

# MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

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SENATE

NO. 19

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*In Senate, Jan. 19, 1911.*

*Laid on table for printing on motion by Mr. Milliken of  
Aroostook, pending reference to Committee on Judiciary in  
concurrence.*

*W. C. HANSON, Secretary.*

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STATE OF MAINE

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

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AN ACT to correct and protect helpless, neglected and offending  
children.

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*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.

The probate courts of the several counties in this State  
3 shall have original and exclusive jurisdiction in all cases  
4 arising in said counties respectively and coming within the  
5 terms of this act; except that in any county a special court  
6 may be, and in counties now containing over one hundred  
7 thousand population a special court shall be and hereby is,

8 established; in which case such special juvenile court shall  
9 have original and exclusive jurisdiction in and shall be the  
10 juvenile court for that county. All such courts, probate or  
11 special, shall have and are hereby granted full powers to  
12 carry into effect the purposes of this act.

All courts having jurisdiction under this act are hereby giv-  
14 en original and exclusive jurisdiction of all cases arising un-  
15 der Chapter 143 of the Revised Statutes, 1903, also of all  
16 cases arising under Chapter 123 of the Public Laws of 1905,  
17 and all acts additional to or amendatory of either of the  
18 aforesaid acts or statutes; said courts are also hereby given  
19 original and concurrent jurisdiction with police or municipal,  
20 superior and supreme courts in any and all cases arising  
21 under Chapter 42 of the Public Laws of 1907, also in any  
22 and all cases arising under Chapter 166 of the Public Laws  
23 of 1909; and all acts additional to or amendatory of either of  
24 the aforesaid acts; except that nothing herein contained shall  
25 be deemed to prohibit the proper transfer of any case as pro-  
26 vided herein in Section Four (4), subdivision E of this act.

### Section 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 the State of Maine.

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

B. Who so deports himself or is in such conditions or surroundings or under such improper or insufficient guardianship or control, as to endanger the morals, health or general welfare of said child;

Except that nothing herein contained shall be deemed to limit the court in any proceeding under Section Nine (9) of this act.

#### Sect. 4. PROCEDURE.

A. Petition.—Any person having knowledge or information that a child within the State is within the provisions of the preceding section may file with the court having jurisdiction in the matter, a petition in writing, setting forth the facts under oath. It shall be sufficient that the petition is made upon information and belief. The petition shall set forth the name and residence of the child and of the parents, if known to the petitioner, and the name and residence of the person having the guardianship, custody, control and supervision of such child, if the same be known or ascertained by the petitioner, or the petitioner shall state that they are unknown if that be the fact.

B. Summons.—Upon the filing of the petition the court may forthwith, or after first causing an investigation to be made by a probation officer or otherwise, issue a summons or notice requiring the child to appear before the court and also requiring the parents or the guardian, or the person having the custody, control or supervision of the child, or the person with whom the child may be, to appear with the child, at a

21 time and place stated in the summons, which time shall not  
22 be less than twenty-four hours after service, to show cause  
23 why the child should not be dealt with according to the pro-  
24 visions 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 withing subdivision A of  
28 Section Three (3), or if the child is in such condition that  
29 its welfare requires that its custody be immediately assumed,  
30 the court may indorse upon the summons a direction that the  
31 officer serving the same shall at once take said child into cus-  
32 tody.

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 that such summons or notice will be  
39 ineffectual, a warrant may issue on the order of the court,  
40 against the child, or the parents, or guardian, or the person  
41 having the custody, control or supervision of the child, or  
42 the person with whom the child may be.

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

C. Hearing.—Upon the return of the summons or notice

48 or other process, or as soon thereafter as may be, the court  
49 shall proceed to hear and dispose of the case in a summary  
50 manner. The proceedings shall be in the nature of a hear-  
51 ing rather than of a trial and the court may conduct the ex-  
52 amination of the witnesses without the aid of counsel, and  
53 may take testimony and inquire into the habits, surroundings,  
54 conditions and tendencies of said child, to enable the court  
55 to render such order or judgment as shall best conserve the  
56 welfare of said child, and carry out the objects of this act;  
57 and the court, if satisfied that the child is in need of the care  
58 or discipline and protection of the State, may so adjudicate,  
59 and may in addition find said child to be delinquent or  
60 neglected, or in need of more suitable guardianship, as the  
61 case may be; and in addition to the powers granted by this  
62 act, may render such judgment and make such order or  
63 commitment, according to the circumstances of the case, as  
64 any court or magistrate is now or may hereafter be author-  
65 ized by law to render or make in any of the cases coming  
66 within Section Three (3) of this act.

