

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1508

H.P. 1073

House of Representatives, May 9, 1995

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

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative FITZPATRICK of Durham.
Cosponsored by Representative: BRENNAN of Portland.

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

4 **Sec. 1. 5 MRSA §931, sub-§1, ¶L-1,** as enacted by PL 1991, c.
376, §18, is repealed.

6 **Sec. 2. 5 MRSA Pt. 16-A** is enacted to read:

8 PART 16-A

10 STATUS OF YOUTH AND FAMILIES

12 CHAPTER 362

14 MAINE COMMISSION FOR YOUTH AND FAMILIES

16 §7019. Maine Commission for Youth and Families

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

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

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

32 (1) One Senator; and

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

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

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

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

42 C. The Governor shall appoint the following members:

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

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

50 (3) Three persons who represent the general public.

2 D. The Governor shall designate one member, upon the
3 recommendation of the Interdepartmental Council, who is a
4 nonvoting member of the commission.

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

16 When a member's term expires, that member continues to serve
17 until a successor is appointed. Any member may be removed for
18 cause, including excessive absences from commission meetings, by
19 the appointing authority. The commission shall determine when a
20 member's absences have been excessive.

22 The appointing authority shall fill any vacancies on the
23 commission in the same manner in which a regular appointment is
24 made.

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

28 5. Meetings. The commission shall meet at least 4 times a
29 year. Additional meetings may be held as necessary at the call
30 of the chair or any 2 members. Meetings must be announced in
31 advance and open to the public as required by Title 1, chapter
32 13, subchapter I.

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

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

42 **§7020. Commission duties**

44 The commission shall:

46 1. Advise and consult. Advise and consult with the
47 Governor and the Legislature about the status of services to the
48 State's youth and families;

2 **§1451. Mental illness and likelihood of serious harm**

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

8 **Sec. 5. 34-B MRSA §6201, sub-§1-A** is enacted to read:

10 **1-A. Child in need of supervision.** "Child in need of
12 supervision" means:

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

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

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

24 **Sec. 6. 34-B MRSA §6204, sub-§1, ¶B,** as enacted by PL 1985, c.
26 503, §12, is amended to read:

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

32 **Sec. 7. 34-B MRSA §6204, sub-§1, ¶C,** as amended by PL 1987, c.
34 349, Pt. H, §27, is further amended to read:

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

- 40 (1) Advocacy;
- 42 (2) Assessment and diagnosis;
- 44 (3) Child development;
- 46 (4) Consultation and education;
- 48 (5) Crisis intervention;
- 50 (6) Family guidance and counseling;

- 2 (7) Preventive intervention;
- 4 (8) Professional consultation and training;
- 6 (9) Respite care and other family support services;
and
- 8 (10) Treatment, and

10 **Sec. 8. 34-B MRSA §6204, sub-§1, ¶D** is enacted to read:

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

16 (1) The bureau shall provide or arrange for the
provision of at least the following services:

18 (a) Administrative services, including the
20 establishment of:

22 (i) Regional service delivery coordination
sites;

24 (ii) A central placement review committee;
26 and

28 (iii) A statewide program evaluation
component; and

30 (b) Service delivery systems, including:

32 (i) A statewide primary prevention program;

34 (ii) A statewide public education program;

36 (iii) Early intervention;

38 (iv) Peer counseling and support;

40 (v) Information and referral;

42 (vi) Case management;

44 (vii) Transportation to necessary services;

46 (viii) Aftercare;

48 (ix) Mediation;

50 (x) Evaluation and assessment services;

- 2 (xi) Outpatient mental health services;
- 4 (xii) Outpatient substance abuse services;
- 6 (xiii) Family support services;
- 8 (xiv) Home-based service teams;
- 10 (xv) Homeless shelters and emergency
shelters;
- 12 (xvi) Semi-independent living programs;
- 14 (xvii) Day treatment;
- 16 (xviii) Therapeutic foster homes;
- 18 (xix) Therapeutic group homes;
- 20 (xx) Residential treatment facilities;
- 22 (xxi) Psychiatric hospital care; and
- 24 (xxii) Secure treatment facilities.

