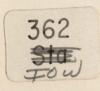
STATE OF IOWA 1966 Des Moines, Iowa 50319

PUBLIC WELFARE LAWS

PUBLIC ASSISTANCE
WELFARE OF CHILDREN
UNIFORM SUPPORT

STATE BOARD OF SOCIAL WELFARE



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STATE OF IOWA
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CHAPTER 231

JUVENILE COURT

Referred to in §232.2, subsection 1

231.1 Jurisdiction.

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231.15 Confinement of delinquent juvenile.

231.1 Jurisdiction. There is hereby established in each county a juvenile court, which, and the judges thereof, shall have and exercise the jurisdiction and powers provided by law. [S13,§254-a13; C24, 27, 31, 35, 39,§3605; C46, 50, 54, 58, 62,§231.1]

231.2 How constituted. The juvenile court of each county shall be constituted as follows: 1. Of the judges of the district court.

2. In counties wherein there is a superior or municipal court, of the judges thereof, respectively, when designated as judges of the juvenile court by the judges of the district court. [S13,§254-a13; C24, 27, 31, 35, 39,§3606; C46, 50, 54, 58, 62,§231.2]

231.3 Designation of judge. The judges of the district court may designate one of their number to act as judge of the juvenile court in any county or counties, and may designate a superior or municipal court judge to act as judge of the juvenile court in cases arising in any city in which any such court is organized and in cases arising in any part of any county convenient thereto. In counties having a population of one hundred thousand or over, unless said district judges designate a superior or municipal court judge to act as juvenile judge, they shall after each election, designate one of their number to act as juvenile judge for the ensuing four years. [C24, 27, 31, 35, 39,§3607; C46, 50, 54, 58, 62,§231.3]

231.4 Effect. The designation of any judge to hold the juvenile court shall not deprive him of other judicial functions, nor the other judges of the power to act as judges of the juvenile court during the absence, inability to act, or upon request, of the regularly designated juvenile judge. [C24, 27, 31, 35, 39, §3608; C46, 50, 54, 58, 62,§231.4]

- 231.5 Courts always open. Juvenile courts shall always be open for the transaction of business, but the hearing of any matter requiring notice shall be had only at such time and place as the judge may fix. [S13,§254-a13; C24, 27, 31, 35, 39,§3609; C46, 50, 54, 58, 62,§231.5]
- 231.6 Records of court. The juvenile court shall be a court of record, and the proceedings, orders, findings, and decisions thereof shall be entered in books kept for that purpose and designated as the juvenile court records. [S13,§254-a13; C24, 27, 31, 35, 39,§3610; C46, 50, 54, 58, 62,§231.6]
- 231.7 Clerk. The clerk of the court whose judge acts as the juvenile court shall act as clerk of the juvenile court. [C24, 27, 31, 35, 39, §3611; C46, 50, 54, 58, 62,§231.7]

231.8 Probation officers—salaries. The judge designated as judge of the juvenile court in any county, or where there is more than one judge designated such judges acting jointly, may appoint such probation officers as may be necessary to carry out the work of the court. In counties where more than one officer is appointed one of such officers shall be designated as chief probation officer. The salaries of such officers shall be fixed by the judge or judges making the appointments but in no case shall the salary of a chief probation officer exceed seventy percent of the salary of the district court judge nor shall the salary of a deputy probation officer exceed sixty percent of the salary of such judge.

Probation officers may be appointed to serve two or more counties. The salaries of such officers and their deputies, if any, shall be fixed by the judges of the judicial district containing such counties and such salaries and the expenses of the probation offices shall be prorated among the counties served in such proportion as may be determined by said judges who shall in making such determination, consider the volume of work in the several counties. Such officers may be paid not to exceed sixty percent of the salary of a district court judge.

Such secretarial and clerical help as may be needed in the administration of any probation office may be appointed by the judge or judges of the juvenile court who may fix their salaries at not more than forty percent of the salary of a district court judge. [S13,§254-a18; C24, 27, 31, 35, 39,§3612; C46, 50, 54, 58, 62,§231.8]

231.9 Physicians and nurses. In any county having a population of one hundred twenty-five thousand or more, the judge or judges of the juvenile court may appoint a competent physician at a salary of not more than one hundred dollars per month, and a visiting nurse, who shall be a trained graduate, at a salary of not more than two hundred dollars per month, and prescribe their duties. [C24, 27, 31, 35, 39,§3613; C46, 50, 54, 58, 62,§231.9]

231.10 Powers and duties-office and supplies. Probation officers, in the discharge of their duties as such, shall possess the powers of peace officers. They shall be furnished by the county with a proper office and all necessary blanks, books, and stationery. It shall be the duty of said probation officers to make such investigation as may be required by the court; to be present in court in order to represent the interests of the child when the case is heard; to furnish to the court such information and assistance as the judge may require, and to take such charge of any child before and after trial as may be directed by the court. [S13,§254-a18; C24, 27, 31, 35, 39,§3614; C46, 50, 54, 58, 62, §231.10]

231.11 Duties of clerk. The clerk of court shall, if practicable, notify a convenient probation officer in advance when any child is to be brought before the said court. [S13,§254-a18; C24, 27, 31, 35, 39,§3615; C46, 50, 54, 58, 62, §231.11]

231.12 Salaries—expenses—how paid. The judges making the appointments shall fix the salaries of all appointees at not exceeding the amount authorized by law. All appointees shall serve during the pleasure of such judges, and in addition to salaries shall receive their necessary and actual expenses incurred while performing their duties. For use of an automobile in the discharge of their duties within the particular county or counties for which they are appointed such officers may receive the mileage rate provided by law, or, in lieu thereof, they may receive a monthly allowance in such amounts as the judge or judges of the juvenile court may determine and order. For use of an automobile outside the county or counties for which they have been appointed such officers shall be paid the regular mileage rate. All salaries and expenses shall be paid by the county either from the general county fund or from the court expense fund. [S13,§254-a18; C24, 27, 31, 35, 39,§3616; C46, 50, 54, 58, 62,§231.12]

231.13 Salaries and expenses in certain counties. The salaries and expenses of probation officers and deputies in counties which contain an educational institution under the control of the state board of regents with a student enrollment of at least forty-two hundred, may be paid either from the general county fund or from the court expense fund. [C27, 31, 35,83616-b1; C39,§3616.1; C46, 50, 54, 58, 62,§231.13]

231.14 Interstate juvenile compacts. The state of Iowa through its courts and agencies is hereby authorized to enter into interstate compacts on juveniles in behalf of this state with any other contracting state which legally joins therein in substantially the following form

The contracting states solemnly agree:

ARTICLE I—FINDINGS AND PURPOSES

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The co-operation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to

- 1. co-operative supervision of delinquent juveniles on probation or parole;
- 2. the return, from one state to another, of delinquent juveniles who have escaped or absconded;
- 3. the return, from one state to another, of nondelinquent juveniles who have run away from home; and
- 4. additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake co-operatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to co-operate and observe their respective responsibilities for the prompt return and ac ceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II—EXISTING RIGHTS AND REMEDIES

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III—DEFINITIONS

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who

has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico: and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV-RETURN OF RUNAWAYS

a. That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affiidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or de-

pendent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

Referred to in Art. VI

b. That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

Referred to in Art. VIII a, VIII b

c. That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V—RETURN OF ESCAPEES AND ABSCONDERS

Referred to in Art. XIV b, XIV d

a. That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinguent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile. if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

Referred to in Art. VI

b. That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

Referred to in Art. VIII a, VIII b

ARTICLE VI-VOLUNTARY RETURN PROCEDURE

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested

with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV "a" or of Article V "a", may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII CO-OPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES Referred to in Art. XIV d

a. That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

- b. That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.
- c. That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.
- d. That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

Referred to in Art. VIII a, VIII b

ARTICLE VIII—RESPONSIBILITY FOR COSTS

- a. That the provisions of Articles IV "b", V "b" and VII "d" of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.
- b. That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV "b", V "b" or VII "d" of this compact.

ARTICLE IX-DETENTION PRACTICES

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X-SUPPLEMENTARY AGREEMENTS

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the coperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall

- 1. provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished;
- 2. provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody;
- 3. provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;
- 4. provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;
- 5. provide for reasonable inspection of such institutions by the sending state;
- 6. provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and
- 7. make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the co-operating states.

ARTICLE XI—ACCEPTANCE OF FEDERAL AND OTHER AID

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants

ARTICLE XII—COMPACT ADMINISTRATORS

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII—EXECUTION OF COMPACT

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV—RENUNCIATION

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

Out-of-State Confinement Amendment

- a. Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.
- b. Escapees and absconders who would otherwise be returned pursuant to Article V of the compact may be confined or reconfined in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such Article shall be made and furnished, but in place of the demand pursuant to Article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article V may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.
- c. The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.
- d. As used in this amendment: (1) "sending state" means sending state as that term is used in Article VII of the compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article V of the compact; (2) "receiving state" means any state, other than the sending state, in which a parolee, probationer, escapee, or

absconder may be found, provided that said state is a party to this amendment.

- e. Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a "Compact Institution" and shall confine persons therein as provided in paragraph "a" hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to "Compact Institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.
- f. Persons confined in "Compact Institutions" pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "Compact Institution" for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge or for any purpose permitted by the laws of the sending state.
- g. All persons who may be confined in a "Compact Institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfined in any appropriate institution of

the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

- h. Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.
- i. This amendment shall take initial effect when entered into by any two or more states party to the compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment. [C62,§231.14; 61GA, ch 214,§1]

231.15 Confinement of delinquent juvenile. In addition to any institution in which the authorities of this state may otherwise confine or order the confinement of a delinquent juvenile, such authorities may, pursuant to the out-of-state confinement amendment to the interstate compact on juveniles, confine or order the confinement of a delinquent juvenile in a compact institution within another party state. [61GA, ch 214,§2]

CHAPTER 232

NEGLECTED, DEPENDENT AND DELINQUENT CHILDREN Referred to in §§233.1, subsection 1, 235A.5, 238.32, subsection 1, 240.1, 242.5, 244.4, 321.482

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tody except where legal custody has been vested in another individual or in an authorized agency.

232.59 Report to state board of social welfare.

232.61 Mandatory transfer from justice court.

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d. The authority to consent to the adoption of a child and to make any other decision concerning the child which could be made by the parents of the child when the parent-child relationship has been terminated by judicial decree with respect to the parents or the only living parent, or when there is no living par-

A juvenile court guardianship of the person does not include guardianship of any estate of the child.

Adoption in general, ch 600

- 9. "Legal custody" means the relationship created by court decree which imposes on the custodian the responsibility of physical possession of the child, the duty to protect, train, and discipline the child, and to provide the child with food, clothing, housing, education, and ordinary medical care, all subject to residual parental rights and responsibilities and the rights and responsibilities of the guardian of the person.
- 10. "Probation" is a legal status created by court order following an adjudication of delinquency whereby a minor is permitted to remain in his home subject to supervision by the court or an agency designated by the court and subject to return to the court for violation of probation at any time during the period of probation.
- 11. "Protective supervision" is a legal status created by court order in proceedings not involving violation of law but when the legal custody of the child is subject to change. whereby the child is permitted to remain in the home under supervision by the court or an agency designated by the court and subject to return to the court during the period of protective supervision.
- 12. "Commit" means to transfer legal cus-
- 13. "Delinquent child" means a child:
- a. Who has violated any state law or habitually violated local laws or ordinances except any offense which is exempted from this chapter by law.
- b. Who has violated a federal law or a law of another state and whose case has been referred to the juvenile court.

232.1 Rule of construction. This chapter shall be liberally construed to the end that each child coming within the jurisdiction of the juvenile court shall receive, preferably in his home, the care, guidance, and control that will conduce to his welfare and the best interests of the state, and that when he is removed from the control of his parents, the court shall secure for him care as nearly as possible equivalent to that which he should have been given. [S13,§254-a14; C24, 27, 31, 35, 39,§3617; C46, 50, 54, 58, 62,§232.1; 61GA, ch 215,§2]

232.2 Definitions. When used in this chapter, unless the context otherwise requires:

- 1. "Court" means the juvenile court as established under chapter 231.
- 2. "Judge" means the judge of the juvenile court.
- 3. "Child" means a person less than eighteen years of age.
- 4. "Minor" means a person less than twentyone years of age.
- 5. "Adult" means a person twenty-one years of age or older.
- 6. "Detention" means the temporary care of children who require secure custody for their own protection or the protection of the community in physically restricting facilities pending court disposition.
- "Shelter" means the temporary care of children in physically unrestricting facilities pending court disposition.
- 8. "Guardianship of the person" with respect to a minor means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor and to be concerned about the general welfare of the minor. Guardianship of the person includes but is not lim-
- a. The authority to consent to marriage, to enlistment in the armed forces of the United States, to major medical, psychiatric, and surgical treatment, to represent the minor in legal actions, and to make other decisions of substantial legal significance concerning the
- b. The authority and duty of reasonable visitation except to the extent that such right of visitation has been limited by court order.
- c. The rights and responsibilities of legal cus-

c. Who is uncontrolled by his parents, guardian, or legal custodian by reason of being wayward or habitually disobedient.

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- d. Who habitually deports himself in a manner that is injurious to himself or others.
- 14. "Dependent child" means a child:
- a. Who is without a parent, guardian, or other custodian.
- b. Who is in need of special care and treatment required by his physical or mental condition which the parents, guardian, or other custodian is unable to provide.
- c. Whose parents, guardian, or other custodian for good cause desires to be relieved of his care and custody.

Referred to in \$233.5

- 15. "Neglected child" means a child:
- a. Who is abandoned by his parents, guardian, or other custodian.
- b. Who is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of his parents, guardian, or other custodian.
- c. Who is without proper parental care because of the faults or habits of his parents, guardian, or other custodian.
- d. Who is living under conditions injurious to his mental or physical health or welfare.
- 16. "News media" means representatives of newspapers, other periodicals, radio and television stations, and other agencies of mass communication. [S13.§§254-a14.-a21; C24, 27, 31, 35, 39,§§3618, 3619, 3620, 3638; C46, 50, 54, 58, 62, §§232.2, 232.3, 232.4, 232.22; 61GA, ch 215,§3]

Referred to in §233.1, subsection 5

232.3 Information—investigation—petition. Whenever the court is informed that a child is in a state of neglect, dependency, or delinquency, the court shall make a preliminary investigation of the facts to determine whether the interests of the public or of the minor require that he or she be brought under the jurisdiction of the court. After the completion of the investigation, and if the court believes, in its discretion, that the child may be neglected, dependent, or delinquent the court shall direct the county attorney or probation officer to file a petition with the clerk of court. If the facts pleaded are admitted by the minor and consent is obtained from the parents, or guardian of the minor, the court may make whatever informed adjustment is practical without holding a formal hearing. Efforts to affect informal adjustment may be continued not longer than three months without review by the judge.

The petition and subsequent court documents shall be entitled "In the interest of, a child." The petition shall be verified and any statements may be made upon information and belief. The petition shall set forth plainly:

1. The facts which bring the child within the purview of this chapter.

- 2. The name, age, and residence of the child.
- 3. The names and residences of the parents of the child.
- 4. The name and residence of the legal guardian of the child if there be one, of the person or persons having custody or control of the child, or of the nearest known relative of the child if no parent or guardian can be

If any of the facts herein required are not known by the petitioner the petition shall so

Complaint with reference to more than one child may be embraced in one count of the petition subject to being later divided or separate hearings held on order of the court. [SS15,§254-a15; C24, 27, 31, 35, 39,§§3621, 3622; C46, 50, 54, 58, 62,§§232.5, 232.6; 61GA, ch 215,§4]

Referred to in §232.43 Mental retardation—effect, §222.52

232.4 Hearing — appearance — summons. After a petition has been filed and unless the parties named in section 232.5 voluntarily appear, the court shall set a time for hearing and shall issue a summons requiring the person who has custody or control of the child to appear with the child before the court at a time and place stated. The summons shall recite briefly the substance of the petition or shall have attached a copy of the petition and shall give notification of the right to counsel provided for in section 232.28. [SS15,§254-a16; C24, 27, 31, 35, 39,§§**3623**, **3624**; C46, 50, 54, 58, 62, §§232.7, 232.8; 61GA, ch 215,§5]

Referred to in §§232.5, 232.14, 232.45

232.5 Service of notice. The court shall have notice of the pendency of the case and of the time and place of the hearing served upon the parents, guardian, or legal custodian of a legitimate child or upon the mother, guardian, or legal custodian of an illegitimate child if they are not summoned to appear as provided in section 232.4. The notice shall recite briefly the substance of the petition or shall have attached a copy of the petition and shall give notification of the right to counsel provided for in section 232.28. [SS15,§254-a16; C24, 27, 31, 35, 39,§§3624, 3625, 3626; C46, 50, 54, 58, 62,§§232.8, 232.9, 232.10; 61GA, ch 215,§6]

Referred to in §§232.4, 232.8, 232.45

232.6 Subpoena. The court may issue a subpoena requiring the appearance of any other person whose presence in the opinion of the court is necessary at the hearing. A parent or guardian shall be entitled to subpoena the attendance of witnesses on his own behalf or on behalf of the child, [61GA, ch 215.§7]

Referred to in §232.45

232.7 Child taken into custody. If it appears from the petition or by separate affidavit of a person having knowledge of the fact that the child is in such condition or surroundings that the welfare of the child requires that custody be immediately assumed by the court, the court may order by endorsement on the summons that the officer serving the summons

take the child into custody immediately. [SS15, §254-a16; C24, 27, 31, 35, 39,§3630; C46, 50, 54, 58, 62,§232.14; 61GA, ch 215,§8]

Referred to in §§232.15, 232.45

232.8 Personal service. Service of the summons shall be made personally by the delivery of an attested copy thereof to the person summoned to appear. If the judge is satisfied that personal service of the notice provided for in section 232.5 is impracticable, the judge may order service by certified mail addressed to the last known address or by publication or both. Service of notice or summons shall be made not less than five days before the time fixed for the hearing. [61GA, ch 215,§9]

Referred to in §232.45

232.9 Who may serve summons. Service of summons, process, or notice required by this chapter may be made by any suitable person under the direction of the court and upon request of the court shall be made by any peace officer. [C24, 27, 31, 35, 39,83625; C46, 50, 54, 58, 62,8232.9; 61GA, ch 215,810]

Referred to in §232.45

232.10 Contempt. If any person personally served with a summons or subpoena fails without reasonable cause to appear or to bring the child, the person may be proceeded against for contempt of court or the court may issue a warrant for the arrest of the person or both. When it appears to the court that the service will be ineffectual or that the welfare of the child will require that the child be brought forthwith into the custody of the court, the court may issue a warrant for the child. [SS15, §254-a16; C24, 27, 31, 35, 39,§§3627, 3628; C46, 50, 54, 58, 62,§§232.11, 232.12; 61GA, ch 215,§11]

Referred to in §232.15 Contempts, ch 665

232.11 Parent or guardian to be present. The hearing on the merit of the petition shall not take place without the presence of one or both of the parents or the guardian, or if none is present a guardian ad litem shall be appointed by the court to protect the interests of the child. The court may also appoint a guardian ad litem whenever necessary for the welfare of the child whether or not a parent or guardian is present. [SS15,\$254-a16; C24, 27, 31, 35, 39,\$3631; C46, 50, 54, 58, 62,\$232.15; 61GA, ch 215,\$121

232.12 Other issues adjudicated. When it appears during the course of any trial, hearing, or proceeding that some action or remedy other than or in addition to those indicated by the application or pleadings appears appropriate, the court may, provided all necessary parties consent, proceed to hear and determine the additional or other issues as though originally properly sought and pleaded. [61GA, ch. 215 §13]

232.13 Examination of child. The court may order that a child for whom a petition has been filed shall be examined by a physician, surgeon, psychiatrist, or psychologist and may or-

der treatment by them of a child who has been adjudicated by the court. The court may place the child in a hospital or other suitable facility for such examination or treatment. [61GA, ch 215,§14]

232.14 Report of social investigation. No decree other than discharge shall be entered until a written report of a social investigation by an officer of the court has been presented to and considered by the judge. Where the allegations of the petition are denied by the child or his parents, guardian, or custodian by written denial filed not later than two days excluding Sundays and holidays after service of summons as required in section 232.4 or at the time the parties appear voluntarily, the investigation shall not be made until after the allegations have been established at a hearing. The investigation shall include the circumstances of the offense or complaint, the social history and present condition of the child and family, and plans for the child's immediate care, as related to the decree. In cases of support, the investigation shall also include such matters as earnings, financial obligations, and employment. [61GA, ch 215,§15]

232.15 When immediate custody may be taken. No child may be taken into immediate custody except:

- 1. With an order issued by the court in accordance with the provisions of section 232.7 or by a warrant issued in accordance with the provisions of section 232.10.
- 2. In accordance with the laws relating to arrests.
- 3. By a peace officer:
- a. When it is reasonably believed that a child has run away from his parents, guardian, or custodian.
- b. When a child is found in surroundings or conditions which endanger the health or welfare of the child.
- 4. By a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of his probation, parole, or other official supervision.

The taking of a child into custody under the provisions of this section shall not be considered an arrest. [SS15,§254-a16; C24, 27, 31, 35, 39,§3630; C46, 50, 54, 58, 62,§232.14; 61GA, ch 215,§16]

Referred to in §232.16

232.16 Parents or guardians notified. When a child is taken into custody as provided in section 232.15, the parents, guardian, or custodian of the child shall be notified as soon as possible by the person taking the child into custody. Except where the immediate welfare of the child or the protection of the community requires that the child shall be detained, the child shall be released to the custody of the parents, guardian, custodian, or other suitable person on the promise of such person to bring the child to the court, if necessary, at

such time as the court may direct. [61GA, ch 215,§17]

Referred to in \$232.17

232.17 Court notified of detention of child. If a child is not released as provided in section 232.16, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for the detention. The child shall be taken immediately to a place of detention specified in section 232.18 and may be held for not longer than twenty-four hours after the taking into custody unless an order for detention specifying the reason for the detention is signed by the judge. No child may be held longer than forty-eight hours after the taking into custody unless a petition had been filed and the judge determines that the child shall remain in custody or unless the court refers the matter to the prosecuting authority for proper action in the criminal court. The parents, guardian, or custodian of the child shall be notified of the place of detention as soon as possible. If continued detention is not ordered, the court or designated officer shall release the child in the manner provided in section 232.16. [61GA, ch

Referred to in §232.18

232.18 Where child may be detained. A child may be detained as provided in section 232.17 in one of the following places:

- 1. A juvenile home.
- 2. A licensed facility for foster care in accordance with the laws relating to facilities for foster care.
- 3. A suitable place designated by the court.
- 4. A room entirely separate from adults in a jail, lockup, police station, or other adult detention facility as provided in section 232.19. [S13,§254-a24; SS15,§254-a16; C24, 27, 31, 35, 39, §3633; C46, 50, 54, 58, 62,§232.17; 61GA, ch 215,§19]

Referred to in §§232.17, 232.19

232.19 Detention in jail-when. No child shall at any time be confined in a police station, lockup, jail, or prison except that a child may be detained for the purpose of protective custody for a period not to exceed twelve hours or a child fourteen years of age or older may upon the order of the judge be temporarily confined in a room entirely separate from adults in an adult detention facility. A child may be detained in an adult detention facility upon order of the judge only if the child is alleged to be delinquent and has shown by his habits, conduct, or conditions that he constitutes a menace to himself or society to the extent that he cannot be released or cannot be detained in a place designated in subsections 1, 2, or 3, of section 232.18. [S13,§254a24; SS15, §254-a16; C24, 27, 31, 35, 39, §3633; C46, 50, 54, 58, 62,§232.17; 61GA, ch 215,§20]

Referred to in §232.18

232.20 Notice to court by custodian of jail. The sheriff, warden, or other official in charge of a jail or other facility for the detention of

adult offenders or persons charged with crimes shall inform the juvenile court immediately when a child who is or appears to be under eighteen years of age is received at the facility. [61GA, ch 215,§21]

232.21 Juvenile home may be maintained. County boards of supervisors may either singly or in conjunction with one or more other counties provide and maintain, separate, apart, and outside the enclosure of any jail or police station, a suitable juvenile home for dependent, neglected, and delinquent children. Such a home shall be constructed so far as practicable so that children requiring detention shall be separated from the children requiring shelter. [S13,§254-a29; C24, 27, 31, 35, 39,§3653; C46, 50, 54, 58, 62,§232.35; 61GA, ch 215,§22]

232.22 Issuance of bonds. For the purpose of providing and maintaining a county or multicounty juvenile home, the board of supervisors of any county may issue bonds and authorize the expenditure of such amounts as are consistent with the provisions of chapter 345. The board of supervisors of any county is authorized to levy a tax not to exceed onehalf mill for the purpose of maintaining a county or multicounty juvenile home. Expenses for providing and maintaining a juvenile home shall be paid by the county or counties participating in a manner to be determined by board or boards of supervisors of participating counties. [S13,§254-a30; C24, 27, 31, 35, 39,§3654; C46, 50, 54, 58, 62,§232.36; 61GA, ch 215,

232.23 Supplies for instruction. Upon request of the board of supervisors, the county board or county boards of education shall provide suitable curriculum, teaching staff, books, supplies, and other necessary materials and equipment for the instruction of children of school age who are detained in the juvenile home. [61GA, ch 215,§24]

232.24 Rules and regulations. The state board of social welfare shall adopt minimal rules, regulations, and standards for the establishment, maintenance, and operation of juvenile homes as shall be necessary to effect the purposes of this Act. Said board shall, upon request, give guidance and consultation in the establishment and administration of a juvenile home and a juvenile home program. [S13,§§254-a20,-a26; C24, 27, 31, 35, 39,§3655; C46, 50, 54, 58, 62,§232.37; 61GA, ch 215,§25]

232.25 Standards by board of social welfare. The state board of social welfare shall approve annually all county or multicounty juvenile homes established and maintained under the provisions of this chapter. No county or multicounty juvenile home shall be approved unless such homes comply with minimal rules, regulations, and standards adopted by said board. [S13,§\$254-a20,-a26; C24, 27, 31, 35, 39,§3655; C46, 50, 54, 58, 62,§232.37; 61GA, ch 215,§26]

232.26 Financial aid from state. Approved county or multicounty juvenile homes may be entitled to receive financial aid from the state in the amount and in such manner as determined by the state board of social welfare. Aid paid by the state shall not exceed fifty percent of the total cost of the establishment, improvements, operation, and maintenance of a juvenile home. [61GA, ch 215,§27]

232.27 Hearings to court. Hearings on any matter shall be without a jury and may be conducted in an informal manner. Hearings may be continued from time to time and in the interim the court may make such orders as it deems in the best interests of the child. The court shall exclude the general public from hearings and shall admit the news media. except in those cases which in the opinion of the court the best interest of the child and the public are served by a private hearing. The court shall also admit those persons who in the discretion of the court have a direct interest in the case or in the work of the court; except that if the hearing involves a child charged by information or indictment with the commission of a felony, persons having a legitimate interest in the proceedings, including responsible representatives of public information media, shall not be excluded from such hearings. The court may require the presence of witnesses deemed necessary to the disposition of the petition. Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoption. [S13,§254-a19; SS15,§254-a16; C24, 27, 31, 35, 39, §§3629, 3635; C46, 50, 54, 58, 62,§§232.13, 232.19; 61GA, ch 215,§28]

Referred to in §232.44 How issues tried, R.C.P. 177 et seq.

232.28 Right to counsel. The child, parents, guardian, or custodian shall have the right to counsel. If the minor, parents, guardian, or custodian desire but are unable to employ counsel, such counsel shall be appointed by the court. [SS15,§254-a16; C24, 27, 31, 35, 39, §3631; C46, 50, 54, 58, 62,§232.15; 61GA, ch 215, §291

Referred to in §§232.4, 232.5

232.29 County attorney to present evidence. The county attorney shall present the evidence upon request of the court in all proceedings except adoptions. [61GA, ch 215,§30]

232.30 Presence of child waived. Except in delinquency proceedings based on the alleged commission of a public offense, the court may waive the presence of the child in the court at any stage of the proceedings when the court deems it in the best interests of the child. In delinquency proceedings if the child is found to be delinquent, the court after the finding of delinquency is made may excuse the presence of the child from the hearing when the court deems it in the best interests of the child. In any proceedings, the court may temporarily excuse the presence of the parents or guardian of a child from the hearing when the court deems it in the best intering when the court deems it in the best intering when the court deems it in the best intering when the court deems it in the best intering when the court deems it in the best intering when the court deems it in the best intering when the court deems it in the best intering when the court deems it in the best intering the court deems it in

ests of the child. The attorney or guardian ad litem, if any, has the right to continue to participate in proceedings during the absence of the child, parents, or guardian. [61GA, ch 215,§31]

232.31 Evidence by child and parents, etc. The child and his parents, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to question witnesses appearing at the hearing. [61GA, ch 215.832]

232.32 Reporter required. Stenographic notes or mechanical recordings shall be required in all court hearings as in other civil cases unless the parties waive the right to such records and the court so orders. [61GA, ch 215.833]

232.33 Disposition of case of neglect or dependency. If the court finds that the child is neglected or dependent, the court shall enter an order making any one or more of the following dispositions of the case:

1. Continue the proceedings from time to time under such supervision as the court may direct.

2. Place the child under the protective supervision of the county department of social welfare or a child placing agency in the home of the child under conditions prescribed by the court directed to the correction of the neglect or dependency of the child.

3. Transfer legal custody of the child, subject to the continued jurisdiction of the court, to one of the following:

a. A child placing agency.

b. The county or state department of social welfare.

c. A reputable individual of good moral character.

4. Commit the child to the state board of control for placement at the Iowa juvenile home or The Iowa Annie Wittenmyer Home.

5. Commit to or place the child in any private institution or hospital for the care and training of children or any public institution for the care and training of children other than an institution under the jurisdiction of the state board of control.

6. If the child is in need of special treatment or care for his physical or mental health, the court may order the parents, guardian, or custodian of the child to provide such treatment or care. If the parents, guardian, or custodian fail to provide the treatment or care, the court may order the treatment or care provided.

