

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-FIFTH LEGISLATURE

HOUSE

NO. 743

House of Representatives, March 23, 1911.

*Reported by Mr. Goodwin from committee on Judiciary
and ordered printed under joint rules.*

C. C. HARVEY, Clerk.

STATE OF MAINE

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

AN ACT to correct and protect helpless, neglected and offend-
ing children.

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

Section 1. Title.

This act shall be known as the Children's Act.

Sect. 2. Jurisdiction.

In counties now containing over one hundred thousand
3 population a special juvenile court shall be and hereby is
4 established which shall have original and exclusive jurisdic-
5 tion in and shall be the juvenile court for that county. Such
6 court shall have and hereby is granted full powers to carry
7 into effect the purposes of this act.

Any court having jurisdiction under this act is hereby

9 given original and exclusive jurisdiction of all cases arising
10 under Chapter 143 of the Revised Statutes, 1903, also of all
11 cases arising under Chapter 123 of the Public Laws of 1905,
12 and all acts additional to or amendatory of either of the
13 aforesaid acts or statutes; said court is also hereby given
14 original and concurrent jurisdiction with police or municipal,
15 superior and supreme courts in any and all cases arising
16 under Chapter 42 of the Public Laws of 1907, also in any
17 and all cases arising under Chapter 166 of the Public Laws
18 of 1909; and all acts additional to or amendatory of either
19 of the aforesaid acts; except that nothing herein contained
20 shall be deemed to prohibit the proper transfer of any case
21 as provided herein in section four (4), subdivision E of this
22 act.

Sect. 3. Scope.

This act shall apply to any child less than sixteen (16)
3 years of age residing or being, at the time proceedings are
4 had, in said county.

A. Who violates any penal law or any municipal ordi-
6 nance or who commits any act or offense for which he could
7 be prosecuted in a method partaking of the nature of a
8 criminal action or proceeding, or

B. Who is incorrigible or so deports himself or is in such
10 conditions or surroundings or under such improper or insuf-
11 ficient guardianship or control, as to endanger the morals,
12 health or general welfare of said child;

Except that nothing herein contained shall be deemed to

14 limit the court in any proceeding under section nine (9) of
15 this act.

Sect. 4. Procedure.

A. Petition.—Any person having knowledge or informa-
3 tion that a child within the county is within the provisions
4 of the preceding section may file with the court having juris-
5 diction in the matter, a petition in writing, setting forth the
6 facts under oath. It shall be sufficient that the petition is
7 made upon information and belief. The petition shall set
8 forth the name and residence of the child and of the pa-
9 rents, if known to the petitioner, and the name and residence
10 of the person having the guardianship, custody, control or
11 supervision of such child, if the same be known or ascer-
12 tained by the petitioner, or the petitioner shall state that they
13 are unknown if that be the fact.

B. Summons.—Upon the filing of the petition the court
15 may forthwith, or after first causing an investigation to be
16 made by a probation officer or otherwise, issue a summons
17 or notice requiring the child to appear before the court and
18 also requiring the parents or the guardian, or the person
19 having the custody, control or supervision of the child, or
20 the person with whom the child may be, to appear with the
21 child, at a time and place stated in the summons, which time
22 shall not be less than twenty-four hours after service, to
23 show cause why the child should not be dealt with accord-
24 ing to the provisions of this act.

In any case the judge may appoint some suitable person to

26 act in behalf of the child. If it appears from the petition
27 that the case of the child falls within subdivision A of sec-
28 tion three (3), or if the child is in such condition that its
29 welfare requires that its custody be immediately assumed, the
30 court may indorse upon the summons a direction that the
31 officer serving the same shall at once take said child into
32 custody.

If the person summoned as herein provided shall fail with-
34 out reasonable cause to appear and abide the order of the
35 court, he may be proceeded against as in contempt of court.
36 In case the summons cannot be served or the party served
37 fails to obey the same, and in any case when it shall be made
38 to appear to the court by affidavit that such summons or no-
39 tice will be ineffectual, a warrant may issue on the order of
40 the court, against the child, or the parents, or guardian, or
41 the person having the custody, control or supervision of the
42 child, or the person with whom the child may be.

All papers issued by the court may be served by any per-
44 son delegated by the court for that purpose. The ser-
45 vice shall be by attested copy and the service and return shall
46 be substantially as in civil process in courts of record.

In every case where the guardianship or control of any
48 child shall be taken from its parent or parents, said parent
49 or parents shall receive due and prior notice of the pre-
50 cedings, which notice shall be given in such manner and by
51 such means as the court may order.

