

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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SEVENTY-EIGHTH LEGISLATURE

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SENATE

NO. 429

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*In Senate, March 30, 1917.*

*Reported by Messrs. Cole, Deering, Dearth, Farrington, Gurney, Barnes and Barter from committee on judiciary and ordered printed under joint rules.*

*W. E. LAWRY, Secretary.*

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STATE OF MAINE

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

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AN ACT to amend certain sections of Chapter 64, Revised Statutes, in relation to the protection of neglected children.

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

Section 1. Section 49, Chapter 64, Revised Statutes, is  
2 hereby amended to read as follows:

‘Sect. 49. Upon application by the county commissioners  
2 of any county to the Governor and Council, recommend-  
3 ing any person as an “agent for the protection of children,”  
4 the Governor shall cause the qualifications and experience of  
5 said person to be investigated by the State Board of Char-

ities and Corrections, and a report thereon to be made to  
him; if from such report it shall appear that the person  
so recommended possesses the necessary qualifications and  
experience for the office, the Governor and Council shall  
issue a badge and a commission to the person designated  
in said application, appointing such person as an “agent for  
the protection of children” to serve within and for the coun-  
ty for which she or he shall be appointed and to perform  
such duties as may be required by the following sections  
of this chapter; provided that there shall not be more than  
one commission which has been issued under the provisions  
of this section as amended in force for any county at one  
and the same time, but this proviso shall not serve to ter-  
minate the commission of any agent now holding office, not  
exclusive of fees, to reduce the rate of compensation of such  
agents.’

Sect. 2. Section 50 of said Chapter 64 is hereby amended  
to read as follows:

‘Sect. 50. If any vacancy occurs in the office of the agent  
for the protection of children in any county, and the coun-  
ty commissioners fail, for more than thirty days thereafter,  
to recommend a suitable person for the office, such appoint-  
ment may be made by the Governor and Council upon the  
recommendation of the State Board of Charities and Cor-  
rections in the same manner as though the recommenda-  
tion had been made in the first instance by the county com-  
missioners, and in such case the compensation which the

10 said agent shall receive shall be fixed by said State Board  
11 but shall not exceed three dollars per day.'

Sect. 3. Section 51 of said Chapter 64 is hereby amended  
2 to read as follows:

'Sect. 51. Any agent for the protection of children ap-  
2 pointed as aforesaid and all sheriffs, deputy sheriffs, police  
3 officers, constables and overseers of the poor shall investi-  
4 gate all cases of cruel or injurious treatment of children  
5 coming to their knowledge, and shall cause offenders against  
6 any law concerning the protection of children or preven-  
7 tion of cruelty to the same to be prosecuted. Said agents  
8 shall file with the State Board of Charities and Corrections  
9 such reports of cases investigated and children taken into  
10 custody by or through their efforts as the said Board may  
11 require and the said Board shall direct them in the per-  
12 formance of their duties. For their services in conducting  
13 investigations, making inspections and performing such  
14 other duties as are required by the last twelve sections of  
15 this chapter, said agents shall be paid by the county their  
16 actual expenses, including the cost of maintaining and car-  
17 ing for children pending continuance before hearing, and  
18 compensation at such rate which shall not be less than two  
19 dollars and fifty cents per day, as the county commission-  
20 ers of their respective counties shall determine, provided  
21 that all claims of such agents for expenses and services  
22 shall first be audited by the said State Board before they  
23 are approved by the county commissioners of the county

24 liable to pay for the same. Sheriffs and deputy sheriffs  
25 shall be paid by their respective counties their actual ex-  
26 penses and compensation, where no salary is paid, at the  
27 regular per diem rate fixed by law for their respective of-  
28 fices; police officers, constables and overseers of the poor  
29 shall be paid by their respective towns their actual expenses  
30 and the usual compensation allowed for the performance  
31 of the duties of their respective offices; and for the service  
32 of any process, civil or criminal, which they may be author-  
33 ized to serve by the terms of this section; said sheriffs, dep-  
34 uty sheriffs, police officers and constables shall be allowed  
35 the same fees as are now allowed officers by law for the  
36 service of any similar process. All fines imposed for the  
37 punishment of offences under the last twelve sections of  
38 this chapter shall be paid over to the county treasurer for  
39 the county in which the offences may have been committed.'

Sect. 4. Section 52 of said Chapter 64 is hereby amended  
2 to read as follows:

'Sect. 52. Any agent appointed as aforesaid may arrest  
2 and bring before any court or magistrate having jurisdic-  
3 tion, any person offending against any law concerning the  
4 protection of children or the prevention of cruelty to the  
5 same, or serve any process, civil or criminal, provided for  
6 by the terms of said laws or required for the enforcement  
7 of the same, in the same manner and with the same powers  
8 in the promises as any sheriff, deputy sheriff, police officer  
9 or constable, but said agents shall not be entitled to any

10 fees therefor. Any such agent, sheriff, deputy sheriff, po-  
11 lice officer, constable or overseer of the poor, may lawfully  
12 interfere to prevent the perpetration in his presence of any  
13 such offense or act prohibited by any law concerning the  
14 protection of children or the prevention of cruelty to the  
15 same, and whoever interferes with or obstructs such agent  
16 or any sheriff, deputy sheriff, police officer, constable or  
17 overseer of the poor in the discharge of his duty, is guilty  
18 of a misdemeanor, and shall be punished by fine not exceed-  
19 ing five hundred dollars or by imprisonment not exceeding  
20 six months.'