7. At any time while the child is under the jurisdiction of the court, the court may terminate the proceedings and order the child released from the control of the court. [C73, \$\\$1653-1659; C97,\\$\\$2708, 2709; S13,\\$\\$254-a20,-a23, 2708, 2709; C24, 27, 31, 35, 39,\\$\\$3637, 3646, 3647; C46, 50, 54, 58, 62,\\$\232.21, 232.27, 232.28; 61GA, ch 215,\\$34]

Referred to in §§232.42, 232.47 Authorized institutions, §238.32

- 232.34 Disposition of case of delinquency. If the court finds that the child is delinquent, the court shall enter an order making any one or more of the following dispositions of the case:
- 1. Continue the proceeding from time to time under such supervision as the court may direct.
- 2. Place the child under the supervision of a probation officer or other suitable person in the home of the child.
- 3. Subject to the continued jurisdiction of the court, transfer legal custody of the child to one of the following:
- a. A child placing agency.
- b. A probation department.
- c. A reputable individual of good moral character.
- 4. Commit the child to the state board of control for placement at a state training school.
- 5. Commit to or place the child in any private institution or hospital for care and training or any public institution for care and training other than an institution under the jurisdiction of the state board of control.
- 6. If the child is in need of special treatment or care for his physical or mental health, the court may order such treatment or care provided by the parents, guardian, or custodian of the child. If the parents, guardian, or custodian fail to provide the treatment or care, the court may order the treatment or care provided.
- 7. At any time while the child is under the court's jurisdiction, the court may terminate the proceedings and order the child released from the control of the court. [C73,§§1653–1659; C97,§§2708, 2709; S13,§§254-a20,-a23, 2708, 2709; C24, 27, 31, 35, 39,§§3637, 3646, 3647; C46, 50, 54, 58, 62,§§232.27, 232.28, 232.31; 61GA, ch 215,§35]

Authorized institutions, §238.32

232.35 Commitment to board of control. Commitment to the state board of control shall vest guardianship of the person of the child so committed in the board and shall terminate the court's jurisdiction. [61GA, ch 215,§36]

232.36 Orders continue to majority of child. All orders for supervision, custody, or commitment shall be enforced until the minor reaches the age of twenty-one years unless otherwise specified by the court. All orders shall be reviewed by the court at least annually unless the court's jurisdiction has been terminated. The court may make on its own motion or on the motion of an interested party and after notice to the parties and a hearing some other disposition of the case so long as the court retains jurisdiction. [C73,§\$1653-1658; C97,§2708; S13,§\$254-a23, 2708; C24, 27, 31, 35, 39,§\$3639, 3649; C46, 50, 54, 58, 62,§\$232.23, 232.30; 61GA, ch 215,§37]

See also §218.91

- 232.37 Periodical reports to court. Any person, agency, or institution to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct. [61GA, ch 215,§38]
- 232.38 Transfer of custody to agency or institution. When the court transfers legal custody of a minor to any agency or commits a minor to any institution, the court shall transmit its order, a copy of its findings, and a summary of its information concerning the minor to the agency or institution. [C73,§1657; C97,§2708; S13,§2708; C24, 27, 31, 35, 39,§3652; C46, 50, 54, 58, 62,§232.34; 61GA, ch 215,§39]
- 232.39 Transfer in case of change of residency. Jurisdiction of a minor on probation or under protective supervision may in cases of change of residency be transferred to the court of the county wherein the new residence is established. Thereupon that court will have the same power with respect to the minor that it would have had if the petition had been initiated in that court. [61GA, ch 215,§40]
- 232.40 Parent-child relationship not changed. No termination of the relationship between the parents and a child shall be ordered under the provisions of this chapter except pursuant to the provisions set forth in sections 232.41 through 232.50. Said sections shall apply only to a petition to terminate the relationship between parent and child. [61GA, ch 215,841]
- 232.41 When relationship changed. The court may upon petition terminate the relationship between parent and child:
- 1. With the written consent of parents who for good cause desire to terminate the parent-child relationship.
- 2. If the court finds that one or more of the following conditions exist:
- a. That the parents have abandoned the child.
- b. That the parents have substantially and continuously or repeatedly refused to give the child necessary parental care and protection.
- c. That although financially able, the parents have substantially and continuously neglected to provide the child with necessary subsistence, education, or other care necessary for physical or mental health or morals of the child or have neglected to pay for subsistence, education, or other care of the child when legal custody is lodged with others.
- d. That the parents are unfit by reasons of debauchery, intoxication, habitual use of narcotic drugs, repeated lewd and lascivious behavior, or other conduct found by the court likely to be detrimental to the physical or mental health or morals of the child.
- e. That following an adjudication of neglect or dependency, reasonable efforts under the direction of the court have failed to correct the conditions leading to the termination. [61GA, ch 215,§42]

Referred to in §232.40

232.42 Venue for proceedings. Venue for the proceedings for the termination of parental rights is either the county where the child resides or is found. If a court has made an order under the provisions of section 232.33 and the order is in force at the time the petition for termination of the parent relationship is filed, the court making the order shall hear the termination proceeding unless the court transfers the proceeding to another juvenile court where venue lies. [61GA, ch 215,§43]

Referred to in §232.40

232.43 Petition by any reputable person. Any reputable person, except a parent of the child or children involved, having knowledge of circumstances which indicate that a parent-child relationship should be terminated may petition the court in the manner provided in section 232.3. [61GA, ch 215,§44]

Referred to in §232.40

232.44 Termination only after hearing. The termination of parent-child relationship shall be made only after a hearing before the court in the manner provided in section 232.27. [61GA, ch 215,§45]

Referred to in §232.40

232.45 Notice of time, place and purpose of hearing. The court shall have notice of the time, place, and purpose of the hearing served on the parents of the child, the petitioner, the guardian of the person of the child, the person having legal custody of the child, any individual standing in loco parentis of the child, and the guardian ad litem of any party. Notice shall be given in the manner provided for in sections 232.4 through 232.9, except that notice by personal service shall be made at least ten days before the day of the hearing, published notice shall be made for three consecutive weeks, the last publication to be at least ten days before the day of the hearing, and notice sent by certified mail shall be mailed at least twenty days before the day of the hearing. A parent who consents to the termination may waive in writing the notice required by this section. If the parent is incompetent the waiver shall be effective only if the guardian ad litem of the parent concurs in writing. [61GA, ch 215,§46]

Referred to in §232.40

232.46 Degree of proof required. The court's finding with respect to grounds for termination shall be based upon a preponderance of evidence under the rules applicable to the trial of civil cases, provided that relevant and material information of any nature including that contained in reports, studies, or examinations may be admitted and relied upon to the extent of its probative value. When information contained in a report, study, or examination is admitted in evidence, the person making such a report, study, or examination shall be subject to both direct and cross-examination when reasonably available. [61GA, ch 215, 847]

Referred to in §232.40

232.47 Order of court. If after a hearing the court does not terminate the parent-child relationship but determines that conditions of neglect or dependency exist, the court may find the child neglected or dependent and may enter an order in accordance with the provisions of section 232.33. [61GA, ch 215,§48]

Referred to in §232.40

- 232.48 Termination of parent-child relationship. If after a hearing the court terminates the parent-child relationship between the child and both parents or between the child and the mother if the child is born out of wedlock or between the child and the only living parent, the court shall order guardianship of the person and legal custody of the child transferred to:
- 1. The county or state department of social welfare.
- 2. A licensed child placing agency.
- 3. A reputable individual of good moral character.
- 4. The state board of control for placement at The Iowa Annie Wittenmyer Home or the Iowa juvenile home. [S13,§254-a21; C24, 27, 31, 35, 39,§3638; C46, 50, 54, 58, 62,§232.22; 61GA, ch 215,§49]

Subsections 1, 2, 3, referred to in §§232.40, 232.50

232.49 Copy of findings forwarded. A certified copy of the findings in the order terminating the parent-child relationship and a summary of the court's information concerning the child shall be provided by the court to the department, agency, or institution to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating the parent-child relationship. [61GA, ch 215,§50]

Referred to in §232.40

232.50 Removal of guardian. Upon its own motion or upon petition of an interested party, the court having jurisdiction of the child may after notice to the parties and a hearing remove the guardian appointed by the court and appoint a new guardian in accordance with the provisions of subsections 1, 2, and 3 of section 232.48. Any minor fourteen years of age or older who is not adopted but who is placed in a satisfactory foster home may with the consent of the foster parents join with the guardian appointed by the court in a petition to the court having jurisdiction of the child to discharge the existing guardian and appoint the foster parents as guardians of the child. The authority of a guardian appointed by the court terminates when the individual under guardianship is no longer a minor or is adopted. [61GA, ch 215,§51]

Referred to in \$232.40

232.51 Expenses. Whenever legal custody of a minor is transferred by the court or whenever the minor is placed by the court with someone other than the parents or whenever

a minor is given physical or mental examinations or treatment under order of the court and no provision is otherwise made by law for payment for the care, examination, or treatment of the minor, the costs shall be charged upon the funds of the county in which the proceedings are held upon certification of the judge. Except where the parent-child relationship is terminated, the court may inquire into the ability of the parents to support the minor and after giving the parents a reasonable opportunity to be heard may order the parents to pay in the manner and to whom the court may direct, such sums as will cover in whole or in part the cost of care, examination, or treatment of the minor. If the parents fail to pay the sum without good reason, the parents may be proceeded against for contempt or the court may inform the county attorney who shall proceed against the parents to collect the unpaid sums or both. [S13,§§254-a25,-a31, -a45,-a47; C24, 27, 31, 35, 39,§§3644, 3645; C46, 50, 54, 58, 62,§§232.25, 232.26; 61GA, ch 215,§52]

Referred to in \$232.53 Contempts, ch 665 Enforcement of judgment and orders, \$626.1 Similar provisions, \$627.12

232.52 Expenses charged to county. The following expenses upon certification of the judge or upon such other authorization as provided by law are a charge upon the county in which the proceedings are held.

1. The fees and mileage of witnesses and the expenses and mileage of officers serving notices and subpoenas.

2. The expenses of transporting a child to a place designated by a child placing agency for the care of the child if the court transfers legal custody to a child placing agency.

3. The expense of transporting a child to or from a place designated by the court.

4. Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem. [61GA, ch 215,§53]

Referred to in §232.53

232.53 Recovery of costs. The county charged with the cost and expenses under sections 232.51 and 232.52 may recover the costs and expenses from the county where the child has legal settlement by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. Any dispute involving the legal settlement of a child for which the court has ordered payment under authority of this section shall be settled in accordance with sections 252.22 and 252.23. [61GA, ch 215, §54]

232.54 Legal record not confidential. The legal record of the juvenile court shall be a public record, and shall include the petition, information or indictment, notices, orders, decrees and judgments. [61GA, ch 215,§55]

232.55 Petitions and reports segregated. The proceedings concerning delinquency pe-

titions filed by parents and petitions concerning neglected or dependent children; the reports of juvenile court probation officers; and the reports on juvenile homes shall not be public records, but the court may make them public in its discretion. [61GA, ch 215,§56]

232.56 Records kept separate. Peace officers' records of children except for offenses exempted from this chapter by law shall be kept separate from the records of persons eighteen years of age or older. These records shall be public records. [61GA, ch 215,§57]

232.57 Records confidential. All information obtained and social records prepared in the discharge of official duties by an employee of the court shall not be disclosed directly or indirectly to any one other than the judge or others entitled under this chapter to receive such information unless otherwise ordered by the judge. [61GA, ch 215,§58]

232.58 Appeal. An interested party aggrieved by any order or decree of the court may appeal to the supreme court for review of questions of law and fact. The procedure for such appeals shall be governed by the same provisions applicable to appeals from the district court except when the decree or order affects the custody of a minor the appeal shall be heard at the earliest practicable time. The pendency of an appeal or application therefor shall not suspend the order of the juvenile court regarding a minor and shall not discharge the minor from the custody of the court or of the person, institution, or agency to whose care the minor has been committed or placed unless otherwise ordered by the supreme court on application of an appellant. If the supreme court does not dismiss the proceedings and discharge the minor, said court shall affirm or modify the order of the juvenile court and remand the minor to the jurisdiction of the court for disposition not inconsistent with the supreme court's finding on the appeal. [61GA, ch 215,§59]

232.59 Report to state board of social welfare. The juvenile court and all institutions receiving children shall between the first and fifteenth day of January of each year make a report to the state board of social welfare. The report shall state the number of children of each sex brought before the court during the past year, the number for whom homes have been provided, the number sent to state institutions, and the number in institutions. [S13,§254-a26; C24, 27, 31, 35, 39,§3656; C46, 50, 54, 58, 62,§232.38; 61GA, ch 215,§60]

232.60 Religious belief. The court in committing a child shall place such child as far as practicable in the care and custody of an individual or an institution controlled by persons holding the same religious belief as the parents of the child. [S13,§§254-a27, 3260-g; C24, 27, 31, 35, 39,§3640; C46, 50, 54, 58, 62,§232.24; 61GA, ch 215,§61]

court. [S13,§254-a24; C24, 27, 31, 35, 39,§3634; C46, 50, 54, 58, 62,§232.18; 61GA, ch 215,§62]

Exception—certain motor vehicle prosecutions, §321,482

232.62 Concurrent jurisdiction of criminal offenses. The criminal court shall have concurrent jurisdiction with the juvenile court over children less than eighteen years of age who commit a criminal offense. [61 GA, ch 215,§67]

Constitutionality, 61GA, ch 215,866

CHAPTER 233

CONTRIBUTING TO JUVENILE DELINQUENCY

233.1 Contributing to delinquency.

233.2 Penalty—bar.

233.3 Suspension of sentence.

233.4 Preliminary examination. 233.5 Interpretative clause.

233.1 Contributing to delinquency. It shall be unlawful to:

- 1. Encourage any child under eighteen years of age to commit any act of delinquency defined in chapter 232 of this title.
- 2. Send, or cause to be sent, any such child to a house of prostitution or to any place where intoxicating liquors are unlawfully sold or unlawfully kept for sale, or to any policy shop, or to any gambling place, or to any public poolroom where beer is sold, or to induce any such child to go to any such places, knowing them to be such.
- 3. Knowingly encourage, contribute, or in any manner cause such child to violate any law of this state, or any ordinance of any city or town.
- 4. Knowingly permit, encourage, or cause such child to be guilty of any vicious or immoral conduct.
- 5. Knowingly contribute to the dependency of a child as defined in section 232.2. [C24, 27, 31, 35, 39,§3658; C46, 50, 54, 58, 62,§233.1]

Referred to in §233.2 See §233.5

233.2 Penalty—bar. A violation of section 233.1 shall be punishable by a fine of not exceeding one hundred dollars or by imprisonment in the county jall not exceeding thirty days, or by both such fine and imprisonment. Said conviction shall not bar a prosecution of such convicted person for an indictable offense when the acts which caused or contributed to the delinquency or dependency of such child

are indictable. [C24, 27, 31, 35, 39,\$3659; C46, 50, 54, 58, 62,\$233.2]

See §233.5

233.3 Suspension of sentence. Upon said conviction being had, the court may, for a period not exceeding two years, suspend sentence under such conditions as to good behavior as it may prescribe. Should said conditions be fulfilled, the court may at any time enter an order setting said conviction aside and wholly releasing the defendant therefrom. Should said condition be not fulfilled to the satisfaction of the court, an order of sentence may at any time be entered which shall be effective from the date thereof. [C24, 27, 31, 35, 39, §3660; C46, 50, 54, 58, 62,§233.3]

233.4 Preliminary examination. If, in proceedings in juvenile court, it appears probable that an indictable offense has been committed and that the commission thereof caused, or contributed to, the delinquency or dependency of such a child, said court may order the issuance of a warrant for the arrest of such suspected person, and on the appearance of such person said court may proceed to hold a preliminary examination, and in so doing shall exercise all the powers of a committing magistrate. [C24, 27, 31, 35, 39,§3661; C46, 50, 54, 58, 62,§233.4]

233.5 Interpretative clause. For the purposes of this Act* the word "dependency" shall mean all the conditions as enumerated in subsection 14 of section 232.2. [C31, 35,§3661-c1; C39,§3661.001; C46, 50, 54, 58, 62,§233.5; 61GA, ch 215,§64]

*43GA, ch 90

CHAPTER 234

SOCIAL WELFARE DEPARTMENT

Referred to in §§241A.1, subsection 1, 241A.4, 249.1, subsections 1, 2, and 3
Aid for the blind, see ch 241: Child-placing agencies, see ch 238; Child welfare, see ch 235; Children's boarding homes, see ch 237; Aid to dependent children, see ch 239; Emergency relief administration, see ch 251; Maternity hospitals, see ch 236; Old-age assistance, see ch 249; Private institutions for neglected, dependent and delinquent children, see ch 240

234.1 Definitions.

234.2 State department of social welfare.

234.3 State board of social welfare.

234.4 Vacancies.

234.5 Removal—compensation.

234.6 Powers and duties of the state board.

234.7 Secretary.

234.8 State board employees.

234.9 County board of social welfare.

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234.12 County board employees.

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234.15 Agency.

234.16 Agreements.

234.17 Assets.

234.18 Powers.

234.19 Delegation of authority.

234.1 Definitions. As used in this chapter: "State department" means the state department of social welfare; "state board" means the state board of social welfare; "county board" means the county board of social welfare. [C39,§3661.002; C46, 50, 54, 58, 62,§234.1]

Referred to in §\$235.1, 241.1, 249A.2

234.2 State department of social welfare. There is hereby created a state department of social welfare which shall consist of a state board of social welfare, and such other officers and employees as may be hereafter provided. [C39,§3661.003; C46, 50, 54, 58, 62,§234.2] Referred to in §239.1, subsection 1

234.3 State board of social welfare. The state board of social welfare shall consist of three members, one of whom shall be a woman, not more than two of whom shall be from the same political party, to be appointed by the governor with the approval of a two-thirds vote of the members of the senate.

The members of the board shall devote their full time to the board's work and shall hold no other private or public position or office.

Each member shall serve for a term of six years, or until his successor is appointed and qualifies.

Within sixty days after the convening of the general assembly, the governor shall appoint a successor to the member whose term expires on the following June 30. On the second Tuesday in July of each year the board shall organize by electing one of its members as chairman. [C39,§3661.004; C46, 50, 54, 58, 62, §234.3; 61GA, ch 68,§10, ch 201,§2]

48GA, ch 139,§1, editorially divided Referred to in §239.1, subsection 2

234.4 Vacancies. Vacancies occurring while the general assembly is in session shall be filled for the unexpired portion of the term in the same manner as full-term appointments are made. Vacancies occurring while the general assembly is not in session shall be filled by the governor and shall be approved by the executive council, but such appointments shall terminate at the end of thirty days after the convening of the next general assembly. [C39, §3661.005; C46, 50, 54, 58, 62,§234.4]

234.5 Removal—compensation. Members of the board may be removed by the governor with the approval of the executive council and shall receive as compensation the sum as fixed by the general assembly.

234.20 Liability.

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234.21 Services to be offered.

234.22 Extent of services.

234.23 Charge for services. 234.24 Services may be refused.

234.25 Language to be used.

234.26 Construction.

234.27 Policy.

234.28 Obscenity laws not applicable.

No member shall be removed without cause being assigned for removal and without a public hearing before the executive council. [C39,§3661.006; C46, 50, 54, 58, 62,§234.5]

234.6 Powers and duties of the state board. The state board shall be vested with the authority to administer old-age assistance, aid to the blind, aid to dependent children, child welfare, and emergency relief, and any other form of public welfare assistance that may hereafter be placed under its administration. It shall perform such duties, formulate and make such rules and regulations as may be necessary; shall outline such policies, dictate such procedure and delegate such powers as may be necessary for competent and efficient administration. It shall have power to abolish, alter. consolidate or establish divisions and may abolish or change offices created in connection therewith. It may employ necessary personnel and fix their compensation. It may allocate or reallocate functions and duties among any divisions now existing or hereafter established by the state board. It may promulgate rules and regulations relating to the employment of investigators and the allocation of their functions and duties among the various divisions as competent and efficient administration may require.

The state board shall:

1. Within ninety days after the close of each fiscal year, prepare and print for said year a report to the governor which shall include a full account of the operation of the acts under its control, adequate and complete statistical reports by counties and for the state as a whole concerning all payments made under its administration, and such other information as it may deem advisable, or which may be requested by the governor or by the general assembly.

2. Co-operate with the federal social security board created by title VII of the social security Act [42 U.S.C. 901], enacted by the 74th Congress of the United States and approved August 14, 1935, or other agency of the federal government for public welfare assistance, in such reasonable manner as may be necessary to qualify for federal aid, including the making of such reports in such form and containing such information as the federal social security board, from time to time, may require, and to comply with such regulations as such federal social security board, from time to time, may

find necessary to assure the correctness and verification of such reports.

- 3. Exercise general supervision over the county boards of social welfare and their employees.
- 4. Furnish information to acquaint the public generally with the operation of the acts under the jurisdiction of the state board.
- 5. With the approval of the governor and comptroller, set up from the funds under their control and management an administrative fund and from said administrative fund to pay the expenses of operating the state department.
- 6. Notwithstanding any provisions to the contrary in chapters 239, 241, 241A, and 249 relating to the consideration of income and resources of claimants for assistance, the state board shall make such rules and regulations as may be necessary to qualify for federal aid in the assistance programs administered by the board. [C39,§3661.007; C46, 50, 54, 58, 62,§234.6; 61GA, ch 216,§1]
- 234.7 Secretary. The state board shall appoint a secretary who shall serve at its pleasure and shall perform such duties as it may require. He shall receive a salary not in excess of three thousand dollars per year. [C39,§3661.008; C46, 50, 54, 58, 62,§234.7]

234.8 State board employees. All employees of the state board shall be selected from among those who have successfully qualified in an examination given by the state board or under its direction, covering character, general training, and experience. Such examinations shall be open to all persons, and persons taking such examinations, upon successfully qualifying, shall be classified according to the fields of work for which said persons are fitted, all in accordance with rules and regulations of the state board adopted and published by the state board. [C39,§3661.009; C46, 50, 54, 58, 62,§234.8]

Referred to in §239.16 Assistant attorney general assigned, §13.6

234.9 County board of social welfare. The board of supervisors of each county shall appoint a county board of social welfare, which shall consist of three members in counties of less than thirty-three thousand population, not more than two of whom shall belong to the same political party, and at least one of whom shall be a woman; and which shall consist of five members in counties of more than thirty-three thousand population, not more than three of whom shall belong to the same political party, and at least one of whom shall be a woman. At the discretion of the board of supervisors one or more of said members may be chosen from the membership of said board of supervisors. Within thirty days after the effective date of this chapter* the board of supervisors shall appoint the members of the county board, which members shall serve until their successors are appointed as hereinafter provided. Commencing with the year 1938, and annually thereafter, the board of supervisors shall appoint the members of the county board who shall serve for one year and until their successors are appointed. If a vacancy shall occur in the membership of the county board, other than by the expiration of a term, a member shall be appointed to fill such vacancy for the unexpired term. All appointments, made as herein provided, shall be made a part of the regular proceedings of the board of supervisors and shall be filed with the county auditor and with the secretary of the state board. [C39, §3661.010; C46, 50, 54, 58, 62,§234.9]

*Effective date, May 28, 1937 Referred to in §239.1, subsection 3

234.10 Compensation of county board members. All members of the county board shall be reimbursed for the actual and necessary expenses incurred by them in the discharge of their duties. They shall also receive compensation for services at the rate of three dollars per diem, but such compensation shall not exceed a total of ninety dollars in any one year in counties of less than thirty-three thousand population, or one hundred twenty dollars in counties of more than thirty-three thousand population. The expenses and compensation of county board members shall be paid from the general fund of the county: provided, however, that members of the board of supervisors serving on said county board of social welfare shall not be paid compensation as members of said county board of social welfare for any day on which they are paid for their official work as members of the board of supervisors. [C39,§3661.011; C46, 50, 54. 58. 62. § 234.101

234.11 Duties of the county board. The county board shall be vested with the authority to direct in the county old-age assistance, aid to the blind, aid to dependent children and emergency relief with only such powers and duties as are prescribed in the laws relating thereto. [C39,§3661.012; C46, 50, 54, 58, 62, §234.11]

234.12 County board employees. The county board shall employ a county director and such other personnel as is necessary for the performance of its duties. The number of employees shall be subject to the approval of the state board. The county director and all employees shall be selected solely on the basis of the fitness for the work to be performed, with due regard to experience and training. When the duties of the director of social welfare are combined with the duties of another officer or employee as provided in sections 332.17 to 332.21, inclusive, the person named to perform the combined duties shall be employed as herein provided. [C39,§3661.013; C46, 50, 54, 58, 62, §234.12]

Referred to in §§241.4, subsection 2, 332.22

234.13 Compensation of county board employees. The compensation of county board

employees shall be fixed by the county board of social welfare and shall be paid by the state board from funds made available for that purpose. However, the compensation of all employees shall be subject to the approval of the state board and the county board of supervisors. [C39,§3661.014; C46, 50, 54, 58, 62,§234.13]

234.14 Federal grants. The state treasurer is hereby authorized to receive such federal funds as may be made available for carrying out any of the activities and functions of the state department, and all such funds are hereby appropriated for expenditure upon authorization of the state board. [C39,§3661.015; C46, 50, 54, 58, 62,§234.14]

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234.15 Agency. The state department of social welfare is hereby designated as the state agency to make application to and receive from the secretary of agriculture of the United States, or any other proper federal official, pursuant and subject to the provisions of Public Law 499, Eighty-first Congress, approved May 3, 1950 [64 Stat. L. 152], all of the trust assets held by the United States in trust for the Iowa Rural Rehabilitation Corporation now dissolved. [C54, 58, 62,§234.15]

Referred to in §234.17

234.16 Agreements. The state department of social welfare is authorized, in its discretion, to enter into agreements with the secr tary of agriculture of the United States pursuant to section 2(f) of the aforesaid Act of Congress of the United States, upon such terms and conditions and for such periods of time as may be mutually agreeable, authorizing the secretary of agriculture of the United States, or such federal agency as may be designated by him, to accept, administer, expend and use in the state of Iowa all or any part of such trust assets or any other funds in the state of Iowa which may be appropriated for such use in carrying out the purposes of Titles I and II of the Bankhead-Jones Farm Tenant Act, [50 Stat. L. 522]* in accordance with the applicable provisions of Title IV thereof and to do any and all things necessary to effectuate and carry out the purposes of said agreements. [C54, 58, 62,§234.16]

*7 U. S. C. §§1001-1005d, 1006, 1006c-1006e, 1007, 1008-1029 Referred to in §§234.17, 234.19

234.17 Assets. Except as to such of the assets as may be authorized to be administered by the secretary of agriculture of the United States under the provisions of section 234.16, the trust assets other than cash shall be taken on proper transfer or assignment in the name of the state department of social welfare and administered by it as hereinafter provided and the future proceeds therefrom together with the cash items received under the application made pursuant to section 234.15 shall be deposited with the treasurer of state for the use of the state department of social welfare in carrying out such of the rural rehabilitation

purposes permissible under the charter of the now dissolved Iowa Rural Rehabilitation Corporation as may from time to time be agreed upon by the state department of social welfare and the secretary of agriculture of the United States as required by section 2(c), Public Law 499, Eighty-first Congress. [C54, 58, 62,§234.17]

Referred to in §234.18, subsection 1

234.18 Powers. In addition to the express and necessarily implied powers enumerated in the charter of the Iowa Rural Rehabilitation Corporation now dissolved, appearing of record in book 7253, page 143 in the office of the county recorder of Polk county, Iowa, the state department of social welfare is specifically authorized and empowered to:

- 1. Receive written applications for loans, lend or advance moneys and execute all necessary written instruments in connection therewith needed in carrying out such of the rural rehabilitation purposes permissible and agreed upon as provided for in section 234.17.
- 2. Collect, compromise, adjust or cancel claims and obligations arising out of or administered under this division or under any mortgage, lease, contract or agreement entered into or administered pursuant to this division and, if in its judgment, necessary and advisable, pursue the same to final collection in any court having jurisdiction.
- 3. Bid for and purchase at any execution, foreclosure or other sale, or otherwise to acquire property upon which it has a lien by reason of a judgment or execution, or which is pledged, mortgaged, conveyed or which otherwise secures any loan or other indebtedness owing to or acquired by it under this division, and
- 4. Accept title to any property so purchased or acquired; operate or lease such property for such period as may be deemed necessary to protect the investment therein and sell or otherwise dispose of such property in a manner consistent with the provisions of this division. [C54, 58, 62,§234.18]

Referred to in \$234.19

234.19 Delegation of authority. The authority conferred upon the state department of social welfare by section 234.18 may be delegated to the secretary of agriculture of the United States with respect to funds or assets authorized to be administered and used by him under agreements entered into pursuant to section 234.16. [C54, 58, 62,§234.19]

234.20 Liability. The United States and the secretary of agriculture thereof shall be held free from liability by virtue of the transfer of the assets to the state department of social welfare of the state of Iowa pursuant to this division. [C54, 58, 62,§234.20]

FAMILY PLANNING SERVICES

234.21 Services to be offered. The state department of social welfare may provide, pay for, and offer family planning and birth control services to every parent or married per-

son who is a public assistance recipient where it deems necessary. [61GA, ch 27,§4(A)]

234.22 Extent of services. Such family planning and birth control services may include interview with trained personnel; distribution of literature; referral to a licensed physician for consultation, examination, tests, medical treatment and prescription; and, to the extent so prescribed, the distribution of rhythm charts, drugs, medical preparations, contraceptive devices and similar products. [61GA, ch 27,§4(B)]

234.23 Charge for services. In making provision for and offering such services, the department may charge those persons to whom family planning and birth control services are rendered a fee sufficient to reimburse the department all or any portion of the costs of the services rendered. [61GA, ch 27,§4(C)]

234.24 Services may be refused. The refusal of any person to accept family planning and birth control services shall in no way affect the right of such person to receive public assistance or to avail himself of any other public benefit and every person to whom such services are offered shall be so advised initially both orally and in writing. Employees engaged in the administration of this section shall recognize that the right to make decisions concerning family planning and birth control

is a fundamental personal right of the individual and nothing in this division shall in any way abridge such individual right, nor shall any individual be required to state his reason for refusing the offer of family planning and birth control services. [61GA, ch 27,§4(D)]

234.25 Language to be used. In all cases where the recipient does not speak or read the English language, the services shall not be given unless the interviews shall be conducted in, and all literature shall be written in, a language which the recipient understands. [61 GA, ch 27,§4(E)]

234.26 Construction. This division shall be liberally construed to protect the rights of all individuals to pursue their religious beliefs and to follow the dictates of their own consciences, and to prevent the imposition upon any individual of practices offensive to the individual's moral standards. [61GA, ch 27,§4

234.27 Policy. The general assembly hereby finds, determines, and declares that this division is necessary for the immediate preservation of the public peace, health, and safety. [61GA, ch 27,§4(G)]

234.28 Obscenity laws not applicable. The provisions of chapter 725, shall not apply to services provided under the terms of this division: [61GA, ch 27,§4(H)]

CHAPTER 235 CHILD WELFARE Referred to in §135B.17

Social welfare department, see ch 234

235.1 Definitions.

235.2 Powers and duties of state department.

235.3 Powers and duties of state board.

235.4 Duties of county departments. 235.5 Licenses.

235.6 Short title.

235.1 Definitions. The terms "state department", "state board", "county department" and "county board" are used in this chapter and chapters 236, 237, and 238 as said terms are defined in section 234.1.

"Child welfare services" means social welfare services for the protection and care of children who are homeless, dependent or neglected, or in danger of becoming delinquent, including when necessary care and maintenance in a foster care facility. [C39,§3661.016: C46, 50, 54, 58, 62,§235.1; 60GA, ch 154,§1]

- 235.2 Powers and duties of state department. The state department, in addition to all other powers and duties given it by law, shall:
- 1. Administer and enforce the provisions of this chapter.
- 2. Join and co-operate with the government of the United States through its appropriate agency or instrumentality or with any other officer or agency of the federal government in planning, establishing, extending and strengthening public and private child welfare services within the state.

- 3. Make such investigations and to obtain such information as will permit the state board to determine the need for public child welfare services within the state and within the several county departments thereof.
- 4. Apply for and receive any funds which are or may be allotted to the state by the United States or any agency thereof for the purpose of developing child welfare services.
- 5. Make such reports and budget estimates to the governor and to the general assembly as are required by law or such as are necessary and proper to obtain the appropriation of state funds for child welfare services within the state and for all the purposes of this chap-
- 6. Co-operate with the several county departments within the state, and all county boards of supervisors and other public or private agencies charged with the protection and care of children, in the development of child welfare services.
- 7. Aid in the enforcement of all laws of the state for the protection and care of children.

8. Co-operate with the juvenile courts of the state, and with the board of control of state institutions in its management and control of state institutions and the inmates thereof. [C39,§3661.017; C46, 50, 54, 58, 62,§235.2] Report to governor, §17.3

235.3 Powers and duties of state board. The state board shall:

1. Plan and supervise all public child welfare services and activities within the state as provided by this chapter.

2. Make such reports and obtain and furnish such information from time to time as may be necessary to permit co-operation by the state department with the United States children's bureau, the social security board, or any other federal agency which is now or may hereafter be charged with any duty regarding child care or child welfare services.

