

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SEVENTY-SEVENTH LEGISLATURE

HOUSE NO. 103

House of Representatives, Feb. 9, 1915.

Ordered, That one thousand copies be printed and that the same be referred to the Committee on Judiciary.

Committee on Reference.

Presented by Mr. Sanborn of South Portland.

STATE OF MAINE

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

AN ACT to correct and protect helpless, neglected and offending children, to be known as "The Children's Act."

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

Section 1. JURISDICTION. The probate courts of the several counties in this state shall have original and exclusive jurisdiction in all cases arising in said counties respectively and coming within the terms of this act; except that in any county a special court may be, as herein provided, and in counties containing over one hundred thousand population a special court shall be and hereby is established, in which case such special juvenile court shall have original and ex-

9 clusive jurisdiction in, and shall be the Juvenile Court for,
10 that county. All such courts, probate or special, shall have
11 and hereby are granted full power to carry into effect the
12 purposes of this act.

All courts having jurisdiction under this act are hereby
14 given original and exclusive jurisdiction of all cases arising
15 under chapter 143 of the Revised Statutes, also of all cases
16 arising under chapter 123 of the Public Laws of 1905, and
17 all acts additional to or amendatory of either aforesaid stat-
18 ute or act; said courts are also hereby given original and
19 concurrent jurisdiction with police or municipal, superior
20 and supreme courts in any and all cases arising under chap-
21 ter 42 of the Public Laws of 1907, also in any and all cases
22 arising under chapter 166 of the laws of 1909, and all acts
23 amendatory of or additional to any of the acts above speci-
24 fied. Nothing in this act, however, shall be deemed to pro-
25 hibit the proper transfer of any case as provided herein in
26 section 3 of this act.

The governor, by and with the consent of his council, shall
28 appoint a juvenile or court judge on petition of the county
29 commissioners of any county of fifty thousand or more in-
30 habitants in like manner and for the same term as the su-
31 preme court justices are appointed. Said judge shall pre-
32 side over the said juvenile court for said county and hold
33 office until his successor is appointed and qualified.

Whenever a special court is established for any county,
35 said court shall consist of one judge who shall be a resident

36 of such county and a member of the bar of this state, and
37 who shall be appointed, commissioned and qualified in the
38 manner provided by the constitution of this state concern-
39 ing justices of the supreme court. Said judge shall be gov-
40 erned substantially by the laws and rules governing said
41 justices.

The salary of said court shall be twelve hundred dollars
43 per annum, payable quarterly out of the treasury of the
44 county in which said court is established, which said salary
45 shall not be diminished during the tenure of office of any
46 judge, but may be increased up to a maximum of three
47 thousand dollars per annum, if the county commissioners so
48 determine. Said salary shall be exclusive of necessary ex-
49 penses incurred in the conduct of any case outside the limits
50 of the county seat and all such necessary expenses shall be
51 rendered to and received from the treasurer of said county
52 quarterly. All fines and moneys of whatsoever nature re-
53 ceived by said court shall be accounted for and paid over
54 to the said treasurer quarterly.

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

Sect. 2. SCOPE. This act shall apply to any child less
2 than seventeen years of age residing or being, at the time
3 proceedings are had, in the state of Maine,

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

Sect. 3. PROCEDURE. I.—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 or supervision of such child, if the same be known or ascertained by the petitioner, or that the same are unknown, if that be the fact.

II.—Summons. Upon the filing of the petition, the court may forthwith, or after 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

17 also the parents or guardian or person having custody, con-
18 trol or supervision of the child or person with whom the
19 child may be to appear with the child, at a time and place
20 stated in the summons, which time shall not be less than
21 twenty-four hours after service, to show cause why the child
22 should not be dealt with according to the provisions of this
23 act. In any case the judge may appoint some suitable per-
24 son to act in behalf of the child. If it appears from the
25 petition that the case of the child falls within subdivision
26 A of section 2 of this act, or if the child is in such con-
27 dition that its welfare requires that its custody be immedi-
28 ately assumed, the court may indorse upon the summons a
29 direction that the officer serving the same shall at once take
30 said child into custody.

If the person summoned as herein provided shall fail, with-
32 out reasonable cause, to appear and abide the order of the
33 court, he may be proceeded against as in contempt of court.
34 In case the summons cannot be served or the party served
35 fails to obey the same, and in any case where it shall be
36 made to appear to the court by affidavit that such sum-
37 mons or notice will be ineffectual, a warrant may issue on
38 the order of the court, against the child, or the parents, or
39 guardian, or person having custody, control or supervision
40 of the child, or the person with whom the child may be.