All persons, if any, who are named in such petition, or

53 whose names are stated in the petition to be unknown to the
54 petitioner, shall be deemed and taken as defendants by the
55 name or designation of "All whom it may concern." The
56 petition shall be verified by affidavit, which affidavit shall be
57 sufficient upon information and belief. Processes shall be
58 issued against all persons made parties by the designation of
59 "All persons whom it may concern," by such description, and
60 notice given by publication shall be sufficient to authorize
61 the court to hear and determine the cause as though the
62 parties had been sued by their proper names.

C. Hearing.—Upon the return of the summons or notice
64 or other process, or as soon thereafter as may be, the court
65 shall proceed to hear and dispose of the case in a summary
66 manner. The proceedings shall be in the nature of a hear-
67 ing rather than of a trial and the court may conduct the ex-
68 amination of the witnesses without the aid of counsel, and
69 may take testimony and inquire into the habits, surround-
70 ings, conditions and tendencies of said child, to enable the
71 court to render such order or judgment as shall best con-
72 serve the welfare of said child, and carry out the objects of
73 this act; and the court, if satisfied that the child is in need
74 of the care or discipline and protection of the state, may so
75 adjudicate, and may in addition find said child to be delin-
76 quent or neglected, or in need of more suitable guardian-
77 ship, as the case may be; and in addition to the powers
78 granted by this act, may render such judgment and make
79 such order or commitment, according to the circumstances

80 of the case, as any court or magistrate is now or may here-
81 after be authorized by law to render or make in any of the
82 cases coming within section three (3) of this act.

It is the intention of this act that in all proceedings coming
84 under its provisions, the court shall proceed upon the theory
85 that said child is the ward of the state, and is subject to the
86 discipline and entitled to the protection which the court
87 should give such child under the conditions disclosed in the
88 case; and when once jurisdiction has been obtained in the
89 case of any such child, it shall continue for the purposes of
90 this act during the minority of such child; except as herein-
91 after modified in section eight (8) of this act.

The court shall have power when hearing the case of any
93 child, to exclude the general public from the room wherein
94 said hearing is held, admitting thereto only such persons as
95 may have a direct interest in the case. The hearings may
96 be conducted in the judge's chambers or in such other room
97 or apartment as may be provided in such cases; and as far as
98 practicable such cases shall not be heard in conjunction with
99 the other business of the court.

No child shall be denominated a criminal by reason of any
101 adjudication under this act; nor shall such adjudication be
102 denominated a conviction.

D. Appeals.—In all cases under this act an appeal shall
104 lie directly to the next session of the Supreme court in and
105 for the county of the court having jurisdiction; except that
106 upon due notice filed by defendant, appeal may first be had
107 to the Superior court of said county.

Such appeals shall be governed as follows:—

1. In all cases coming within subdivision A of section
110 three (3), by the laws governing appeals to the Supreme
111 Judicial Court from magistrates in civil actions.

2. In all cases coming within subdivision B of section
113 three (3) by the laws governing appeals to the Supreme
114 court of probate from probate courts except that no bond
115 shall be required of the appellant.

In all cases, any finding, order or commitment of the court
117 having jurisdiction under this act shall be in full force and
118 effect pending a decision on appeal.

E. Transfer of Cases.—Whenever a child within the pro-
120 visions of this act is arrested with or without warrant such
121 child may, instead of being taken before a trial justice or
122 magistrate, be taken directly before the court having juris-
123 diction under this act; or if the child is taken before a trial
124 justice or magistrate such justice or magistrate shall inquire
125 into such case, and unless he shall find that there is no
126 sufficient cause for further proceedings, it shall be the duty
127 of such trial justice or magistrate to transfer the case to
128 the court having jurisdiction under this act, and in any case
129 the latter court may proceed to hear and dispose of the
130 case in the same manner as if the child had been brought
131 before the court upon petition as herein provided.

But the court having jurisdiction under this act may in its
133 discretion in any case coming within section three (3), per-
134 mit such child to be proceeded against in accordance with

135 the laws, other than this act, that may be in force in this
136 state governing the commission of the crimes or violations
137 of city, village or town ordinances or statutes of this state;
138 in such cases the petition filed under this act shall be dis-
139 missed or the written permission of the judge having juris-
140 diction under this act shall be filed in the court assuming
141 jurisdiction.

Any and all cases in which the court having jurisdiction
143 under this act may be given jurisdiction by virtue of section
144 two (2) of this act, may be transferred according to the
145 provisions of this section.

Sect. 5. Disposition of child.