- 3. Make such rules and regulations as may be necessary or advisable for the supervision of the private child-caring agencies or officers thereof which the state board is empowered to license, inspect and supervise, which rules and regulations shall provide that in dealing with any child, any officer, employee or agency so dealing shall take into consideration the religious faith or affiliations of the child or its parents, and that in placing such child it shall be, as far as practicable, placed in the home or the care and custody of some person holding the same religious faith as the parents of such child, or with or through some agency or institution controlled by persons of like religious faith with the parents of said child.
- 4. Supervise and inspect private institutions for the care of dependent, neglected and delinquent children, and to make reports regarding the same.
- 5. Designate and approve the private and county institutions within the state to which neglected, dependent and delinquent children may be legally committed and to have supervision of the care of children committed thereto, and the right of visitation and inspection of said institutions at all times.
- 6. Receive and keep on file annual reports from the juvenile courts of the state, and from all institutions to which neglected, dependent and delinquent children are committed; compile statistics regarding juvenile delinquency, make reports regarding the same

and study prevention and cure of juvenile delinquency.

- 7. Require and receive from the clerks of the courts of record within the state duplicates of the findings of the courts upon petitions for adoption, and keep records and compile statistics regarding adoptions.
- 8. License and inspect maternity hospitals. private boarding homes for children, and private child-placing agencies; make reports regarding the same and revoke such licenses.
- 9. Make such rules and regulations as may be necessary for the distribution and use of funds appropriated for child welfare services. [C27, 31, 35,§\$3661-a1,-a2; C39,§3661.018; C46, 50, 54, 58, 62,§235.3; 60GA, ch 154,§21
- 235.4 Duties of county departments. County departments are hereby charged with the duty of co-operating with the state department in carrying out the provisions of this chapter. They shall, upon request, make to the state department such reports regarding child welfare services, or the need thereof, within the respective counties. They shall also, when requested by the state department, make reports upon maternity hospitals, private boarding homes for children, private child-placing agencies and private institutions for the care of neglected, dependent or delinquent children which are located within the respective counties. For this purpose they shall act, if so designated, as agents of the state department. [C27, 31, 35,§3661-a1; C39, §3661.019; C46, 50, 54, 58, 62,§235.4]
- 235.5 Licenses. Licenses issued to maternity hospitals, private boarding homes for children, and private child-placing agencies by the state board of control of state institutions, shall remain in effect for the period for which issued, unless sooner revoked according to law. Thereafter it shall be the duty of each of such agencies to apply to the state board of social welfare for a new license, and to submit to such rules regarding the same as the state board may prescribe. [C39,§3661.020; C46, 50. 54, 58, 62, §235, 51

Constitutionality, 47GA, ch 118,§13

235.6 Short title. This chapter shall be known and may be cited as "The Child Welfare Act of 1937." [C39,§3661.021; C46, 50, 54,

CHAPTER 235A ABUSE OF CHILDREN

235A.1 Policy. 235A.2 Definitions.

235A.3 Report.

235A.4 Nature and contents of report - to whom made.

235A.5 Investigation and other action. 235A.6 Jurisdiction—transfer.

235A.7 Immunity from liability. 235A.8 Evidence not privileged or excluded.

235A.1 Policy. It is the policy of this state to provide protection for children who have been physically injured as a result of abuse

or willful neglect and who may be in danger of further injury. This chapter shall be administered and interpreted to provide the greatest possible protection as promptly as possible for such children. [61GA, ch 217,§1]

235A.2 Definitions. Wherever used in this chapter, unless the context clearly indicates otherwise:

1. "Health practitioner" includes any physician, surgeon, osteopath, dentist, optometrist, podiatrist, or chiropractor; any resident or intern in any of such professions; and any registered nurse attending or treating a child in the absence of a practitioner of any of such professions.

2. "Child" means any person under the age of eighteen years.

3. "County department of social welfare" and "county attorney" have the meaning stated in section 235A.6. [61GA, ch 217,§2]

235A.3 Report. Every health practitioner who examines, attends, or treats a child and who believes or has reason to believe that the child has had physical injury inflicted on him as a result of abuse or willful neglect, shall make a report as provided in the following section. However, if the health practitioner examines, attends, or treats the child as a member of the staff of a hospital or similar institution, he shall immediately notify and give complete information to the person in charge of the institution or his designated representative, who shall make a report as provided in the following section.

Any other person who believes that a child has had physical injury inflicted upon him as a result of abuse or neglect may make a report as provided in the following section. [61GA, ch 217,§3]

235A.4 Nature and contents of report—to to whom made. Each report shall be made both orally and in writing, and both reports shall be made as soon as is reasonably possible.

The oral report shall be made by telephone or otherwise to the county department of social welfare. If the person making the report believes or has reason to believe that immediate protection for the child is advisable, he also shall immediately make an oral report to an appropriate law enforcement agency.

The written report shall be made to the county department of social welfare and the county attorney.

The oral and written reports shall contain the following information, or as much thereof as the person making the report is able to furnish:

(1) The names and home addresses of the child and his parents or other persons responsible for his care; (2) the child's present whereabouts if not the same as his home address; (3) the child's age; (4) the nature and extent of the child's injuries, including any evidence of previous injuries; and (5) any other information which the person making the report believes might be helpful in

establishing the cause of the injuries and the identity of the person or persons responsible therefor.

A report made by anyone other than a health practitioner, hospital, or similar institution may be oral, written, or both; shall be regarded as a report pursuant to this chapter whether or not the report contains all of the information required by this section; and may be made to any county department of social welfare, county attorney, or law enforcement agency. If the report is made to any agency other than the county department of social welfare, such agency shall promptly refer the report to the county department of social welfare. [61GA, ch 217,§4]

Referred to in §235A.3

235A.5 Investigation and other action. The county department of social welfare shall make a thorough investigation promptly after receiving either the oral or written report. The primary purpose of the investigation shall be the protection of the child.

The investigation shall include the nature, extent, and cause of the child's injuries; the identity of the person or persons responsible therefor; the names and conditions of other children in the home; the child's home environment and relationship with his parents or other persons responsible for his care; and all other pertinent matters.

The investigation shall include a visit to the child's home. If admission to the home cannot be obtained, the juvenile court or district court, upon good cause shown, may authorize the person or persons making the investigation to enter and examine the child's home, using reasonable force if necessary.

The county department of social welfare shall make a complete written report of the investigation to the juvenile court, the county attorney, and the appropriate law enforcement agency.

The written report of the investigation shall be delivered within ninety-six hours after the county department of social welfare receives either the oral or written report of injury, unless the juvenile court or district court grants an extension of time for good cause shown.

The county attorney and any law enforcement or welfare agency in the state shall cooperate and assist in the investigation upon the request of the county department of social welfare. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

The county department of social welfare shall make available all lawful services and take all lawful action which appears advisable to protect the health and welfare of the child and his family.

The county department of social welfare shall promptly begin any proceeding under chapter 232 which appears to be in the best interests of the child; but if the county department of social welfare fails to do so, the county attorney shall promptly do so. [61GA, ch 217,§5]

Referred to in §235A.6

235A.6 Jurisdiction—transfer. "County department of social welfare" or "county attorney" ordinarily refer to the county in which the child's home is located.

However, if the person making the report pursuant to this chapter does not know where the child's home is located, or if the child's home is not located in the county where the health practitioner examines, attends, or treats the child, the report may be made to the designated agencies for the county where the person making the report resides or the county where the health practitioner examines, attends, or treats the child. These agencies shall promptly proceed as provided in section 235A.5, unless the matter is transferred to another county as provided in this section.

If it appears that the child's home is located in another county, the county department of social welfare shall promptly transfer the matter to the other county by transmitting a copy of the report of injury and any other pertinent information to the county department of social welfare and the county attorney of the other county. They shall promptly proceed as provided in section 235A.5. [61GA, ch 217,§6]

Referred to in §235A.2, subsection 3

235A.7 Immunity from liability. Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from such report or relating to the subject matter of such report. [61GA, ch 217,§7]

235A.8 Evidence not privileged or excluded. Sections 622.7, 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of health practitioner as to confidential communcations, shall not apply to evidence regarding a child's injuries or the cause thereof in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such report. [61GA, ch 217,§8]

CHAPTER 236

MATERNITY HOSPITALS

Referred to in §§135B.17, 235.1. Social welfare department, see ch 234

236.1 "Person" defined.
236.2 "Maternity hospital" defined.
236.3 Prohibited location.
236.4 License required.

236.5 Power to license.236.6 Conditions to granting license.236.7 Unlicensed hospital nuisance.

236.8 Applications for license.

236.9 Removal of hospital—inspection.

236.10 Fees.

236.11 Renewal of license.

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236.13 Tenure of license. 236.14 Tenure of license.

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236.20 Notice of license. 236.21 Revocation of license.

236.22 Child placements by maternity hospitals.

236.23 Attending physician.

236.24 Reports as to births. 236.25 Reports as to deaths.

236.26 Inspection of reports.

236.27 Records and inspection.
236.28 Reports and information confidential.

236.29 Inspections.

236.30 Minimum inspection. 236.31 Sanitary inspection.

236.32 Licensee to grant assistance.

236.33 Burden of proof.

236.34 Penalty.

236.1 "Person" defined. The word "person" where used in this chapter shall include individuals, partnerships, voluntary associations, and corporations. [C27, 31, 35,\$3661-a8; C39, \$3661.022; C46, 50, 54, 58, 62,\$236.1]

41GA, ch 79,§1, editorially divided

236.2 "Maternity hospital" defined. Any person who receives for care and treatment during pregnancy or during delivery or within ten days after delivery more than one woman within a period of six months, except women related to him by blood or marriage, shall be deemed to maintain a maternity hospital. This definition shall not be construed to include nurses who care for women during confine-

ment in the homes of the patients, nor any institution under the management of the state board of regents or state board of control, nor any general hospital. [S13,§2575-a20; C24, §§2365, 2366; C27, 31, 35,§3661-a9; C39,§3661.023; C46, 50, 54, 58, 62,§236.2]

236.3 Prohibited location. No maternity hospital shall be operated within two hundred feet of any church building, school, educational institution, or public park, or in a building situated within fifty feet of building owned by another. [S13,§2575-a20; C24,§2368; C27, 31, 35,§3661-a10; C39,§3661.024; C46, 50, 54, 58, 62,§236.3]

236.4 License required. No maternity hospital shall receive a woman for care therein or solicit or receive money for its maintenance unless it has an unrevoked license issued by the state board of social welfare in accordance with this chapter within the preceding twelve months to conduct such hospital. [S13,§2575-a20; C24,§2367; C27, 31, 35,§3661-a11; C39,§3661.025; C46, 50, 54, 58, 62,§236.4]

41GA, ch 79,§3, editorially divided

236.5 Power to license. The state board of social welfare is hereby empowered to grant a license for one year for the conduct of any maternity hospital that is for the public good, that is legally located, that is conducted by a reputable and responsible person, and whose staff and equipment are adequate for the work which it undertakes. [S13,§2575-a22; C24,§2370; C27, 31, 35,§3661-a12; C39,§3661.026; C46, 50, 54, 58, 62,§236.5]

236.6 Conditions to granting license. No such license shall be issued unless the premises shall have been inspected and such license approved by the state department of health. [S13,§2575-a22; C24,§2371; C27, 31, 35,§3661-a13; C39,§3661.027; C46, 50, 54, 58, 62,§236.6]

236.7 Unlicensed hospital nuisance. Any maternity hospital operated in violation of the terms of this chapter shall be deemed a nuisance and may be abated by injunction proceedings. [S13,§2575-a27; C24,§2382; C27, 31, 35, §3661-a14; C39,§3661.028; C46, 50, 54, 58, 62, §236.7]

Injunctions, ch 664

236.8 Applications for license. Every application for a license to operate a maternity hospital shall be made in writing to the state board of social welfare, accompanied by the legal inspection fee, and said application shall contain the name and address of the person to whom the license is to be issued, and a description of the location of the place to be used. [S13,§2575-a22; C24,§2369; C27, 31, 35,§3661-a15; C39,§3661.029; C46, 50, 54, 58, 62,§236.8]

41GA, ch 79,§4, editorially divided

236.9 Removal of hospital — inspection. When the hospital desires to remove to a new location no new license fee shall be required; only the inspection fee of five dollars shall be charged. [C27, 31, 35,§3661-a16; C39,§3661.030; C46, 50, 54, 58, 62,§236.9]

236.10 Fees. The initial inspection fee for a proposed maternity hospital shall be five dollars, and the license fee for operating such hospital shall be twenty-five dollars. [S13, §2575-a22; C24,§2373; C27, 31, 35,§3661-a17; C39, §3661.031; C46, 50, 54, 58, 62,§236.10]

41GA, ch 79, \$5, editorially divided Referred to in §236.12

236.11 Renewal of license. The state board of social welfare may renew any license upon payment of a renewal fee of five dollars if the licensee continues to be eligible. [S13,§2575-a22; C24,§2373; C27, 31, 35,§3661-a18; C39,§3661.032; C46, 50, 54, 58, 62,§236.11]

Referred to in §236.12

236.12 Exceptions. No fee provided for in sections 236.10 and 236.11 shall be required of any charitable institution operating a maternity hospital, or any institution which holds a hospital license under any other general hospital licensure law. [S13,§2575-a22; C24,§2373; C27, 31, 35,§3661-a19; C39,§3661.033; C46, 50, 54, 58, 62,§236.12]

236.13 Tenure of license. Each license shall expire one year from the date of issue unless sooner revoked. [S13,§2575-a22; C24,§2373; C27, 31, 35,§3661-a20; C39,§3661.034; C46, 50, 54, 58, 62,§236.13]

236.14 Tenure of license. Licenses granted under this chapter shall be valid for one year from the date of issuance thereof unless revoked in accordance with the provisions of this chapter. [S13,§2575-a22; C24,§2373; C27, 31, 35,§3661-a21; C39,§3661.035; C46, 50, 54, 58, 62, §236.14]

41GA, ch 79,§8, editorially divided

236.15 Rules and regulations. It shall be the duty of the state board of social welfare to satisfy itself as to compliance with the conditions required for the issuance of such license and to prescribe such general regulations and rules as to licenses and for the conduct of all such hospitals as shall be necessary to effect the purposes of this chapter and of all other laws of the state relating to children so far as the same are applicable and to safeguard the well-being of all infants born therein and the health, morality, and best interests of the women and children who are inmates therein. [C27, 31, 35,§3661-a22; C39,§3661.036; C46, 50, 54, 58, 62,§236.15]

236.16 Form of license. The license shall state the name of the licensee and designate the premises in which the business may be carried on, and the number of women that may properly be treated or cared for therein at any one time. [S13,§§2575-a21,-a22; C24,§2372; C27, 31, 35,§3661-a23; C39,§3661.037; C46, 50, 54, 58, 62,§236.16]

41GA, ch 79,§7, editorially divided

236.17 Posting of license. Such license shall be kept posted in a conspicuous place on the licensed premises. [C27, 31, 35,§3661-a24; C39, §3661.038; C46, 50, 54, 58, 62,§236.17]

236.18 Prohibited acts. No greater number of women shall be kept at any one time on the premises for which the license is issued than is authorized by the license and no woman shall be kept in a building not designated in the license. [C27, 31, 35,§3661-a25; C39,§3661.039; C46, 50, 54, 58, 62,§236.18]

236.19 Record of licenses. A record of the licenses so issued shall be kept by the state board of social welfare. [C27, 31, 35,§3661-a26; C39,§3661.040; C46, 50, 54, 58, 62,§236.19]

236.20 Notice of license. The state board of social welfare shall forthwith give notice to the state department of health and to the local board of health of the city, village, or town in

which the licensee resides of the granting of such license and the conditions thereof. [C27, 31, 35,§3661-a27; C39,§3661.041; C46, 50, 54, 58, 62,§236.20]

236.21 Revocation of license. The state board of social welfare may revoke any such license under the conditions and by the procedure specified for the revocation of licenses of child-placing agencies. [S13,§2575-a26; C24, §2374; C27, 31, 35,§3661-a28; C39,§3661.042; C46, 50, 54, 58, 62,§236.21]

Procedure, §§238.10-238.15

236.22 Child placements by maternity hospitals. No person, as an inducement to a woman to go to any maternity hospital during confinement, shall in any way offer to dispose of any child or advertise that he will give children for adoption or hold himself out as being able to dispose of children in any manner. [C27, 31, 35,§3661-a29; C39,§3661.043; C46, 50, 54, 58, 62,§236.22]

236.23 Attending physician. Every birth occurring in a maternity hospital shall be attended by a legally qualified physician. [C27, 31, 35,§3661-a30; C39,§3661.044; C46, 50, 54, 58, 62,§236.23]

41GA, ch 79,§10, editorially divided

236.24 Reports as to births. The licensee owning or conducting such hospital shall (in addition to the report required to be filed with the registrar of vital statistics) within twenty-four hours after a birth occurs therein, make a written report thereof, to the state board of social welfare, giving the information required in the official birth report and such additional information as shall be within the knowledge of the licensee and as may be required by the state board. [S13,§§2575-a23,-a24; C24,§§2375, 2376; C27, 31, 35,§3661-a31; C39,§3661.045; C46, 50, 54, 58, 62,§236.24]

Referred to in §236.26 Birth certificate, §144.13

236.25 Reports as to deaths. The licensee owning or conducting any such hospital shall immediately after the death in a maternity hospital of a woman or an infant born therein or brought thereto, cause notice thereof to be given to the state board of social welfare with such details as the state board may require. [S13,§§2575-a23,-a24; C24,§§2375, 2376; C27, 31, 35,§3661-a32; C39,§3661.046; C46, 50, 54, 58, 62, §236.25]

Referred to in §236.26

236.26 Inspection of reports. All reports received by the state department under sections 236.24 and 236.25 shall be kept of record and shall be accessible to the state board of social welfare and authorized employees thereof, the attorney general, and any county attorney, but said reports shall not be accessible to any other person except on the order of a court of record. [S13,§2575-a23; C24,§2378; C27, 31, 35,§3661-a33; C39,§3661.047; C46, 50, 54, 58, 62,§236.26]

236.27 Records and inspection. The state board of social welfare shall have the same

right and duties with respect to maternity hospitals relative to prescribing record forms, requiring reports, and making inspections as are provided in connection with the licensing of child-placing agencies. [C27, 31, 35,§3661-a34; C39,§3661.048; C46, 50, 54, 58, 62,§236.27]

41GA, ch 79,§12, editorially divided Forms prescribed, §238,17

236.28 Reports and information confidential. Reports and information acquired through the operation of this chapter shall be confidential under the same conditions provided by law in connection with child-placing agencies. [S13, \$2575-a23; C24,\$2378; C27, 31, 35,\$3661-a35; C39, \$3661.049; C46, 50, 54, 58, 62,\$236.28]

Information confidential-conditions, §238.24

236.29 Inspections. Officers and authorized agents of the state board of social welfare may inspect the premises and conditions of such agencies at any time and examine every part thereof, and interview the inmates, and may inquire into all matters concerning such hospitals and the women and children in the care thereof. [S13,§2575-a25; C24,§2380; C27, 31, 35,§3661-a36; C39,§3661.050; C46, 50, 54, 58, 62,§236.29]

236.30 Minimum inspection. Said officers or authorized agents of the state board of social welfare shall visit and inspect the premises of licensed maternity hospitals at least once every six months and preserve written reports of the conditions found therein. [C27, 31, 35, §3661-a37; C39,§3661.051; C46, 50, 54, 58, 62, §236.30]

236.31 Sanitary inspection. Officers and authorized agents of the state department of health and local board of health in the city, village, or town where a licensed maternity hospital is located may make sanitary inspections at any time. [S13,§2575-a25; C24,§§2380, 2381; C27, 31, 35,§3661-a38; C39,§3661.052; C46, 50, 54, 58, 62,§236.31]

236.32 Licensee to grant assistance. The licensee shall give all reasonable information to such inspectors and afford them every reasonable facility for the performance of the duties mentioned. [C27, 31, 35,§3661-a39; C39,§3661.053; C46, 50, 54, 58, 62,§236.32]

236.33 Burden of proof. In a prosecution under the provisions of this law or any penal law relating thereto a defendant who relies for defense upon the relationship of any woman or infant to himself shall have the burden of proof. [C27, 31, 35,§3661-a40; C39,§3661.054; C46, 50, 54, 58, 62,§236.33]

236.34 Penalty. Every person who violates any of the provisions of this chapter or who shall intentionally make any false statements or reports to the state board of social welfare with reference to the matters contained herein, shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed three hundred dollars or imprisoned for a term not to exceed one year. [S13,§2575-a27; C24,§2383; C27, 31, 35,§3661-a41; C39,§3661.055; C46, 50, 54, 58, 62,§236.34]

CHAPTER 237 CHILDREN'S BOARDING HOMES Referred to in §235.1. Social welfare department, see ch 234

237.9 Prohibited acts.

237.10 Posting of license.

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237.1 "Person" or "agency" defined.

237.2 "Children's boarding home" defined.

237.3 Power to license.

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237.7 Notice of granting.

237.8 License essential.

237.1 "Person" or "agency" defined. The words "person" or "agency" where used in this chapter shall include individuals, institutions, partnerships, voluntary associations, and corporations other than institutions under the

§3661.056; C46, 50, 54, 58, 62,§237.1] 41GA, ch 78,§1, editorially divided

237.2 "Children's boarding home" defined.

Any person who receives for care and treatment or has in his custody at any one time one or more children under the age of sixteen years unattended by parent or guardian, for the purpose of providing them with food, care, and lodging, except children related to him by blood or marriage, and except children received by him with the intent of adopting them into his own family, shall be deemed to maintain a children's boarding home. This definition shall not include any person who is caring for children for a period of less than thirty days. [C27, 31, 35,§3661-a43; C39, §3661.057; C46, 50, 54, 58, 62,§237.2; 60GA, ch 154,§31

management of the state board of control or its

officers or agents. [C27, 31, 35,§3661-a42; C39,

237.3 Power to license. The state board of social welfare is hereby empowered to grant a license for one year for the conduct of any children's boarding home that is for the public good, that has adequate equipment for the work which it undertakes, and that is conducted by a reputable and responsible person. [C27, 31, 35,§3661-a44; C39,§3661.058; C46, 50, 54, 58, 62, §237.3]

41GA, ch 78, \$2, editorially divided

237.4 Conditions to granting. No such license shall be issued unless the premises are in a fit sanitary condition, and the application for such license shall have been approved by the state department of health. [C27, 31, 35, §3661-a45; C39,§3661.059; C46, 50, 54, 58, 62, §237.41

237.5 Form of license. The license shall state the name of the licensee, the particular premises in which the business may be carried on, and the number of children that may be properly boarded or cared for therein at any one time. [C27, 31, 35,§3661-a46; C39,§3661.060; C46, 50, 54, 58, 62, §237.51

237.6 Record of license. A record of the licenses so issued shall be kept by the state board of social welfare. [C27, 31, 35,§3661-a47; C39,§3661.061; C46, 50, 54, 58, 62,§237.6]

237.7 Notice of granting. The state board of social welfare shall forthwith give notice to the state department of health and to the local board of health of the city, village, or town in which the licensed premises are located of the granting of such license and the conditions thereof. [C27, 31, 35,§3661-a48; C39,§3661.062; C46, 50, 54, 58, 62,§237.7]

237.8 License essential. No person shall receive a child for care in any such home or solicit or receive funds for its support unless it has an unrevoked license issued by the state board of social welfare within twelve months preceding to conduct such home. [C27, 31, 35, §3661-a49; C39,§3661.063; C46, 50, 54, 58, 62,

237.9 Prohibited acts. No greater number of children shall be kept at any one time on the licensed premises than is authorized by the license and no child shall be kept in a building or place not designated in the license. [C27, 31, 35,§3661-a50; C39,§3661.064; C46, 50, 54, 58, 62, §237.91

237.10 Posting of license. Such license shall be kept posted in a conspicuous place on the licensed premises. [C27, 31, 35,§3661-a51; C39, §3661.065; C46, 50, 54, 58, 62, §237.10]

237.11 Rules and regulations. It shall be the duty of the state board of social welfare to provide such general regulations and rules for the conduct of all such homes as shall be necessary to effect the purpose of this and of all other laws of the state relating to children so far as the same are applicable, and to safeguard the well-being of all children kept therein. [C27, 31, 35,§3661-a52; C39,§3661.066; C46, 50, 54, 58, 62, §237.111

237.12 Tenure of license. Licenses granted under this chapter shall be valid for one year from the date of issuance thereof unless revoked in accordance with the provisions of this chapter. [C27, 31, 35,§3661-a53; C39,§3661. 067; C46, 50, 54, 58, 62, §237.12]

41GA, ch 78,§3, editorially divided

237,13 Revocation of license. The state board of social welfare may revoke any such license under the conditions and by the procedure specified for the revocation of licenses of §237.14, CHILDREN'S BOARDING HOMES

child-placing agencies. [C27, 31, 35,§3661-a54; C39,§3661.068; C46, 50, 54, 58, 62,§237.13]

Procedure, §§238.10-238.15

237.14 Records and inspection. The state board of social welfare shall have the same rights and duties relative to records, reports. and inspections of children's boarding homes as are provided for in connection with maternity hospitals. [C27, 31, 35,\\$3661-a55; C39,\\$3661.069; C46, 50, 54, 58, 62,\\$237.14]

Records, reports, inspections, §§236.27, 238.17, 238.19

237.15 Burden of proof. In a prosecution under the provisions of this law or any penal law relating thereto a defendant who relies for defense upon the relationship of any child to himself shall have the burden of proof. [C27,

31, 35,§3661-a56; C39,§3661.070; C46, 50, 54, 58, 62,

237.16 Penalty-injunction. Every person who violates any of the provisions of this chapter or who intentionally shall make any false statements or reports to the state board of social welfare with reference to the matters contained herein, shall be guilty of a misdemeanor. Any person who fails to comply with the provisions of this chapter may be restrained by temporary injunction from operating or maintaining a children's boarding home until they have complied with the provisions of this chapter. [C27, 31, 35,§3661-a57; C39, §3661.071; C46, 50, 54, 58, 62,§237.16]

Punishment, §687.7

CHAPTER 238

CHILD-PLACING AGENCIES

Referred to in §§235.1, 600.1. Social welfare department, see ch 234

238.1 "Person" or "agency" defined. 238.2 "Child-placing agency" defined.

Power to license.

238.4 Granting of license conditional.

238.5 License required. 238.6 Form of license.

238.7 Posting of license. 238.8 Record of license.

238.9 Tenure of license.

238.10 Revocation of license.

238.11 Written charges—findings—notice.

238.12 Appeal.

238.13 Pleadings on appeal.

238.14 Hearing on appeal.

238.15 Trial on appeal.

238.16 Rules and regulations.

238.17 Forms for registration and recordpreservation.

238.18 Duty of licensee.

238.19 Inspection generally.

238.20 Minimum inspection—record.

238.21 Other inspecting agencies.

238.22 Licensee to aid inspection.

238.23 Annual report.

238.24 Information confidential.

238.25 Assumption of care and custody.

238.26 Relinquishment of rights and duties. 238.27 Relinquishment by one parent.

238.28 Relinquishment, parents not married.

238.29 Recovery after relinquishment.

238.30 Reports as to placements.

238.31 Inspection of foster homes.

238.32 Authority to agencies. 238.33 Importation of children.

238.34 Bond-conditions.

238.35 Liquidated damages.

238.36 Notice of intent to import child.

238.37 Reports as to imported child.

238.38 Exception.

238.39 Exportation of children.

238.40 Agreement in child placements.

238.41 Exceptions.

238.42 Burden of proof.

238.43 Penalty.

238.1 "Person" or "agency" defined. The words "person" or "agency" where used in this chapter shall include individuals, institutions, partnerships, voluntary associations, and corporations, other than institutions under the management of the board of control or its officers or agents. [C27, 31, 35,\\$3661-a58; C39, \\$3661.072; C46, 50, 54, 58, 62,\\$238.1] 41GA, ch 80.\$1, editorially divided

238.2 "Child-placing agency" defined. Any agency, public, semipublic, or private, which represents itself as placing children permanently or temporarily in private family homes or as receiving children for such placement, or which actually engages, for gain or otherwise, in such placement, shall be deemed to operate a child-placing agency. [C27, 31, 35,§3661-a59; C39,§3661.073; C46, 50, 54, 58, 62,§238.2]

Referred to in §238.17

238.3 Power to license. The state board of social welfare is hereby empowered to grant

a license for one year for the conduct of any child-placing agency that is for the public good, and is conducted by a reputable and responsible person. [C27, 31, 35,§3661-a60; C39,§3661.074; C46, 50, 54, 58, 62,§238.3]

41GA, ch 80, \$2, editorially divided

238.4 Granting of license conditional. No such license shall be issued unless the person applying shall have shown that he and his agents are properly equipped by training and experience to find and select suitable temporary or permanent homes for children and to supervise such homes when children are placed in them, to the end that the health, morality, and general well-being of children placed by them shall be properly safeguarded. [C27, 31, 35,§3661-a61; C39,§3661.075; C46, 50, 54, 58, 62, §238.4]

238.5 License required. No person shall conduct a child-placing agency or solicit or receive funds for its support without an unrevoked

license issued by the state board of social welfare within the twelve months preceding to conduct such agency. [C27, 31, 35,§3661-a62; C39,§3661.076; C46, 50, 54, 58, 62,§238.5]

238.6 Form of license. The license shall state the name of the licensee and the particular premises in which the business may be carried on. [C27, 31, 35,§3661-a63; C39,§3661.077; C46, 50, 54, 58, 62,§238.6]

238.7 Posting of license. Such license shall be kept posted in a conspicuous place on the licensed premises. [C27, 31, 35,§3661-a64; C39, §3661.078; C46, 50, 54, 58, 62,§238.7]

238.8 Record of license. A record of the licenses so issued shall be kept by the state board of social welfare. [C27, 31, 35,§3661-a65; C39,§3661.079; C46, 50, 54, 58, 62,§238.8]

238.9 Tenure of license. Licenses granted under this chapter shall be valid for one year from the date of issuance thereof unless revoked in accordance with the provisions hereof. [C27, 31, 35,83661-a66; C39,§3661.080; C46, 50, 54, 58, 62,§238.9]

41GA, ch 80, \$3, editorially divided

238.10 Revocation of license. The state board of social welfare may, after due notice and hearing, revoke the license:

1. In case the person to whom the same is issued violates any provision of this chapter.

2. When in the opinion of the state board such agency is maintained in such a way as to waste or misuse funds contributed by the public or without due regard to sanitation or hygiene or to the health, comfort, or well-being of the child cared for or placed by the agency.

3. In case of violation by the licensee or his agents of any law of the state in a manner disclosing moral turpitude or unfitness to maintain such agency.

4. In case any such agency is conducted by a person of ill repute or bad moral character.

5. In case said agency operates in persistent violation of the reasonable regulations of the state board governing such agencies. [S13, §3260-k; C24,§3663; C27, 31, 35,§3661-a67; C39, §3661.081; C46, 50, 54, 58, 62,§238.10]

238.11 Written charges — findings — notice. Written charges against the licensee shall be served upon him at least ten days before hearing shall be had thereon and a written copy of the findings and decisions of the state board of social welfare upon hearing shall be served upon the licensee in the manner prescribed for the service of original notice in civil actions. [C27, 31, 35,§3661-a68; C39,§3661.082; C46, 50, 54, 58, 62,§238.11]

Service of notice, R.C.P. 56(a)

238.12 Appeal. Any licensee feeling himself aggrieved by any decision of the state board of social welfare revoking his license may appeal to the district court by serving on the state board and filing with the clerk of the district court in the county where his agency

is situated, within ten days after written notice of such decision, a written notice of appeal specifying the grounds upon which the appeal is taken. [C27, 31, 35,§3661-a69; C39, §3661.083; C46, 50, 54, 58, 62,§238.12]

238.13 Pleadings on appeal. The written notice and decisions shall be treated as the pleadings in the case and may be amended in the discretion of the court. [C27, 31, 35,§3661-a70; C39,§3661.084; C46, 50, 54, 58, 62,§238.13]

238.14 Hearing on appeal. The appeal may be brought on for hearing in a summary manner by either party by an order obtained from the court to show cause why the decision of the state board of social welfare should not be confirmed, amended, or set aside. [C27, 31, 35, §3661-a71; C39,§3661.085; C46, 50, 54, 58, 62, §238.14]

238.15 Trial on appeal. The issues shall be tried anew by the court as an equitable proceeding and decree rendered. [C27, 31, 35,§3661-a72; C39,§3661.086; C46, 50, 54, 58, 62,§238.15]

How issues tried, R.C.P. 177 et seq.

