

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2289

H.P. 1626

House of Representatives, February 4, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative ANTHONY of South Portland.
Cosponsored by Representative RICHARDS of Hampden, Representative MURPHY of
Berwick and Senator TITCOMB of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**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.**



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

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Sec. 1. 22 MRSA c. 1065 is enacted to read:

CHAPTER 1065

INVOLUNTARY SERVICES FOR OUT-OF-CONTROL CHILDREN

§3951. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Officer with responsibility for child welfare. "Officer with responsibility for child welfare" means a law enforcement officer or an employee of the department or the Department of Mental Health and Mental Retardation with responsibility for child welfare services or other services to children.

2. Out of control. "Out of control" means that a child is out of the effective control of a parent or guardian and that the child's condition presents a threat to the welfare and proper development of the child or the child is unwilling to receive services that are necessary for the child's welfare or proper development.

§3952. Protective custody

1. Law enforcement officer's power. If a law enforcement officer has reasonable grounds to believe, based on personal observation, that a child under 15 years of age is out of control, the law enforcement officer may take the child into protective custody. If the law enforcement officer takes the child into protective custody, the child must be delivered within 6 hours for examination by a licensed physician or licensed clinical psychologist.

2. Certificate not executed. If the examiner does not certify that the child is out of control, the law enforcement officer shall release the child from protective custody and return the child to the child's residence or the place where the child was taken into protective custody.

3. Certificate executed. If the examiner certifies that the child is out of control, the law enforcement officer shall petition the District Court for an involuntary child services order under section 3953. The child may not be kept in protective custody for longer than 18 hours and may not be kept at an adult or juvenile detention facility.

2 4. Notice to parent or guardian. A law enforcement officer
4 who takes a child into protective custody under this section
 shall notify the child's parent or guardian immediately.

6 **§3953. Petition**

8 1. Petitioners. A parent or guardian or an officer with
10 responsibility for child welfare may petition the District Court
 for an involuntary child services order with regard to a child
 under 15 years of age.

12 2. Notice. A person filing a petition under this chapter
14 shall give immediate notice to the child and, if the petitioner
 is not the child's parent or guardian, to the parent or guardian.

16 3. Emergency order. If the court determines that the child
18 appears to be out of control, the court may issue an immediate ex
20 parte emergency order requiring the immediate provision of
 eligible services if the services are necessary for the immediate
 welfare of the child.

22 4. Permanent order. If, after an opportunity for full
24 hearing, the court determines that further services are necessary
26 for the child's welfare and proper development, the court shall
 refer the child to the department for evaluation and
 recommendation of services. The court may order any services
 authorized in subsection 5.

28 5. Eligible services. The court's order may include but is
30 not limited to the following actions:

32 A. Requiring that services be provided to the child and
34 that the child cooperate in the provision of services.
36 Services that may be required include, but are not limited
38 to, residential services, in-home services, family therapy,
 substance abuse services, mental health services, medical
 services, substance abuse counseling and educational
 tutoring; and

40 B. Requiring the child to reside at a specified location,
42 which may include the parent's or guardian's home or another
 location.

44 6. Payment for services. The court may require the child's
46 parent or guardian to pay for services that are ordered under
48 this section. If the parent or guardian is unable to contribute
 to payment for services and no other source of payment is
 available, the court shall order the department to pay for the
 services.

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2 **§3954. Return of child**

4 If a child is habitually absent from a residence ordered
6 under section 3953, an officer with responsibility for child
8 welfare may return the child to the ordered residence.

10 **§3955. Review**

12 A court issuing an involuntary child services order under
14 this section shall review its order at least every 6 months and
16 may review the order more frequently if requested by the child,
18 the child's parent or guardian or an officer with responsibility
20 for child welfare.

22 **§3956. Procedures**

24 **1. Representation of child.** The court shall appoint a
26 guardian ad litem for the child in the same manner as required in
28 section 4005.

30 **2. Representation of parent or guardian.** Parents and
32 guardians are entitled to representation in proceedings under
34 this chapter in the same manner as in child protective
36 proceedings. The court shall appoint counsel for indigent
38 parents or guardians in the same manner as provided in child
40 protective proceedings as provided in section 4005.

42 **3. Conduct of proceedings.** Proceedings under this chapter
44 must be conducted in the same manner as child protective
46 proceedings, as provided in section 4007.

48 **4. Appeals.** An order of a court under this chapter may be
appealed in the same manner as provided in child protective
proceedings, as provided in section 4006.

36 **STATEMENT OF FACT**

38 This bill establishes laws similar to the mental health
40 involuntary commitment laws. It provides a process for a court
42 to determine if a child under 15 years of age is out of control
44 and unable or unwilling to receive necessary services and if a
46 child is in need of involuntary residential placement. If the
48 court makes that determination, it may order the necessary
services. It requires the Department of Human Services to advise
the court and make recommendations with regard to the child. The
bill also authorizes that if a child runs away from a placement,
the child may be returned to the placement.