It is the intention of this act that in all proceedings com-  
68 ing under its provisions, the court shall proceed upon the the-  
69 ory that said child is the ward of the State, and is subject to  
70 the discipline and entitled to the protection which the court  
71 should give such child under the conditions disclosed in the  
72 case; and when once jurisdiction has been obtained in the  
73 case of any such child, it shall continue for the purposes of

74 this act during the minority of such child; except as herein-  
75 after modified in Section Eight (8) of this act.

The court shall have power when hearing the case of any  
77 child, to exclude the general public from the room wherein  
78 said hearing is held, admitting thereto only such persons as  
79 may have a direct interest in the case. The hearings may  
80 be conducted in the judge's chambers or in such other room  
81 or apartment as may be provided for such cases; and as far  
82 as practicable such cases shall not be heard in conjunction  
83 with the other business of the court.

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

D. Appeals.—In all cases under this act an appeal shall  
88 lie directly to the next session of the supreme court in and  
89 for the county of the court having jurisdiction; except that  
90 in the counties of Cumberland and Kennebec an appeal may  
91 first be had to the superior courts of those respective coun-  
92 ties. Such appeals shall be governed as follows:—

1. In all cases coming within subdivision A of Section  
94 Three (3), by the laws governing appeals to the supreme ju-  
95 dicial court from magistrates in criminal actions.

2. In all cases coming within subdivision B of Section  
97 Three (3), by the laws governing appeals to the supreme  
98 court of probate from probate courts except that no bond  
99 shall be required of the appellant.

In all cases, any finding, order or commitment of the court

101 having jurisdiction under this act shall be in full force and  
102 effect pending a decision on appeal.

E. Transfer of Cases.—Whenever a child within the pro-  
104 visions of this act is arrested with or without warrant such  
105 child may, instead of being taken before a trial justice or  
106 magistrate, be taken directly before the court having juris-  
107 diction under this act; or if the child is taken before a trial  
108 justice or magistrate such justice or magistrate shall inquire  
109 into such case, and unless he be of the opinion that no suffi-  
110 cient foundation exists for the charge against such child, it  
111 shall be the duty of such trial justice or magistrate to trans-  
112 fer the case to the court having jurisdiction under this act  
113 and in any case, the latter court may proceed to hear and  
114 dispose of the case in the same manner as if the child had  
115 been brought before the court upon petition as herein pro-  
116 vided.

But the court having jurisdiction under this act may in its  
118 discretion in any case coming within Section Three (3),  
119 permit such child to be proceeded against in accordance  
120 with the laws, other than this act, that may be in force in  
121 this State governing the commission of crimes or violations  
122 of city, village or town ordinances or statutes of this State;  
123 in such cases the petition filed under this act shall be dis-  
124 missed or the written permission of the judge having juris-  
125 diction under this act shall be filed in the court assuming  
126 jurisdiction.



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

Sect. 5. DISPOSITION OF CHILD.

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

B. After Hearing.—After hearing the case, the court may render such order or judgment as shall best conserve the welfare of said child and carry out the objects of this act; in any case the court may allow such child to remain at its home subject to the friendly visitation of a probation officer.