238.16 Rules and regulations. It shall be the duty of the state board of social welfare to provide such general regulations and rules for the conduct of all such agencies as shall be necessary to effect the purposes of this chapter and of all other laws of the state relating to children so far as the same are applicable, and to safeguard the well-being of children placed or cared for by such agencies. [C27, 31, 35, §3661-a73; C39,§3661.087; C46, 50, 54, 58, 62, §238.16]

238.17 Forms for registration and record—preservation. The state board of social welfare shall prescribe forms for the registration and record of persons cared for by any child-placing agency licensed under this chapter and for reports required by said state board from the agencies.

If, for any reason, a child-placing agency as defined by section 238.2 shall cease to exist, all records of registration and placement and all other records of any kind and character kept by such child-placing agency shall be turned over to the state board of social welfare, for preservation, to be kept by the said state board of social welfare as a permanent record. [C27, 31, 35,§3661-a74; C39,§3661.088; C46, 50, 54, 58, 62,§238.17]

41GA, ch 80, \$4, editorially divided Referred to in \$238.24

238.18 Duty of licensee. The licensee shall keep a record and make reports in the form to be prescribed by said state board. [C27, 31, 35, \$3661-a75; C39, \$3661.089; C46, 50, 54, 58, 62, \$238.18]

Referred to in §238.24

238.19 Inspection generally. Officers and authorized agents of the state board of social welfare may inspect the premises and conditions of such agency at any time and examine every part thereof; and may inquire into all

matters concerning such agencies and the children in the care thereof. [S13,§3260-j; C24, §\$3669, 3684; C27, 31, 35,§3661-a76; C39,§3661.090; C46, 50, 54, 58, 62,§238.19]

41GA, ch 80, \$6, editorially divided Referred to in \$238.24

238.20 Minimum inspection — record. Said officers and authorized agents of the state board of social welfare shall visit and inspect the premises of licensed child-placing agencies at least once every six months and make and preserve written reports of the conditions found. [C27, 31, 35,§3661-a77; C39,§3661.091; C46, 50, 54, 58, 62,§238.20]

Referred to in §238.24

238.21 Other inspecting agencies. Authorized agents of the state department of health and of the local board of health of the city, village, or town in which a licensed childplacing agency is located may make inspection of the premises. [C27, 31, 35,83661-a78; C39, §3661.092; C46, 50, 54, 58, 62,§238.21]

Referred to in §238.24

238.22 Licensee to aid inspection. The licensees shall give all reasonable information to such inspectors and afford them every reasonable facility for obtaining pertinent information. [C27, 31, 35,§3661-a79; C39,§3661.093; C46, 50, 54, 58, 62,§238.22]

Referred to in §238.24

238.23 Annual report. Every such agency shall file with the state board of social welfare, during the month of January of each year, an annual written or printed report, which shall show:

- 1. The number of children cared for during the preceding year.
- 2. The number of children received for the first time and the number returned from families.
- 3. The number placed in homes.
- 4. The number deceased.
- 5. The number placed in state institutions.
- 6. The number returned to friends.
- 7. The number and names and number of months of each of those attending school.
- 8. A statement showing the receipts and disbursements of such agency.
- 9. The amount expended for salaries and other expenses, specifying the same.
- 10. The amount expended for lands, buildings, and other investments.
- 11. Such other information as the state board may require. [S13,§3260-j; C24,§3670; C27, 31, 35,§3661-a80; C39,§3661.094; C46, 50, 54 58, 62, §238.23]

Referred to in §238.24

238.24 Information confidential. No individual who acquires through the operation of the provisions of sections 238.17 to 238.23, inclusive, or from the records provided for in this chapter, information relative to any agency or relative to any person cared for by such

agency or relative to any relative of any such person, shall directly or indirectly disclose such information except upon inquiry before a court of law, or before some other tribunal, or for the information of the governor, general assembly, medical examiners, state board of social welfare, state department of health, or the local board of health where such agency is located.

Nothing herein shall prohibit the state board from disclosing such facts to such proper persons as may be in the interest of a child cared for by such agency or in the interest of the child's parents or foster parents and not inimical to the child, or as may be necessary to protect the interests of the child's prospective foster parents.

Nothing herein shall prohibit the statistical analysis by duly authorized persons of data collected by virtue of this chapter or the publication of the results of such analysis in such manner as will not disclose confidential information. [C27, 31, 35,§3661-a81; C39,§3661.095; C46, 50, 54, 58, 62,§238.24]

238.25 Assumption of care and custody. No person other than the parents or relatives of the child within the fourth degree may assume the permanent care and custody of a child under fourteen years of age except in accordance with the provisions of this chapter. [C27, 31, 35,§3661-a82; C39,§3661.096; C46, 50, 54, 58, 62, §238.25]

41GA, ch 80, \$8, editorially divided Adoption, ch 600

238.26 Relinquishment of rights and duties. No person may assign, relinquish, or otherwise transfer to another his rights, or duties with respect to the permanent care or custody of a child under fourteen years of age unless specifically authorized or required so to do by an order or decree of court, or unless the parent or parents sign a written release attested by two witnesses, of the permanent care and custody of the child to an agency licensed by the state board of social welfare. [S13,§3260-c; C24,§3665; C27, 31, 35,§3661-a83; C39,§3661.097; C46, 50, 54, 58, 62,§238.26]

238.27 Relinquishment by one parent. Neither parent may sign such release without the written consent of the other unless the other is dead or hopelessly insane, or for one year immediately preceding has been under indictment for abandoning the family, or is imprisoned for crime, or is an inmate or keeper of a house of ill fame, or has been deprived of the custody of the child by judicial procedure because of unfitness to be its guardian, or unless the parents are not married to each other. [S13,§3260-c; C24,§3665; C27, 31, 35,§3661-a84; C39,§3661.098; C46, 50, 54, 58, 62,§238.27]

238.28 Relinquishment, parents not married. If the parents are not married to each other, the parent having the care and providing for the wants of the child may sign the release. [S13,§3260-c; C24,§3665; C27, 31, 35,§3661-a85; C39,§3661.099; C46, 50, 54, 58, 62,§238.28]

238.29 Recovery after relinquishment. Children so surrendered may not be recovered by the parents except through decree of court based upon proof that the child is neglected by its foster parent, guardian, or custodian, as neglect is defined by the statute relating to neglected children. [C27, 31, 35,§3661-a86; C39, §3661.100; C46, 50, 54, 58, 62, §238.29]

Neglected child defined, §232.2, subsection 15

238.30 Reports as to placements. Every month every child-placing agency licensed by the state board of social welfare shall report to the state board the names of all children placed out by the agency since its preceding monthly report, together with the name and address of the person with whom each child has been placed, and such other information regarding the child and its foster home as may be required by the state board. [C27, 31, 35,§3661a87; C39,§3661.101; C46, 50, 54, 58, 62,§238.30] 41GA, ch 80, \$9, editorially divided

238.31 Inspection of foster homes. The state board of social welfare shall satisfy itself that each licensed child-placing agency is maintaining proper standards in its work, and said state board may at any time cause the child and home in which he has been placed to be visited by its agents for the purpose of ascertaining whether the home is a suitable one for the child, and may continue to visit and inspect the foster home and the conditions therein as they affect said child. [C27, 31, 35,§3661-a88; C39,§3661.102; C46, 50, 54, 58, 62,§238.31]

238.32 Authority to agencies. Any institution incorporated under the laws of this state or maintained for the purpose of caring for, placing out for adoption, or otherwise improving the condition of unfortunate children may, under the conditions specified in this chapter and when licensed in accordance with the provisions of this chapter:

1. Receive neglected, dependent, or delinquent children who are under eighteen years of age, under commitment from the juvenile court, and control and dispose of them subject to the provisions of chapter 232.

2. Receive neglected, dependent, and delinquent children under twenty-one and over eighteen years of age, under commitment from the juvenile court, and control and dispose of them as in this chapter provided.

3. Receive, control, and dispose of all minor children voluntarily surrendered to such institutions. [S13,§§254-a22, 3260-b; C24,§3662; C27, 31, 35,§3661-a89; C39,§3661.103; C46, 50, 54, 58, 62, §238, 321

Referred to in §240.1 Commitment of females, §240.6 Juvenile commitments, §§232.33, 232.34, 240.1

238.33 Importation of children. No agency shall bring into the state any child for the purpose of placing him out or procuring his adoption without first obtaining the consent of the state board of social welfare, and such agency shall conform to the rules of the state board.

[S13,§3260-1; C24,§3672; C27, 31, 35,§3661-a90; C39,§3661.104; C46, 50, 54, 58, 62,§238.33]

41GA, ch 80,§11, editorially divided Referred to in §238.39

238.34 Bond-conditions. It shall file with the state board of social welfare a bond to the state, approved by the state board, in the penal sum of one thousand dollars, conditioned that it will not knowingly send or bring into the state any child who has a contagious or incurable disease or who is deformed, feebleminded, or of vicious character; that it will remove any such child who, in the opinion of the state board, becomes a public charge, or who, in the opinion of the state board, becomes a menace to the community prior to his adoption or within five years after being brought into the state, or who, in the opinion of the state board, has been placed in an unsuitable home: that it will place the child under a written contract approved by the state board that the person with whom the child is placed shall be responsible for his proper care and training. [S13,§3260-1; C24,§§3672, 3673; C27, 31, 35,§3661a91; C39,§3661.105; C46, 50, 54, 58, 62,§238.34]

238.35 Liquidated damages. In the case of a breach of said bond a conclusive presumption shall prevail that the amount of said bond was intended to constitute liquidated damages. [C24,§3674; C27, 31, 35,§3661-a92; C39,§3661.106; C46, 50, 54, 58, 62, §238.35]

238.36 Notice of intent to import child. Before any child shall be brought or sent into the state for the purpose of placing him in a foster home, the agency so bringing or sending such child shall first notify the state board of social welfare of its intention so to do, which notification shall state the name, age, and personal description of the child and the name and address of the person with whom the child is to be placed, and such other information as may be required by the state board. [S13, §3260-1; C24,§3672; C27, 31, 35,§3661-a93; C39, §3661.107; C46, 50, 54, 58, 62,§238.36]

Referred to in §238.39

238.37 Reports as to imported child. The person bringing or sending the child into the state shall report at least once a year and at such other times as the state board of social welfare shall direct, as to the location and wellbeing of the child so long as he shall remain within the state and until he shall have reached the age of eighteen or shall have been legally adopted. [C27, 31, 35,§3661-a94; C39,§3661.108; C46, 50, 54, 58, 62,§238.37]

238.38 Exception. Nothing herein shall be deemed to prohibit a resident of this state from bringing into the state a child for adoption into his own family. [S13,§3260-1; C24,§3675; C27, 31, 35,§3661-a95; C39,§3661.109; C46, 50, 54, 58, 62, §238.381

238.39 Exportation of children. Before any child is taken out or sent out of the state for the purpose of placing him in a foster home, otherwise than by parent or guardian, the person or agency so taking or sending him shall give the state board of social welfare such notice and information and procure such consent as is specified in sections 238.33 and 238.36, and thereafter shall report to the state board at least once each year, and at such other times as the state board shall direct, as to the location and well-being of the child until he shall have reached the age of eighteen years or shall have been legally adopted. [C27, 31, 35,§3661-a96; C39,§3661.110; C46, 50, 54, 58, 62,§238.39]

238.40 Agreement in child placements. Every agency placing a child in a foster home shall enter into a written agreement with the person taking the child, which agreement shall provide that the agency placing the child shall have access at all reasonable times to such child and to the home in which he is living, and for the return of the child by the person taking him whenever, in the opinion of the agency placing such child, or in the opinion of the state board of social welfare, the best interests of the child shall require it. [C27, 31, 35,83661a97; C39,§3661.111; C46, 50, 54, 58, 62,§238.401 41GA, ch 80,§13, editorially divided Referred to in §238.41

238.41 Exceptions. The provisions of section 238.40 shall not apply to children who have been legally adopted. [C27, 31, 35,§3661a98; C39,§3661.112; C46, 50, 54, 58, 62,§238.41]

238.42 Burden of proof. In a prosecution under the provisions of this chapter or any penal law relating thereto, a defendant who relies for defense upon the relationship of any woman or child to himself shall have the burden of proof. [C27, 31, 35,§3661-a99; C39, §3661.113; C46, 50, 54, 58, 62,§238.42]

238.43 Penalty. Every person who violates any of the provisions of this chapter or who intentionally shall make any false statements or reports to the state board of social welfare with reference to the matters contained herein. shall be guilty of a misdemeanor and upon conviction shall be punished accordingly. [C27, 31, 35,§3661-a100; C39,§3661.114; C46, 50, 54, 58, 62, §238, 431

Punishment, §687.7

CHAPTER 239 AID TO DEPENDENT CHILDREN Referred to in §§234.6, subsection 6, 241.25, 249.44

239.1 Definitions.

239.2 Eligibility for aid to dependent children.

239.3 Application for assistance.

239.4 Investigation of application.

239.5 Granting of assistance and amount of assistance—co-operation of parent.

239.6 Periodic reconsideration, changes, and termination of grants.

239.7 Appeal.

239.8 Removal from county.

239.9 Funeral expenses.

239.10 Records—report of recipients.

239.11 County appropriations.

239.12 Fund for aid to dependent childrenreimbursement to state.

239.13 Assistance not assignable.

239.14 Fraudulent acts.

239.15 Grant accepted without condition.

239.16 Merit rating for employees.

239.17 Recovery of assistance obtained by

fraudulent act.

239.18 State control exclusive.

239.1 Definitions. As used in this chapter: 1. "State department" means the state department of social welfare provided for in section 234.2.

2. "State board" means the state board of social welfare provided for in section 234.3.

3. "County board" means the county board of social welfare provided for in section 234.9.

4. A "dependent child" means a needy child under the age of sixteen years, or under the age of twenty years and a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment, who has been deprived of parental support and care by reason of death, continued absence from home, or physical or mental incapacity or unfitness of either parent, and who is living with his father, mother, grandfather. grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt, in a place of residence maintained by one or more of such relatives as his or their home

or has been placed in a licensed foster home or with a public or nonprofit child-care agency by the state or county department of social welfare in lieu of living with any relative designated in this subsection.

Referred to in §§239.2, subsection 1, 239.5

- 5. "Assistance" means money payments to, or in behalf of, a needy, dependent child or children.
- 6. "Recipient" is the person to whom the assistance grant is made. [C39,§§3661.002, 3661.016; C46, 50, 54, 58, 62,§239.1; 61GA, ch 218, §1. ch 219.§11

Referred to in §§239.2, subsection 1, 239.5

239.2 Eligibility for aid to dependent children. Assistance shall be granted under this chapter to any needy dependent child who:

1. Is living in a suitable family home maintained by one or more of the persons referred to in subsection 4 of section 239.1 or has been placed in a foster home or with a public nonprofit agency referred to in such subsection if the placement resulted from judicial proceedings initiated in or for a month such child

was receiving aid to dependent children's assistance and provided the plan of care includes services designated to improve the conditions of the home from which he was removed

- 2. Has resided in the state for one year immediately preceding the application for such assistance; or was born within the state within one year immediately preceding the application, if the mother has resided in the state for one year immediately preceding the birth of said child, without regard to the residence of the person or persons with whom said child is living.
- 3. Is not in a public institution and because of a physical or mental condition, in need of continued care therein. [C46, 50, 54, 58, 62, §239.2; 61GA, ch 218,§2]

239.3 Application for assistance. Application for assistance under this chapter shall be made to the county board of the county in which the dependent child resides or will reside in the event assistance is granted. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the state board. Such application shall be made by an adult person with whom the dependent child resides or will reside, and shall contain such information as may be required by said application form. One application may be made for several children of the same family if they reside or will reside with the same person. [C46, 50, 54, 58, 62, §239.31

239.4 Investigation of application. Whenever a county board receives a notification of the dependency of a child or an application for assistance, an investigation and record of the circumstances shall promptly be made in order to ascertain the dependency of the child and the facts supporting the application.

The investigations shall include visits to the home of the child and of the person with whom the child will live during the time assistance is granted

In cases involving physical or mental incapacity or unfitness of either parent, the county board of social welfare may require as a condition for granting assistance hereunder that such incapacity or unfitness be determined by a board of doctors which shall be selected by the county board of social welfare. [C46, 50, 54, 58, 62,§239.4]

239.5 Granting of assistance and amount of assistance—co-operation of parent. Upon the completion of an investigation the county board shall decide whether the child is eligible for assistance under the provisions of this chapter and determine the amount of such assistance. The county board shall, within thirty days, notify the person with whom the child is living or will be living, of the decision made. The county board may require, as a condition of granting assistance, that a legal guardianship be established over any recipient,

or any child or children and in such cases the assistance payments shall be made to such guardian, when appointed, but a guardian of a child or children only shall not be allowed to receive any assistance payments for any dependent child or children unless such guardian shall bear a relationship to the child or children embraced by subsection 4, section 239.1. In addition to the assistance granted as provided under this chapter, an amount not to exceed ten dollars per case per month may be allowed for guardian's fees when authorized by appropriate court order. The dependent child for whom the grant is made shall be originally charged to the county in which such child resides when application is made.

The county board shall, on the basis of actual need, fix the amount of assistance necessary for any dependent child, subject to the approval of the state department, with due regard to the necessary expenditures of the family and the conditions existing in each case, taking into consideration any other income or resources of any child claiming assistance under this chapter and any private resources found to be available to such child. Such assistance when granted shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health; provided, however, that no family shall receive a grant hereunder in excess of one hundred seventy-five dollars per month. Assistance, when granted, shall be paid monthly to an adult person within the specified degrees of relationship and with whom the child is living, from the fund for aid to dependent children established by this chapter, upon the order of the state department.

No payment for aid to dependent children shall be made unless and until the county board of social welfare, with the advice of the county attorney shall certify that the parent receiving the aid for the children is cooperating in legal actions and other efforts to obtain support money for said children from the persons legally responsible for said support. [C46, 50, 54, 58, 62,§239.5]

See Collins v. Board, 248 Iowa 369

239.6 Periodic reconsideration, changes, and termination of grants. Any or all assistance grants made under this chapter shall be subject to reconsideration at any time the county board deems necessary and shall be reinvestigated and reconsidered by the county board as frequently as may be required. After any such further investigation, the county board shall make further report to the state department. Upon such report, assistance may be continued, renewed, suspended, changed in amount, or entirely withdrawn, as the findings of such reports warrant. [C46, 50, 54, 58, 62,§239.6]

239.7 Appeal. If an application is not acted upon by the county board or the state department within a reasonable time after such application is made, if it is denied in whole or in part, or if any award of assistance is

modified, suspended, or canceled under any provision of this chapter, the applicant or recipient may appeal to the state board. The state board shall, upon receipt of such appeal, give appellant reasonable notice and opportunity for a fair hearing before the state board or its duly authorized representative or representatives.

An applicant whose application for assistance has been rejected, or a recipient whose certificate for assistance has been canceled or modified, after a review hearing hereinabove provided, within thirty days after notice of such action is given, may appeal from the decision of the state board to the district court of the county in which the applicant or recipient resides, by serving a ten days notice of such appeal upon any member of the state board, in the manner required for the service of an original notice in any civil action. Upon the service of such notice, the state board shall furnish the applicant with a copy of the application and all supporting papers, a transcript of the testimony taken in a hearing, if any, and a copy of its decision. The district court shall act as an appellate court to review the decision of the state board to determine whether or not it has therein committed fraud or abused its discretion. The costs may be taxed to appellant where the appeal is affirmed or may be remitted. [C46, 50, 54, 58, 62,§239.7]

239.8 Removal from county. When any child for whose benefit a grant of assistance has been made removes or is removed from the county giving assistance, it shall be the duty of the recipient to immediately notify the county board of the county giving assistance of the fact of such removal and of the city or town (or the nearest city or town) and of the county to which the child has removed. If the removal is into another county in the state, the county which has been giving assistance shall continue the assistance for a period of six months after the date of removal, but if the removal is out of the state, assistance shall immediately cease. Thereafter any assistance can be granted only in the manner provided for herein as to obtaining assistance, and can be only in and from the county in which the child is then living. [C46, 50, 54, 58, 62,§239.8]

239.9 Funeral expenses. Upon the death of any child for whose benefit assistance payments are being made or have been authorized, a reasonable funeral expense for the burial of such child may be paid by the state department, provided such expenses do not exceed one hundred seventy-five dollars, and the estate of the deceased or any life insurance or payments by any death or funeral benefit association or society paid by reason of the death of such child to the child's estate or to any person legally liable for his support, are insufficient to defray such funeral expenses. The person to whom such funeral expenses are paid as above provided is hereby prohibited from soliciting, accepting, or contracting to receive any further compensation for services

rendered or articles furnished in connection with such funeral except on written approval of the county board of the county to which the assistance is chargeable and subject to such rules and regulations as the state board shall prescribe. [C46, 50, 54, 58, 62,§239.9]

239.10 Records—report of recipients. All applications, investigation reports and case records shall be privileged communications and held confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and the administration of the provisions of this chapter.

Provided, however, that the county board of social welfare shall prepare and file in its office on or before the thirtieth day of each January, April, July and October a report showing the names and addresses of all recipients receiving assistance under this chapter, together with the amount paid to each during the preceding quarter. Each report so filed shall be securely fixed in a record book to be used only for such reports made under this chapter and chapters 241 and 249. The record book shall be and the same is hereby declared to be a public record, open to public inspection at all times during the regular office hours of the respective county boards of social welfare. Each person who desires to examine said records, other than in pursuance of official duties as hereinbefore provided, shall sign a written request to examine the same, which shall contain an agreement on the part of the signer that he will not utilize any information gained therefrom for commercial or political purposes.

It shall be unlawful or any person, body, association, firm, corporation or any other agency to solicit, disclose, receive, make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists, names or other information obtained from the reports above provided for, for commercial or political purposes, and a violation of this provision shall constitute a misdemeanor punishable by a fine of not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year or by both such fine and imprisonment. [C46, 50, 54, 58, 62,§239.10]

239.11 County appropriations. The county board of supervisors in each county in this state shall appropriate annually, and pay in the manner hereinafter specified from the county poor fund, such sum as shall result in the payment by such county of that portion of all assistance and benefits payable with respect to dependent children chargeable to the county under this chapter, which shall equal one-half of all such assistance and benefits chargeable to the county exclusive of such receipts and contributions to such fund other than state or county funds, as may from time to time be legally received from any source and credited to the state department and shall include in the tax levy for such county the sum or sums so

appropriated for that purpose. The sums necessary as above provided shall be originally determined upon the basis of an annual budget prepared by the county board and approved by the state department. Should the sum so appropriated, however, be expended or exhausted during the year for which it was appropriated, such additional sum shall be appropriated by the board of supervisors from the county poor fund as shall be sufficient to meet the obligation of the county to pay its share as heretofore provided of all assistance and benefits with respect to dependent children chargeable to the county. The appropriation provided in this section shall not exceed statutory tax limitations now or hereafter provided, except that in counties having a population of sixty thousand, or more, the board of supervisors may levy annually an additional tax not to exceed one-fourth mill to carry out the provisions of this chapter; and in counties having a population of over thirty-five thousand and less than sixty thousand, the board of supervisors may levy annually an additional tax not to exceed one-eighth mill to carry out the provisions of this chapter.

The share of any county for assistance and benefits payable to dependent Indian children living on an Indian reservation in said county shall be paid by the state, from the fund for aid to dependent children. [C46, 50, 54, 58, 62, §239.11]

239.12 Fund for aid to dependent childrenreimbursement to state. There is hereby established in the state treasury a fund to be known as the "Fund for Aid to Dependent Children" to which shall be credited all funds appropriated by the state for the payment of administrative expenses, assistance and benefits under this chapter, all moneys received at any time for such purposes, and all funds paid by counties to the state department as provided by this chapter. All assistance and benefits under this chapter, and the administrative expenses incident thereto, except compensation and expenses paid to the county board members, shall be paid from said fund. The state department shall report to the county board quarterly the total amount of assistance and benefits paid during the preceding quarter to recipients chargeable to the county. The county board shall promptly report the same to the county board of supervisors which shall then order paid from the county poor fund a sum representing the county's share thereof determined in the manner heretofore provided, which payment shall be credited to the fund for aid to dependent children.

Any unexpended balance of the fund appropriated or allocated by the state which remains in the fund for aid to dependent children at the end of each biennium shall not revert to the general fund of the state, any law to the contrary notwithstanding. [C46, 50, 54, 58, 62, §239.12]

239.13 Assistance not assignable. Assistance granted under this chapter shall not be trans-

ferable or assignable at law or in equity, and none of the money paid or payable under this chapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. [C46, 50, 54, 58, 62,§239.13]

239.14 Fraudulent acts. Whoever obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, or by impersonation, or any fraudulent device, any assistance under this chapter to which the recipient is not entitled, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punishable by fine, not exceeding five hundred dollars or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment. [C46, 50, 54, 58, 62,§239.14]

239.15 Grant accepted without condition. No contribution or grant shall be received or accepted if any condition is attached as to its use or administration other than that it be used for assistance to dependent children as provided in this chapter.

If any contribution or grant has been accepted, and thereafter the same is discontinued or rejected, the county tax levy for the purpose of this chapter shall not be increased more than one-half mill and the state appropriation shall not be increased more than seven hundred fifty thousand dollars in any one fiscal year by reason of such discontinuance or rejection of any such contribution or grant. [C46, 50, 54, 58, 62, \$239.15]

239.16 Merit rating for employees. The selection of all persons as employees of the state board in the administration of this chapter shall be governed by the provisions of section 234.8. [C46, 50, 54, 58, 62,§239.16]

239.17 Recovery of assistance obtained by fraudulent act. Whosoever obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, or by impersonation or any fraudulent device, any assistance as defined in this chapter to which the recipient is not entitled, shall be personally liable for the amount of assistance thus obtained. Such amount may be recovered from the offender or his estate in an action brought or by claim filed in the name of the state, and upon recovery the state shall pay the county a portion thereof equal to the amount paid by the county with respect to such assistance and return the balance of such recovery to the fund for aid to dependent children. [C46, 50, 54, 58, 62,

239.18 State control exclusive. Questions of policy and control respecting administration of this chapter shall vest and remain in the state agency of the state of Iowa for the purposes of administering all provisions of this chapter. In order to provide a uniform state-wide program for aid to dependent children,

the state board shall promulgate such rules and regulations as may be necessary to make the provisions of this chapter uniform in all of the counties of this state. [C46, 50, 54, 58, 62, §239.18]
Constitutionality, 50GA, ch 130, §19

CHAPTER 240

PRIVATE INSTITUTIONS FOR NEGLECTED, DEPENDENT, AND DELINQUENT CHILDREN Social welfare department, see ch 234

240.1 Children over eighteen years old.

240.2 School facilities.

240.3 Revocation of commitment.

240.4 Commitments prohibited.

240.5 Monthly allowance.

240.6 Commitments in lieu of jail sentence.

240.7 Commitment subsequent to sentence.

240.8 Surrender of female.

240.9 Release on bond.

240.10 Custody and control—labor.

240.11 "Institution" defined.

240.12 Supervision.

240.1 Children over eighteen years old. Any reputable citizen of the county may file a petition with the juvenile court as provided in chapter 232, against any neglected, dependent, or delinquent minor child who is over the age of eighteen years and therein ask that said child be committed to any institution named in section 238.32, or otherwise dealt with as may appear best for the welfare of said child, and in such case the procedure shall, so far as applicable, be as provided in said chapter, except that such child shall not be committed thereunder to any state institution. [C24, 27, 31, 35, 39,§3666; C46, 50, 54, 58, 62,§240.1]

240.2 School facilities. All children in such institutions, over seven years and under fourteen years of age, shall be kept in school during the school sessions of the district in which such child is kept, or in some parochial school for a like period. [S13,§3260-d; C24, 27, 31, 35, 39,§3667; C46, 50, 54, 58, 62,§240.2]

240.3 Revocation of commitment. The juvenile court of the county in which an institution is located may at any time revoke a commitment to such institution when it is made to appear that the trust imposed has been abused, or that the welfare of the child requires such revocation. [S13,§3260-k; C24, 27, 31, 35, 39, §3668; C46, 50, 54, 58, 62,§240.3]

240.4 Commitments prohibited. No child shall be committed to the care of any such institution which shall fail to file with the state board of social welfare a satisfactory report for the calendar year last preceding, unless it be an institution organized within the current year. [S13,§3260-j; C24, 27, 31, 35, 39, §3671; C46, 50, 54, 58, 62,§240.4]

240.5 Monthly allowance. The institution receiving and caring for a child under eighteen years of age and under commitment from the juvenile court, shall receive, from the county of the legal settlement of such child, a monthly allowance for the welfare of said child in such an amount as the board of supervisors in their judgment and discretion may determine. [S13, §2713-3a; C24, 27, 31, 35, 39,§3676; C46, 50, 54, 58, 62,§240.5]

240.6 Commitments in lieu of jail sentence. When any court may pronounce sentence committing any female to any jail, such female may be committed to any institution as herein provided, if such institution is willing to receive her, without expense to the state, but such commitment shall not exceed the maximum jail sentence. [S13,§5442-a; C24, 27, 31, 35, 39,§3677; C46, 50, 54, 58, 62,§240.6]

Referred to in §240.11

240.7 Commitment subsequent to sentence. If the court has already committed such female to a jail and thereafter it appears that any such institution is willing to receive her under a commitment, and under the conditions herein imposed, the court may make an additional order, releasing her from such jail and ordering her committed to such institution for the unexpired time of the original commitment. [S13,§5442-a; C24, 27, 31, 35, 39,§3678; C46, 50, 54, 58, 62,§240.7]

Referred to in §240.11

240.8 Surrender of female. Any such female may be surrendered at any time to the court, judge, or presiding magistrate making the original order, which court, judge, or magistrate may make a further order committing the accused to a proper jail for the unexpired term of the original commitment. [S13,§5442-a; C24, 27, 31, 35, 39,§3679; C46, 50, 54, 58, 62,§240.8] Referred to in §240.11

240.9 Release on bond. If, after any female is so committed to such institution, a bond is given under which such female is entitled to a release from such commitment, such female shall be released by an order issued by the officer approving said bond. [S13,§5442-b; C24, 27, 31, 35, 39,§3680; C46, 50, 54, 58, 62,§240.9] Referred to in §240.11

240.10 Custody and control — labor. Any such female committed to an institution as herein provided shall be in the legal custody and control of the immediate managing head, and such female, whether the commitment so provides or not, shall, while being held under such commitment, perform such reasonable, fit, and proper labor as such managing head may direct, which labor shall be the sole compensation to such institution for the keep of

such female. [S13,§5442-c; C24, 27, 31, 35, 39, §3681; C46, 50, 54, 58, 62, §240.10]

Referred to in §240.11

240.11 "Institution" defined. The term "institution" as used in sections 240.6 to 240.10. inclusive, shall embrace any institution having for its object, in whole or in part, the furnishing of relief, care, and assistance to the poor, destitute, needy, or unfortunate, or any other charitable or benevolent object. [S13,§5442-c; C24, 27, 31, 35, 39,§3682; C46, 50, 54, 58, 62,

240.12 Supervision. Any institution having any such female in its custody shall be subject to supervision and inspection by the state board of social welfare to the same extent as the other institutions named in this chapter. [S13,§5442-d; C24, 27, 31, 35, 39,§3683; C46, 50, 54, 58, 62, §240, 121

CHAPTER 241

AID FOR THE BLIND

Referred to in §§234.6, subsection 6, 239.10, 249.44 Commission for blind, see ch 93. Social welfare department, see ch 234

241.1 Definitions.

Eligibility for assistance to the needy 241.2 blind.

241.3 Amount of assistance.

Powers and duties of state board.

Duties of the county boards. 241.5 Application for assistance.

