competitive basis within each region. No contract shall be for a term in excess of 2 years, and every contract shall be terminable at any time for cause. No contract shall be renewed except on an affirmative showing that it has been effective in assisting the minors referred to participate regularly in an educational program and upon a finding by the commissioner or his designee that the agency requesting renewal can be expected to deliver performance in this

regard which will be superior to that of other programs which may be competing for the funds which are available.

3. Regulations.

A. The commissioner or his designee shall adopt regulations pursuant to the provisions of this Part for the operation of programs to be approved and funded hereunder, and for the granting of contracts pursuant to this chapter.

B. Within one year of the effective day of this chapter, and from time to time thereafter, the commissioner or his designee shall adopt regulations pursuant to the provisions of this Part for the evaluation of programs for which contracts have been granted, for use in making all decisions concerning the termination and renewal of such contracts.

§ 3808. Withdrawal and follow up of habitually truant juveniles from school

If, after reasonable and sustained efforts to maintain the child in an educational program which is responsive to his needs, the child refuses to participate in an educational process, he shall be contacted by his local education agency's pupil evaluation team at least every 4 months until his 17th birthday and encouraged to return to an educational program designed to meet his needs. Such educational programs shall be made available by the student's local education agency with assistance from the Department of Educational and Cultural Services.

CHAPTER 519

MISCELLANEOUS PROVISIONS

§ 3901. Juveniles adjudicated under prior law

All juveniles adjudicated delinquent or placed pursuant to any dispositional hearing under prior law because of any conduct not proscribed by this Part shall be released, unless proceeded pursuant to the provisions of this Part within one year after its effective date.

§ 3902. Severability

If any provision of this Part or the application thereof to any person or circumstance is held unconstitutional, the remainder of the Part and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this Part are declared to be severable.

Sec. 2. 15 MRSA § 2501 is repealed.

Sec. 3. 15 MRSA § 2502, as amended by PL 1975, c. 62, §§ 1 and 2, is repealed.

Sec. 4. 15 MRSA § 2503 is repealed.

Sec. 5. 15 MRSA § 2551 is repealed.

Sec. 6. 15 MRSA § 2552, as last amended by PL 1975 c. 731, § 15, is repealed.

Sec. 6-A. 15 MRSA § 2553 is amended to read:

§ 2553. Uniform compact petition

Juvenile courts shall have jurisdiction over all petitions, brought under the Uniform State Compact on Juveniles, Title 34, chapter 9, pertaining to juveniles ~~as defined in section 2502~~, who have been adjudged delinquent in other states, but who are found within the territorial jurisdiction of Maine, provided that the offense or act involved is of such nature that had it been committed originally in Maine it would have fallen within the jurisdiction of Maine juvenile courts.

Sec. 7. 15 MRSA § 2554 is repealed.

Sec. 8. 15 MRSA §§ 2601-2605, are repealed.

Sec. 9. 15 MRSA § 2606, as amended by PL 1971, c. 528, § 1, is repealed.

Sec. 10. 15 MRSA § 2607, as last amended by PL 1973, c. 625, § 289, is repealed.

Sec. 11. 15 MRSA § 2608, as repealed and replaced by PL 1975, c. 538, § 1, is repealed.

Sec. 12. 15 MRSA §§ 2609 and 2610 are repealed.

Sec. 13. 15 MRSA § 2611, as last amended by PL 1975, c. 756, §§ 2-4, is repealed.

Sec. 14. 15 MRSA § 2661, as last amended by PL 1975, c. 538, § 8, is repealed.

Sec. 15. 15 MRSA § 2662, as enacted by PL 1967, c. 389, is repealed.

Sec. 16. 15 MRSA §§ 2663-2665, are repealed.

Sec. 17. 15 MRSA § 2666, as amended by PL 1973, c. 625, § 86, is repealed.

Sec. 18. 15 MRSA § 2667 is repealed.

Sec. 19. 20 MRSA § 911, 6th sentence is amended to read:

All persons having children under their control shall cause them to attend school as provided in this section, and any person having control of a child who is an habitual truant as defined in section 914 and being in any way responsible for such truancy, and any person who induces a child to absent himself from school, or harbors or conceals such child when he is absent, shall be punished by a fine of not more than ~~\$25~~ \$500 or by imprisonment for not more than 30 days for each offense.

Sec. 20. 20 MRSA § 3123, sub-§ 1, as repealed and replaced by PL 1975, c. 732, § 2, is amended to read:

1. **Exceptional children.** "Exceptional children" means any persons who reach the age of 5 years on or before October 15th of any school year and until the end of the school year in which such persons reach the age of 20 years who require special services in the area of vision, audition, speech and language, cerebral or perceptual functions, physical mobility functions, behavior, mental development or maturation, or multiples of these functions, as defined by the commissioner, so that their educational progress and potential may be realized and any persons who reach the age of 7 years on or before October 15th of any school year and until the end of the school year in which such persons reach the age of 17 years who are habitually truant from school or who have dropped out of school.

Sec. 21. **Effective date.** This Act shall take effect on July 1, 1978.

STATEMENT OF FACT

This bill provides for a new, comprehensive State Juvenile Code. These provisions are the result of the work of the Maine Commission to Revise Statutes Relating to Juveniles, which was established by the 107th Legislature.

This new code provides for a central point of state responsibility for services to juveniles adjudicated delinquent and for delinquency prevention. It clarifies responsibilities for services to runaways, truants and dropouts and children and youth who are beyond the control of their parents. It also provides detailed procedures for focusing the resources of the juvenile justice system on juvenile crime in a manner which is respectful of considerations of public safety and individual constitutional rights.

In preparing this code, the commission consulted extensively with representatives of the judiciary, state administrative agencies, the Legislature, law enforcement officials, lawyers, educators, family and children's services workers, parents, youth and other interested members of the public. The commission held 2 rounds of public hearings throughout the State. Individual members met with numerous groups and committees. Staff conducted extensive research as background for commission deliberations. A final report of this 18-month process will be available to the Legislature, along with considerable additional supporting documentation of analysis and recommendations.