

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 442

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND NINE.

AN ACT to amend Chapter 42 of the Public Laws of 1907, relating to "Prevention of desertion and non-support of families."

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

Section 1. Strike out the word "misdemeanor" quoted in 2 the fifteenth line of Section 1 of said act, and substitute 3 therefor the word 'felony,' and strike out the words "six 4 months" in the eighteenth line of said Section and substitute 5 therefor the words 'two years' so that said section as amend- 6 ed, shall read as follows:

'Section 1. Any person who shall without lawful excuse 8 desert his wife when such wife is in destitute or necessitous 9 circumstances or any person who being able by means of

10 his property or labor to provide for the necessary support
11 and maintenance of his wife, shall wilfully neglect or re-
12 fuse to provide such support and maintenance when such
13 wife is in destitute or necessitous circumstances, or any
14 person who shall without lawful excuse desert his or her
15 minor child or children under the age of sixteen, or who be-
16 ing able by means of his or property or labor to provide for
17 the necessary support and maintenance of his or her minor
18 child or children under said age shall wilfully neglect or
19 refuse to provide such support and maintenance when such
20 child or children are in destitute or necessitous circumstances,
21 shall be deemed guilty of a felony, and on conviction thereof
22 shall be punished by a fine not more than five hundred dol-
23 lars or by imprisonment with or without hard labor for
24 not more than two years or by both such fine and imprison-
25 ment; and should a fine be imposed it may be directed by the
26 court to be paid in whole or in part to the wife or to the
27 guardian or custodian of the minor child or children; pro-
28 vided that before the trial, with the consent of the defendant
29 or after conviction, instead of imposing the punishment here-
30 inbefore provided, or in addition thereto, the court in its dis-
31 cretion, having regard to the circumstances and to the finan-
32 cial ability or earning capacity of the defendant, shall have
33 the power to make an order, which shall be subject to change
34 by it from time to time as circumstances may require, direct-
35 ing the defendant to pay a certain sum weekly for the space
36 of one year to the wife, or to the guardian or custodian of

37 the minor child or children, or to an organization or individ-
38 ual approved by the court, as trustee, and to release the de-
39 fendant from custody on probation for the space of one
40 year upon his or her entering into a recognizance, with sure-
41 ties, in such sum as the court may direct. The condition of
42 the recognizance shall be such that if the defendant shall
43 make his or her personal appearance in court whenever or-
44 dered to do so within the year, and shall further comply with
45 the terms of the order and of any subsequent modification
46 thereof, then the recognizance shall be void, otherwise in full
47 force and effect.

If the court shall be satisfied by information and due proof,
49 under oath, that at any time during the year the defendant
50 has violated the terms of such order, it may forthwith pro-
51 ceed with the trial of the defendant under the original in-
52 dictment, or sentence him under the original conviction, or
53 enforce the original sentence, as the case may be. In case
54 of forfeiture or a recognizance, and enforcement thereof
55 by execution, the sum recovered may, in the discretion of
56 the court, be paid in whole or in part to the wife or to the
57 guardian or custodian of the minor child or children.

Sect. 2. Strike out all of Section 2.

Sect. 3. Strike out all of Section 3 and substitute there-
2 for the following:

'Section 2. All fines or penalties provided for by the terms
4 of this act may be recovered or enforced by indictment. The
5 supreme judicial and superior courts shall have original and

6 concurrent jurisdiction, in all cases under the provisions
7 hereof. Provided that Judges of Municipal and Police
8 courts and trial justices, may cause persons brought before
9 them on complaint under the provisions of this act to recog-
10 nize with sufficient sureties to appear before the supreme
11 judicial courts, and in default thereof shall commit them.

STATE OF MAINE.

IN SENATE,

March 18, 1909.

Reported by Mr. HAMILTON from Committee on Legal Af-
fairs and laid on table to be printed under joint rules.

F. G. FARRINGTON, *Secretary*.