Investigation of applications.

Examination by ophthalmologist.

241.9 Granting of assistance.

241.10 Assistance not assignable.

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241.12 Periodic reconsideration — changes in amount of assistance.

241.13 Re-examination as to eyesight.

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241.15 Guardianship.

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241.17 Funeral expenses.

241.18 Reimbursement from estate.

241.19 Misdemeanor.

241.20 County appropriation.

241.21 Fund for aid to the blind-reimbursement to state.

241.22 Removal to another county.

241.23 Other dependents.

241.24 Short title.

241.25 Records—report of recipients.

241.1 Definitions. The terms "state board" and "county board" are used in this chapter as said terms are defined in section 234.1; and as used in this chapter:

"Applicant" means a person who has applied for assistance under this chapter.

"Recipient" means a person who has received assistance under this chapter.

"Assistance" means money payments to, or in behalf of, a needy blind person.

A "blind person" within the meaning of this chapter shall be one who has no vision, or whose vision with corrective glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential. [C39,§3684.01; C46, 50, 54, 58, 62,§241.1]

- 241.2 Eligibility for assistance to the needy blind. Assistance shall be granted under the provisions of this chapter to any blind person who:
- 1. Is eighteen years of age or over.
- 2. Is a citizen of the United States, or has made application for citizenship.
- 3. Has resided in the state of Iowa for at least five years during the nine years immediately preceding the date of the application for assistance under the provisions of this chapter, and has resided therein one year immediately preceding the application for assistance. If, however, such person has become blind while a resident of the state or is blind and a resident of the state at the time of the passage of this chapter, he is eligible even

though he has not resided for five years within the state.

- 4. Is not an inmate of a public institution. An inmate of such an institution may, however, make application for such assistance, but the assistance, if granted, shall not begin until after he ceases to be an inmate.
- 5. Is not soliciting alms in any part of the
- 6. Is not receiving old-age assistance.
- 7. Has not made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this chapter.
- 8. Has not sufficient income or other resources to provide a reasonable standard of living consistent with decency and health. [SS15,§§2722-i,-j,-k; C24, 27, 31, 35,§5379; C39, §3684.02; C46, 50, 54, 58, 62, §241.2]
- 241.3 Amount of assistance. The amount of assistance shall be fixed with due regard to the condition of the individual, including all resources available to the applicant or recipient, household situation and community in each instance, together with the essential need due to the individual's mental or physical condition, subject to the rules, regulations and standards adopted by the state board; provided, however, that in determining the eligibility of an individual claiming aid to the blind, or in determining the amount of such aid, the first eighty-five dollars per month of earned income, plus one-half of earned income in excess of eighty-five dollars, of such indi-

vidual shall be disregarded, and for a period not in excess of twelve months, such additional amounts of other income and resources. in the case of an individual who has a plan for achieving self-support approved by the state board shall be disregarded. [SS15,§2722-j; C24, 27, 31, 35,§5379; C39,§3684.03; C46, 50, 54, 58, 62,§241.3; 61GA, ch 220,§1]

241.4 Powers and duties of state board. The state board shall:

- 1. Be the responsible authority for the efficient and impartial administration of this chapter. To this end the state board shall formulate and establish such rules and regulations, outline such policies, prescribe such procedure, and delegate such powers as may be necessary to carry out the provisions and purposes of this chapter.
- 2. Prescribe, for the guidance of county boards, the qualifications and capabilities required of county board employees, consistent with the provisions of section 234.12.
- 3. Designate the procedure to be followed in securing a competent examination for the purpose of determining blindness and the cause of blindness in the individual applicant for assistance; designate a suitable number of ophthalmologists to examine applicants and recipients of assistance to the blind; fix the fees to be paid to opthalmologists for examination of applicants, such fees to be paid from administration funds.
- 4. Co-operate with the federal social security board, created under title VII of the Social Security Act, approved August 14, 1935 [42 U.S.C. 901] or any other agency of the federal government, in any reasonable manner as may be necessary to qualify for federal aid and assistance to the needy blind and in conformity with the provisions of this chapter; including the making of such reports in such form and containing such information as the federal social security board, or any other agency of the federal government, may from time to time find necessary to assure the correctness and verification of such reports.
- 5. Co-operate with other agencies in developing measures for the prevention of blindness. the restoration of eyesight and the vocational adjustment of blind persons. [C39,§3684.04: C46, 50, 54, 58, 62,§241.4]

241.5 Duties of the county boards. The county boards shall:

- 1. Perform such services and duties as are prescribed by this chapter and by the rules and regulations of the state board.
- 2. Report to the state board at such time and in such manner and form as the state board may from time to time direct.
- 3. Submit to the county board of supervisors. after approval by the state board, a budget containing an estimate and supporting data, setting forth the amount of money needed to carry out the provisions of this chapter in the county. [C39,§3684.05; C46, 50, 54, 58, 62,§241.5]

- 241.6 Application for assistance. Application for assistance under this chapter shall be filed with the county board of the county in which the applicant resides. The application shall be in writing upon the form prescribed by the state board. Such application shall contain a statement of the amount of property. both personal and real, in which the applicant has an interest and of all sources and amounts of income which he may have, either in existence or expectancy, at the time of the filing of the application, and such other information as may be required by the state board. [SS15. §2722-n; C24, 27, 31, 35, §5382; C39, §3684.06; C46, 50, 54, 58, 62, §241.6]
- 241.7 Investigation of applications. Whenever the county board receives an application for assistance under this chapter, an investigation and record shall promptly be made of the circumstances of the applicant in order to ascertain the facts supporting the application and in order to obtain such other information as may be required by the rules of the state board. [C39,§3684.07; C46, 50, 54, 58, 62,§241.7]
- 241.8 Examination by ophthalmologist. No application shall be approved until the applicant has been examined by an ophthalmologist designated or approved by the state board to make such examinations. The examining opthalmologist shall certify to the county board in writing upon forms provided by the state board the findings of the examination. which findings shall be transmitted to the state board. [SS15,§§2722-1,-m; C24, 27, 31, 35,§§5380, 5381; C39,§3684.08; C46, 50, 54, 58, 62,§241.8] Referred to in §241.14
- 241.9 Granting of assistance. Upon the completion of such investigation the county board shall make findings of fact as to the eligibility of the applicant for assistance under the provisions of this chapter and shall recommend in accordance with the rules and regulations of the state board the amount of assistance which should be granted. This report, together with a copy of the report of the ophthalmologist, shall be forwarded to the state board. The state board may make such further investigation as it may deem desirable and, upon the basis of such reports and investigation, shall determine whether the applicant is eligible for assistance under the terms of this chapter, and, if eligible, the amount of such assistance and the date on which such assistance shall begin. The state board shall notify the county board of its decision, and the county board shall promptly notify the applicant thereof. Such assistance shall be paid monthly to the applicant upon the order of the state board, from the fund for the aid of the blind established by this chapter. [SS15, §2722-p; C24, 27, 31, 35, §5384; C39, §3684.09; C46, 50, 54, 58, 62, §241.9]
- 241.10 Assistance not assignable. Assistance granted under this chapter shall not be transferable or assignable at law or in equity, and none of the money paid or payable under

this chapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. [C39,§3684.10; C46, 50, 54, 58, 62,§241.10]

241.11 Appeal to the state board—appeal to court. If an application is not acted upon by the county board within a reasonable time after the filing of the application, or is denied in whole or in part, or if any award of assistance is modified or canceled under any provision of this chapter, the applicant or recipient may appeal to the state board in the manner of form prescribed by the state board. The state board shall, upon receipt of such an appeal, give the applicant or recipient reasonable notice and opportunity for a fair hearing before the state board or its duly authorized representative or representatives. Following such hearing the state board shall take its final action and notify the appellant in writing.

An applicant or recipient after a review hearing hereinabove provided, within thirty days after notice of such action is given, may appeal from the decision of the state board to the district court of the county in which the applicant or recipient resides, by serving a ten days notice of such appeal upon any member of the state board, in the manner required for the service of an original notice in any civil action. Upon the service of such notice, the state board shall furnish the applicant with a copy of the application and all supporting papers, a transcript of the testimony taken in a hearing, if any, and a copy of its decision. The district court shall act as an appellate court to review the decision of the state board to determine whether or not it has therein committed fraud or abused its discretion. The costs may be taxed to appellant where the appeal is affirmed or may be remitted. [C39,§3684.11; C46, 50, 54, 58, 62, §241.11]

241.12 Periodic reconsideration—changes in amount of assistance. All assistance grants made under this chapter shall be reconsidered by the county board as frequently as may be required by the rules of the state board. After such further investigation as the county board may deem necessary or the state board may require, the county board shall make further report to the state board and the amount of assistance may be changed or assistance may be entirely withdrawn if the state board finds that the recipient's circumstances have altered sufficiently to warrant such action. [C39, §3684.12; C46, 50, 54, 58, 62, §241.12]

241.13 Re-examination as to eyesight. A recipient shall submit to a re-examination as to his eyesight when required to do so by the county board or state board. He shall also furnish any information required by the county board or the state board. [C39,§3684.13; C46, 50, 54, 58, 62,§241.13]

241.14 Expenses for treatment. On the basis of the finding of the ophthalmologist's exam-

ination as provided in section 241.8, remedial services may be provided by the state board to any person who is in need of treatment either to prevent blindness or to restore his eyesight, whether or not he is a blind person as defined in this chapter, whether or not he is an applicant for or recipient of old-age assistance or blind assistance, or whether or not he is eighteen years of age or over, if he is otherwise qualified for assistance under this chapter, provided such person is unable to assume such expenses for remedial services. The remedial services may include necessary traveling and other expenses to receive treatment from a hospital or clinic designated by the state board. [C39,§3684.14; C46, 50, 54, 58, 62, §241.14]

241.15 Guardianship. When in the opinion of the county board the recipient of assistance under the provisions of this chapter is for any cause unable to use the assistance judiciously, the county board shall request the district court to appoint a guardian to administer such assistance for the benefit of the recipient. All guardianship proceedings in the case of an applicant or recipient shall be carried out without fee or other expense including all court costs when, in the opinion of the court, the blind person is unable to assume said expense. At the discretion of the court, such a guardian may give bond without sureties. [C24, 27, 31, 35,§5384; C39,§3684.15; C46, 50, 54, 58, 62,§241.15]

241.16 Recovery from recipient. If at any time during the continuance of assistance the recipient thereof becomes possessed of any property or income in excess of the amount stated in the application provided for in this chapter, it shall be the duty of the recipient immediately to notify the county board of the receipt or possession of such property or income and the county board shall, if in its judgment the circumstances so require, recommend to the state board the immediate suspension of assistance payments and, after investigation, shall recommend to the state board that such assistance be continued, modified, or canceled, as the circumstances may require. Any assistance paid after the recipient has come into possession of such property or income in excess of his need shall be recoverable by the state as a debt due, and upon recovery the state shall repay to the county that portion of the amount so recovered which is equal to the amount paid by the county for such assistance. [C39,§3684.16; C46, 50, 54, 58, 62,§241.16]

241.17 Funeral expenses. On the death of any person receiving aid under the provisions of this chapter, the reasonable funeral expenses for his burial may be paid by the state board; provided, such expenses do not exceed one hundred seventy-five dollars and the estate of the deceased or any life insurance or death or funeral benefit association or society payment, made by reason of the death of such person, payable to his estate or the spouse or any relative responsible under sections 252.2, 252.5,

and 600.6, is insufficient to defray the same. The person to whom such funeral expense is paid as above provided is hereby prohibited from soliciting, accepting or contracting to receive any further compensation for services rendered in connection with such burial except on written approval of the county board and subject to such rules and regulations as the state board shall prescribe. [C39,§3684.17; C46, 50, 54, 58, 62,§241.17]

241.18 Reimbursement from estate. Whenever it appears, after the death of any person who has received aid under the provisions of this chapter, that his estate, after deducting the exemptions now allowed by law, has property over and above a sufficient amount to pay the expenses of his burial and last sickness, such property shall be charged with the amount paid under this chapter to such person during his lifetime, or for his burial. The amount so paid shall be allowed as a claim against his estate in favor of the state, and upon recovery the state shall repay to the county its proportionate share of the amount paid for such assistance and funeral expenses. An action may be brought in the name of the state to recover the same at any time within five years after the death of the person receiving aid as above provided. [C27, 31, 35, \$5384-a1; C39,§3684.18; C46, 50, 54, 58, 62,§241.18]

241.19 Misdemeanor. Any person who shall obtain aid under this chapter by misrepresentation or failure with fraudulent intent, to bring forth all the facts required of an applicant for aid under the provisions of this chapter, or any person who shall knowingly make false statements concerning the applicant's eligibility for aid under the provisions of this chapter, shall be guilty of a misdemeanor, punishable as such. [C39,§3684.19; C46, 50, 54, 58, 62,§241.19]

Punishment, §687.7

241.20 County appropriation. The county board of supervisors in each county in this state shall appropriate annually, and pay in the manner hereinafter specified from the county poor fund, such sum as will result in the payment by such county of that portion of all assistance and benefits payable with respect to blind persons chargeable to the county under this chapter, which shall equal one-half of all such assistance and benefits chargeable to the county exclusive of such receipts and contributions to such fund other than state or county funds as may from time to time be legally received from any source and credited to the state department and shall include in the tax levy for such county the sum or sums so appropriated for that purpose. The sums necessary as above provided shall be originally determined upon the basis of an annual budget prepared by the county board and approved by the state department. Should the sum so appropriated, however, be expended or exhausted during the year for which it was appropriated, such additional sums shall be appropriated by the board of supervisors from the county poor funds as shall be sufficient to meet the obligations of the county to pay its share as heretofore provided of all assistance and benefits with respect to blind persons chargeable to the county. The tax levy provided for in this section shall not exceed statutory tax limitations now or hereafter provided. [C39,83684.20; C46, 50, 54, 58, 62, §241.20; 60GA, ch 155,§1]

241.21 Fund for aid to the blind—reimbursement to state. There is hereby established in the state treasury a fund to be known as the "Fund for Aid to the Blind" to which shall be credited all funds appropriated by the state for the payment of administrative expenses, assistance, and benefits under this chapter, all moneys received from the federal government for such purpose and all funds paid by the counties to the state board as provided by this section. All assistance and benefits under this chapter, and the administrative expenses incident thereto, so far as the same are payable by the state board, shall be paid from said fund. The state board shall report to the county board each month the total amount of assistance and benefits paid during the preceding month to recipients which is chargeable to the county. The county board shall promptly report the same to the county board of supervisors which shall then order paid from the county poor fund a sum representing the county's share thereof determined in the manner heretofore provided, which payment shall be credited to the fund for aid to the blind.

Any unexpended balance of the funds appropriated or allocated by the state which remains in the fund for aid to the blind at the end of each biennium shall not revert to the general fund of the state, any law to the contrary notwithstanding. [C39,§3684.21; C46, 50, 54, 58, 62,§241.21; 60GA, ch 155,§2]

241.22 Removal to another county. When any recipient moves to another county he shall be entitled to continue to receive assistance which shall be chargeable to the county from which he has removed until such recipient has resided in another county in the state for a period of six consecutive months, at which time assistance shall be charged to the county in which he then resides. [C39,§3684.22; C46, 50, 54, 58, 62,§241.22]

241.23 Other dependents. This chapter shall not be so construed as to exclude the spouse, minor children or other dependents of a recipient under the provisions of this chapter from receiving other forms of relief, aid or assistance, paid through any agency of the state or any of its political subdivisions. [C39, §3684.23; C46, 50, 54, 58, 62, §241.23]

Constitutionality, 47GA, ch 144, \$25

241.24 Short title. This chapter may be cited as "Aid to the Needy Blind Act of 1937." [C39,§3684.24; C46, 50, 54, 58, 62,§241.24]

241.25 Records—report of recipients. All applications, investigation reports and case records shall be privileged communications and held confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and the administration of

the provisions of this chapter.

Provided, however, that the county board of social welfare shall prepare and file in its office on or before the thirtieth day of each January, April, July and October a report showing the names and addresses of all recipients receiving assistance under this chapter, together with the amount paid to each during the preceding quarter. Each report so filed shall be securely fixed in a record book to be used only for such reports made under this chapter and chapters 239 and 249. The record book shall be and the same is hereby declared to be a public record, open to public inspection at all times during the regular office hours of the respective county boards of social welfare. Each person who desires to examine said records, other than in pursuance of official duties as hereinbefore provided, shall sign a written request to examine the same, which shall contain an agreement on the part of the signer that he will not utilize any information gained therefrom for commercial or political purposes.

It shall be unlawful for any person, body, association, firm, corporation, or any other agency to solicit, disclose, receive, make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists, names or other information obtained from the reports above provided for, for commercial or political purposes, and a violation of this provision shall constitute a misdemeanor punishable by a fine of not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year or by both such fine and imprisonment. [C46, 50, 54, 58, 62,§241.25]

Punishment, §687.7

CHAPTER 241A

AID TO DISABLED PERSONS

Referred to in §234.6, subsection 6

241A.1 Definitions.

241A.2 Conditions for aid.

241A.3 Amount of assistance.

241A.4 Powers. 241A.5 Applications.

241A.6 Payment.

[C62,§241A.1]

241A.7 Assistance exempt.

241A.8 Appeal.

241A.9 Guardians.

241A.10 Termination of assistance—recovery.

241A.11 Funeral expense.

241A.12 Fraud.

241A.13 County appropriation — tax levy — Indians.

5. Has resided in the state one year immedi-

ately preceding the date of the grant of assist-

ance, or whose disability resulted from an

accident or condition occurring after he be-

came a resident of the state. [C62,§241A.2]

241A.14 Disabled aid fund.

241A.15 Removal from county.

241A.16 Records confidential.

241A.1 Definitions. As used in this chapter: sources to provide a reasonable subsistence consistent with decency. 1. The terms "state department", "state

ence. [C62,§241A.3]

board" and "county board" shall have the same definitions as provided for in chapter 234. 2. The term "applicant" means a person who

has applied for assistance under this chapter. 3. The term "recipient" means a person who

has received assistance under this chapter. 4. The term "assistance" means money payable to or in behalf of disabled persons in need,

241A.2 Conditions for aid. Assistance shall be granted under the provisions of this chapter to any disabled individual who:

1. Is more than eighteen years of age and less than sixty-five years of age.

2. Is not an inmate of a public institution except as a patient in a medical institution for treatment for other than tuberculosis or mental diseases, and is not an inmate of a private institution for tuberculosis or mental diseases.

3. Has not made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this chapter.

4. Has not sufficient income or other re-

- 241A.3 Amount of assistance. The amount of assistance which any person shall receive under this chapter shall be determined with due regard to the resources and necessary expenditures of the individual and the conditions in such cases; and in accordance with the rules and regulations made by the state board; and shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsist-
- 241A.4 Powers. The state board and county board shall, in the administration of this chapter, have the same powers and duties provided for by chapter 234. [C62,§241A.4]
- 241A.5 Applications. Application for assistance under this chapter shall be made to the county board of the county in which the in-

dividual resides. Whenever the county board receives an application for assistance under this chapter, an investigation and record shall promptly be made of the circumstances of the applicant in order to ascertain the facts supporting the application and in order to obtain such other information as may be required by the rules of the state board. The state board may require an applicant to submit to a physical examination by a physician chosen by the state board. [C62,§241A.5]

241A.6 Payment. Upon the completion of an investigation, the county board shall decide whether the person is eligible for assistance under the rules and regulations of the state board and recommend the amount of assistance to be certified for payment by the state board. The person shall be notified of the decision made on the application. Assistance, when granted, shall be paid monthly from the fund "Aid to the Disabled", as established by this chapter. Continued eligibility for assistance granted under this chapter shall be reconsidered as frequently as may be required by the state board. [C62,§241A.6]

241A.7 Assistance exempt. Assistance granted under this chapter shall not be assignable or subject to execution, levy, attachment, garnishment, or other legal processes, or the operation of any bankruptcy or insolvency law. [C62,§241A.7]

241A.8 Appeal. If an application is not acted upon promptly and assistance granted by the state department of social welfare, or is denied in whole or in part, or if any award of assistance is modified, suspended or canceled under any provision of this chapter, an applicant or recipient may appeal to the state board in the manner and on forms prescribed by the state board. The state board shall, upon receipt of such appeal, give the applicant or recipient reasonable notice of, and opportunity for, a fair hearing before the state board, or its duly authorized representative.

An applicant whose application for assistance has been rejected, or a recipient whose certificate for assistance has been canceled or modified after a review hearing hereinabove provided, within thirty days after notice of such action is given, may appeal from the decision of the state board to the district court of the county in which the applicant or recipient resides, by serving a ten-day notice of such appeal upon any member of the state board, in the manner required for the service of an original notice in any civil action. Upon the service of such notice, the state board shall furnish the applicant with a copy of the application and all supporting papers, a transcript of the testimony taken in a hearing, if any, and a copy of its decision. The district court shall act as an appellate court to review the decision of the state board to determine whether or not it has therein committed fraud or abused its discretion. The costs may be taxed to appellant where the appeal is affirmed or may be remitted. [C62, §241A.8]

241A.9 Guardians. When, in the opinion of the county board, a recipient of or applicant for assistance under the provisions of this chapter is unable to use his assistance judiciously, the county board shall request the district court to appoint a guardian to administer such assistance for the benefit of the recipient. The guardianship proceedings in the case of an applicant or recipient shall be carried out without fee or other expense, including all court costs. At the discretion of the court, such a guardian may give bond without sureties. [C62,§241A.9]

241A.10 Termination of assistance - recovery. If, at any time during the continuance of assistance, the recipient thereof becomes possessed of any property or income, it shall be the duty of the recipient to immediately notify the county board of the receipt or possession of such property or income; and the county board shall, after investigation, determine if such assistance should be continued, modified or canceled, as the circumstances may require. Any assistance paid after the recipient has come into possession of such property or income in excess of his needs, shall be recoverable by the state as a debt due and, upon recovery, the state shall repay to the county that portion of the amount so recovered which is equal to the amount paid by the county for such assistance. [C62,§241A.10]

241A.11 Funeral expense. On the death of any person who has been approved for assistance under this chapter, such reasonable funeral expenses shall be paid from the aid to the disabled fund, to such person as the county board directs, in an amount of not to exceed one hundred seventy-five dollars, provided:

- 1. That the total expense of such funeral does not exceed three hundred fifty dollars.
- 2. That the decedent does not leave an estate with sufficient proceeds to allow a funeral claim of at least three hundred fifty dollars.
- 3. That any payment which is due the decedent's estate, spouse, children, father, mother, brother, or sister by reason of the liability of any life insurance or death or funeral benefit company, association or society to be made in the event of the death of such decedent who was a recipient of aid to the disabled may be deducted from the state department's liability of one hundred seventy-five dollars.
- 4. That in the event the total funeral expenses exceed the department's liability of one hundred seventy-five dollars, as provided under subsections 1, 2, and 3 above, the additional expenses shall accrue only when there is an extraordinary expense or when the family or next best friend of the decedent specify the use of a steel or concrete outside burial vault. Provided that said additional expense shall not be paid by the state. However, if the county board directs that a burial lot, grave

opening, or clothing be furnished for the decedent, the expense thereof shall be paid by the state in a total amount not to exceed fifty dollars, to such person or persons as the county board directs, and such expense shall be allowed in addition to the one hundred seventyfive dollars limit provided in this section, provided further, however, that in such cases no extraordinary expenses shall be permitted nor will the family or next best friend be permitted to specify the use of a steel or concrete outside burial vault. Where a person has been receiving assistance under the provisions of this chapter and while receiving such assistance is committed or admitted to any taxsupported institution for any cause and is not receiving assistance at the time of his death, he shall, notwithstanding such facts, be qualified to receive his burial expense as provided in this section. [C62,§241A.11; 60GA, ch 326,§716]

241A.12 Fraud. Any person who shall obtain assistance under this chapter by misrepresentation or failure, with fraudulent intent, to bring forth all of the facts required by an applicant for assistance under the provisions of this chapter, or any person who shall knowingly make false statements concerning the applicant's eligibility for assistance under the provisions of this chapter, shall be guilty of a misdemeanor, punishable as such. [C62, §241A.12]

241A.13 County appropriation — tax levy — Indians. The county board of supervisors in each county of this state shall appropriate annually and pay in the manner hereinafter specified from the county poor fund, such sum as shall result in the payment by such county of that portion of all assistance and benefits, payable with respect to disabled persons chargeable to the county under this chapter, which shall equal one-half of all such assistance and benefits chargeable to the county, exclusive of such receipts and contributions to such fund other than state or county funds as may, from time to time, be legally received from any source and credited to the state department, and shall include in the tax levy for such county, the sum or sums so appropriated. for that purpose. The sums necessary, as above provided, shall be originally determined upon the basis of an annual budget prepared by the county board. Should the sum so appropriated, however, be expended or exhausted during the year for which it was appropriated, such additional sum shall be appropriated by the board of supervisors from the county poor fund, as shall be sufficient to meet the obligation of the county to pay its share, as heretofore provided, of all assistance and benefits with respect to disabled persons chargeable to the county. The appropriation provided for in this section shall not exceed the statutory tax limitations now or hereinafter provided, except that in counties having a population of sixty thousand or more, the board of supervisors may levy annually an additional tax not to exceed one-fourth mill to carry out the provisions of this chapter; and in counties having a population of over thirty-five thousand and less than sixty thousand, the board of supervisors may levy annually an additional tax not to exceed one-eighth mill to carry out the provisions of this chapter. Funds appropriated under this section shall be used exclusively for the purpose stated above.

The share of any county for assistance and benefits payable to the dependent Indian who is disabled, and living on an Indian reservation in said county, shall be paid by the state from the fund for the disabled. [C62,§241A.13]

241A.14 Disabled aid fund. There is hereby established in the state treasury a fund to be known as the "Fund for Aid to the Disabled" to which shall be credited all funds appropriated by the state for the payment of administration expenses, assistance and benefits under this chapter, all moneys received from the federal government for such purposes, and all funds paid by the counties to the state board as provided by this chapter. All assistance, benefits and administration expense shall be paid from said fund by the state board. The state department shall report to the county board each month the total amount of assistance and benefits paid during the preceding month with respect to recipients chargeable to the county. The county board shall promptly report the same to the county board of supervisors which shall then order paid to the state board from the county poor fund, a sum representing the county's share thereof, determined in the manner heretofore provided, which payment shall be credited to the fund for the disabled. [C62,§241A.14]

241A.15 Removal from county. When any recipient moves to another county, he shall be entitled to receive assistance which shall be chargeable to the county from which he has removed until said recipient has resided in another county for six months. [C62, §241A.15]

241A.16 Records confidential. All applications, investigations and records shall be privileged communications and shall be confidential. They shall be used exclusively for administering assistance under this chapter. The violation of this provision is hereby made a misdemeanor and is punishable as such. [C62,§241A.16]

CHAPTER 249 OLD-AGE ASSISTANCE

Referred to in §§78.2, subsection 6, 142.1, 234.6, subsection 6, 239.10, 241.25, 425.2. Social welfare

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249.1 Definitions. When used herein:

1. The term "state department" shall mean the state department of social welfare created by chapter 234.

2. The term "state board" shall mean the state board of social welfare created by chapter 234.

3. The term "board" and "county board" shall mean the county board of social welfare created by chapter 234.

4. The term "investigator" shall mean the employee of the county board of social welfare assigned to perform the duties specified under the provisions of this chapter.

5. The term "domicile" shall mean the fixed permanent residence of the applicant or recipient of old-age assistance, to which, when absent, he has the intention of returning.

6. The term "residence" shall mean the place of dwelling of the applicant or recipient of oldage assistance, whether permanent or temporary, and such dwelling place may or may not be the domicile of such person.

7. The term "income" shall mean that gain, or recurrent benefit, or both, accruing to the applicant for or the recipient of old-age assistance because of his own labor, business or property or because of the reasonable legal or contractual liability of another person, trustee, or legal entity, or gratuity received from whatever source, whether in the form of money, goods or services of whatever nature and from whatever source, upon which a monetary value can be placed.

8. The term "property" shall mean those things in which a person has legal title or owns, whether in lands, goods, investments, stocks, bonds, securities, notes, money or money on deposit, insurance on his life, or intangible rights such as patents, copyrights, or anything of value which may be alienated.

9. The term "assistance" shall mean money payments to, or in behalf of, a needy, aged

10. The term "recipient" shall mean a needy. aged person who has been approved for assistance.

11. The singular shall include the plural and the masculine shall include the feminine. [C35, §5296-f1; C39,§3828.001; C46, 50, 54, 58, 62,§249.1]

249.2 Powers and duties of the state board. The state board shall be the responsible authority for the efficient and impartial administration of this chapter. To this end the state board shall formulate and make such rules and regulations, outline such policies, dictate such procedures and delegate such powers as may be necessary to carry out the provisions and purposes of this chapter.

The state board shall:

1. Co-operate with the federal social security board, created by title VII of the Social Security Act, Public Law No. 271, enacted by the 74th Congress of the United States and approved August 14, 1935 [42 U.S.C. 901], in such reasonable manner as may be necessary to qualify for federal aid for old-age assistance, including the making of such reports in such form and containing such information as the federal social security board, from time to time, may require, and to comply with such regulations as said federal social security board, from time to time, may find necessary to assure the correctness and verification of such reports.

2. Furnish information to acquaint aged persons and the public generally with the old-age

assistance system of this state.

3. Fix the salaries for the personnel of the department. [C35,§§5296-f4,-f36; C39,§3828.003; C46, 50, 54, 58, 62,§249,21

249.3 Party officials barred. No person who is a precinct, county or state committeeman of any political party shall be eligible to be appointed to any office or to hold any position provided for under any of the provisions of this chapter during the time he shall hold such office, and any person appointed or employed under the provisions of this chapter who becomes a precinct, county or state committeeman of any political party shall be disqualified from the further holding of any position created under the provisions of this chapter and shall be forthwith removed from such position. [C39,§3828.004; C46, 50, 54, 58, 62,§249.3]

249.4 Old-age assistance investigators. The county board shall employ one or more oldage assistance investigators whose duty shall be to make such investigations or reinvestigations as are necessary to furnish the information required by the county board and the state department, and in such manner and form as may be prescribed in the rules and regulations of the state board relating to the state department. [C35,§5296-f7; C39,§3828.006; C46, 50, 54, 58, 62, §249, 41

249.5 Persons entitled to assistance. Subject to the provisions and under the restrictions contained in this chapter, every aged person who has not an income of three hundred dollars a year, while residing in the state, shall be entitled to assistance in old age. [C35,§5296-f9; C39,§3828.007; C46, 50, 54, 58, 62,§249.5]

249.6 To whom granted. Old-age assistance may be granted and paid only to a person who: 1. Has residence or domicile in the state of

Iowa 2. Has attained the age of sixty-five years.

3. Is a citizen of the United States or has been a continuous resident of the United States for at least twenty-five years.

4. Has a domicile in this state and has had such domicile continuously for at least nine years immediately preceding the date of application, but such domicile shall not be deemed continuous if interrupted by periods of absence totaling more than four years, except as otherwise provided elsewhere in this chapter; or has had at least five years residence in the state during the nine years immediately preceding the date of application, one of said five years having been continuous and immediately preceding such date. Furthermore, absence from

the state in the service of the state or the United States shall not be deemed to have interrupted such continuous residence, if domicile has not been acquired outside the state.

5. Is not at the date of making claim or receiving assistance, an inmate of any prison, jail, mental hospital, or any other public re-

form or correctional institution.

6. Has not deserted his wife, if a husband, or, without just cause failed to support her and his children under the age of fifteen years, for a period of six months or more during the ten years preceding the date of application; has not deserted her husband, if a wife, or without just cause failed to support such of her children as were under the age of fifteen years, during the period set out above.

7. Has no spouse, child, other person, municipality, association, society or corporation legally or contractually responsible under the law of this state and found by the state depart-

ment able to support him.