Sect. 5. Section 53 of said Chapter 64 is hereby amended  
2 to read as follows:

'Sect. 53. When complaint in writing signed by any such  
2 agent so appointed, any sheriff, deputy sheriff, police offi-  
3 cer, constable or overseer of the poor or any officer or agent  
4 of any society for the protection of children or the preven-  
5 tion of cruelty to the same or by three or more citizens of  
6 any town or city is made under oath to the judge of the  
7 probate court or the nearest municipal or police court in  
8 the county in which the said city or town is located, alleg-  
9 ing that any child in said town or city is cruelly treated or  
10 wilfully neglected by its parents or parent or by the wil-  
11 ful failure of such parent or parents is not provided with  
12 suitable food, clothing or privileges of education or is kept  
13 at or allowed to frequent any disorderly house, house of ill  
14 fame, gambling place or other place where intoxicating liq-

15 uors are sold or other place injurious to health or morals  
16 or that such child is an orphan without means of support  
17 or kindred of sufficient ability who will furnish such sup-  
18 port, and praying that suitable and proper provision may  
19 be made for the care, custody, support and education of the  
20 child named in such complaint, the magistrate or judge to  
21 whom such complaint is made shall issue his warrant and  
22 cause such child to be brought before him and notice to be  
23 given to its parents or parent or other person having legal  
24 custody of such child, if any, for such length of time as  
25 the judge or magistrate may see fit, either by service in hand  
26 or by publication in such manner as the judge or magis-  
27 trate may direct; the judge or magistrate, if he deems it  
28 necessary, in his discretion may order or continue the case  
29 for hearing and shall cause notice in writing of such con-  
30 tinuance or hearing to be given to the overseers of the poor  
31 of the town where the child is residing at least ten days be-  
32 fore the date set for hearing, provided, however, that the  
33 overseers of the poor may waive such notice. Pending any  
34 such continuance of the case before hearing, if the circum-  
35 stances appear to require it, the judge or magistrate shall or-  
36 der the child into the care and custody of an agent for  
37 the protection of children or any suitable person consent-  
38 ing to receive it; and after hearing, if it shall appear that  
39 the allegations of said complaint are true, and that it is  
40 suitable and proper that such child shall be supported and  
41 educated away from its parents or parent, the magistrate

42 or judge shall order said child temporarily into the custody  
43 of any institution provided by the city or town for the pur-  
44 pose or of any such agent or his successor in office, and  
45 cause a copy of the order of commitment to be sent forth-  
46 with to the State Board of Charities and Corrections, and  
47 the expense of the support of said child from the time of  
48 judge shall order said child temporarily into the custody of  
49 such institution or agent until suitable permanent provisions  
50 can be made therefor or until said child arrives at the age  
51 of sixteen years if a male and eighteen years if a female,  
52 shall be paid by the town in which said child resides, and  
53 said town may recover the amount thereof from the parents  
54 or parent of said child, if any, as provided in section 60 of  
55 this chapter, or from the town where the child has legal set-  
56 tlement, if any, or if the child shall not appear to have a  
57 legal settlement in any town, then from the state. The  
58 State Board of Charities and Corrections shall devise and  
59 keep a record, so far as obtainable, of the cost to each town  
60 and the state, of caring for the children in the custody of  
61 said agents. Whenever a vacancy occurs in the office of  
62 agent for the protection of children any child or children  
63 in the custody of the agent whose office has been terminat-  
64 ed shall be in the custody of the State Board of Charities  
65 and Corrections under the same condition as though by or-  
66 der of court until a successor to such agent has been ap-  
67 pointed and qualified or until further orders of court mak-  
68 ing the order of commitment to temporary custody.'



Sect. 6. Section 54 of said Chapter 64 is hereby amended  
2 to read as follows: 'Section 54. When the superintendent  
3 or matron of any such institution or any such agent is able  
4 to find a suitable charitable institution or private person,  
5 giving preference to such near relatives as can be found,  
6 who will consent to receive, support and educate any child  
7 committed to said institution or agent under the provisions  
8 of the preceding section, said superintendent, matron or  
9 agent shall forthwith notify the judge of probate of the  
10 county in which the child was residing at the time of the  
11 issuance of the order of temporary commitment to said insti-  
12 tution or agent, recommending the permanent commitment of  
13 such child to such charitable institution or person; the judge  
14 of probate shall order hearing not less than ten days notice  
15 in writing to be given to the State Board of Charities and  
16 Corrections at its office at the State House and to the clerk  
17 or recorder of the court ordering the temporary commitment,  
18 and if their whereabouts are known and if not by publication,  
19 to the parents or parent and various other parties in interest;  
20 if, upon hearing, it appears suitable and proper that such  
21 child shall continue to be supported and educated away from  
22 its parents or parent and the judge or magistrate shall deem  
23 suitable the charitable institution or private person recom-  
24 mended by said superintendent, matron, or agent, he shall  
25 order the child into the care and custody of such charitable  
26 institution or person, provided that such institution or per-  
27 son consents to receive, support and educate said child, and