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

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

All persons, if any, who are named in such petition, or
51 whose names are stated in the petition to be unknown to
52 the petitioner, shall be deemed and taken as defendants
53 by the name or designation of "All Whom It may Concern,"
54 the petition being verified by affidavit and said affidavit be-
55 ing sufficient upon information and belief. Processes shall
56 be issued against all persons made parties by the descrip-
57 tion of "All Whom It May Concern," by such description,
58 and notice given by publication shall be sufficient to author-
59 ize the court to hear and determine the cause as though the
60 parties had been sued by their proper names.

III.—Hearing. Upon the return of the summons or notice
62 or other process, or as soon thereafter as may be, the court
63 shall proceed to hear and dispose of the case in a summary
64 manner. The proceedings shall be in the nature of a hear-
65 ing rather than a trial and the court may conduct the ex-
66 amination of witnesses without the aid of counsel, and may
67 take testimony and inquire into the habits, surroundings,
68 conditions and tendencies of said child, to enable the court
69 to render such order or judgment as shall best conserve the
70 welfare of said child, and carry out the objects of this act.

71 The court if satisfied that the child is in need of the care
72 or discipline and protection of the state, may so adjudicate,
73 and may, in addition, find said child to be delinquent or
74 neglected, or in need of more suitable guardianship, as the
75 case may be; and in addition to the powers granted by this
76 act, may render such judgment and make such order of
77 commitment according to the circumstances in each case,
78 as any court or magistrate is now or may hereafter be au-
79 thorized by law to render or make in any of the class of
80 cases coming within section 2 of this act.

It is the intention of this act that in all proceedings coming
82 under its provisions, the court shall proceed upon the the-
83 ory that the custody of all children is primarily within the
84 state; that they are wards of the state, and entitled to its
85 protection, and when once any such child is within the said
86 court the jurisdiction thereof shall continue during the minor-
87 ity of such child, except as hereinafter modified in section
88 7 of this act.

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

No child shall be denominated a criminal by reason of any

98 adjudication under this act; nor shall such adjudication be
99 denominated a conviction.

IV.—Appeals. In all cases under this act, an appeal shall
101 lie directly to the next session of the supreme court in and
102 for the county of the court having jurisdiction; except that
103 in the counties of Cumberland and Kennebec an appeal
104 may first be had to the superior courts of their respective
105 counties. Such appeals shall be governed as follows:

In all cases coming within subdivision A of section 2, by
107 the laws governing appeals to the supreme judicial court
108 from magistrates in criminal actions.

In all cases coming within subdivision B of section 2, by
110 the laws governing appeals to the supreme court of pro-
111 bate from probate courts except that no bond shall be re-
112 quired of the appellant.

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

V.—Transfer of Cases. Whenever a child within the
117 provisions of this act is arrested with or without war-
118 rant such child may, instead of being taken before a trial
119 justice or magistrate, be taken directly before the court
120 having jurisdiction under this act; or if the child is taken
121 before a trial justice or magistrate, such justice or magis-
122 trate shall inquire into such case, and unless he shall find
123 that there is no sufficient cause for further proceedings,
124 it shall be the duty of such trial justice or magistrate to

125 transfer the case to the court having jurisdiction under
126 this act, and, in any case, the latter court may proceed to
127 hear and dispose of the case in the same manner as if the
128 child had been brought before the court upon petition as
129 herein provided.

The court having jurisdiction under this act may, in its
131 discretion, in any case coming within section 2, permit such
132 child to be proceeded against in accordance with the laws,
133 other than this act, that may be in force in this state gov-
134 erning the commission of crimes or violations of city, vil-
135 lage or town ordinances or statutes of this state; and in
136 such cases the petition filed under this act shall be dis-
137 missed or the written permission of the judge having juris-
138 diction under this act shall be filed in the court assuming
139 jurisdiction.

Any and all cases in which the court having jurisdiction
141 may be given jurisdiction by virtue of section 2 of this
142 act, may be transferred according to the provisions of this
143 section.

Sect. 4. DISPOSITION OF CHILD. I.—Pending Hearing.

2 At any time after the filing of the petition and pending the
3 final disposition of the case, the court may continue the
4 hearing from time to time and may allow such child to
5 remain in the possession of its custodian or in its own home,
6 subject to the friendly visitation of the probation officer
7 or it may order such child to be placed in the custody of
8 the probation officer of the court or to be kept in some suit-

9 able place approved by the court or provided or approved
10 by the city or county authorities.

In no case shall a child under fourteen (14) years of age
12 be placed in any police station, jail or other lock-up, unless
13 absolutely necessary and then not in any cell or compart-
14 ment or enclosure with adult criminals. Whoever violates
15 the provisions of this section shall be deemed guilty of con-
16 tributory delinquency.