Referred to in §§249.25, 249.48 8. Is found by the state department to be unable regularly to earn an income of at least three hundred dollars a year, on account of age, infirmity or inability to procure suitable

employment.

9. Is not an inmate of a public institution, except as a patient in a medical institution for treatment for other than tuberculosis or mental diseases or who has been diagnosed as having tuberculosis or psychosis and is a patient in a public medical institution as a result thereof. However, an inmate of such institution may make application for assistance, but the assistance, if granted, shall not begin until he has ceased to be an inmate. [C35,§5296-f12; C39,§3828.008; C46, 50, 54, 58, 62, \$249.61

Referred to in §§249.25, 249.48 Child's liability, §§249.26, 249.27

249.7 Amount of assistance. The amount of assistance shall be fixed with due regard to the condition of the individual, including all resources available to the applicant or recipient, household situation and community in each instance, together with the essential need due to the individual's mental and/or physical condition, subject to the rules, regulations, and standards adopted by the state board. [C35, §5296-f10; C39,§3828.009; C46, 50, 54, 58, 62, §249.7]

249.8 Income considered. The income of the applicant shall be his income for the twelve months preceding the date on which his application is made; provided that, if the applicant shows to the state department's satisfaction a decrease of income, the amount of such decrease may be deducted from the income of the preceding twelve months in determining the amount of assistance to be allowed. However, in calculating the income of the claimant, occasional gifts, or earnings through personal labor, not to exceed one hundred twenty dollars in the aforesaid twelve-month period may be disregarded. [C35,§5296-f11; C39,§3828.010; C46, 50, 54, 58, 62, §249.8]

249.9 Property exclusions. An applicant for old-age assistance may retain the following and not be ineligible for assistance:

1. A home which is defined as real property owned and used by the applicant as a place of

2. Household furnishings and personal cloth-

3. An automobile useful to the person for necessary transportation not to exceed an actual value of two thousand five hundred dol-

ing not exceeding a value of three thousand

4. Cash, real property, or marketable securities of such value not to exceed four hundred fifty dollars for a single person or eight hundred dollars if married and not separated from the spouse. However, if an applicant is possessed with an excess of the foregoing and if at the discretion of the state department immediate sale, for cash, of such securities or investments necessitates an undue financial sacrifice, the applicant, when in immediate need of assistance, shall assign such securities and investments to the state to be held in trust by the state board to reimburse the old-age assistance revolving fund for the amount paid from the old-age assistance fund and the oldage assistance revolving fund in assistance or other benefits in behalf of said applicant.

5. Life insurance having a cash surrender value not in excess of five hundred dollars for a single person or one thousand dollars if married and not separated from the spouse; provided that the person enters into a written agreement with the state department that he will not surrender the life insurance for its cash value, assign the insurance contract or its proceeds, or change the beneficiary under the insurance contract unless he obtains the

consent of the state department.

6. No person shall be allowed assistance if the claimant has transferred real property or interests in the property within five years prior to application without receiving adequate monetary consideration, or has assigned or transferred real or personal property in order to qualify for assistance, or if the claimant or the husband or wife conveys or encumbers any real estate or other property owned by either or both of them for the purpose of preventing the state from reimbursing itself for assistance granted or to be granted hereunder. [C35, §5296-f13; C39, §3828.012; C46, 50, 54, 58, 62, §249.9; 61GA, ch 224,§11

249.10 Applicants. An applicant for assistance shall deliver his claim, in writing, to the board of the county in which he resides, in the manner and form prescribed by the state board.

All statements in the application shall be sworn to or affirmed by the applicant setting forth that all facts are true in every material point. [C35,§5296-f17; C39,§3828.013; C46, 50, 54, 58, 62, §249.10]

249.11 Procedure with application. When an application is made for old-age assistance, the county board shall promptly send it to the state department. Within sixty days, the county board shall make an investigation of the applicant's claim through an investigator. and make, in addition, such direct investigation as it deems advisable. After hearing the applicant, if he so requests, if it approves the claim, the county board shall make a recommendation of the amount of assistance to be allowed: or. if it disapprove, make a recommendation that no assistance be allowed. Within ninety days from the date of the application, the county board shall send its recommendation and the reason for such recommendation to the state department with such supporting papers as the state board may require, unless for reasons beyond the county board's control which reasons shall be reported.

Upon receipt of the application and supporting papers, the state department may make such additional investigation as it deems necessary. Should the state department disagree with the county board in the latter's recommendation regarding eligibility it shall neither approve nor disapprove said application without a further review to clarify the points of disagreement between the county board and state department. In any event, the state department shall make its decision within sixty days of the receipt of the supporting papers, properly prepared and executed, and either approve and fix an amount of assistance or reject the claim of the applicant; and shall give written notice to the applicant as to the action taken.

If an application is not acted upon by the county board within ninety days after the filing of the application, or is denied in whole or in part, or if any award of assistance is modified or canceled under any provision of this chapter, the applicant or recipient may appeal to the state board in the manner and form prescribed by the state board. The state board shall, upon receipt of such an appeal, give the applicant or recipient reasonable notice and opportunity for a fair hearing before the state board or its duly authorized representative or representatives. Following such hearing the state board shall take its final action and notify the applicant in writing.

An applicant whose application for assistance has been rejected, or a recipient whose certificate for assistance has been canceled, after a review hearing hereinabove provided. within thirty days after notice of such action is given, may appeal from the decision of the state board to the district court of the county in which the applicant or recipient resides, by serving a ten days notice of such appeal upon the state department or upon any member of the state board, in the manner required for the service of an original notice in any civil action. Upon the service of such notice, the state board shall furnish the applicant with a copy of the application and all supporting papers, a transcript of the testimony taken in a hearing, if any, and a copy of its decision.

The district court shall act as an appellate court to review the decision of the state board to determine whether or not it has therein committed fraud or abused its discretion. The costs may be taxed to appellant where the appeal is affirmed or may be remitted. [C35, §5296-f18; C39,§3828.014; C46, 50, 54, 58, 62, §249.111

Referred to in §249.16 Service of original notice, R.C.P. 56(a)

249.12 Witnesses. For the purpose of any such investigation, the state board and the county board shall have the power to compel, by subpoena, the attendance and testimony of witnesses and the production of books and papers. All witnesses shall be examined on oath, and any member of the state board or of the county board may administer said oath. The costs incurred in connection with any such hearing or examination shall be paid by the state board or county board, whichever issues the subpoenas; and the witnesses shall be entitled to claim a two-dollar fee and mileage expense at a rate of five cents per mile, except that responsible relatives as defined in sections 252.2. 252.5 and 600.6 shall not be entitled to claim witness fees and mileage expense. [C35, §5296-f19; C39,§3828.015; C46, 50, 54, 58, 62, §249.121

249.13 Assistance certificate. The state department shall issue to each applicant to whom assistance is allowed a certificate stating the amount of each installment, which may be monthly or quarterly, as the state department may decide; and, on written order of the state department, the state comptroller shall issue his warrant, or warrant check to be forwarded by the state department, to such recipient in payment of each installment. The amount of assistance granted under this chapter shall be subject to review at any time by the state department and the amount received by the recipient may be increased, decreased, or discontinued. [C35,§5296-f20; C39, §3828.016; C46, 50, 54, 58, 62,§249.13]

249.14 Fingerprint indorsement. Whenever the payee of an old-age assistance warrant is unable to indorse said warrant in writing as his name appears on the face of said warrant. the indorsement shall be made by the payee's fingerprint, which act shall be witnessed by at least two persons who shall sign as witnesses, also giving their address. [C39,§3828.017; C46, 50, 54, 58, 62, §249.14]

249.15 Renewal of certificate. The general provisions as to the eligibility of applicants for assistance shall apply to recipients whose certificates are subject to review for the issuance of renewal certificates of assistance, with the following exceptions as to residence:

Provided, that he does not establish a domicile outside this state, a person may, while receiving assistance and with the approval of the state department, retain his rights under the provisions of this chapter and section, even though he takes up residence outside the state in the household of a relative or friend for reasons of the infirmities of age, health or economic necessity. [C35,§5296-f21; C39,§3828.018; C46, 50, 54, 58, 62, §249.15]

249.16 Assistance certificate improperly obtained. If at any time the state department has reason to believe that an assistance certificate has been improperly obtained, it shall cause special inquiry to be made by the board, and may suspend payment of any installment pending the inquiry. It shall also notify the board of such suspension and it shall also promptly notify the recipient in writing of such suspension stating in such notice the reason for such suspension and such recipient shall be entitled to a hearing, as provided by section 249.11, to show cause why such suspension should not be made permanent. If on inquiry it appears that the certificate was improperly obtained, it shall be canceled by the state department, but if it appears that the certificate was properly obtained, the suspended installments shall be payable in due course. [C35, §5296-f30; C39,§3828.019; C46, 50, 54, 58, 62, \$249,161

249.17 When assistance commences. The assistance, if allowed, shall commence on the date named in the certificate, which shall be the day fixed by the state board for payments to recipients in the county from which the applicant applied and within the calendar month following that on which the application is approved by the state department. [C35, §5296-f22; C39, §3828.020; C46, 50, 54, 58, 62,

249.18 Funeral expenses. On the death of any person to whom a certificate of old-age assistance has been issued, such reasonable funeral expenses shall be paid from the oldage assistance fund to such person as the county board directs, in an amount of not to exceed one hundred seventy-five dollars; provided:

1. That the total expense of such funeral does not exceed three hundred fifty dollars.

2. That the decedent does not leave an estate which may be probated, subject to the provisions of section 249.19, with sufficient proceeds to allow a funeral claim of at least three hundred fifty dollars.

3. That any payment which is due the decedent's estate, spouse, children, father, mother, brother, or sister by reason of the liability of any life insurance or death or funeral benefit company, association or society to be made in the event of the death of such decedent who was a recipient of old-age assistance may be deducted from the state department's liability of one hundred seventy-five dollars.

4. That in the event the total funeral expenses exceed the department's liability of one hundred seventy-five dollars, as provided under 1, 2, and 3 above, the additional expenses shall accrue only when there is an extraordinary expense or when the family or next best friend of the decedent specify the use of a steel or concrete outside burial vault. Provided that said additional expense shall not be paid by the state. However, if the county board di-

rects that a burial lot, grave opening, or clothing be furnished for the decedent, the expense thereof shall be paid by the state in a total amount not to exceed fifty dollars, to such person or persons as the county board directs, and such expense shall be allowed in addition to the one hundred seventy-five dollar limit provided in this section, provided further, however, that in such cases no extraordinary expense shall be permitted nor will the family or next best friend of the decedent be permitted to specify the use of a steel or concrete outside burial vault.

Any funeral expenses thus paid by the state department shall become a part of the claim and lien for assistance paid the individual recipient of old-age assistance and shall be collectible under the provisions of sections

249.19 and 249.20.

When no claim is filed, or, whenever a claim is filed and disallowed, for the payment of funeral expenses, as provided for by this chapter and section, and the person furnishing such services and merchandise, in connection with the funeral of a deceased recipient of old-age assistance, files a claim against the decedent's estate, as provided for by chapter 635,* such claim shall not be allowed in an amount exceeding three hundred fifty dollars.

Where a person has been receiving old-age assistance under the provisions of this chapter and while receiving such assistance is committed or admitted to any tax supported institution for any cause and is not receiving oldage assistance at the time of his death, he shall, notwithstanding such facts, be qualified to receive his burial expense as provided in this section. [C35,§5296-f25; C39,§3828.021; C46, 50, 54, 58, 62, §249.18; 60GA, ch 326, §717]

*Repealed by 60 GA, ch 326, §704; see §633.410 et seq.

249.19 Deduction from estate. On the death of a person receiving or who has received assistance under this chapter or of the survivor of a married couple, either or both of whom were so assisted, the total amount paid as assistance, shall be allowed as a lien against the real estate in the estate of the decedent and as a claim of the sixth class against the personal estate of such decedent, in the event the estate is admitted to probate. Neither the homestead nor the proceeds therefrom of such decedent or his survivor, shall be exempt from the payment of said lien or claim, any act or statute to the contrary notwithstanding. The filing of its claim against the estate shall not constitute a waiver of the right of the state board, in behalf of the state, to maintain an action by equitable proceedings to foreclose upon its lien against a homestead left by the deceased as well as any other real estate situated within the state of Iowa, and belonging to the estate of the deceased. The proceeds of such claim or lien shall be paid into the oldage assistance revolving fund. In case of the death of either husband or wife, either or both of whom have been receiving or have received assistance under this chapter, the homestead

shall not be sold until the surviving spouse shall die or cease to occupy the homestead as such. Furthermore, no such claim shall be enforced against any real estate of the recipient, or the real estate of a person who has been a recipient, while it is occupied by the recipient's surviving spouse, if the latter, at the time of marriage to the recipient, was not more than fifteen years younger than the recipient, and does not marry again. [C35, §5296-f15; C39,§3828.022; C46, 50, 54, 58, 62, §249.19; 61GA, ch 432,§§70, 73]

Referred to in §§249.18, 249.20, 249.21, 515.102, subsection 4

249.20 Transfer of property to the state. In any event, the assistance furnished under this chapter shall be and constitute a lien on any real estate owned either by the husband or wife for assistance and funeral benefit furnished to either of such persons. Whenever an order is made for such assistance to any person, a copy of such order shall be indexed and recorded in the manner provided for the indexing of real estate mortgages in the office of the county recorder of the county in which the recipient lives and in which the real estate belonging to the recipient or the spouse of such recipient is situated, and such recording and indexing shall constitute notice of such lien. The county recorder shall not charge a fee for such recording and indexing or for releasing said lien.

Assistance furnished under this chapter shall not constitute a lien on any real estate owned by the Indian tribes residing in this state. This is the sole exception to the provisions of this and section 249.19.

Any action to enforce an old-age assistance lien shall be by equitable proceedings.

The statute of limitations shall not begin to run against any lien or cause of action, belonging to the state under the provisions of this section or chapter, until the death of the recipient, former recipient, or the surviving spouse,

The state board shall release liens created or existing under this chapter when the amount thereof is fully paid, or when an estate, of which real estate affected by this chapter is a part, has been probated and the proceeds allowable through such probate have been applied on such liens. The board may also, in its discretion, at any time, order the release of any lien in full, or the release of any specific parcel of land from the lien, upon such compromise, settlement, substitution of other security, or other consideration as the board shall determine to be fair and adequate under the peculiar circumstances affecting the property subject to the lien or its ownership. Such release shall be executed and acknowledged by the secretary of the state board of social welfare; and such release when recorded shall be conclusive in favor of any third person dealing with or concerning the land thus released in reliance on such record.

If the state board deems it necessary to protect the interest of the state, it may require,

as a condition to the grant of assistance, the absolute conveyance or assignment of all, or any part, of the property of an applicant for assistance to the state board; upon the taking of such deed or assignment the state department shall pay any delinquent taxes against said property and said deed shall reserve to the grantor and his spouse a life estate in said property and an option to the grantor and his heirs to purchase said property by repayment of the total amount paid for the benefit of the recipient. Said option insofar as the heirs are concerned shall be for six months from the date of the death of the grantor or the grantor's surviving spouse, if any.

Title to any real estate may be taken in the name of the state board of social welfare.

Such property shall be managed by the state department which shall credit the net income to the account of the person or persons entitled thereto. The state board shall have power to sell, lease, assign or convey such property or defend and prosecute all suits concerning it, and to pay all just claims against it, and to do all other things necessary for the protection, preservation and management of the property.

Upon the death of the recipient, or person who has received assistance, and the surviving spouse of such person, which spouse meets the requirements set out in section 249.19, and the expiration of the option to the heirs, the property shall be disposed of at public auction after notice by publication in some newspaper in the county where located, once each week for two consecutive weeks, before the day of sale and so much of the proceeds as is necessary for the repayment of the amount of assistance and other benefits paid to the grantor and/or his spouse and repayment of amount expended for the preservation of the property shall be transferred to the old-age assistance revolving fund. The balance, if any, shall be paid through the old-age assistance revolving fund to the heirs.

The state board and state department shall be entitled to an assignment of the certificate of tax sale of said property upon tender to the holder or to the county auditor of the amount to which the holder of the tax sale certificate would be entitled in case of redemption and shall be entitled to receive a tax deed. The state board and state department shall be entitled to receive a tax deed in derogation of the rights of the legal titleholder as to all certificates of tax sale acquired prior to July 4, 1959

The attorney general, at the request of the state board, shall take the necessary proceedings, and represent and advise the state board in respect to any matters arising under this section. [C35,§5296-f16; C39,§3828.023; C46, 50, 54, 58, 62,§249.20; 60GA, ch 161,§1]

Referred to in §§249.18, 249.21, 515.102, subsection 4 Attorney general, §13.6 Conveyances or releases signed by secretary legalized, §589.26

249.21 Executor responsible. Any transfer of any property or interest therein made by an applicant or recipient of old-age assistance

to any person without adequate consideration therefor or with intent to deprive the state of its interest therein shall be void.

All administrators, executors, referees and trustees of estates subject to liens provided for by this chapter shall when such lien as provided in sections 249.19 and 249.20, is filed or a claim is filed in the estate or against said estate or established by other legal proceedings as provided by law, pay said lien or claim when so ordered by the court. [C35, §5296-g1; C39,§3828.024; C46, 50, 54, 58, 62, §249.21]

249.22 Compromise by state. The state board and state department, when considering a compromise settlement of the state's interest in any property or the estate of a recipient and/or the recipient's spouse, may recognize such equitable interest as may be established by another person or legal entity. [C39, §3828.025; C46, 50, 54, 58, 62,§249.22]

249.23 Assignment of insurance. Any person, who has been granted a certificate of oldage assistance and is receiving payments of assistance from the old-age pension fund, may petition the state board to accept an assignment of any assignable death benefits, loan value, or cash surrender value, of any life insurance policy, death or funeral benefit of any association, society or organization, requiring further payment of premiums or assessments which such person believes he is unable to pay. The state board may accept such assignment if it deems such action advisable and in the best interests of such person and the state. Upon the payment of such death benefit, the state department shall first deduct the amount of the funeral expenses, incurred under the provisions of section 249.18, the amount of the premiums or assessments paid by the state department to keep the insurance or benefit in force, and the amount of assistance paid to such person, all of which shall accrue to the old-age assistance revolving fund, and pay the balance received, if any, to such person as was the beneficiary last specified upon the policy.

Any recipient of old-age assistance may assign any such insurance policy or benefit certificate for the purpose stated in this section, and when such assignment has been received by the company, association, society, or other organization, issuing same, the state board and state department shall have a vested interest therein for the purpose and to the extent as is contemplated in this section, and the contract so made between such insured person and the state board and state department, shall be valid, and binding upon such insured person, company, association, society or other organization, any other statute to the contrary notwithstanding.

When proceeds are received from any insurance policy or benefit certificate which was not assigned to the state board and which states the beneficiary to be the administrator, or

legal representatives or estate of the insured, such proceeds shall be subject to the claim against said estate for any old-age assistance payments to or on behalf of such insured person or for any funeral claims paid and said claim shall be prior to the claim of the heirs thereto. [C35,§5296-g2; C39,§3828.026; C46, 50, 54, 58, 62,§249.23]

249.24 Board notified of increase of property or income. If at any time during the currency or continuance of an old-age assistance certificate the recipient, or the wife or husband of the recipient, becomes possessed of any property or income in excess of the amount allowed by this chapter in respect of the amount of assistance granted, it shall be the duty of the recipient immediately to notify the board of the receipt and possession of any such property or income. The board shall inform the state department of such change and make its recommendation for further action by the state department. The state department thereupon shall cancel the certificate or lower the amount of assistance for the remaining period of the certificate and notify the recipient of the reason for such change. Any excess assistance paid shall be returned to the state, and recoverable as a debt due the state. [C35,§5296-f23; C39,§3828.027; C46, 50, 54, 58, 62, \$249.241

Referred to in §249.35

249.25 Recovery from responsible relatives. If at any time under this chapter the state board and state department or county board finds that any person, municipality, association, society or corporation, as specified under subsection 7 of section 249.6, is or was at the time any assistance was paid reasonably able to contribute to the necessary care and support of any recipient without undue hardship, during the continuance of any certificate of assistance, and such person, municipality, association, society or corporation fails or has failed or refused to do so, then, after notice to such person, municipality, association, society, or corporation, there shall exist a cause of action against such person, municipality, association, society or corporation for the recovery by the state board and state department, for the state, of double such amount of assistance furnished as was or is in excess of the amount allowed by this chapter. [C39,§3828.028; C46, 50, 54, 58. 62,§249.25]

249.26 When child's liability begins. The state board or the court in determining the responsibility of a child for funeral expenses or the support of a claimant or recipient, shall deem liability to begin when said child is receiving a net income from whatever source, commensurate with that upon which he would make an income tax payment to this state. [C39.§3828.029; C46, 50, 54, 58, 62,§249.26]

249.27 County attorney's duties—equity action. It shall be the duty of the county attorney of each and every county, upon application of the state board of social welfare, to insti-

tute and conduct the prosecution of any suit for the support of an applicant for or recipient of assistance by any person or legal entity legally or contractually liable therefor, and any action brought for the violation of any of the provisions of this chapter, within the county.

In the event that a child or other responsible relative neglects or refuses to contribute to the support of a claimant or recipient, an action in equity may be commenced in the district court of the county in which a responsible relative resides and there may be joined as defendants in said action any or all other responsible relatives. The court may decree the amount of contribution, if any, to be made by each child or other responsible relative with due regard to their separate incomes, financial ability and obligations. [C39, §3828.030; C46, 50, 54, 58, 62,§249.27]

249.28 Cancellation when county evades responsibility. The state board may cancel the certificate of any recipient who is found by the state board to be acting in agreement with the authorities of any county charged with the duty of providing for the support of the poor if it shall appear to the state board that such agreement is with the intent to shift or would have the effect of shifting the responsibility of any such county or to evade the provisions of sections 249.29 and 249.34. [C39,§3828.031; C46, 50, 54, 58, 62,§249.28]

249.29 Recipient not to receive other assistance. No person receiving assistance under this chapter shall at the same time receive any other assistance from the state, or from any political subdivision thereof, except for fuel, dental, nursing, osteopathic, chiropractic, medical and surgical assistance, and hospitalization.

This section shall not be construed to exclude the spouse, minor children or other dependents of the recipient of old-age assistance, or the members of the same family or household as said recipient from receiving relief, assistance or pensions handled or paid through the state or any of its political subdivisions. In administering old-age assistance or relief, the officials of this state and its political subdivisions shall assume old-age assistance payments to be made for the sole benefit of the aged person to whom the certificate of assistance has been issued. [C35, §5296-f27; C39,§3828.032; C46, 50, 54, 58, 62, §249.29]

Referred to in §249.28

249.30 No assistance during imprisonment. If any person receiving assistance is convicted of any crime or offense and punished by imprisonment for one month or longer, the board shall direct that payments shall not be made during the period of imprisonment. [C35, §5296-f33; C39,§3828.033; C46, 50, 54, 58, 62, §249.30]

249.31 Patients in private institutions not eligible. A patient in a private medical institution for tuberculosis or mental diseases or as

a result of a diagnosis of tuberculosis or psychosis is not eligible to receive assistance. [C35,§5296-f26; C39,§3828.034; C46, 50, 54, 58, 62, §249.31]

249.32 Incapacity of applicant or recipient. If the person applying for or receiving assistance, on the testimony of reputable witnesses, is thought to be incapable of taking care of himself or his money, the board shall complete the investigation, as provided elsewhere in this chapter, and send such application, investigation, and supporting papers to the state department. When notified by the state department of the conditional approval of said application or the renewal or continuance of a certificate, contingent upon the appointment of a legal guardian, the board shall direct the county attorney to petition the court for such appointment and shall forward the court record to the state department as notice of the person to whom assistance payments shall be

The application of a person who has been adjudged an incompetent shall be honored only when made by a legally appointed guardian as provided for under the provisions of section 670.2.* Upon subsequent investigations all affidavits shall be affirmed by said legal guardian and the person or persons supplying the required information in behalf of said incompetent person.

All guardianship proceedings in the case of an applicant or recipient shall be carried out without fee or other expense including all court costs when, in the opinion of the court, the aged person is unable to assume said expense. At the discretion of the court, such a guardian may serve without bond. [C35, §5296-f28; C39,§3828.035; C46, 50, 54, 58, 62, §249.32]

*Repealed by 60GA, ch 326, \$704; see \$633.552 et seq.

249.33 Unlawful to charge for cashing warrant. It shall be unlawful for any person, firm or corporation to charge a fee, service charge or exchange for the cashing of a warrant issued on the old-age assistance fund, or to discount or pay less than the face value of any warrant drawn on the old-age assistance fund when cashing the same or accepting it in the payment of the purchase price of goods or merchandise, services, rent, taxes, or indebtedness. [C35,§5296-g4; C39,§3828.036; C46, 50, 54, 58, 62,§249.33]

249.34 Assistance to be inalienable. All rights to old-age assistance shall be absolutely inalienable by any assignment, sale, execution or otherwise, and, in the case of bankruptcy, the assistance shall not pass to or through any trustees or other persons acting on behalf of creditors. [C35,§5296-f29; C39,§3828.037; C46, 50, 54, 58, 62,§249,341]

Referred to in §249.28

249.35 Recovery of excess assistance. When it is found that any person who is receiving or has received old-age assistance has failed to notify the board, as provided in section

249.24, that he is or was possessed of property or income in excess of the amount allowed by this chapter, then his certificate shall be canceled and double the amount of assistance paid, in excess of that to which the recipient was entitled, may be recovered from him, while living, as a debt due the state; upon his death as a preferred claim against his estate. The amount so received shall be transferred to the old-age assistance revolving fund of the state. [C35,§5296-f24; C39,§3828.038; C46, 50, 54, 58, 62,§249.35]

249.36 Assistance fund created. There is hereby created a fund to be known as the "Oldage Assistance Fund" to be administered by the state board and state department, the proceeds of which shall be used to pay the expenditures incurred under this chapter. [C35, §\$5296-f34, 6943-f63; C39, §\$3828.039, 6943.100; C46, §\$249.36, 422.69; C50, 54, 58, 62, §249.36]

All unpaid liens on real estate or other property which have arisen because the owners of said real estate or property have not paid the head tax, herein repealed, are abolished and released; 58CA, ch 179,§5

249.37 and **249.38** Repealed by 58GA, ch 179, §§2, 3.

249.39 Revolving fund created. There is hereby created a fund, to be known as the "Old-age Assistance Revolving Fund," to be used for the purpose of protecting the interests of the recipients of old-age assistance and such interests of the state and the old-age assistance fund as arise under the provisions of this chapter.

To establish the old-age assistance revolving fund, there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of twenty-five thousand dollars. The state comptroller shall set aside from the appropriation, herein made, the amount necessary to be used by the state board and state department. Upon orders by the state board or state department the comptroller shall draw warrants from this fund, if he so approve, for the purposes herein described.

All moneys received or recovered by the state board and state department, from whatever source, except those specifically appropriated to the old-age assistance fund, shall be credited to the old-age assistance revolving fund, which together with the appropriation made hereunder, shall constitute said fund. At the end of each quarter of each fiscal year if the old-age assistance revolving fund shall have a cash balance in excess of two hundred thousand dollars, the state comptroller shall transfer such excess to the old-age assistance fund and shall notify the state board of such transfer. The amounts thus transferred shall supplement other allocations to the old-age assistance fund and shall be separate from the general fund of the state. On receipt of written order from the state department, the state comptroller shall draw warrants, or warrant checks against the old-age assistance fund for any and all old-age assistance payments and other expenditures provided for in this chapter. [C35,§5296-g7; C39,§3828.042; C46, 50, 54, 58, 62,§249.39]

249.40 Authority to accept gifts. The state board and state department are authorized to accept in behalf of the state any gifts, deeds, or bequests of money or property the proceeds of which shall accrue to the benefit of the oldage assistance revolving fund. In the making of such gifts or contributions the donor shall attach no conditions, whatsoever. The management and disposition of any property so received will be in the state department but such management and disposition shall be subject to the approval of the state board. [C35, §5296-g6; C39,§3828.043; C46, 50, 54, 58, 62, §249.40]

249.41 Cancellation of warrants. The state comptroller, as of January, April, July and October 1 of each year, shall stop payment on and issue duplicates of all old-age assistance warrants or checks which have been outstanding and unredeemed by the state treasurer for six months or longer. No bond of indemnity shall be required for the issuance of such duplicate warrants which shall be canceled immediately by the state comptroller. Should the original warrants subsequently be presented for payment, warrants in lieu thereof shall be issued by the state comptroller at the discretion of and certification by the state department. [C39.§3828.044; C46, 50, 54, 58, 62, \$249,411

249.42 Payments to the United States. Whenever any amount shall be recovered from any source for assistance furnished under the provisions of this chapter and paid into the old-age assistance revolving fund, upon order of the state board and state department the state comptroller shall pay from said fund to the United States the amount which shall be required under the terms of title I of the federal social security Act. [C39,§3828.045; C46, 50, 54, 58, 62,§249.42]

249.43 Receipts and disbursements. There shall be kept on file in the state comptroller's office an itemized record of all receipts and disbursements showing the money received from each county and the assistance granted to each county. A summary of the said record shall be compiled and published at the end of the tax year. [C35,§5296-f37; C39,§3828.046; C46, 50, 54, 58, 62,§249.43]

249.44 Records—report of recipients. All applications, investigation reports and case records shall be privileged communications and held confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and the administration of the provisions of this chapter.

Provided, however, that the county board of social welfare shall prepare and file in its office on or before the thirtieth day of each January, April, July and October a report showing the names and addresses of all recipients receiving assistance under this chapter, together with the amount paid to each during the preceding quarter. Each report so filed shall be securely fixed in a record book to be used only for such reports made under this chapter and chapters 239 and 241. The record book shall be and the same is hereby declared to be a public record, open to public inspection at all times during the regular office hours of the respective county boards of social welfare. Each person who desires to examine said records, other than in pursuance of official duties as hereinbefore provided, shall sign a written request to examine the same, which shall contain an agreement on the part of the signer that he will not utilize any information gained therefrom for commercial or political

It shall be unlawful for any person, body, association, firm, corporation or any other agency to solicit, disclose, receive, make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists, names or other information obtained from the reports above provided for, for commercial or political purposes, and a violation of this provision shall constitute a misdemeanor punishable by a fine of not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year or by both such fine and imprisonment. [C39,§3828.047; C46, 50, 54, 58, 62,§249.44]

249.45 Assistance subject to future statute. Every assistance granted under the provisions of this chapter shall be deemed to be granted and shall be held subject to the provisions of any amending or repealing act that may hereafter be passed, and no recipient under this chapter shall have any claims for compensation, or otherwise, by reason of his assistance being affected in any way by such amending or repealing act. [C35,§5296-f39; C39,§3828.048; C46, 50, 54, 58, 62,§249.45]

249.46 Violations. Any person who by means of a willfully false statement or representation or by impersonation or other fraudulent device obtains, or attempts to obtain, or aids or abets any person to obtain:

- 1. An assistance certificate to which he is not entitled; or
- 2. A larger amount of assistance than that to which he is justly entitled; or
- 3. Payment of any forfeited installment
- 4. Who aids or abets in the selling or buying, or in any way disposing of the property of any recipient, or his spouse, or both, with intent to defraud the state of Iowa; or
- 5. Who aids or abets in the selling or buying, or in any way disposing of or concealing the property of any person or his spouse, or both, for the purpose of qualifying or attempting to qualify such person or persons for oldage assistance, with intent to defraud the state

of Iowa, shall be guilty of a misdemeanor and the person guilty thereof, in addition to the punishment for his misdemeanor, shall be liable for double that part of the assistance paid which is in excess of the amount allowed by this chapter. [C35,§5296-f31; C39,§3828.049; C46, 50, 54, 58, 62,§249.46]

249.47 Penalty. Any person who violates any provision of this chapter for which no penalty is specifically provided shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or both.

