

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)

E I G H T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 236

H. P. 720

House of Representatives, Jan. 29, 1931.

Referred to Committee on Judiciary and 1000 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Burkett of Portland.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTY-ONE

AN ACT to Create Juvenile Courts and to Define Their
Jurisdiction.

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

Section 1. Designation of Judges and Probation Officers. The Governor and Council shall designate one or more Municipal Court judges in each county to be known as the judge of the Juvenile Court for such county or part thereof. The judges so designated may nominate such probation officer or officers as they deem necessary, subject to confirmation by the Governor and Council, and shall fix the compensation of the same subject to the approval of a Justice of the Superior Court and such probation officer or officers shall serve at the pleasure of the Governor and Council.

Sect. 2. Jurisdiction. Such juvenile courts shall have exclusive original jurisdiction in all cases involving the delinquency, dependency, or neglect of any child or children within their respective jurisdictions as designated by the Governor and Council. Sessions of the court shall be held at such places within its jurisdiction as the judge may from time to time determine. Such courts may make and enter such judgment or orders for the custody, discipline, supervision, care and protection as in the judgment of the court may be for the wel-

fare and best interest of such child or children and may discharge from custody when satisfied that the objects thereof shall have been accomplished. No adjudication or judgment upon the status of any child under the provisions of this chapter shall be deemed to constitute a conviction for crime, but the foregoing shall not apply to sentences under paragraph two of section four hereof. The court shall have original jurisdiction to determine all cases of adults charged with contributing to, encouraging, or tending to cause, by any act or omission, the delinquency, neglect or dependency of any child, and any person found guilty of such act or omission with respect to any child may be punished by a fine of not more than five hundred dollars or imprisonment in jail for not more than eleven months.

Sect. 3. Definition of Terms. (a) For the purposes of this chapter the words "delinquent child" shall mean any child under the age of seventeen years who violates any statute or city ordinance or is incorrigible or a persistent truant from school or habitually associates with vagrants, criminal or vicious or immoral persons.

(b) The words "dependent child" shall mean any child under the age of seventeen years who is homeless or destitute or dependent upon the public for support or whose parents are in the opinion of the court incapable mentally or physically properly to provide for their support.

(c) The words "neglected child" shall mean any child under seventeen years of age who is abandoned by both parents or whose home by reason of neglect, cruelty or depravity on the part of parents or guardians is an unfit place for such child, or whose parents or guardians neglect or refuse when able to do so to provide medical, surgical, or other remedial care necessary for his health or well being.

(d) All delinquent, dependent or neglected children as defined in this chapter shall be considered for the purposes of this act wards of the state and in need of its care and protection and proceedings under this chapter shall be for the purpose of determining whether the state shall assume the supervision or custody of said child, and, unless some other guardian shall be appointed, the State Board of Children's Guardian shall have all the powers as to the person, property, earnings, and education of every child committed to the cus-

tody of the State Department of Public Welfare, during the term of commitment, which a guardian has as to a ward.

Sect. 4. Powers of the Court. Such courts may place children under the supervision, care and control of a probation officer or may order the child to be placed in a suitable family home subject to the supervision of a probation officer or the State Board of Public Welfare or may commit such child to the State Department of Public Welfare or make such other disposition as may seem best for the interests of the child and for the protection of the community, provided, however, that all children adjudged to be delinquent and unsuitable for probation shall be committed to the State Department of Public Welfare which may thereafter apply for the commitment of such child to the State School for Boys or State School for Girls.

Unless the offense is aggravated or the child is of an extremely vicious or unruly disposition and unless such child is fifteen years of age or over, no court shall sentence or commit a child under the age of seventeen years to jail, reformatory or penitentiary or hold such child for the grand jury.

Sect. 5. Petition. Any person having information that a child is delinquent within the provisions of this act may give such information to the court. Thereupon the court shall make preliminary inquiry to determine whether the public interests or the interests of the child require that further action be taken. Whenever practicable such inquiry shall include a preliminary investigation of the home and environmental condition of the child, his previous history, and the circumstances of the condition alleged. If the court shall determine that formal jurisdiction should be acquired, it shall authorize a petition to be filed.

The petition shall be verified, alleging briefly the facts which bring said child within the provisions of this act, and stating (1) the name, age and residence of the child; and (2) the name and residence of his parents; (3) of his legal guardian, if there be one; (4) of the person or persons having custody or control of the child, and (5) of the nearest known relative, if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner the petition shall so state.