26 (2) The bureau shall work with other state agencies
28 that have primary responsibility for providing the
30 following services to ensure their availability as part
32 of the full spectrum of services for children in need
34 of supervision:

- 36 (a) Employment resource services;
- 38 (b) Educational resources;
- 40 (c) Child protective program augmentation; and
- 42 (d) Establishment of a 24-hour hotline for
44 parents and children to access services.

46 **Sec. 9. 34-B MRSA §6204, sub-§2,** as enacted by PL 1985, c.
48 503, §12, is amended to read:

50 **2. Powers.** The bureau may perform the duties described in
subsection 1 and may provide services to children in need of
treatment and to children in need of supervision through
state-operated facilities and programs or through contracts and
grants to public and private agencies. In all cases, the bureau
shall ensure that services are provided in the least restrictive

2 setting consistent with the child's needs, commensurate with the
resources available to the bureau and in coordination with
4 services and resources of other state agencies serving children
and families. Emphasis shall must be placed on maintaining each
6 child in his the child's natural home or in an alternative
placement within the community whenever possible.

8 **Sec. 10. 34-B MRSA c. 6, sub-c. II-A** is enacted to read:

10 **SUBCHAPTER II-A**

12 **CHILDREN IN NEED OF SUPERVISION**

14 **§6211. Definitions**

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

20 1. **Adjudicatory hearing.** "Adjudicatory hearing" means a
hearing to determine whether the allegations of a petition
alleging a child to be in need of supervision are supported
22 beyond a reasonable doubt.

24 2. **Advisory hearing.** "Advisory hearing" means the initial
hearing conducted by the court to inform the child and the
26 child's parent, guardian, custodian or other interested parties
of their statutory and constitutional rights.

28 3. **Child in need of supervision.** "Child in need of
30 supervision" means:

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

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

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

42 4. **Court.** "Court" means the District Court.

44 5. **Custodian.** "Custodian" means any foster parent,
employee of a public or private residential home or facility,

2 other person legally responsible for a child's welfare in a
3 residential setting or person providing in-home or out-of-home
4 care.

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

8 7. Detention facility. "Detention facility" means a
9 secured physically restricting facility designed, staffed and
10 operated exclusively for children and separated by sight and
11 sound from adult prisoners.

12 8. Disposition hearing. "Disposition hearing" means a
13 hearing after adjudication at which the court makes an interim or
14 final decision in a case.

15 9. Intake officer. "Intake officer" means an agent of the
16 department authorized to perform all casework functions
17 established by this subchapter for a child alleged to be in need
18 of supervision.

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

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

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

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

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

32 **§6212. Jurisdiction**

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

2 **§6213. Proceedings in best interest of the child**

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

6 **§6214. Preliminary investigation; action**

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

14 **2. Further action.** On the basis of the preliminary
investigation, the intake officer may:

16 A. Decide that no further action is required;

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

24 C. File a petition to commence appropriate proceedings.

26 **§6215. Informal action referral**

28 A report of a preliminary investigation involving an
apparent child in need of supervision may be referred under
30 section 6215, subsection 2, paragraph B only if:

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

38 **2. Jurisdiction.** The facts are admitted and establish
prima facie jurisdiction; and

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

2 §6216. Temporary custody by law enforcement officer; release and
3 detention

4
5 1. Taking into custody permitted. A child may be taken
6 into the temporary custody of a law enforcement officer without
7 order of the court if:

8
9 A. The child is seriously endangered in the child's
10 surroundings or is seriously endangering others and
11 immediate removal of the child appears to be necessary for
12 the protection of the child or others;

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

16
17 C. The child is under the influence of alcohol or other
18 drugs.

