

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1626, L.D. 2289, Bill, "An Act to Require Out-of-control Children under 15 Years of Age to Receive Needed Substance Abuse and Mental Health and Educational Services Involuntarily"

Amend the bill by striking out the title and substituting the following:

'An Act Concerning the Needs of Out-of-control Children'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 15 MRSA §3501, sub-§1, as enacted by PL 1977, c. 520, §1, is amended to read:

1. Interim care. A juvenile may be taken into interim care by a law enforcement officer without order by the court when the officer has reasonable grounds to believe that:

A. The juvenile is abandoned, lost or seriously endangered in his the juvenile's surroundings and that immediate removal is necessary for his the juvenile's protection;-er

B. The juvenile has left the care of his the juvenile's parents, guardian or legal custodian without the consent of such that person-; or

Sec. 2. 15 MRSA §3501, sub-§1, ¶C is enacted to read:

C. The juvenile is under 15 years of age and is in need of supervision or treatment as defined in Title 22, section 4002, subsection 6-B.

Sec. 3. 15 MRSA §3501, sub-§7, ¶B, as amended by PL 1985, c. 439, §18, is further amended to read:

**COMMITTEE AMENDMENT**

2 B. Notwithstanding paragraph A, a juvenile taken into  
interim care, other than a juvenile taken into interim care  
4 because the juvenile is in need of supervision or treatment,  
may be held, if no other appropriate placement is available,  
6 in the public sections of a jail or other secure  
correctional facility if there is an adequate staff to  
8 supervise the juvenile's activities at all times, including  
an approved detention facility operated exclusively for  
10 juveniles.

12 **Sec. 4. 15 MRSA §3501, sub-§10** is enacted to read:

14 10. Child in need of supervision or treatment. If a child  
under 15 years of age is taken into interim care because the  
16 juvenile is in need of supervision or treatment, the Department  
of Human Services shall:

18 A. Initiate proceedings under Title 22, chapter 1071; or

20 B. Inform the juvenile and the juvenile's family of the  
22 procedures applicable in situations in which a juvenile is  
in need of supervision or treatment as provided in Title 22,  
24 chapter 1071.

26 **Sec. 5. 22 MRSA §4002, sub-§6-B** is enacted to read:

28 6-B. Need of supervision or treatment. "Need of  
supervision or treatment" means a child who is under 15 years of  
30 age and is without or beyond the control of any person  
responsible for the child as evidenced by serious harm or threat  
32 of serious harm to the child or others.

34 **Sec. 6. 22 MRSA §4035, sub-§2,** as enacted by PL 1979, c. 733,  
§18, is amended to read:

36 2. **Adjudication.** After hearing evidence, the court shall  
38 make a finding, by a preponderance of the evidence, whether the  
child is in circumstances of jeopardy to his the child's health  
40 or welfare or in need of supervision or treatment.

42 **Sec. 7. 22 MRSA §4035, sub-§3,** as amended by PL 1983, c. 184,  
§5, is further amended to read:

44 3. **Grounds for disposition.** If the court determines that  
46 the child is in circumstances of jeopardy to his the child's  
health or welfare or in need of supervision or treatment, the  
48 court shall hear any relevant evidence regarding proposed

2 dispositions, including written or oral reports, recommendations  
3 or case plans. The court shall then make a written order of any  
4 disposition under section 4036. If possible, this dispositional  
5 phase shall must be conducted immediately after the adjudicatory  
6 phase. Written materials to be offered as evidence shall must be  
7 made available to each party's counsel and the guardian ad litem  
8 reasonably in advance of the dispositional phase.

9  
10 **Sec. 8. 22 MRSA §4036, sub-§1, ¶C**, as enacted by PL 1979, c.  
11 733, §18, is amended to read:

12 C. That the child, the custodians, the parents and other  
13 appropriate family members accept treatment or services to  
14 ameliorate the circumstances related to the jeopardy or the  
15 need of supervision or treatment;

16  
17 **Sec. 9. 22 MRSA §4038, sub-§7, ¶B**, as amended by PL 1991, c.  
18 176, §3, is repealed and the following enacted in its place:

19 B. Before the court may enter an order returning the  
20 custody of the child to a parent, the parent must show that  
21 the parent has carried out the responsibilities set forth in  
22 section 4041, subsection 1, paragraph B and that, to the  
23 court's satisfaction:

24  
25 (1) The parent has rectified and resolved the problems  
26 that caused the removal of the child and any subsequent  
27 problems that would interfere with the parent's ability  
28 to care for and protect the child from jeopardy and  
29 that the parent can protect the child from jeopardy; or

30  
31 (2) If the child was removed because the child was in  
32 need of supervision or treatment, the child is no  
33 longer in need of supervision or treatment.