Sect. 6. Summons. After a petition shall have been filed

and after such further investigation as the court may direct, unless the parties hereinafter named shall voluntarily appear, the court shall issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the person so summoned shall be other than the parent or guardian of the child, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed, by personal service before the hearing, except as hereinafter provided. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

If it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the judge may cause to be endorsed upon the summons an order that the officer serving the same shall at once take the child into custody.

Sect. 7. Service. Service of summons shall be made personally by the delivery of attested copies thereof to the persons summoned; provided, that if the judge is satisfied that it is impracticable to personally serve such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to their last known addresses, or by publication thereof, or both, as he may direct.

Service of summons, process or notice required by this act may be made by any suitable person under the direction of the court. The judge may authorize the payment of necessary traveling expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the provisions of this act, and such expenses when approved by the judge shall be a charge upon the county.

Sect. 8. Procedure in cases of dependency or neglect. In cases involving the dependency or neglect of any child the procedure shall be the same as provided for in sections fifty-two to fifty-five of chapter seventy-two of the Revised Statutes.

Sect. 9. Contempt. If any person summoned as herein provided shall fail without reasonable cause to appear, he may be proceeded against for contempt of court. In case the summons cannot be served or the parties served fail to obey the

same, or in any case when it shall be made to appear to the judge that the service will be ineffectual or the welfare of the child requires that he shall be brought forthwith into the custody of the court, a warrant may be issued against the parent or guardian or against the child himself.

Sect. 10. Release. Whenever any officer takes a child into custody, he shall, unless it is impracticable or has been otherwise ordered by the court, accept the written promise of the parent, guardian or custodian to bring the child to the court at the time fixed. Thereupon such child may be released to the custody of the parent, guardian or custodian. If not so released, such child shall be placed in the custody of a probation officer or other person designated by the court, or taken immediately to the court or to the place of detention designated by the court, and the officer taking him shall immediately notify the court and shall file a petition when directed to do so by the court.

In the case of any child whose custody has been assumed by the court and pending the final disposition of the case, the child may be released in the custody of a parent, guardian or custodian, or of a probation officer or other person appointed by the court, to be brought before the court at the time designated. When not released as herein provided, such child, pending the hearing of the case, shall be detained in such place of detention as shall be designated by the court, subject to further order.

Sect. 11. Transfer. If during the pendency of a criminal or quasi-criminal charge against any person in any other court, it shall be ascertained that said person was under the age of seventeen years at the time of committing the alleged offense, it shall be the duty of such court to transfer such case immediately, together with all the papers, documents and testimony connected therewith, to the juvenile court. The court making such transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile court or to that court itself, or release such child in the custody of some suitable person to appear before the juvenile court at a time designated. The juvenile court shall thereupon proceed to hear and dispose of such case in the same manner as if it had been instituted in that court in the first instance.

Sect. 12. Hearing. The court may conduct the hearing in

an informal manner, and may adjourn the hearing from time to time. In the hearing of any case the general public shall be excluded and only such persons admitted as have a direct interest in the case. All cases of children shall be heard separately and apart from the trial of cases against adults.

Sect. 13. Support of Child Committed to Custodial Agency. Whenever a child is committed by the court to custody other than that of its parent and no provision is otherwise made by law for the support of such child, compensation for the care of such child, when approved by order of the court, shall be a charge upon the town of settlement. But the court may, after giving a parent a reasonable opportunity to be heard, adjudge that such parent shall pay in such manner as the court may direct such sum as will cover in whole or in part the support of such child, and if such parent shall wilfully fail or refuse to pay such sum he may be proceeded against as provided by law for cases of desertion or failure to provide subsistence.

Sect. 14. Records. The court shall maintain complete records of all cases brought before it. Such records shall be withheld from indiscriminate public inspection but shall be open to inspection by the parent or other authorized representative of the person concerned, and, in the discretion of the court, by other persons having a legitimate interest. The court shall devise and cause to be printed such form for records and such other papers as may be required in dealing with cases coming within this act. All expenses incurred in complying with the provisions of this act shall be a county charge.

Sect. 15. Appeals. Any person aggrieved by a decision of a juvenile court judge may appeal therefrom to the Superior Court for the same county, and such appeal shall be proceeded with in the same manner as like appeals from the decisions of Municipal Court judges.

Sect. 16. Repeal. All acts and parts of acts inconsistent herewith are hereby repealed.

Sect. 17. Constitutionality. If any section, subdivision or clause of this act shall be held to be unconstitutional or invalid such decision shall not affect the validity of the remainder of the act.