19
20 2. Release. An apparent or alleged child in need of
21 supervision taken into custody by a law enforcement officer prior
22 to a temporary custody hearing must be released to the child's
23 parent, guardian or other custodian unless the parent, guardian
24 or other custodian can not be located or in the judgment of the
25 intake officer is not suitable to receive the child, in which
26 case the child must be placed in a shelter.

27
28 3. Detention. A child may not be placed in detention
29 unless the intake officer finds that the parent, guardian or
30 other custodian is not available or is not suitable to receive
31 the child and finds at least one of the following circumstances
32 exists.

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

35
36 B. The child is being held for another jurisdiction as a
37 parole or probation violator, as a runaway or as a child
38 under other court-ordered detention.

39 C. The child has a demonstrated propensity to run away from
40 the child's home, from court-ordered placement outside the
41 child's home or from an agency charged with providing
42 temporary care for the child.

43 D. The child is under court-ordered home detention.
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45
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47
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2 E. There are specific, articulated circumstances that
4 justify the detention for the protection of the child from
 potentially immediate harm to the child's self or to others.

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

8 **§6217. Court-ordered temporary custody**

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

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

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

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

30 **§6218. Temporary care of child by caretaker designated by the**
 court

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

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

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

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

10 **§6219. Notice to parent, guardian or other custodian of child
taken into temporary custody and hearing**

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

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

30 **§6220. Temporary custody hearing**

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

40 2. Need for continuing temporary custody. At the temporary
custody hearing, the court shall consider evidence of the need
42 for continued temporary custody of the child in consideration of
the best interest of the child. The temporary custody hearing
44 may be conducted telephonically when necessary as determined by
the court.

46 **§6221. Options for court following temporary custody hearing**

48 1. Release unless continued custody appropriate. After the
50 temporary custody hearing, the court shall release the child from

2 temporary custody to the child's parent, guardian or other
3 custodian with or without restriction or condition or upon
4 written promise of the parent, guardian or other custodian
5 regarding care and supervision of the child, unless the court
6 finds that the child should be held in temporary custody for any
7 of the following reasons.

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

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

13 C. The child has a demonstrated propensity to run away from
14 the child's home, from court-ordered placement outside the
15 child's home or from an agency charged with providing
16 temporary care for the child.

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

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

21 2. Violation only upon violation of valid court order. An
22 apparent, alleged or adjudicated child in need of supervision may
23 not be placed in detention after the temporary custody hearing
24 unless the child has been found to be in violation of a valid
25 court order.

26 **§6222. Rights of child and parent, guardian and custodian**

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

37 **§6223. Court-appointed attorney**

38 1. Appointment of attorney upon request. If the child or
39 the child's parent, guardian or other custodian requests an
40 attorney in proceedings under this subchapter and if the court
41 finds the party to be without sufficient financial means to
42 employ an attorney, the court shall appoint an attorney for the
43 party.

2 2. Appointment of attorney when necessary. The court may
3 appoint an attorney for any child or other party to the
4 proceedings without request of the party if the court determines
5 that representation by an attorney is necessary to protect the
6 interests of that party.

8 **§6224. Petition alleging child in need of supervision**

10 1. Petition; contents. The department may file with the
11 court a written petition alleging that a child, located within
12 the geographic jurisdiction of that court, is in need of
13 supervision. The petition must include the following:

14 A. The child's name, birthdate and place of residence;

15 B. The name and residence of the child's parent, guardian
16 or other custodian or, if not known, of the child's nearest
17 known relatives;

18 C. A statement of the facts that bring the child within the
19 court's jurisdiction; and

20 D. A request that the court adjudicate the child to be a
21 child in need of supervision.

22 2. Affidavits. Affidavits of social workers or law
23 enforcement officers may be incorporated by reference as part of
24 the petition.

25 **§6225. Summons**

26 1. Directed to child's parent, guardian or other
27 custodian. Upon the filing of the petition, the court shall
28 issue a summons stating the date, time and place for the hearing
29 on the petition that is directed to the child's parent, guardian
30 or custodian, if any. If the petition declares the parties are
31 unknown, then "To All Whom It May Concern" is sufficient to
32 authorize the court to hear and determine the action as though
33 the parties had been described by their proper names.