34  
35 **Sec. 10. 22 MRSA §4055, sub-§3** is enacted to read:

36  
37 3. No termination because of need for supervision or  
38 treatment. The fact that the child is in need of supervision or  
39 treatment alone is not a sufficient ground for the termination of  
40 parental rights.

41  
42 **Sec. 11. Appropriation.** The following funds are appropriated  
43 from the General Fund to carry out the purposes of this Act.

44  
45  
46 1992-93

**ATTORNEY GENERAL, DEPARTMENT OF THE**

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**Human Services Division**

4

Positions-Legislative Count	(2.5)
Personal Services	\$25,652
All Other	2,430
Capital Expenditures	614

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Provides funds for 2 Assistant Attorney General positions and one part-time Legal Secretary position to support children in need of supervision or treatment cases.

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**DEPARTMENT OF THE ATTORNEY GENERAL  
TOTAL**

\$28,696

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**HUMAN SERVICES, DEPARTMENT OF**

20

**Social Services - Regional**

22

Positions-Legislative Count	(48.0)
Personal Services	\$354,105
All Other	813,254
Capital Expenditures	3,684

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Provides funds for 36 Human Services Caseworker positions, 6 Human Services Casework Supervisor positions, 6 Clerk Typist II positions, general operating costs, capital equipment and a range of services such as counseling, substance abuse, out-of-home care and independent living skills.

36

**DEPARTMENT OF HUMAN SERVICES  
TOTAL**

\$1,171,043

38

**JUDICIAL DEPARTMENT**

40

**Courts-Supreme, Superior,  
District and Administrative**

44

Positions-Legislative Count	(1.0)
Personal Services	\$19,191

46

Provides funds for one Assistant Clerk

position to support additional new cases  
filed in the court system.

JUDICIAL DEPARTMENT  
TOTAL

\$19,191

TOTAL APPROPRIATIONS

\$1,218,930

FISCAL NOTE

1992-93

APPROPRIATIONS/ALLOCATIONS

General Fund

\$1,218,930

This bill provides General Fund appropriations in fiscal year 1992-93 to the Department of the Attorney General in the amount of \$28,696, to the Department of Human Services in the amount of \$1,171,043 and to the Judicial Department in the amount of \$19,191 to fulfill the responsibilities of serving children in need of supervision or treatment.

STATEMENT OF FACT

This amendment replaces the bill. It establishes a new category within the jurisdiction of the child protective laws. The child protective laws, including the court's ability to order services, are expanded to cover not only children in jeopardy, but also children in need of supervision or treatment.

A child comes within the definition of being in need of supervision or treatment if that child is under 15 years of age and is without or beyond the control of the child's parents or any person responsible for the child. Being without or beyond the control of parents or others is evidenced by serious harm or threat of serious harm, as already defined in the current child protective laws, to the child or to others.

This amendment amends the interim care provisions in the Juvenile Code to provide for the handling of juveniles under the age of 15 who meet the definition of being in need of supervision or treatment. It prohibits the holding of a juvenile in need of supervision or treatment in a jail or other secure correctional facility. When a juvenile is taken into interim care because the

2 juvenile is in need of supervision or treatment, the Department  
of Human Services must either take action under the child  
4 protective provisions or inform the juvenile and the juvenile's  
parents of the application of the child protective procedures to  
6 children in need of supervision or treatment. This enables the  
parents to access the child protective system when their children  
are in need of supervision or treatment, but not in "jeopardy" as  
8 currently defined in the laws.

10 This amendment also adds an appropriation and a fiscal note  
to the bill.

12

Reported by the Committee on Judiciary  
Reproduced and distributed under the direction of the Clerk of the  
House  
3/24/92 (Filing No. H-1225)