24 or to report to the court or probation officer from its home or  
25 school at such times as the court may require. And if the  
26 parent, parents, guardian or custodian of such child consent  
27 thereto, or if the court shall further find that the parent,  
28 parents, guardian or custodian of such child are unfit or  
29 improper guardians or are unable or unwilling to care for,  
30 protect, train, educate, or correct or discipline such child and  
31 that it is for the interest of such child and the people of the  
32 State that such child be taken from the custody of its  
33 parent, parents, guardian or custodian, the court may make  
34 an order appointing as guardian of the person of such child,  
35 some reputable citizen of good moral character and order  
36 such guardian to place such child in some suitable family,  
37 home or other suitable place, which such guardian may pro-  
38 vide for such child; or the court may enter an order com-  
39 mitting such child to some suitable State institution, organ-  
40 ized for the care of dependent or neglected children, or to  
41 some training school or industrial school or children's home  
42 finding society or to some association embracing in its objects  
43 the purpose of caring for or obtaining homes for neglected  
44 or dependent children; or the court may, in addition to the  
45 foregoing, commit such child to any institution incorporated  
46 under the laws of this State to care for delinquent children  
47 or to any institution that has been or may be provided by the  
48 State, county, city or town suitable for the care of delinquent  
49 children, including a detention home or school, or to some as-

50 socation that will receive it, embracing in its objects the care  
51 of neglected, dependent or delinquent children.

Sect. 6. RECORDS, REPORTS AND COSTS.

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

The court may devise and, upon approval of a majority of  
16 the judges having jurisdiction under this act, may cause to  
17 be printed for public use such forms for records and for the  
18 various petitions, orders, process and other papers in the  
19 cases coming under this act as shall meet the requirements  
20 thereof; and all expenses, including stationery, office sup-  
21 plies, etc., incurred by the court in complying with the pro-  
22 visions of this act shall be a county charge.

Every qualified officer of the court shall be allowed for the  
24 service of all papers or copies issued by the court and for  
25 travel and attendance in connection with the same. These

26 costs shall be the same as are now allowed by law for the  
27 service of any similar process and these shall be the only  
28 costs allowed in such court; except that witness fees shall  
29 be taxed and allowed as in the supreme court. These costs  
30 shall be payable upon presentation to the county treasurer  
31 after approval by the judge of the court in that county.

Sect. 7. PROBATION OFFICERS.

The courts 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; said probation officers to  
6 receive no compensation from the county treasury, unless  
7 otherwise provided than in this act; except that, in any  
8 county where a special court is established, when it shall  
9 become necessary and essential to the successful operation  
10 of this act, the court may appoint one paid probation officer  
11 who shall hold office during the pleasure of the court and  
12 who shall receive as his compensation such sum as the county  
13 commissioners of that county shall fix at their next session  
14 after such appointment. Such compensation shall be paid  
15 out of the county treasury in equal monthly installments and  
16 shall not be diminished during the term of office of the proba-  
17 tion officer, but may be increased if it seems just to the county  
18 commissioners so to do. In case a probation officer or offi-  
19 cers, paid or volunteer, are appointed by the court it shall be  
20 the duty of the court, if practicable, to notify a probation  
21 officer when any child is to be brought before the court; it

22 shall be the duty of such probation officer to make investiga-  
23 tion of such case; to be present in court to represent the in-  
24 terests of the child when the case is heard; to furnish the  
25 court such information and assistance as the court or judge  
26 may require, and to take charge of any child before and after  
27 the hearing as may be directed by the court.

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

#### Sect. 8. RELATIONS OF THE COURT.

It is hereby made the duty of every county, town or munic-  
3 ipal official or department to render such assistance and co-  
4 operation as may be within his or its jurisdictional power  
5 to further the objects of this act.

Any final order or judgment made by the court in the case  
7 of any child shall be subject to such modification from time  
8 to time as the court may consider to be for the welfare of  
9 said child; and no commitment of any child to any institution  
10 or other custodial agency shall deprive the court of the juris-  
11 diction to change the form of commitment, or any other

12 order of the court, or transfer the custody of said child to  
13 some other institution or agency or restore it to its home or  
14 its parents on such conditions as it may see fit to impose, the  
15 duty being constant on the court to give all children subject  
16 to its jurisdiction such oversight and control in the prem-  
17 ises as will conduce to the welfare of said child and the best  
18 interests of the State; except that if any child shall be com-  
19 mitted to and accepted by either the State School for Boys  
20 or the Maine Industrial School for Girls, said child shall  
21 thereafter be governed solely by the laws now or hereafter in  
22 force regarding the inmates of these respective institutions.