A. Pending Hearing.—At any time after the filing of the
3 petition and pending the final disposition of the case, the
4 court may continue the hearing from time to time and may
5 allow such child to remain in the possession of its custodian
6 or in its own home, subject to the friendly visitation of the
7 probation officer or it may order such child to be placed in
8 the custody of a probation officer of the court, or of any
9 suitable person appointed by the court or to be kept in some
10 suitable place approved by the court or provided or approved
11 by the city or county authorities. In no case shall any child
12 under fourteen (14) years of age be placed in any police
13 station, jail or other lock-up, unless absolutely necessary and
14 then not in any compartment or enclosure with adult crimi-
15 nals. Whoever violates the provisions of this section shall
16 be deemed a contributory delinquent.

B. After Hearing.—After hearing the case, the court may
18 render such order or judgment as shall best conserve the
19 welfare of said child and carry out the objects of this act ;
20 in any case the court may allow such child to remain at its
21 home subject to the friendly visitation of a probation officer,
22 or to report to the court or probation officer from its home
23 or school at such times as the court may require. And if
24 the parent, parents, guardian or custodians of such child are
25 unfit or improper guardians or are unable or unwilling to
26 care for, protect, train, educate, or correct or discipline such
27 child and that it is for the interest of such child and the
28 people of the state that such child be taken from the custody
29 of its parent, parents, guardian or custodian, the court may
30 make an order appointing as guardian of the person of such
31 child, some reputable citizen of good moral character and
32 order such guardian to place such child in some suitable fami-
33 ly, home or other suitable place, which such guardian may
34 provide for such child ; or the court may enter an order com-
35 mitting such child to some suitable state institution, organ-
36 ized for the care of dependent or neglected children, or to
37 some training school or industrial school or children's home
38 finding society or to some association embracing in its ob-
39 jects the purpose of caring for or obtaining homes for
40 neglected or dependent children ; or the court may, in addi-
41 tion to the foregoing, commit such child to any institution
42 incorporated under the laws of this state to care for de-
43 linquent children, or to any institution that has been or may

44 be provided by the state, county, city or town suitable for
45 the care of delinquent children, including a detention home
46 or school, or to some association that will receive it, em-
47 bracing in its objects the care of neglected, dependent or de-
48 linquent children.

Sect. 6. Records, Reports, Costs, etc.

The findings of the court shall be entered in a book or
3 books kept for that purpose and known as the "Juvenile
4 Record", and the court may for convenience be called the
5 "Juvenile Court." The records of all cases may be with-
6 held from indiscriminate public inspection in the discretion
7 of the court; but such records shall be open to the inspection
8 of such child, his parents or guardians or his attorneys at
9 all times. The court shall have power to devise and publish
10 rules and regulate the procedure of and the time and places
11 for hearing of cases coming within the provisions of this
12 act, and for the conduct of all probation officers and other
13 officers of the court in such cases, and such rules shall be en-
14 forced and construed beneficially for the remedial purposes
15 embraced herein.

The court may devise and may cause to be printed for pub-
17 lic use such forms for records and for the various petitions,
18 orders, process and other papers in the cases coming under
19 this act as shall meet the requirements thereof; and all ex-
20 penses, including stationery, office supplies, etc., incurred by
21 the court in complying with the provisions of this act shall
22 be a county charge. Such court, or the judge thereof, shall

23 have full power and authority to maintain order and decorum
24 in his court, and the said Juvenile Court shall have a seal,
25 bearing on the face thereof, "Juvenile Court of the State of
26 Maine, 1911."

Every qualified officer of the court shall be allowed for the
28 service of all papers or copies issued by the court and for
29 travel and attendance in connection with the same. These
30 costs shall be the same as are now allowed by law for the
31 service of any similar process and these shall be the only,
32 costs allowed in such court; except that witness fees shall
33 be taxed and allowed as in the Supreme court. These costs
34 shall be payable upon presentation to the county treasurer
35 after approval by the judge of the court in that county.

Sect. 7. Probation officers.

The court having jurisdiction under this act shall have
3 authority to appoint or designate one or more discreet per-
4 sons of good moral character to serve as probation officers,
5 during the pleasure of the court, provided that every agent
6 for the protection of children shall be ex-officio a probation
7 officer of the court in the county for which he is appointed:
8 said probation officers to receive no compensation as salary
9 from the county treasury, unless otherwise provided than in
10 this act; except that, in the county where a special court is
11 established, when it shall become necessary and essential to
12 the successful operation of this act, the court may appoint
13 one paid probation officer who shall hold office during the
14 pleasure of the court and who shall receive as his compensa-

15 tion such sum as the county commissioners of that county
16 shall fix at their next session after such appointment. Such
17 compensation shall be paid out of the county treasury in
18 equal monthly installments and shall not be diminished dur-
19 ing the term of office of the probation officer, but may be in-
20 creased if it seems just to the county commissioners so to do.
21 In case a probation officer or officers, paid or volunteer, are
22 appointed by the court, it shall be the duty of the court, if
23 practicable, to notify a probation officer when any child is to
24 be brought before the court; it shall be the duty of such
25 probation officer to make investigation of such case; to be
26 present in court to represent the interests of the child when
27 the case is heard; to furnish the court such information and
28 assistance as the court or judge may require, and to take
29 charge of any child before and after the hearing as may be
30 directed by the court.