28 shall cause a copy of such order to be transmitted to said  
29 state board. Such orders and decrees provided for in this  
30 and the preceding section shall have the same effect to divest  
31 the parents or parent of all legal rights in respect to said  
32 child as specified in Section 38 of Chapter 72, Revised Stat-  
33 utes, but such orders shall not extend beyond the time when  
34 the child arrives at the age of twenty-one years if a male  
35 and eighteen years if a female, and said agent, institution  
36 or private person shall have full custody and control over  
37 said child thereafter for said time, and when the permanent  
38 order of commitment provided for in this section has been  
39 given, said charitable institution or private person shall have  
40 authority alone to give the consent required in Section 36 of  
41 said Chapter 72. An appeal may be taken from the order  
42 of any probate, municipal or police court determining the  
43 temporary or permanent custody of a child under the pro-  
44 visions of this act, to the next term of the Supreme Judicial  
45 Court to be holden within the county in which said probate,  
46 municipal or police court is situated, provided that in coun-  
47 ties having a superior court such appeal from any municipal  
48 or police court shall lie solely to said superior court. The  
49 proceedings under such appeal shall follow the forms pre-  
50 scribed for appeals from probate courts or the provisions of  
51 any special charter of the municipal or police court con-  
52 cerned, but pending action upon any such appeal, the judge  
53 or magistrate of the court may order the custody of the child  
54 to be retained by said agent.'

Sect. 7. Section 56 of said Chapter 64 is hereby amended  
2 to read as follows: 'Section 56. Any child who shall come  
3 in any way under the inspection or supervision of the State  
4 Board of Charities and Corrections or under the provisions  
5 of the last twelve sections in this chapter, shall, when placed  
6 in a family be placed in a family of the same religious faith  
7 as that of the parents or surviving parent of such child,  
8 where a suitable family of such faith can be found willing to  
9 take such child. Any written promise made by either parent  
10 shall be faithfully carried out by the agent, institution or  
11 private person concerned. If such family can not be found,  
12 then such child shall be placed in an institution maintained  
13 for children of such faith. In case no institution of such  
14 faith exists in this state or is able to take care of said child,  
15 then it may be placed in such family or institution as may  
16 be approved by the State Board of Charities and Corrections  
17 until such a family has been secured; provided, however,  
18 that if the parents of such child are of different religious  
19 faiths, or the faith of its parents cannot for any reason be  
20 ascertained, then such child shall be placed in a family or  
21 institution of that religious faith in which such child has been  
22 reared and educated, but where no such family or institution  
23 can be found to take such child, then in some family or in-  
24 stitution approved by said board until such family or institu-  
25 tion can be found. No child when placed in any home of  
26 institution shall be denied the opportunity of attending the  
27 religious worship or exercising the religious belief of its

28 parents or surviving parent or in which it was reared and  
29 educated.'

Sect. 8. Section 57 of said Chapter 64 is hereby amended  
2 to read as follows: 'Section 57. No child under sixteen  
3 years of age shall be placed in any almshouse in this state  
4 or be suffered by the overseers of the poor to remain in such  
5 almshouse except in cases of emergency, and then for a  
6 period not exceeding sixty days, provided that children un-  
7 der two years of age may be kept in almshouses when their  
8 mother is also an inmate; provided further, that with the  
9 consent of the State Board of Charities and Corrections  
10 children when in need of medical or surgical treatment may  
11 be kept in hospitals or infirmaries connected with such alms-  
12 houses for such length of time as they are in need of such  
13 treatment; provided also that when upon a certificate of two  
14 physicians who are graduates of some legally organized  
15 medical college and have practiced three years in this state,  
16 it shall be made to appear that any child is a proper subject  
17 for the State School for the Feeble Minded, such child  
18 may with the consent of and under such regulations as the  
19 State Board of Charities and Corrections may determine, be  
20 kept in the almshouse until such time as it can, under the  
21 provisions of Section 49, Chapter 145, Revised Statutes, be  
22 committed to said school. Whenever any child or children  
23 under sixteen years of age are placed or allowed by the over-  
24 seers of the poor to remain in an almshouse, or in hospitals  
25 or infirmaries connected therewith, notice of that fact giving

26 the name, parentage and such other facts as the State Board  
27 of Charities and Corrections may require, shall be sent by  
28 the overseers of the poor to said Board within forty-eight  
29 hours of the entrance of such child into the almshouse, in-  
30 firmary or hospital. A similar notice within the same time  
31 shall be sent by the overseers of the poor to the said Board  
32 when the child is discharged from said almshouse, hospital or  
33 infirmary.

Sect. 9. All acts and parts of acts inconsistent with the  
2 foregoing are hereby repealed.