34 2. Contents. The summons must:

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

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

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

8
9 3. Service. The summons must be served in the same manner
10 as a personal service of summons according to the Maine Rules of
11 Civil Procedure or by publication as a legal notice not less than
12 5 days before the date of the hearing. The child and the other
13 persons named in the summons must be served. Proofs of service
14 must be filed with the court before commencement of the hearing
15 on the petition.

16 **§6226. Failure to appear**

17
18 If the party having custody of an alleged child in need of
19 supervision without reasonable cause fails to bring the child
20 before the court and to appear in person or by attorney with the
21 child as required in the summons, the party may be proceeded
22 against as in civil contempt.

23 **§6227. Advisory hearing before adjudicatory hearing**

24
25 1. Advisory hearing upon appearance of parties. Upon
26 appearance of the parties pursuant to a summons or at any
27 adjournment or continuance of an appearance, the court shall
28 conduct an advisory hearing on the petition.

29 2. Procedure. The court shall conduct the advisory hearing
30 as follows.

31 A. The court shall:

32
33 (1) Ascertain the need for any joinder or deletion of
34 parties, determine accurate names and addresses of
35 parties and their relationships to the child and
36 determine the accurate name, date and place of birth,
37 address and custodial status of the child;

38 (2) Advise the parties of the nature of the
39 proceedings, the allegations contained in the petition,
40 the burden of proof of the State and the statutory and
41 constitutional rights of the parties; and

42 (3) Advise the parties of their right to be
43 represented by attorneys and requirements for
44 court-appointed attorneys, if appropriate, and, if
45 appropriate, to be represented by a guardian ad litem.

2 requested by any party or if required by the court, the
3 court may adjourn and continue the advisory hearing to
4 a date, time and place set by the court to afford the
5 opportunity for the parties to consult with their
6 attorneys.

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

12 **§6228. Disposition and adjudicatory hearings**

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

22 2. Petition not admitted to by all parties. If the
23 petition is not admitted to by all parties, including the child
24 if appropriate, or if the petition is denied by any party or the
25 child, if appropriate, the court shall proceed with the
26 adjudicatory hearing on the petition or schedule the adjudicatory
27 hearing for a later date and time.

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

33 **§6229. Adjudicatory hearing**

34 Following an advisory hearing on a petition, the court shall
35 conduct an adjudicatory hearing.

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

39 2. Adjudication; intermediate order. If the court finds
40 that the allegations in the petition are supported by evidence
41 beyond a reasonable doubt, the court shall adjudicate the child
42 as a child in need of supervision and issue findings of fact,
43 conclusions of law and an order of adjudication stating that the
44 child is a child in need of supervision. The order of

2 adjudication is an intermediate order and is subject to appeal as
3 provided in the Maine Rules of Civil Procedure.

4 3. Disposition phase. The court shall proceed with the
5 disposition phase of the proceedings and shall issue an order
6 setting the date, time and place of the initial disposition
7 hearing and prescribing notice of the hearing. The court may
8 proceed immediately with the initial disposition hearing with the
9 consent of the department, the child and the child's parent,
10 guardian or other custodian or other parties named in the case.

12 4. Interim disposition decree. Upon completion of the
13 adjudicatory hearing resulting in adjudication of the child, the
14 court may issue an interim disposition decree governing custody,
15 placement, care, shelter or detention of the child as determined
16 by the court pending the initial disposition hearing and any
17 continuance of it.

18 **§6230. Examination, investigation and reports of adjudicated**
19 **child before final disposition**

22 After adjudication of a child as a child in need of
23 supervision, the court may require the following examinations,
24 investigations and reports.