Where a person receiving assistance is convicted of an offense under this section the state department shall cancel the certificate. [C35,§5296-f32; C39,§3828.050; C46, 50, 54, 58, 62, \$249,471

Citation of amendatory Act, 47GA, ch 137,§42 Constitutionality, 45ExGA, ch 19,§41; 47GA, ch 137,§41; 48GA, ch 140,§28; 49GA, ch 146,§16 Rule of construction, 45ExGA, ch 19,§41

249.48 Supplemental assistance. The oldage assistance granted to a person under this chapter may be supplemented by another person, association, society, corporation, or agency of county government, other than as specified in subsection 7 of section 249.6. [C62,§249.48]

CHAPTER 249A MEDICAL ASSISTANCE FOR THE AGED

249A.1 Citation of chapter.

249A.2 Definitions.

249A.3 Who eligible.

249A.4 Income considered.

249A.5 Duties of state board.

249A.6 County board.

249A.7 Applications for assistance.

249A.8 Prior assistance.

249A.9 Assistance not assignable.

249A.10 Appeal to state board.

249A.1 Citation of chapter. This chapter may be cited as the "Medical Assistance for the Aged Act" of 1961. [C62,§249A.1]

249A.2 Definitions. The terms "state board" and "county board" are used in this chapter as they are defined in section 234.1, and as used in this chapter.

"Recipient" means a person who receives assistance under this chapter.

"Assistance" means money payments to, or for medical care and services on behalf of, a recipient.

"Residence" shall mean the place where a person lives for other than a temporary purpose. [C62,§249A.2]

249A.3 Who eligible. Assistance may be granted under the provisions of this chapter to any person who:

1 Is sixty-five years of age or over.

2. Is a resident of the state of Iowa including those residents who are temporarily absent from the state.

3. Is not an inmate of a public institution (except as a patient in a medical institution) or who is not a patient in an institution for tuberculosis or mental diseases.

4. Is not a recipient of old-age assistance.

5. Is in need of medical care and services available under this chapter, such need having been determined by an attending licensed practitioner of the healing arts acting within the scope of his license.

6. Has not sufficient income or other resources, of his own or available to him, to provide himself with such needed medical care 249A.11 Witnesses summoned.

249A.12 Review of eligibility.

249A.13 Recipient's obligations.

249A.14 Claim against estate.

249A.15 Penalty.

249A.16 Fund established.

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249A.19 Effect of conflict with federal law.

and services. However, the provisions of this chapter shall not apply to any one applicant until after he has paid, or obligated himself to pay, the sum of fifty dollars for medical assistance during the twelve-month period prior to the date of his application.

7. Has no spouse, child, other person, agency or political subdivision of state or federal government, association, society or corporation legally or contractually responsible under the law of this state and found by the county board able to provide him with such needed medical care and services.

For the purpose of determining whether a child is responsible to provide such medical care and services, such child shall not in any event be deemed responsible therefor if such child is not receiving a net income sufficient to require him to make an income tax payment to the state. [C62,§249A.3]

249A.4 Income considered. The amount of assistance shall be fixed with due regard to income and resources of the recipient or available to him in conformance to the rules. regulations and standards of the state board. No assistance shall be granted to:

1. Any unmarried applicant whose income, after deduction of medical expenses incurred by the applicant, exceeds one thousand five hundred dollars annually, or to any married applicant and spouse living together whose combined income, after deduction of medical expenses incurred by the applicant and his spouse, exceeds two thousand two hundred dollars. Income shall not include the shelter value of a residence occupied by the applicant nor the value of gifts or services contributed in kind to the applicant.

2. Any unmarried applicant whose resources exceed two thousand dollars, or any married applicant and spouse living together whose combined resources exceed three thousand dollars. The value of resources shall be the current market value minus any encumbrances against such resource or resources. In determining the foregoing, the following resources shall be excluded: Real property occupied as a residence, household goods and furnishings, an automobile, personal effects and tools necessary for the pursuit of a trade, occupation or profession, and the cash surrender value of life insurance. [C62,§249A.4]

249A.5 Duties of state board. The state board shall:

- 1. Be the responsible authority for the effective and impartial administration of this chapter. To this end the state board shall formulate and establish such rules and regulations, outline such policies and prescribe such procedures as may be necessary or desirable to carry out the provisions of this chapter. The state board may contract with other state agencies or private organizations whereby such agency or organization may handle the processing of and the payment of claims for services rendered under the provisions of this chapter and under such rules and regulations as shall be promulgated by said board.
- 2. Adopt by appropriate rules and regulations the definition of medical assistance for the aged by specifying the items for which assistance may be granted, provided, however, that such definition may not include any item or service which is not listed and provided for in Title I, Section 6 (b) of the Social Security Act as amended [42 U.S.C.,§302].
- 3. Adopt appropriate rules and regulations governing the payment of medical assistance for the aged rendered to any applicant prior to the date his application is filed.
- 4. Co-operate with any agency of the federal government in any manner as may be necessary to qualify for federal aid and assistance for medical assistance for the aged in conformity with the provisions of this chapter, including the making of such reports in such form and containing such information as any agency of the federal government may formulate and find necessary to insure qualification and verification of such reports.
- 5. Provide for the professional freedom of those licensed practitioners who determine the need for or provide medical care and services, the optimum freedom of choice to recipients to select the provider of such care and services and for medical direction and supervision as needed.
- v. Advise and consult at least semiannually with a council composed of the president, or his or her representative, who is a member of the professional organization represented by the president, of the Iowa State Medical So-

ciety, the Iowa Society of Osteopathic Physicians and Surgeons, the Iowa State Dental Society, the Iowa State Nurses Association, the Iowa Pharmaceutical Association, the Iowa Podiatry Association, the Iowa Optometric Association, the Iowa Hospital Association, the Iowa Osteopathic Hospital Association, and the Iowa Nursing Home Association, together with one person designated by the Iowa State Board of Chiropractic Examiners, one state representative (or his alternate) appointed by the speaker of the house, one state senator (or his alternate) appointed by the lieutenant governor, and one public representative (or his alternate) appointed by the governor. [C62,§249A.5]

249A.6 County board. The county board shall.

- 1. Perform all services and duties as are prescribed by this chapter and the rules and regulations of the state board.
- 2. Report to the state board at such time and in such manner and form as the state board may from time to time direct. [C62, §249A.61
- 249A.7 Applications for assistance. Applications for assistance under this chapter shall be filed with the county board of the county in which the applicant resides, in the manner prescribed by the state board. A certification of medical need shall be required in all but exceptional cases, as determined by rules and regulations of the state board, and shall be made by an attending licensed practitioner of the healing arts, acting within the scope of his license, as to the item or items of medical assistance for which the applicant has need. The county board shall make investigation as may be required by the rules of the state board and shall determine whether the applicant is eligible for assistance under this chapter. The applicant shall be notified promptly of this decision. [C62,§249A.7]
- 249A.8 Prior assistance. Any assistance granted under the provisions of this chapter may include any service within the definition of medical assistance for the aged rendered prior to the date of application; provided, however, that the applicant was eligible at the time said service was rendered. [C62,§249A.8]
- 249A.9 Assistance not assignable. Assistance granted under this chapter shall not be transferable or assignable at law or in equity, and none of the money payable under this chapter shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law. [C62,§249A.9]
- 249A.10 Appeal to state board. If any application is not acted upon by the county board within a reasonable time after the filing of the application, or if the application or assistance is denied in the whole or in part, modified or canceled under any provision of

this chapter, the applicant or recipient, or his personal representative, may appeal to the state board in the manner or form prescribed by the state board. The state board shall, upon receipt of such appeal, give the applicant or recipient, or his personal representative, reasonable notice and opportunity for a fair hearing before the state board or its duly prescribed representative or representatives. An applicant whose application for assistance has been rejected or a recipient whose assistance has been modified or canceled in whole or in part, or his personal representative, after a review hearing hereinabove provided, within thirty days after notice of such action is given, may appeal from the decision of the state board to the district court of the county in which the applicant or recipient resides, by serving ten days notice of such appeal upon the state department of social welfare or upon any member of the state board in the manner required by the service of an original notice in any civil action. Upon the service of such notice, the state board shall furnish the appellant with a copy of the application and all supporting papers, a transcript of the testimony taken at the hearing, if any, and a copy of its decision. The district court shall act as an appellate court to review the decision of the state board to determine whether or not it has therein committed fraud or abused its discretion. The costs may be taxed to the appellant or may be remitted where the appeal is affirmed. [C62,§249A.10]

249A.11 Witnesses summoned. For the purpose of any such hearing, the state board or county board shall have the power to compel, by subpoena, the attendance and testimony of any witness and the production of all books and papers. All witnesses shall be examined on oath, and any member of the state board or its duly prescribed representative may administer said oath. The cost incurred in connection with any such hearing or examination shall be paid by the state board or county, whichever issues the subpoenas; and the witnesses shall be entitled to claim a two-dollar fee and mileage expense of seven cents per mile. [C62,§249A.11]

249A.12 Review of eligibility. All eligibility determinations under this chapter shall be reviewed by the county board as frequently as may be required by the rules of the state board. [C62,§249A.12]

249A.13 Recipient's obligations. If, while receiving assistance, the recipient becomes possessed of any resource or income in excess of the amount stated in the application provided for in this chapter, it shall be the duty of the recipient immediately to notify the county board of the receipt or possession of such resource or income. When it is found that any person has failed so to notify the board that he is or was possessed of any resource or income in excess of the amount allowed, or when it is found that, within five years prior

to the date of his application, a recipient made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this chapter, any amount of assistance paid in excess of the amount to which the recipient was entitled may be recovered from him while living as a debt due the state and upon his death as a claim of the sixth class against his estate. The amount so received shall be transferred to the fund for medical assistance for the aged. [C62,§249A.13; 61GA, ch 432,§71]

249A.14 Claim against estate. On the death of a person receiving or who has received assistance under this chapter and of the survivor of a married couple, either or both of whom were so assisted, the total amount paid as assistance shall be allowed as a claim of the sixth class against the estate of such decedent in the event the estate is admitted to probate. An action may be brought in the name of the state to recover the same at any time within five years after the death of the person receiving aid and after the death of the survivor of a married couple, either or both of whom have received assistance under the provisions of this chapter. [C62,§249A.14; 61GA, ch 432,§721

249A.15 Penalty. Any person who shall obtain assistance or payments for medical assistance to the aged under this chapter by misrepresentation or failure with fraudulent intent to bring forth all the facts required of an applicant for aid under the provisions of this chapter and any person who shall knowingly make false statements concerning the applicant's eligibility for aid under this chapter shall be guilty of a misdemeanor, punishable as such. [C62,§249A.15]

249A.16 Fund established. There is hereby established in the state treasury a fund to be known as the "Fund for Medical Assistance for the Aged" to which shall be credited all funds appropriated by the state for the payment of administrative expenses, assistance and benefits under this chapter and all moneys received from the federal government for such purposes. All assistance and benefits under this chapter and the administrative expenses incidental thereto, so far as the same are payable by the state board, shall be paid from such funds. Any unexpended balance which remains in the fund for medical assistance for the aged at the end of each biennium shall revert to the general fund of the state. [C62, §249A.16]

249A.17 Exclusive of other relief. This chapter is not to be so construed as to exclude a recipient under the provisions of this chapter, his spouse, minor children, or other dependents from receiving other forms of relief, aid or assistance paid through any agency of the state or any of its political subdivisions, provided, however, that the recipient may not receive old-age assistance. [C62,§249A.17]

249A.18 Confidential records. All applications, information, and records concerning any applicant or recipient of medical assistance for the aged under the provisions of this chapter shall be confidential and shall not be disclosed nor used for any purpose not directly connected with the administration of medical assistance for the aged. The violation of this provision is hereby made a misdemeanor and is punishable as such. [C62,§249A.18]

249A.19 Effect of conflict with federal law. In the event that any provision or provisions of this chapter shall be in conflict with Title VI — Medical Services for the Aged, being amendments of Title I of the Social Security

Act, being Public Law 86-778, 86th Congress. H.R. 12580, dated September 13, 1960 [74 Stat. L. 987; 42 U.S.C.§§301-306, inc.], providing a state plan for medical assistance for the aged; under which, if this chapter were not in conflict, the state would be entitled to receive contributions from the United States for medical aid to the aged, such provision or provisions of this chapter so in conflict with such law of the United States shall be considered as suspended and noneffective until fifty days after convening of the legislative assembly in the year 1963 so as to enable the state to qualify and participate in such contributions for medical assistance to the aged from the United States. [C62,§249A.19]

CHAPTER 251

EMERGENCY RELIEF ADMINISTRATION Social welfare department, see ch 234

251.1 Administration of emergency relief.

251.2 Powers and duties.

251.3 Grants from state funds to counties.

251.4 Duties of the county board of social wel-

251.1 Administration of emergency relief. The state department of social welfare, in addition to all other powers and duties given it by law, shall be charged with the supervision and administration of all funds coming into the hands of the state now or hereafter provided for emergency relief. [C39,§3828.067; C46, 50, 54, 58, 62,§251.1]

251.2 Powers and duties. The state board shall have the power to:

1. Appoint such personnel as may be necessary for the efficient discharge of the duties imposed upon it in the administration of emergency relief, and to make such rules and regulations as it deems necessary or advisable covering its activities and those of the county boards.

2. Join and co-operate with the government of the United States, or any of its appropriate agencies or instrumentalities, in any proper relief activity.

3. Make such reports of budget estimates to the governor and to the general assembly as are required by law, or are necessary and proper to obtain appropriations of funds necessary for relief purposes and for all the purposes of this chapter.

4. Determine the need for funds in the various counties of the state basing such determination upon the amount of money needed in the various counties to provide adequate relief, and upon the counties financial inability to provide such relief from county funds. The state board may administer said funds belonging to the state within the various counties of the state to supplement local funds as needed.

5. Make such reports, obtain and furnish such information from time to time as may be required by the governor, by the general assembly, or by any other proper office or agency, state or federal, and make an annual report of its activities. [C39,§3828.068; C46, 50, 54, 58, 62, §251.2]

Report to governor, §17.3

251.3 Grants from state funds to counties. The state department shall have the authority to require as a condition of making available state assistance to counties for emergency relief purposes, that the county boards of supervisors shall make maximum tax levies for relief and establish such budgets as are needed in respect to the relief situation in the counties. The state department shall also have the authority to require as a condition of grants of state aid to the counties that the county board of supervisors shall make no transfers 251.5 County supervisors to determine relief and work projects.

251.6 County directors to act as executive officers

from the county poor fund or charges against the county poor fund for purposes other than that for which the county poor fund is established by law, and it is hereby made mandatory upon the county board of supervisors, that taxes levied and collected for the county poor fund shall be expended only for the purposes levied. [C39,§3828.069; C46, 50, 54, 58, 62,§251.3]

251.4 Duties of the county board of social welfare. The county board, in addition to all of the powers and duties given it by law, shall have the following duties:

1. Co-operate with the county board of supervisors in all matters pertaining to administration of relief.

2. At the request of the county board of supervisors, prepare requests for grants of state funds.

3. At the request of the county board of supervisors, administer county relief funds. 4. In counties receiving grants of state funds

upon approval of the comptroller, administer both state and county relief funds.

5. Perform such other duties as may be prescribed by the state board and the county board of supervisors. [C39,§3828.070; C46, 50, 54, 58, 62, §251.4]

251.5 County supervisors to determine relief and work projects. The local county board of supervisors shall ascertain all necessary details concerning those seeking relief, shall determine the minimum amount of relief required for each such person or family, and shall ascertain which of such persons are employable.

The board of supervisors may require that all employables contribute as many hours of his or her labor as that employable's requirements, as estimated by the board, will buy at the prevailing rate of compensation for that class of labor in that community.

The board of supervisors may determine on what projects of county-wide or communitywide nature such relief labor may be used. It may, however, delegate to its political subdivisions such authority as it deems advisable for administrative expediency.

To the board of supervisors is reserved all authority not expressly otherwise set out previously. [C39,§3828.071; C46, 50, 54, 58, 62, §251.5]

251.6 County directors to act as executive officers. The county director shall be the executive officer of the county board in all matters pertaining to relief. [C39,§3828.072; C46, 50, 54, 58, 62,§251.6]

CHAPTER 252 SUPPORT OF THE POOR

252.1 "Poor person" defined.

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252.39 Medical and dental service.

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252.41 Employment.

252.42 Co-operation on work-relief projects.

252.43 Poor tax.

§252.6]

252.1 "Poor person" defined. The words "poor" and "poor person" as used in this chapter shall be construed to mean those who have no property, exempt or otherwise, and are unable, because of physical or mental disabilities, to earn a living by labor; but this section shall not be construed to fo bid aid to needy persons who have some means, when the board shall be of opinion that the same will be conducive to their welfare and the best interests of the public. [C97,§2252; C24, 27, 31, 35,§5297; C39,§3828.073; C46, 50, 54, 58, 62,§252.1]

252.2 Parents and children liable. The father, mother, and children of any poor person, who is unable to maintain himself or herself by labor, shall jointly or severally relieve or maintain such person in such manner as, upon application to the township trustees of the township where such person has a residence or may be, they may direct. [C51,§787; R60,§1355; C73,§1330; C97,§2216; C24, 27, 31, 35, §5298; C39,§3828.074; C46, 50, 54, 58, 62,§252.2] Referred to in §§241.17, 249.12

252.3 Putative father. The word "father" in this chapter includes the putative father of an illegitimate child, and the question of parentage may be tried in any proceeding to recover for or compel the support of such a child, and like proceedings may be prosecuted against the mother independently of or jointly with the alleged father. [C51,§788; R60,§1356; C73, §1332; C97,§2250; C24, 27, 31, 35,§5299; C39, §3828.075; C46, 50, 54, 58, 62,§252.3]

Obligation of parent, ch 675

252.4 Who deemed trustee. The word "trustees" in this chapter shall be construed to include and mean any person or officer of any county or city charged with the oversight of the poor. [C51,§789; R60,§1357; C73,§1333; C97,§2251; C24, 27, 31, 35,§5300; C39,§3828.076; C46, 50, 54, 58, 62,§252.4]

252.5 Remote relatives. In the absence or inability of nearer relatives, the same liability shall extend to grandparents, if of ability without personal labor, and to the male grandchildren who are of ability by personal labor or otherwise. [C51,§787; R60,§1355; C73,§1331; C97,§2217; C24, 27, 31, 35,§5301; C39,§3828.077; C46, 50, 54, 58, 62,§252.51 Referred to in §§241.17, 249.12

252.6 Enforcement of liability. Upon the failure of such relatives so to relieve or maintain a poor person who has made application for relief, the township trustees, county social welfare board, or state division of old-age assistance may apply to the district court of the county where such poor person resides or may be, for an order to compel the same. [C51, §789; R60,§1357; C73,§1333; C97,§2218; C24, 27, 31, 35,§5302; C39,§3828.078; C46, 50, 54, 58, 62,

252.7 Notice—hearing. At least ten days notice in writing of the application shall be given to the parties sought to be charged, service thereof to be made as of an original notice, in which proceedings the county shall be plaintiff and the parties served defendants. No order shall be made affecting a person not served, but, as to such, notice may be given at any stage of the proceedings. The court may proceed in a summary manner to hear all the allegations and proofs of the parties, and order any one or more of the relatives who shall be able, to relieve or maintain him or her, charging them as far as practicable in the order above named, and for that purpose may bring in new parties when necessary. [C51,§§790-792; R60,§§1358-1360; C73,§§1334-1336; C97,§2219; C24, 27, 31, 35,§5303; C39,§3828.079; C46, 50, 54, 58, 62, §252.7]

Manner of service, R.C.P. 56 (a)

252.8 Scope of order. The order may be for the entire or partial support of the applicant, may be for the payment of money or the taking of the applicant to a relative's house, or may assign him or her for a certain time to one and for another period to another, as may be just and right, taking into view the means of the several relatives liable, but no such assignment shall be made to one who is willing to pay the amount necessary for support. If the order be for relief in any other form than money, it shall state the extent and value thereof per week, and the time such relief shall continue; or the order may make the time of continuance indefinite, and it may be varied from time to time by a new order, as circumstances may require, upon application to the court by the trustees, the poor person, or the relative affected, ten days notice thereof being given to the party or parties concerned. [C51, §§793-795; R60,§§1361-1363; C73,§§1337-1339; C97,§2219; C24, 27, 31, 35,§5304; C39,§3828.080; C46, 50, 54, 58, 62,§252.8]

252.9 Judgment-appeal. When money is ordered to be paid, it shall be paid to such person as the court may direct. If support be not rendered as ordered, the court upon such fact being shown by the affidavit of one or more of the proper trustees, may render judgment and order execution for the amount due, rating any support ordered in kind at the valuation previously made. An appeal may be taken from the judgment rendered to the supreme court. Support for later periods under the same order may be, as it becomes due, applied for and obtained in the same manner. [C51, §§796-798; R60,§§1364-1366; C73,§§1340-1342; C97,§2219; C24, 27, 31, 35,§5305; C39,§3828.081; C46, 50, 54, 58, 62, §252.9]

252.10 Abandonment—order as to property. When father or mother abandons any child, husband his wife, or wife her husband, leaving them a public charge or likely to become such, the trustees of the township, upon application to them, may make complaint to the district court or judge thereof in the county in which such abandoned person resides, or in which any property of such father, mother, husband, or wife is situated, for an order to seize such property, and, upon proof of the necessary facts, the court or judge shall issue an order, directed to the sheriff of the county, to take and hold possession of said property, subject to the further orders of the court, which order shall be executed by taking possession of chattel property wherever found, and shall entitle the officer serving the same to collect and hold the rents accruing upon real property. [C51,§§799, 800; R60,§§1367, 1368; C73, §§1343, 1344; C97, §2220; C24, 27, 31, 35, §5306; C39,§3828.082; C46, 50, 54, 58, 62,§252.10]

252.11 Preservation and release of lien. Statement of the issuance of the order and a description of any real estate sought to be affected thereby, shall be entered in the encumbrance book, and from the date thereof shall be superior in right to any conveyance or

lien created by the owner thereafter, and return shall be made of said order to the proper court, where the order of seizure, upon investigation, may be discharged or continued; if continued, the entire matter shall be subject to the control of the court, and it shall from time to time make such orders as to the disposition of the personal property seized, and the application of it or the proceeds thereof, as it may deem proper, and of the disposition of the rents and profits of the real estate. Should the party against whom the order issued thereafter resume his or her support of the person abandoned, or give bond with sureties, to be approved by the clerk, conditioned that such person shall not become chargeable to the county, the order shall be by the clerk discharged and the property remaining restored. [C51,§§801-804; R60,§§1369-1372; C73,§§1345-1348; C97,§2220; C24, 27, 31, 35,§5307; C39, §3828.083; C46, 50, 54, 58, 62,§252.11]

252.12 Trial by jury. In all cases the party sought to be charged with the support of another may demand a jury trial upon the question of his obligation and ability to render such support, the alleged abandonment, and the liability of the person abandoned to become a public charge; such trial to be had upon demand, which may be made at the time of the hearing of the application for the order, or at such other time as may be directed by the court, upon notice to the defendant. [C51,§805: R60,§1373; C73,§1349; C97,§2221; C24, 27, 31, 35, §5308; C39,§3828.084; C46, 50, 54, 58, 62,§252.12]

252,13 Recovery by county. Any county having expended any money for the relief or support of a poor person, under the provisions of this chapter, may recover the same from any of his kindred mentioned herein, from such poor person should he become able, or from his estate; from relatives by action brought within two years from the payment of such expenses, from such poor person by action brought within two years after becoming able, and from such person's estate by filing the claim as provided by law. [C51,§806; R60, §1374; C73,§1350; C97,§2222; C24, 27, 31, 35,§5309; C39,§3828.085; C46, 50, 54, 58, 62,§252.13]

Referred to in §252.14 Claims against estate,§633.410 et seq.

252.14 Homestead-when liable. When expenditures have been made for and on behalf of a poor person and his family, as contemplated by section 252.13, the homestead of such poor person is liable for such expenditures when such poor person dies without leaving a surviving husband or wife, or minor children. [C31, 35,§5309-c1; C39,§3828.086; C46, 50, 54, 58, 62, §252.14]

See also §561.21

252.15 Recovery by relative. A more distant relation, who may have been compelled to aid a poor person, may recover from any one or more of the nearer relatives, and one so compelled to aid may recover contribution from others in the same degree, and a recovery may be had against the poor person or his

estate, if, after such aid or support has been given, the person aided or supported becomes able to repay the same; but proceedings to recover therefor must be brought within two years from the time a cause of action accrues. [C51,§807; R60,§1375; C73,§1351; C97,§2223; C24, 27, 31, 35,§5310; C39,§3828.087; C46, 50, 54, 58, 62, §252, 151

252.16 Settlement-how acquired. A legal settlement in this state may be acquired as

1. Any person continuously residing in any county in this state for a period of one year acquires a settlement in that county.

2. Any person having acquired a settlement in any county of this state shall not acquire a settlement in any other county until such person shall have continuously resided in said

county for a period of one year.

3. Any such person who is an inmate of or is supported by any institution whether organized for pecuniary profit or not or any institution supported by charitable or public funds in any county in this state shall not acquire a settlement in said county unless such person before becoming an inmate thereof or being supported thereby has a settlement in said county.

4. A married woman has the settlement of her husband, if he has one in this state: if not. or if she lives apart from or is abandoned by him, she may acquire a settlement as if she were unmarried. Any settlement which the wife had at the time of her marriage may at her election be resumed upon the death of her husband, or if she be divorced or abandoned by him, if both settlements were in this

5. Legitimate minor children take the settlement of their father, if there be one, if not, then that of the mother.

6. Illegitimate children take the settlement of their mother, or, if she has none, then that of their putative father.

7. Any person with settlement in this state who enlists in or is inducted into the military or naval service of the United States shall retain such settlement during the period of his military or naval service. Any person without settlement in this state who is serving in said military or naval service within the borders of this state shall not acquire a settlement during

the period of such service.

8. The provisions of subsections 1, 2 and 3 of this section shall not apply to any blind person who is receiving assistance under the laws of this state. Any such person who has resided in any one county of this state for a period of six months shall have acquired legal settlement for support as provided in this chapter. [C51,§808; R60,§1376; C73,§1352; C97, §2224; C24, 27, 31, 35,§5311; C39,§3828.088; C46, 50, 54, 58, 62, §252.16]

Referred to in §§222.60, subsection 1, 347.16

252.17 Settlement continues. A legal settlement once acquired shall so remain until such person has removed from this state for more than one year or has acquired a legal settlement in some other county or state. [C51,§809; R60,§1377; C73,§1353; C97,§2224; C24, 27, 31, 35, §5312; C39,§3828.089; C46, 50, 54, 58, 62,§252.17]

252.18 Foreign paupers.

1. Any person who is a county charge or likely to become such, coming from another state and not having acquired a settlement in any county of this state or any such person having acquired a settlement in any county of this state who removes to another county, may be removed from this state or from the county into which such person has moved, as the case may be, at the expense of the county wherein said person is found, upon the petition of said county to the district or superior court of that county.

2. The court or judge shall fix the time and place of hearing on said petition and prescribe the time and manner of service of the notice

of such hearing.

3. If upon the hearing on said petition such person shall be ordered to remove from the state or county and fails to do so, he shall be deemed and declared in contempt of court and may be punished accordingly; or the judge may order the sheriff of the county seeking the removal to return such person to the state or county of his legal settlement. [C51,§811; R60,§1379; C73,§1354; C97,§2225; C24, 27, 31, 35, §5313; C39,§3828.090; C46, 50, 54, 58, 62,§252.18] Contempts, ch 665

252.19 Importation prohibited. If any person knowingly bring within this state or any county from another county in this state any pauper or poor person, with the intent of making him a charge on any of the townships or counties therein, he shall be fined not exceeding five hundred dollars, and be charged with his support. [C51,§2736; R60,§4379; C73,§4045; C97,§5009; C24, 27, 31, 35,§5314; C39,§3828.091; C46, 50, 54, 58, 62,§252.19]

252.20 and 252.21 Repealed by 58GA, ch 181,

252.22 Contest between counties. When relief is granted to a poor person having a settlement in another county, the auditor shall at once by mail notify the auditor of the county of his settlement of such fact, and, within fifteen days after receipt of such notice, such auditor shall inform the auditor of the county granting relief if the claim of settlement is disputed. If it is not, the poor person, at the request of the auditor or board of supervisors of the county of his settlement, may be maintained where he then is at the expense of such county, and without affecting his legal settlement.

All laws relating to the support of the poor as provided by this chapter shall be applicable to care, treatment, and hospitalization provided by county public hospitals. [C51,§§814, 816, 817; R60,§§1382, 1384, 1385; C73,§§1357, 1359, 1360; C97,§2228; C24, 27, 31, 35,§5317; C39, §3828.094; C46, 50, 54, 58, 62,§252.22]

Referred to in §232.53

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252.23 Trial. If the alleged settlement is disputed, then, within thirty days after notice thereof as above provided, a copy of the notices sent and received shall be filed in the office of the clerk of the district court of the county against which claim is made, and a cause docketed without other pleadings, and tried as an ordinary action, in which the county affording the relief shall be plaintiff, and the other defendant, and the burden of proof shall be upon the county granting the relief. [C51, §§816, 817; R60,§§1384, 1385; C73,§§1359, 1360; C97,§2228; C24, 27, 31, 35,§5318; C39,§3828.095; C46, 50, 54, 58, 62,§252.23]

Referred to in §232.53

252.24 County of settlement liable. The county where the settlement is shall be liable to the county rendering relief for all reasonable charges and expenses incurred in the relief and care of a poor person.