II.—After Hearing. After hearing the case, the court
18 may render such order or judgment as shall best conserve
19 the welfare of such child and carry out the objects of this
20 act; and in any case the court may allow the child to re-
21 main at its home, subject to the friendly visitation of the
22 probation officer, or to report to the court or probation offi-
23 cer from its home or school at such times as the court may
24 require. If the parent, parents, guardian or custodian of
25 such child are unfit or improper guardians, or are unable
26 or unwilling to care for, protect, train, educate and correct
27 or discipline such child, and the court finds that it is for
28 the best interest of the child and the people of the state that
29 the child be taken from the custody of its parent, parents,
30 guardian or custodian, the court may make an order ap-
31 pointing as guardian of the person of such child, some re-
32 putable citizen of good moral character and order such
33 guardian to place such child in some suitable family, home,
34 or other suitable place which such guardian may provide
35 for such child; or the court may enter an order committing

36 such child to some suitable state institution, organized for
37 the care of dependent or neglected children, or to some
38 training school or industrial school or children's home find-
39 ing society or to some association embracing in its objects
40 the purpose of caring for or of obtaining homes for neg-
41 lected or dependent children; or the court may, in addition
42 to the foregoing, commit such child to any institution in-
43 corporated under the laws of this state to care for delin-
44 quent children or to any institution that has been or may be
45 provided by the state, county or city or town, suitable for the
46 care of delinquent children, including a detention home or
47 school, or to some association that will receive it, embracing
48 in its objects the care of neglected, dependent or delinquent
49 children.

Sect. 5. RECORDS, REPORTS AND COSTS. The findings of
2 the court shall be entered in a book or books kept for that
3 purpose and known as the "Juvenile Record," and the court
4 may, for convenience, be called the "Juvenile Court," and
5 the records of all cases may be withheld from indiscriminate
6 public inspection in the discretion of the court, but they
7 shall be open to the inspection of such child, his parents,
8 guardian or attorney at all times. The court shall have
9 power to devise and publish rules and regulations, the pro-
10 cedure of, and the time and places of hearing of cases com-
11 ing within the perview of this act, and for the conduct of
12 all probation officers and other officers of this court in such
13 cases, and such rules and regulations shall be enforced and

14 construed beneficially for the remedial purposes herein em-
15 braced.

The court may devise, and upon approval of a majority
17 of the judges having jurisdiction under this act, may cause
18 to be printed for public use such forms for records and for
19 the various petitions, orders, processes and other papers
20 in the cases coming under this act as shall meet the require-
21 ments thereof and all expenses, including stationery, office
22 supplies and stamps, incurred by the court in complying
23 with the provisions of this act shall be a county charge.
24 Such court, or the judge thereof, shall have full power and
25 authority to maintain order and decorum in his court and
26 the said Juvenile Court shall have a seal bearing on the
27 face thereof, "Juvenile Court of the State of Maine, 1913."

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

Sect. 6. PROBATION OFFICERS. The courts having juris-
2 diction under this act shall have authority to appoint or
3 designate one or more discreet persons of good moral char-

4 acter to serve as probation officers, during the pleasure of
5 the court, provided that every agent for the protection of
6 children shall be ex-officio a probation officer in that county
7 for which he is appointed, said probation officers to receive
8 no compensation as salary from the county treasury, unless
9 otherwise provided than in this act; except that, in any
10 county where a special court is established, when it shall
11 become necessary and essential to the successful operation
12 of this act, the court may appoint one paid probation officer
13 to hold office during the pleasure of the court and who shall
14 receive, as his compensation, such sum as the county com-
15 missioners of that county shall fix at their next session after
16 such appointment. Such compensation shall be paid out of
17 the county treasury in equal monthly installments and shall
18 not be diminished during the term of office of the probation
19 officer, but may be increased if it seems just to the county
20 commissioners so to do.

In case a probation officer or officers, paid or volunteer,
22 are appointed by the court, it shall be the duty of the court,
23 if practicable, to notify a probation officer when any child
24 is to be brought before the court. It shall be the duty of
25 the probation officer to make investigation of such case; to
26 be present in court to represent the interests of the child
27 when the case is heard; to furnish the court such informa-
28 tion and assistance as the court or judge may require, and
29 to take charge of any child before and after the hearing as
30 may be 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 du-
36 ties, upon a written certificate from the court that they are
37 persons of discretion and good character. Such probation
38 officers shall take an oath similar to that required of other
39 county officers to perform their duty and file it in the office
40 of the court.

Sect. 7. RELATIONS OF THE COURT. It is hereby made
2 the duty of every county, town or municipal officer or de-
3 partment to render such assistance and co-operation as may
4 be within his or its jurisdictional power to further the ob-
5 jects of this act.

Whenever a child within the jurisdiction of said court and
7 under the provisions of this act is temporarily placed in the
8 custody of an agent, suitable institution or person, the ex-
9 pense of the support of said child during such period, until
10 permanent provision can be made therefor, shall be paid
11 by the town in which said child resides and said town may
12 recover the amount thereof in a suitable action from the
13 person or persons liable for the furnishing of necessities for
14 said child.