26 1. Medical and mental examinations and evaluations. The
27 court may order the child's parent, guardian, custodian and other
28 party or any relative of the child who might be considered a
29 potential caretaker of the child upon disposition to submit to
30 psychological, psychiatric or medical examination and evaluation
31 by a qualified mental health professional or physician and submit
32 the report to the court. The court may issue the order on the
33 motion of the department, the child or any party or on the
34 court's own motion. The order directing the examination and
35 evaluation must state the time, place, manner, conditions and
36 scope of the examination to be made and the person or persons by
37 whom it is to be made.

38 2. Homestudy investigations. The court may order homestudy
39 investigations and reports of the investigations submitted to the
40 court concerning the child's parent, guardian, custodian or any
41 other party or relative of the child who might be a potential
42 caretaker of the child upon disposition. The order for homestudy
43 investigation and a report of the investigation must generally
44 state the conditions and scope of the investigation considered
45 necessary or appropriate by the court under the circumstances.

48 3. Reports. Reports received by the court under this
49 section may be released by the court to attorneys of record for

2 the parties and may be received by the court as evidence in the
3 disposition phase of the proceeding.

4 **§6231. Disposition hearing; interim and final decrees**

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

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

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

28 **§6232. Decree of disposition**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 I. The court may suspend or revoke the child's driving
6 privilege or restrict the privilege in an appropriate manner.

8 **§6233. Notice of adjudication or final decree**

10 Notice of entry of an order of adjudication or a final
12 decree of disposition in any case must be served on the parties
14 to the action. The notice of entry may be served by publication
16 in the same manner as service of summons in actions. If notice
 of entry is served by publication, the service must be considered
 complete as of 5 days after the date of publication. Time for
 appeal commences on the next day following the date of completed
 service of the notice of entry.

18 **§6234. Local interagency team**

20 **1. Establishment of local interagency teams.** The
22 department shall divide the State into service areas. The
24 department shall establish and maintain at least one local
 interagency team for each service area.

26 **2. Duties.** Local interagency teams shall conduct reviews
28 of children in need of supervision as required under section
 6232, subsection 1, paragraph C.

30 **3. Membership.** Each local interagency team consist of the
 following:

32 A. A qualified mental health professional;

34 B. A staff member of a mental health agency serving the
36 area for which the team is appointed;

38 C. A special education administrator or provider from one
 of the school districts in the service area; and

40 D. A representative of the Bureau of Child and Family
42 Services.

44 **Sec. 11. Study.** The Maine Commission for Youth and Families
46 shall conduct a study to evaluate the efficacy of the youth and
48 family service system in the State. The commission shall employ
50 a consultant to perform the study at the direction of the
 commission. The study shall focus on current efforts to
 coordinate the provision of youth and family services by the
 Department of Corrections, the Department of Educational and
 Cultural Services, the Department of Human Services and the

2 Department of Mental Health and Mental Retardation. The
3 commission shall investigate the experience of other states with
4 a centralized coordination system and determine if a such a
5 system, or any other system, would be advantageous in this
6 State. The commission shall submit its report, with any
7 recommended legislation, to the First Regular Session of the
8 118th Legislature by February 1, 1997.

10 STATEMENT OF FACT

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

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

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

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

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

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

38 2. The bill provides authority and funding to the Bureau of
39 Children with Special Needs to implement a broad spectrum of
40 services for children in need of supervision. These needed
41 services will ensure that appropriate treatment services are
42 available to children in need of supervision and that no gaps
43 exist in the services. Under the bill, services will be
44 delivered by the State and through contract with private service
45 providers on a regional basis to ensure adequate coverage of the
46 entire State.

48 3. The bill calls for a further study to be conducted by
49 the Maine Commission for Youth and Families and directs the
50 commission to evaluate the efficacy of the current youth and
family service system in Maine. The commission will employ a

2 consultant to perform the study at the direction of the
commission. In particular, the study will focus on efforts to
4 coordinate the provision of youth and family services by the
various departments of State Government. The commission shall
6 submit its report, with any recommended legislation, to the First
Regular Session of the 118th Legislature.

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

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