In the case of any child coming within the jurisdiction of  
24 this act, the court may, in the same or subsequent proceed-  
25 ing, upon the parents of said child, or either of them, being  
26 duly summoned or voluntarily appearing, proceed to inquire  
27 into the ability of such parent or parents to support the child  
28 or contribute thereto, and if the court shall find such parent  
29 or parents able to support such child or contribute thereto,  
30 whether such child reside in its own home or elsewhere, the  
31 court may enter such order or decree as shall be according  
32 to equity in the premises, and may enforce the same by exe-  
33 cution, or in any way in which a court of equity may enforce  
34 its order or decrees.

Whenever a child within the jurisdiction of said court and  
36 under the provisions of this act appears to the court to be in  
37 need of medical care, a suitable order may be made for the  
38 treatment of such child in a hospital, and the expense thereof

39 shall be a county charge; and the county may recover the  
40 said expenses in a suitable action from the person or persons  
41 liable for the furnishing of necessities for said child; and for  
42 that purpose the court may cause any child to be examined  
43 by any health officer within the jurisdiction of the court, or  
44 by any duly licensed physician.

Sect. 9. CONTRIBUTORY DELINQUENCY.

In all cases where any person shall be responsible for, or by  
3 any act encourage, cause or contribute to the delinquency of  
4 any child less than sixteen years of age, or who shall by any  
5 act or conduct cause or encourage any child less than sixteen  
6 years of age to violate any penal law or municipal ordinance,  
7 or commit any act or offense, for which he could be prose-  
8 cuted in a method partaking of the nature of a criminal act  
9 or proceeding, or who causes or encourages any such child  
10 to engage in any occupation, calling or exhibition, or to fre-  
11 quent any place forbidden by law, or to so conduct himself  
12 or remain in such condition or surroundings as to endanger  
13 the morals, health or general welfare of such child, such  
14 person shall be guilty of a misdemeanor, and upon convic-  
15 tion may be fined a sum not to exceed One Thousand Dol-  
16 lars or imprisoned in the county jail for a period not exceed-  
17 ing 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 su-  
20 perior courts to hear under common law all cases of misde-  
21 meanor of adults where the charge is for the 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 impose  
25 reasonable conditions upon any person found to be a con-  
26 tributory delinquent under this act and so long as such person  
27 shall comply therewith to the satisfaction of the court the  
28 decree or sentence may be suspended.

Sect. 10. PROVISIONS RELATING TO SPECIAL  
2 COURTS.

Whenever a special court is established for any county, said  
4 court shall consist of one judge, who shall be a resident of  
5 such county, and who shall be appointed, commissioned and  
6 qualified in the manner provided by the Constitution of this  
7 State, concerning Justices of the Supreme Court. Said  
8 judge shall be governed substantially by the laws and rules  
9 governing said Justices.

The salary of the judge of said court shall be Twelve Hun-  
11 dred Dollars per annum, payable quarterly out of the treas-  
12 ury of the county in which said court is situated. Said sal-  
13 ary shall not be diminished during the tenure of office of any  
14 judge but may be increased up to a maximum of Three  
15 Thousand Dollars per annum, if the county commissioners  
16 determine so to do. Said salary shall be exclusive of any  
17 necessary expenses incurred in the conduct of any case out-  
18 side the limits of the county seat and all such necessary ex-  
19 penses shall be rendered to and received from the treasurer  
20 of said county quarterly. And all fines or moneys of every



21 nature received by said court shall be accounted for and paid  
22 over to said treasurer quarterly.

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

#### Sect. 11. CONSTRUCTION OF THE ACT.

This act shall be liberally construed to the end that its pur-  
3 pose may be carried out, to wit, that the care, custody, and  
4 discipline of the child shall approximate as nearly as pos-  
5 sible that which should be given by its parents, and in all  
6 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 such 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  
12 it may be placed in a suitable institution where it may be  
13 helped and educated and equipped for industrial efficiency  
14 and useful citizenship.

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