Any probation officer may be vested with all the power and
32 authority of police officers or sheriffs to make arrests and
33 perform any other duties ordinarily required of policemen,
34 constables and sheriffs which may be incident to their office
35 or necessary or convenient to the performance of their duties
36 upon a written certificate from the court that they are per-
37 sons of discretion and good character. Such probation offi-
38 cers shall take an oath similar to that required of other coun-
39 ty officers to perform their duty, and file it in the office of
40 the court.

Sect. 8. Relations of the Court.

It is hereby made the duty of every county, town or municipal official or department to render such assistance and cooperation as may be within his or its jurisdictional power to further the objects of this act.

Whenever a child within the jurisdiction of said court and under the provisions of this act is temporarily placed in the custody of any agent, suitable institution or suitable person, the expense of the support of said child during such period until permanent provision can be made therefor shall be paid by the town in which said child resides and said town may recover the amount thereof in a suitable action from the person or persons liable for the furnishing of necessities for said child.

Any final order or judgment made by the court in the case of any child shall be subject to such modification from time to time as the court may consider to be for the welfare of said child; and no commitment of any child to any institution or other custodial agency shall deprive the court of the jurisdiction to change the form of commitment, or any other order of the court, or transfer the custody of the child to some other institution or agency or restore it to its home or its parents on such conditions as the court may see fit to impose, the duty being constant on the court to give all children subject to its jurisdiction such oversight and control in the premises as will conduce to the welfare of said child and the best interests of the state; except that if any child shall be committed to and accepted by either the State School for

29 Boys or the Maine Industrial School for Girls, said child
30 shall thereafter be governed solely by the laws now or here-
31 after in force regarding the inmates of these respective insti-
32 tutions.

In the case of any child coming within the jurisdiction of
34 this act, the court may, in the same or subsequent proceed-
35 ing, upon the parents of said child, or either of them, being
36 duly summoned or voluntarily appearing, proceed to inquire
37 into the ability of such parent or parents to support the child
38 or contribute thereto, and if the court shall find such parent
39 or parents able to support such child or contribute thereto,
40 whether such child reside in its own home or elsewhere, the
41 court may enter such order or decree as shall be accord-
42 ing to equity in the premises, and may enforce the same by
43 execution, or in any way in which a court of equity may en-
44 force its order or decrees.

Whenever a child under the jurisdiction of said court and
46 under the provisions of this act appears to the court to be in
47 need of medical care, a suitable order may be made for the
48 treatment of such child in a hospital, and the expense there-
49 of shall be a county charge; and the county may recover
50 the said expenses in a suitable action from the person or
51 persons liable for the furnishing of necessities for said child;
52 and for that purpose the court may cause any child to be
53 examined by any health officer within the jurisdiction of the
54 court, or by any duly licensed physician.

No association which is incorporated under the laws of any

56 other state than the State of Maine, shall place any child in
57 any family home within the boundaries of the said county,
58 either with or without indenture or for adoption, unless the
59 said association shall have furnished the judge of the Juve-
60 nile Court in and for the county where it is desired to place
61 such child, with such guaranty as he shall require that no
62 child shall be brought into the said county by such society or
63 its agents, having any contagious or incurable disease, or
64 having any deformity or being of feeble mind, or of vicious
65 character, and that said association will promptly receive
66 and remove from the county any child brought into the said
67 county by its agent which shall become a public charge with-
68 in the period of five years after being brought into the
69 county. Any person who shall receive to be placed in a
70 home, or shall place in a home, any child in behalf of any
71 association, incorporated in any other state than the State
72 of Maine, which shall not have complied with the require-
73 ments of this act, shall be imprisoned in the county jail not
74 more than thirty days, or fined not less than twenty (20)
75 dollars or more than one hundred (100) dollars, or both, in
76 the discretion of the court.

The Court, in committing children, shall place them, as
78 far as practicable, in the care and custody of some individual
79 holding the same religious belief as the parents of said child,
80 or with some association which is controlled by persons of
81 like religious faith as the parents of the child.