Any final order or judgment made by the court in the case
16 of any child shall be subject to such modification from time
17 to time as the court may consider to be for the welfare of

18 said child; and no commitment of any child to any institu-
19 tion or other custodial agency shall deprive the court of the
20 jurisdiction to change the form of commitment, or any other
21 order of the court, or transfer the custody of the child to
22 some other institution or agency or restore it to its home
23 or its parents on such conditions as the court may see fit
24 to impose, the duty being constant on the court to give all
25 children subject to its jurisdiction such oversight and con-
26 trol in the premises as will conduce to the welfare of said
27 child and the best interests of the state; except that, if any
28 child shall be committed to and accepted by either the State
29 School for Boys or the Maine Industrial School for Girls,
30 said child shall thereafter be governed solely by the laws
31 now or hereafter in force regarding the inmates of these
32 respective institutions.

In the case of any child coming within the jurisdiction of
34 this act, the court may, in the same or subsequent proceed-
35 ings, upon the parents of the 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
38 child or contribute thereto, and if the court shall find such
39 parent or parents able to support such child or contribute
40 thereto, in its own home or elsewhere, the court may enter
41 such order or decree as shall be according to equity in the
42 premises and may enforce the same by execution or in any
43 way in which a court of equity may enforce its orders or
44 decrees.

Whenever a child, under the jurisdiction of this court,
46 appears to the court to be in need of medical care, a suit-
47 able order may be made for the treatment of such child in
48 a hospital, and the expense thereof shall be a county charge.
49 The county may recover the said expenses in a suitable ac-
50 tion from the person or persons liable for the furnishing of
51 necessities for said child. The court may cause said child
52 to be examined by any health officer or duly licensed physi-
53 cian.

No association which is incorporated under the laws of
55 any other state than the state of Maine, shall place any
56 child in any family home within the boundaries of the state
57 of Maine, either with or without indenture or for adoption,
58 unless the said association shall have furnished the judge
59 of the Juvenile Court in and for the county where it is de-
60 sired to place such child, with such guaranty as he shall
61 require that no child shall be brought into the state of
62 Maine, by such society or its agents, having any contagious
63 or incurable disease, or having any deformity or being of
64 feeble mind, or of vicious character, and that said associa-
65 tion will promptly receive and remove from the state any
66 child brought into the state of Maine by its agent which
67 shall become a public charge within the period of five years
68 after being brought into the state. Any person who shall
69 receive, to be placed in a home, or shall place in a home,
70 any child in behalf of any association, incorporated in any
71 other state than the state of Maine, which shall not have

72 complied with the requirements of this act, shall be impris-
73 oned in the county jail not more than thirty days, or fined
74 not less than twenty (20) dollars or more than one hun-
75 dred (100) dollars, or both, at the discretion of the court.

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

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

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

Sect. 8. CONTRIBUTORY DELINQUENCY. In all cases where

2 any person shall be responsible for, or by any act encourage,
3 cause or contribute to the delinquency of any child less than
4 seventeen (17) years of age, or who shall by any act or
5 conduct, cause or encourage any child less than seventeen
6 (17) years of age to violate any penal law or municipal
7 ordinance, or commit any act or offense, for which he could
8 be prosecuted in a method partaking of the nature of a
9 criminal act or proceeding, or who causes or encourages
10 any child to engage in any occupation, calling or exhibition,
11 or to frequent any place forbidden by law, or so to conduct
12 himself or remain in such condition or surroundings as to
13 endanger the morals, health or general welfare of such
14 child, such person shall be guilty of a misdemeanor, and
15 upon conviction shall be fined a sum not to exceed one thou-
16 sand (1,000) dollars or imprisoned in the county jail for a
17 period not exceeding one year, or by both such fine and
18 imprisonment.

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

In any case, said court is hereby given the power to im-
26 pose reasonable conditions upon any person found to be
27 guilty of contributory delinquency under this act and so
28 long as such person shall comply therewith to the satisfac-

29 tion of the court, the decree or sentence may be suspended.

Sect. 9. CONSTRUCTION. This act shall be liberally con-
2 strued to the end that its purpose may be carried out, to
3 wit, that the care, custody and discipline of the child shall
4 approximate as nearly as may be that which should be given
5 by the parents, and in all cases, so far as is practical, the
6 child shall be treated, not as a criminal, but as misdirected
7 and misguided and needing aid, encouragement and assist-
8 ance, and if said child cannot be properly cared for and
9 corrected in its own home, or with the assistance and help
10 of the probation officers, then that it may be placed in a
11 suitable institution where it may be helped and educated
12 and equipped for industrial efficiency and useful citizenship.

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