If the person so ordered to pay for the support, mainten-

83 ance or education of a dependent, neglected or delinquent
84 child shall be employed for wages, salary or commission,
85 the Court may order that the sum to be paid by him shall be
86 paid to the guardian or institution out of his wages, salary
87 or commission, and that he shall execute an assignment
88 thereof pro tanto. The court may also order the parent or
89 the person so ordered to pay the sum of money for the
90 support, maintenance or education of a child, from time to
91 time, to make discovery to the court as to his place of em-
92 ployment and amount earned by him. Upon his failure to
93 obey the order of court he may be punished as for contempt
94 of court.

Nothing in this act shall be construed to give the guardian
96 appointed under this act the guardianship of the estate of
97 the child or to change the age of minority for any other pur-
98 pose than the custody of the child.

Sect. 9. Contributory Delinquency.

In all cases where any person shall be responsible for, or
3 by any act encourage, cause or contribute to the delinquency
4 of any child less than sixteen (16) years of age, or who shall
5 by any act or conduct cause or encourage any child less than
6 sixteen (16) years of age to violate any penal law or mu-
7 nicipal ordinance, or commit any act of offense, for which
8 he could be prosecuted in a method partaking of the nature
9 of a criminal act or proceeding, or who causes or encourages
10 any such child to engage in any occupation, calling or exhibi-
11 tion, or to frequent any place forbidden by law or to so con-

12 duct himself or remain in such condition or surroundings as
13 to endanger the morals, health or general welfare of such
14 child, such person shall be guilty of a misdemeanor, and upon
15 conviction shall be fined a sum not to exceed one thousand
16 dollars or imprisoned in the county jail for a period not ex-
17 ceeding one year, or by both said fine and imprisonment.

The court having jurisdiction under this act is hereby given
19 concurrent jurisdiction with trial justices, municipal and
20 superior courts to hear under common law all cases of mis-
21 demeanor of adults where the charge is for contributing to
22 the dependency or delinquency of infants, with the right of
23 appeal therein existing.

In any case, said court is hereby given the power to im-
25 pose reasonable conditions upon any person found to be a
26 contributory delinquent under this act and so long as such
27 person shall comply therewith to the satisfaction of the court
28 the decree or sentence may be suspended.

Sect. 10. Salary, Expenses and Fines.

Wherever a special court is established for any county un-
3 der this act, said court shall consist of one judge, who shall
4 be a resident of such county, and who shall be appointed,
5 commissioned and qualified in the manner provided by the
6 Constitution of this State, concerning justices of the Su-
7 preme Court. Said judge shall be governed substantially
8 by the laws and rules governing said justices.

The salary of the judge of said court shall be twelve hun-
10 dred dollars per annum, payable quarterly out of the treas-

11 ury of the county in which said court is situated. Said sal-
12 ary shall not be diminished during the tenure of office of any
13 judge but may be increased up to a maximum of three thous-
14 and dollars per annum, if the county commissioners deter-
15 mine so to do. Said salary shall be exclusive of any neces-
16 sary expenses incurred in the conduct of any case outside the
17 limits of the county seat and all such necessary expenses
18 shall be rendered to and received from the treasurer of said
19 county quarterly. And all fines or moneys of every nature
20 received by said court shall be accounted for and paid over
21 to said treasurer quarterly.

The judge of said court shall also be the clerk of the court
23 provided that, if the judge finds it incompatible with the
24 public interest, he may name a probation officer or any per-
25 son in the county service to act as the clerk and to keep the
26 records in cases under this act.

Sect. 11. Construction of the Act.

This act shall be liberally construed to the end that its
3 purpose may be carried out, to wit; that the care, custody,
4 and discipline of the child shall approximate as nearly as
5 possible that which should be given by its parents, and in
6 all cases coming within subdivision B of section three (3),
7 that as far as practicable the child shall be treated, not as a
8 criminal, but as misdirected and misguided and needing aid,
9 encouragement and assistance, and if said child cannot be
10 properly cared for and corrected in its own home, or with
11 the assistance and help of the probation officers, then that it

12 may be placed in a suitable institution where it may be
13 helped and educated and equipped for industrial efficiency
14 and useful citizenship. And a disposition of any child un-
15 der this act, or the evidence given in such cause, shall not
16 in any civil, criminal or other cause or proceeding whatso-
17 ever in any court, be lawful or proper evidence against such
18 child for any purpose whatever, except in a subsequent case
19 against the same child under this act.

The invalidity of any portion of this act shall not effect
21 validity of any other portion thereof which can be given
22 effect without such invalid portion.