When relief as herein provided is furnished by any governmental agency of the county, township or city, such relief shall be deemed to have been furnished by the county in which such agency is located and the agency furnishing such relief shall certify the correctness of the costs of such relief to the board of supervisors of said county and said county shall collect from the county of such person's settlement. The amounts herein collected by said county shall be paid to the agency furnishing such relief. This statute as herein amended shall apply to services and supplies furnished as provided in section 139.30. [C51,§815; R60, §1383: C73.§1358: C97.§2229: C24, 27, 31, 35,§5319; C39,§3828.096; C46, 50, 54, 58, 62,§252.24]

252.25 Relief by trustees. The township trustees of each township, subject to general rules that may be adopted by the board of supervisors, shall provide for the relief of such poor persons in their respective townships as should not, in their judgment, be sent to the county home. [C73,§1361; C97,§2230; S13,§2230; C24, 27, 31, 35,§5320; C39,§3828.097; C46, 50, 54, 58, 62,§252.25]

Referred to in §252.31

252.26 Overseer of poor. The board of supervisors in any county in the state may appoint an overseer of the poor for any part, or all of the county, who shall have within said county, or any part thereof, all the powers and duties conferred by this chapter on the township trustees. Said overseer shall receive as compensation an amount to be determined by the county board and may be paid either from the general or poor fund of the county. [C73, §1361; C97,§2230; S13,§2230; C24, 27, 31, 35,§5321; C39,§3828.098; C46, 50, 54, 58, 62,§252.26]

Referred to in §252.31

252.27 Form of relief—condition. The relief may be either in the form of food, rent or clothing, fuel and lights, medical attendance, or in money. The amount of assistance issued to meet the needs of the person shall be determined by standards of assistance established

by the county boards of supervisors. They may require any able-bodied person to labor faithfully on the streets or highways at the prevailing local rate per hour in payment for and as a condition of granting relief; said labor shall be performed under the direction of the officers having charge of working streets and highways. [C73,§1361; C97,§2230; S13,§2230; C24, 27, 31, 35,§5322; C39,§3828.099; C46, 50, 54, 58, 62,§252.27]

Referred to in §252.31

252.28 Medical services. When medical services are rendered by order of the trustees or overseers of the poor, no more shall be charged or paid therefor than is usually charged for like services in the neighborhood where such services are rendered. [C73,§1361; C97,§2230; S13,§2230; C24, 27, 31, 35,§5323; C39,§3828.100; C46, 50, 54, 58, 62,§252.28]

40ExGA, HF 140, \$12, editorially divided Referred to in \$252.31

252.29 Interest prohibited. No supervisor, trustee, or employee of the county, shall be directly or indirectly interested in any supplies furnished the poor. [C97,§2230; S13,§2230; C24, 27, 31, 35,§5324; C39,§3828.101; C46, 50, 54, 58, 62, §252.29]

Referred to in §252.31 Similar provisions, §§15.3, 18.4, 86.7, 262.10, 314.2, 347.15, 368A.22, 372.16, 403.16, 403A.22, 553.23, 741.8, 741.11

252.30 Special privileges to soldiers and others. No person who has served in the army or navy of the United States, or their widows or families, requiring public relief shall be sent to the county home when they can and prefer to be relieved to the extent above provided, and other persons and families may, at the discretion of the board, also be so relieved. [C73, §1362; C97,§2231; S13,§2231; C24, 27, 31, 35,§5325; C39,§3828.102; C46, 50, 54, 58, 62,§252.30]

Referred to in \$252.81

252.31 County expense. All moneys expended as contemplated in sections 252.25 to 252.30, inclusive, shall be paid out of the county treasury, after the proper account rendered thereof shall have been approved by the boards of the respective counties, and in all cases the necessary appropriations therefor shall be made by the respective counties. But the board may limit the amount thus to be furnished. [C73, §1363; C97,§2232; C24, 27, 31, 35,§5326; C39, §3828.103; C46, 50, 54, 58, 62,§252.31]

252.32 Township trustees—duty. The trustees in each township, in counties where there is no county home, have the oversight and care of all poor persons in their township, and shall see that they receive proper care until provided for by the board of supervisors. [C51, 8819; R60,§1387; C73,§1364; C97,§2233; S13,§2233; C24, 27, 31, 35,§5327; C39,§3828.104; C46, 50, 54, 58, 62,§252.32]

252.33 Application for relief. The poor may make application for relief to a member of the board of supervisors, or to the overseer of the poor, or to the trustees of the township where

they may be. If application be made to the township trustees and they are satisfied that the applicant is in such a state of want as requires relief at the public expense, they may afford such temporary relief, subject to the approval of the board of supervisors, as the necessities of the person require and shall report the case forthwith to the board of supervisors, who may continue or deny relief, as they find cause. [C51,§820; R60,§1388; C73, §1365; C97,§2234; S13,§2234; C24, 27, 31, 35, §5328; C39,§3828.105; C46, 50, 54, 58, 62,§252.33] Referred to in §252.34

252.34 Allowance by board. The board of supervisors may examine into all claims, including claims for medical attendance, allowed by the township trustees for the support of the poor, and if they find the amount allowed by said trustees to be unreasonable, exorbitant, or for any goods or services other than for the necessaries of life, they may reject or diminish the claim as in their judgment would be right and just. This section shall apply to all counties in the state, whether there are county homes established in the same or not. This and section 252.33 shall apply to acts of overseers of poor in cities as well as to township trustees. [C51,§820; R60,§1388; C73,§1365; C97, §2234; S13,§2234; C24, 27, 31, 35,§5329; C39, §3828.106; C46, 50, 54, 58, 62, §252.34]

252.35 Payment of claims. All claims and bills for the care and support of the poor shall be certified to be correct by the proper trustees and presented to the board of supervisors, and, if they are satisfied that they are reasonable and proper, they shall be paid out of the county treasury. [C51,§821; R60,§1389; C73,§1366; C97,§2235; C24, 27, 31, 35,§5330; C39,§3828.107; C46, 50, 54, 58, 62,§252.35]

Referred to in §347.16

252.36 Annual allowance. If a poor person of mature years and sound mind is likely to become a charge, the board may pay him such an annual allowance as will not exceed the cost of maintenance in the ordinary way. [C51, §822; R60,§1390; C73,§1367; C97,§2236; C24, 27, 31, 35,§5332; C39,§3828.108; C46, 50, 54, 58, 62,§252.36]

252.37 Appeal to supervisors. If any poor person, on application to the trustees, be refused the required relief, he may apply to the board of supervisors, who, upon examination into the matter, may direct the trustees to afford relief, or it may direct specific relief. [C51,§823; R60,§1391; C73,§1368; C97,§2237; C24, 27, 31, 35,§5333; C39,§3828.109; C46, 50, 54, 58, 62, §252.37]

252.38 Contracts for support. The board of supervisors may make contracts with the lowest responsible bidder for furnishing any or all supplies required for the poor, for a term not exceeding one year, or it may enter into a contract with the lowest responsible bidder, through proposals opened and examined at a regular session of the board, for the support of any or all the poor of the county for one

year at a time, and may make all requisite orders to that effect, and shall require all such contractors to give bonds in such sum as it believes sufficient to secure the faithful performance of the same. [C51,§825; R60,§1393; C73,§1369; C97,§2238; C24, 27, 31, 35,§5334; C39,§3828.110; C46, 50, 54, 58, 62,§252.38]

252.39 Medical and dental service. The board of supervisors may make contracts with any reputable and responsible person licensed to practice medicine or dentistry in this state to furnish medical or dental attendance or services required for the poor, for any term not exceeding one year, and shall require all such contractors to give bonds in a company authorized to do business in this state in such sum as it believes sufficient to secure the faithful performance of such contracts. [C31, 35, §5334-c1; C39,§3828.111; C46, 50, 54, 58, 62, §252.39]

See also §150.9

252.40 Supervision. When a contract is made for the support of any or all the poor, the board shall, from time to time, appoint some person to examine and report upon the manner the poor are kept and treated, which shall be done without notice to the person contracting for their support, and if upon due notice and inquiry the board find that the poor are not reasonably and properly supported and cared for, it may, at a regular or special session, set aside the contract, making proper allowances for the time it has been in force. [C51,826; R60,\$1394; C73,\$1370; C97,\$2239; C24, 27, 31, 35, \$5335; C39,\$3828.112; C46, 50, 54, 58, 62,\$252.40]

252.41 Employment. Any such contractor may employ a poor person in any work for which he is physically able, subject to the control of the board of supervisors, who may place said contractor under the supervision of the township trustees. [C51,8827; R60,81395; C73,81371; C97,82240; C24, 27, 31, 35,85336; C39, §3828.113; C46, 50, 54, 58, 62,8252.41]

252.42 Co-operation on work-relief projects. Notwithstanding the provisions of any laws to the contrary, the county board of supervisors shall have the power to use the poor fund to join and co-operate with the United States government, and/or cities and towns within their boundaries, or both the United States government and cities and towns within their boundaries, in sponsoring work projects, provided that the money used from the poor fund for such purposes does not exceed the cost permonth of supplying relief to the certified persons working on projects who would be receiving direct relief if they were not employed on said work projects. [C46, 50, 54, 58, 62,§252.42]

252.43 Poor tax. The expense of supporting the poor shall be paid out of the county treasury in the same manner as other disbursements for county purposes; and in case the ordinary revenue of the county proves insufficient for the support of the poor, the board may levy a poor tax, not exceeding one and

one-half mills on the dollar, to be entered on the tax list and collected as the ordinary coun-

Should the one and one-half mill levy fail to provide adequate funds to take care of the poor, then the board of supervisors, with the approval of the state comptroller, shall levy an additional tax of not to exceed three mills, to be entered on the tax list and collected as the ordinary county tax. Before any such additional levy is made, a showing of the necessity for such additional levy shall be made to the state comptroller and no such additional levy shall be made unless it shall be approved in writing by the comptroller.

The expense of support for the poor for Indians residing on a reservation in this state shall be paid from funds of the state department of social welfare. To administer such support for Indians residing on a reservation, the state department of social welfare shall have the powers and duties assigned to county officials by this chapter, or the department may designate the director of social welfare in the county where such Indians reside to administer such relief. [C51,8844; R60,81412; C73,81381; C97,82247; S13,82247; C24, 27, 31, 35,85337; C39,83828,114; C46, 50, 54, 58, 62,8252,43]

Excess expenditures legalized, 45GA, ch 170 Transfers to poor fund, §24.22

CHAPTER 252A

UNIFORM SUPPORT OF DEPENDENTS LAW

252A.1 Title and purpose.

252A.2 Definitions.

252A.3 Husband liable for support.

252A.4 Jurisdiction.

252A.5 When proceeding may be maintained.

252A.6 How commenced—trial.

252A.7 Petitioner's representatives to appear.

252A.8 Additional remedies.

252A.9 Construction.

252A.10 Costs advanced.

252A.11 Custody of respondent.

252A.12 Exchange lists of courts.

252A.1 Title and purpose. This chapter may be cited and referred to as the "Uniform Support of Dependents Law."

The purpose of this uniform chapter is to secure support in civil proceedings for dependent wives, children and poor relatives from persons legally responsible for their support. [C50, 54, 58, 62,§252A.1]

- 252A.2 Definitions. As used in this chapter, unless the context shall require otherwise, the following terms shall have the meanings ascribed to them by this section:
- 1. "State" shall mean and include any state, territory or possession of the United States and the District of Columbia.
- 2. "Court" shall mean and include a family court, domestic relations court, children's court, municipal court and any other court, by whatever name known, in any state having reciprocal laws or laws substantially similar to this chapter upon which jurisdiction has been conferred to determine the liability of persons for the support of dependents within and without such state.
- 3. "Child" includes a stepchild, foster child or legally adopted child and means a child actually or apparently under seventeen years of age, and a child over seventeen years of age who is unable to maintain himself and is likely to become a public charge.
- 4. "Dependent" shall mean and include a wife, child, mother, father, grandparent or grandchild who is in need of and entitled to support from a person who is declared to be legally liable for such support by the laws of the state or states wherein the petitioner and the respondent reside.

- 5. "Petitioner" shall mean and include each dependent person for whom support is sought in a proceeding instituted pursuant to this chapter.
- 6. "Respondent" shall mean and include each person against whom a proceeding is instituted pursuant to this chapter.
- 7. "Petitioner's representative" shall mean and include a corporation counsel, county attorney, state's attorney, commonwealth attorney and any other public officer, by whatever title his public office may be known, charged by law with the duty of instituting, maintaining or prosecuting a proceeding under this chapter or under the laws of the state or states wherein the petitioner and the respondent reside.
- 8. "Summons" shall mean and include a subpoena, warrant, citation, order or other notice, by whatever name known, provided for by the laws of the state or states wherein the petitioner and the respondent reside as the means for requiring the appearance and attendance in court of the respondent in a proceeding instituted pursuant to this chapter.
- 9. "Initiating state" shall mean the state of domicile or residence of the petitioner.
- 10. "Responding state" shall mean the state wherein the respondent resides or is domiciled or found. [C50, 54, 58, 62,§252A.2]

253A.3 Husband liable for support. For the purpose of this chapter:

1. A husband in one state is hereby declared to be liable for the support of his wife and any child or children under seventeen years of age and any other dependent residing or found in the same state or in another state having sub-

stantially similar or reciprocal laws, and, if possessed of sufficient means or able to earn such means, may be required to pay for their support a fair and reasonable sum according to his means, as may be determined by the court having jurisdiction of the respondent in a proceeding instituted under this chapter.

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- 2. A mother in one state is hereby declared to be liable for the support of her child or children under seventeen years of age residing or found in the same state or in another state having substantially similar or reciprocal laws, whenever the father of such child or children is dead, or cannot be found, or is incapable of supporting such child or children, and, if she is possessed of sufficient means or able to earn such means, she may be required to pay for the support of such child or children a fair and reasonable sum according to her means, as may be determined by the court having jurisdiction of the respondent in a proceeding instituted under this chapter.
- 3. The parents in one state are hereby declared to be severally liable for the support of a child seventeen years of age or older residing or found in the same state or in another state having substantially similar or reciprocal laws, whenever such child is unable to maintain himself and is likely to become a public charge.
- 4. A child or children born of parents who, at any time prior or subsequent to the birth of such child, have entered into a civil or religious marriage ceremony, shall be deemed the legitimate child or children of both parents, regardless of the validity of such marriage.
- 5. A child or children born of parents who held or hold themselves out as husband and wife by virtue of a common law marriage recognized as valid by the laws of the initiating state and of the responding state shall be deemed the legitimate child or children of both parents.
- 6. A woman who was or is held out as his wife by a man by virtue of a common law marriage recognized as valid by the laws of the initiating state and of the responding state shall be deemed the legitimate wife of such man.
- 7. Notwithstanding the fact that the respondent has obtained in any state or country a final decree of divorce or separation from his wife or a decree dissolving his marriage, the respondent shall be deemed legally liable for the support of any dependent child of such marriage.
- 8. Duties of support applicable under this chapter are those imposed or imposable underthe laws of any state where the respondent was present during the period for which support is sought. The respondent is presumed to have been present in the responding state during the period for which support is sought until otherwise shown. [C50, 54, 58, 62, \$252A.3]

252A.4 Jurisdiction. For the purposes of this chapter:

- 1. The court shall have jurisidiction regardless of the state of last residence or domicile of the petitioner and the respondent and whether or not the respondent has ever been a resident of the initiating state or the dependent person has ever been a resident of the responding state.
- 2. The court of the responding state shall have the power to order the respondent to pay sums sufficient to provide necessary food, shelter, clothing, care, medical or hospital expenses, expenses of confinement, expenses of education of a child, funeral expenses and such other reasonable and proper expenses of the petitioner as justice requires, having due regard to the circumstances of the respective parties.
- 3. The courts of both the initiating state and the responding state shall have the power to order testimony to be taken in either or both of such states by deposition or written interrogatories, and to limit the nature of and the extent to which the right so to take testimony shall be exercised, provided that the respondent is given a full and fair opportunity to answer the allegations of the petitioner. [C50, 54, 58, 62,§252A.4]
- 252A.5 When proceeding may be maintained. A proceeding to compel support of a dependent may be maintained under this chapter in any of the following cases:
- 1. Where the petitioner and the respondent are residents of or domiciled or found in the same state.
- 2. Where the petitioner resides in one state and the respondent is a resident of or is domiciled or found in another state having substantially similar or reciprocal laws.
- 3. Where the respondent is not and never was a resident of or domiciled in the initiating state and the petitioner resides or is domiciled in such state and the respondent is believed to be a resident of or domiciled in another state having substantially similar or reciprocal laws.
- 4. Where the respondent was or is a resident of or domiciled in the initiating state and has departed or departs from such state leaving therein a dependent in need of and entitled to support under this chapter and is believed to be a resident of or domiciled in another state having substantially similar or reciprocal laws.
- 5. Whenever the state or a political subdivision thereof furnishes support to a dependent, it has the same right through proceedings instituted by the petitioner's representative to invoke the provisions hereof as the dependent to whom the support was furnished, for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support; the petition in such case may be verified by any official having knowledge of such expenditures and consent of the dependent shall not be required in order to institute proceedings under this chapter. [C50, 54, 58, 62,§252A.5]

252A.6 How commenced-trial.

- 1. A proceeding under this chapter shall be commenced by a petitioner, or a petitioner's representative, by filing a verified petition in the court in equity in the county of the state wherein he resides or is domiciled, showing the name, age, residence and circumstances of the petitioner, alleging that he is in need of and is entitled to support from the respondent, giving his name, age, residence and circumstances, and praying that the respondent be compelled to furnish such support. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent including, but without limitation by enumeration, a photograph of the respondent, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, or social security number.
- 2. If the respondent be a resident of or domiciled in such state and the court has or can acquire jurisdiction of the person of the respondent under existing laws in effect in such state, such laws shall govern and control the procedure to be followed in such proceeding.
- 3. If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or his property, it shall so certify and shall cause three copies of (a) the petition (b) its certificate and (c)this chapter to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.
- 4. When the court of this state, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall docket the cause, notify the county attorney or other official acting as petitioner's representative, set a time and place for a hearing, and take such action as is necessary in accordance with the laws of this state to serve notice and thus obtain jurisdiction over the respondent. If a court of the state, acting as a responding state, is unable to obtain jurisdiction of the respondent or his property due to inaccuracies or inadequacies in the petition or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal to trace the respondent or his property, and shall hold the case pending the receipt of more accurate information or an

amended petition from the court in the initiating state.

- 5. It shall not be necessary for the petitioner or the petitioner's witnesses to appear personally at such hearing, but it shall be the duty of the petitioner's representative of the responding state to appear on behalf of and represent the petitioner at all stages of the proceeding.
- 6. If at such hearing the respondent controverts the petition and enters a verified denial of any of the material allegations thereof, the judge presiding at such hearing shall stay the proceedings and transmit to the judge of the court in the initiating state a transcript of the clerk's minutes showing the denials entered by the respondent.
- 7. Upon receipt by the judge of the court in the initiating state of such transcript, such court shall take such proof, including the testimony of the petitioner and the petitioner's witnesses and such other evidence as the court may deem proper, and, after due deliberation, the court shall make its recommendation, based on all of such proof and evidence, and shall transmit to the court in the responding state an exemplified transcript of such proof and evidence and of its proceedings and recommendation in connection therewith.
- 8. Upon the receipt of such transcript, the court in the responding state shall resume its hearing in the proceeding and shall give the respondent a reasonable opportunity to appear and reply.
- 9. Upon the resumption of such hearing, the respondent shall have the right to examine or cross-examine the petitioner and the petitioner's witnesses by means of depositions or written interrogatories, and the petitioner shall have the right to examine or cross-examine the respondent and the respondent's witnesses by means of depositions or written interrogatories.
- 10. If a respondent, duly summoned by a court in the responding state, willfully fails without good cause to appear as directed in the summons, he shall be punished in the same manner and to the same extent as is provided by law for the punishment of a defendant or witness who willfully disobeys a summons or subpoena duly issued out of such court in any other action or proceeding cognizable by said court.
- 11. If, on the return day of the summons, the respondent appears at the time and place specified therein and fails to answer the petition or admits the allegations thereof, or, if, after a hearing has been duly held by the court in the responding state in accordance with the provisions of this section, such court has found and determined that the prayer of the petitioner, or any part thereof, is supported by the evidence adduced in the proceeding, and that the petitioner is in need of and entitled to support from the respondent, the court shall make and enter an order directing the respon-

dent to furnish support to the petitioner and to pay therefor such sum as the court shall determine, having due regard to the parties' means and circumstances. An exemplified copy of such order shall be transmitted by the court to the court in the initiating state and such copy shall be filed with and made a part of the records of such court in such proceeding. The court shall place the respondent on probation on such terms and conditions as the court may deem proper or necessary to assure faithful compliance by the respondent with such order. The court shall also have power to require the respondent to furnish recognizance in the form of a cash deposit or surety bond in such amount as the court may deem proper and just to assure the payment of the amount required to be paid by the respondent for the support of the petitioner.

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- 12. The court making such order may require the respondent to make payment at specified intervals to the clerk of the district court, or to the dependent, or to any state or county agency, and to report personally to the sheriff or any other official, at such times as may be deemed necessary.
- 13. A respondent who shall willfully fail to comply with or violate the terms or conditions of the support order or of his probation shall be punished by the court in the same manner and to the same extent as is provided by law for a contempt of such court or a violation of probation ordered by such court in any other suit or proceeding cognizable by such court.
- 14. The court of this state when acting as a responding state shall have the following duties which may be carried out through the clerk of the court: Upon receipt of a payment made by the respondent pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and upon request to furnish to the court of the initiating state a certified statement of all payments made by the respondent.
- 15. Any order of support issued by a court of the state acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.
- 16. The court of the initiating state shall receive and accept all payments made by the respondent to the probation department or bureau of the court of the responding state and transmitted by the latter on behalf of the respondent. Upon receipt of any such payment, and under such rules as the court of the initiating state may prescribe, the court, or its probation department or bureau, as the court may direct, shall deliver such payment to the

dependent person entitled thereto, take a proper receipt and acquittance therefor, and keep a permanent record thereof. [C50, 54, 58, 62, §252A.6]

- 252A.7 Petitioner's representatives to appear. It shall be the duty of all petitioner's representatives of this state to appear in this state on behalf of and represent the petitioner in every proceeding pursuant to this chapter, at the time the petition is filed and at all stages of the proceeding thereafter, and to obtain and present such evidence or proof as may be required by the court in the initiating state or the responding state. [C50, 54, 58, 62,§252A.7]
- 252A.8 Additional remedies. This chapter shall be construed to furnish an additional or alternative civil remedy and shall in no way affect or impair any other remedy, civil or criminal, provided in any other statute and available to the petitioner in relation to the same subject matter. [C50, 54, 58, 62,§252A.8]
- **252A.9** Construction. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it. [C50, 54, 58, 62, §252A.9]

Constitutionality, 53GA, ch 103,§10

- 252A.10 Costs advanced. Actual costs incurred in this state incidental to any action brought under the provisions of this chapter shall be advanced by the initiating party or agency unless otherwise ordered by the court. Where the action is brought by an agency of the state or county there shall be no filing fee. [C58, 62,§252A.10]
- 252A.11 Custody of respondent. When the court of this state, acting either as an initiating or responding state, has reason to believe that the respondent may flee the jurisdiction it may as an initiating state request in its certificate that the court of the responding state obtain the body of the respondent by appropriate process if that be permissible under the law of the responding state; or, it may as a responding state, obtain the body of the respondent by appropriate process. [C58, 62,§252A.11]
- 252A.12 Exchange lists of courts. The state department of social welfare is hereby designated as the state information agency under this chapter, and it shall be its duty to compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar Act and to maintain a register of such lists received from other states. [C58, 62,8252A.12]

CHAPTER 600 ADOPTION

Referred to in \$244.9 Birth certificates of adopted children, ch 144

600.1 Who may adopt—petition.

600.2 Investigation—minimum residence. 600.3 Consent to adoption.

600.4 Notice of hearing.

600.5 Decree—change of name.

600.6 Status of the adopted child.

600.7 Annulment.

600.8 Records of adoption.

600.9 Sealing record—order of court to open.

600.10 Disclosure—penal provisions.

600.1 Who may adopt—petition. Any person of lawful age may petition the district court of the county in which he or the child resides for permission to adopt any child not his own, but no person other than the parent of a child may assume the permanent care and custody of a child under fourteen years of age except in accordance with the provisions of this chapter or chapter 238. If the petitioner be married, the spouse shall join in the petition unless such spouse is a natural parent of the child. An adult may be adopted, and only such provisions of this chapter shall apply thereto as the court may order. The judges of the district court may designate a municipal court judge to act as judge in adoption matters with jurisdiction in cases arising in the county in which such municipal court is organized.

The petition for adoption shall be verified and filed in triplicate and shall state the name, age, race, residence and religious faith as nearly as may be of the petitioner or petitioners and of the child; the marital status of the petitioner or petitioners; the property rights of the child; the name to be given the child after adoption; if the child be an orphan the name and place of residence of its guardian, if any, and if none, of its next of kin; the name of any licensed child-placing agency as defined in chapter 238, to which such child has been permanently committed or released; the relationship of the child to the petitioner or petitioners; and the facts disclosing consent as required in this section and in section 600.3. The clerk of the court shall forthwith transmit two copies of said petition to the state department of social welfare, or the designated qualified person or agency as directed by the court except in cases of children under the jurisdiction of the board of control of state institutions, and excepting adult adoptions and cases where the investigation is waived by the court as authorized by this chapter. Provided that where the state department does not otherwise receive the petition, the clerk shall immediately forward one copy thereof to the department. [R60,§2600; C73,§2307; C97,§3250; C24, §10496; C27, 31, 35,§10501-b1; C39,§10501.1; C46, 50, 54, 58, 62, §600.1]

ment of custody, §238.26 et seq.

600.2 Investigation - minimum residence. The state department of social welfare, or a qualified person or agency named by the court, after an order of the court, shall proceed to verify the allegations of the petition; to investigate the conditions and antecedents of the child for the purpose of ascertaining whether he is a proper subject for adoption; and to make appropriate inquiry to determine whether the proposed foster home is a suitable one for the child. The investigation shall be completed and a report with recommendations made to the court within sixty days from the date of the filing of the petition. No petition shall be granted until the investigation is completed. Nothing herein contained shall prevent the court from conducting any other investigation which it may deem necessary or proper. No petition shall be granted until the child shall have lived for twelve months in the proposed home. Such period of residence may be shortened by the court upon good cause shown when satisfied that the proposed home and the child are suited to each other. The state department of social welfare may, and upon order of the court shall, make a further investigation during the period of residence and a final report with recommendations to the court. The investigation and period of residence may be waived by the court where the petitioner or one of the petitioners is related to the child within the third degree of consanguinity or where the petitioner is married to a natural parent of the child. [C27, 31, 35,§10501-b2; C39,§10501.2; C46, 50, 54, 58, 62, §600.2]

600.3 Consent to adoption. No person may assign, relinquish, or otherwise transfer to another his rights or duties with respect to the permanent care or custody of a child under fourteen years of age except in accordance with this chapter. The consent of both parents shall be given to such adoption unless one is dead, or is considered hopelessly mentally ill, or is imprisoned for a felony, or is an inmate or keeper of a house of ill fame, or unless the parents are not married to each other, or unless the parent or parents have signed a release of the child in accordance with the statute on child placing, or unless one or both of the parents have been deprived of the custody of the child by judicial procedure because of unfitness to be its guardian. If not married to each other, the parent having the care and providing for the wants of the child may give consent. If the child is not in the custody of either parent, but is in the care of a duly appointed guardian, then the consent of such guardian shall be necessary. Where the child is a ward of the state in a state institution the consent of the board of control of state institutions shall be first obtained before said adoption shall be effective. If the child has been given by written release to a licensed child welfare agency in accordance with the statute on child placing, the consent of the agency to whom the release was made shall be necessary. If the parents have been deprived of the custody of the child by a final order of court which has not been appealed, reversed or remanded, and which is not then appealable and the child has not been placed by the court in the custody of the state or a licensed child-placing welfare agency, the court, which has removed the child from the custody of its parents, may give consent to its adoption, upon notice to such person or persons and given in such manner as the court may prescribe. When the child adopted is fourteen years of age or over, his consent shall also be necessary. The consent shall be in writing and verified and a copy shall be attached to the petition. The consent shall refer to and be applicable only to the specific adoption proposed by such petition. Minority of a parent shall not invalidate a consent. [R60, §2601; C73,§2308; C97,§3251; C24,§10497; C27, 31, 35,§10501-b3; C39,§10501.3; C46, 50, 54, 58, 62, \$600.31

Referred to in §600.1 Child-placing agencies, ch 238 Consents before January 1, 1957, legalized, 57GA, ch 257,§1

600.4 Notice of hearing. When the parents of any minor child are dead or have abandoned him, and he has no guardian in the state, the court may order such notice of a hearing on such petition as he may determine or such notice may be waived. The court shall provide for such hearings in adoption proceedings as may be necessary and shall prescribe notice thereof. All hearings in adoption proceedings shall be private and conducted only in the presence of those persons designated by the court. Upon the time of filing said petition of

adoption, such notice of pendency of adoption proceedings as the court shall prescribe shall be given to a divorced parent not having custody of the child. [C27, 31, 35,§10501-b4; C39, §10501.4; C46, 50, 54, 58, 62, §600.4]

600.5 Decree—change of name. If upon the hearing the court shall be satisfied as to the identity and relationship of the persons concerned, and that the petitioners are able to properly rear and educate the child, and that the petition should be granted, a decree shall be entered in the office of the clerk, setting forth the facts including as far as known the name of the child, of its parents and of the persons adopting it, and the name under which the child is thereafter to be known, and ordering that from the date thereof, the child shall be the child of the petitioners. The clerk shall deliver to the foster parents a certified copy of the decree. If desired, the court, in and by said decree, may change the name of the child. [R60,§2601; C73,§2308; C97,§3251; C24,§10498; C27, 31, 35,§10501-b5; C39,§10501.5; C46, 50, 54, 58, 62, §600.51

600.6 Status of the adopted child. Upon the entering of such decree, the rights, duties, and relationships between the child and parent by adoption shall be the same that exist between parents and child by lawful birth and the right of inheritance from each other shall be the same as between parent and children born in lawful wedlock. [R60,\$2603; C73,\$2310; C97, \$3253; S13,\$3253; C24,\$10500; C27, 31, 35.\$10501 -b6; C39,§10501.6; C46, 50, 54, 58, 62,§600.6]

Referred to in §§241.17, 249.12

600.7 Annulment. If within five years after the adoption, a child develops mental retardedness, epilepsy, mental illness, or venereal infection, or an otherwise permanent and serious disability as a result of conditions existing prior to the adoption, and of which the adopting parent has no knowledge or notice, a petition setting forth such facts may be filed with the district court of the county where the adoptive parents are residing. If upon hearing the facts alleged are proved, the court may annul the adoption and refer the child to the juvenile court or take such other action as the case may require. In every such proceeding it shall be the duty of the county attorney to represent the interests of the child. [C27, 31, 35,§10501 -b7; C39,§10501.7; C46, 50, 54, 58, 62,§600.7]

600.8 Records of adoption. The findings of the court in any petition for adoption shall be made a complete record and same shall be filed as are other records of the court, but in addition thereto, the clerk of court shall cause two copies thereof to be sent to the state board of social welfare and also to the state board of control when the child for adoption is a ward of the state. [R60,§2602; C73,§2309; C97,§3252; C24,§10499; C27, 31, 35,§10501-b8; C39,§10501.8; C46, 50, 54, 58, 62, §600.8]

600.9 Sealing record—order of court to open. The complete record in adoption proceedings, after filing with the clerk of the court, shall be

sealed by said clerk, and the record shall not thereafter be opened except on order of the court. [C46, 50, 54, 58, 62,§600.9]

600.10 Disclosure—penal provisions. Every person, excepting adopting parents or adopted child, who discloses any information contained in any adoption papers or proceedings except as may be authorized by order of court and every person who violates any of the provisions of this chapter or who intentionally shall make any false statements with reference to the matters contained herein, shall be guilty of a misdemeanor and upon conviction shall be punished accordingly. [C50, 54, 58, 62, §600.101

CHAPTER 731 DESERTION AND ABANDONMENT OF WIFE AND CHILDREN Referred to in §675.29

731.1 "Desertion" defined.

731.2 Husband or wife may be witness.

731.3 Release on bond conditioned on support.

731.4 Annulment of bond.

731.5 Failure of undertaking—commitment release.

731.6 Prima-facie evidence.

731.7 Exposing and abandoning child.

731.1 "Desertion" defined. Every person who shall, without good cause, willfully neglect or refuse to maintain or provide for his wife, she being in a destitute condition, or who shall, without good cause, abandon his or her legitimate or legally adopted child or children under the age of sixteen years, leaving such child or children in a destitute condition, or shall, without good cause, willfully neglect or refuse to provide for such child or children, they being in a destitute condition, shall be deemed guilty of desertion and, upon conviction, shall be punished by imprisonment in the penitentiary for not more than one year, or by imprisonment in the county jail for not more than six months. [S13,§4775-a; C24, 27, 31, 35, 39,§13230; C46, 50, 54, 58, 62,§731.1]

731.2 Husband or wife may be witness. In all prosecutions under this chapter, the husband or wife shall be a competent witness for the state and may testify to any relevant acts or communications between them, anything in previous statutes to the contrary notwithstanding, provided, however, that no husband or wife shall be called or compelled to testify against the other under this chapter except upon consent of such witness. [S13,§4775-b; C24, 27, 31, 35, 39,§13231; C46, 50, 54, 58, 62, §731.21

General prohibition, §622.7

731.3 Release on bond conditioned on support. If after arrest and before trial, or after conviction and before sentence, the party so arrested or convicted shall appear before the court in which the case is pending or the conviction had, and enter into a bond to the state in a sum to be fixed by the court, which in no event shall exceed the sum of one thousand dollars, with or without sureties as may be determined by the court, conditioned that such husband will furnish said wife with a necessary and proper home, food, care, and clothing, or that such parent will furnish his or her child or children with a necessary and proper home, food, care, and clothing, then said court may release the defendant. [S13,§4775-c; C24, 27, 31, 35, 39,§13232; C46, 50, 54, 58, 62,§731.3] S13,§4775-c, editorially divided 731.4 Annulment of bond. Said bond shall

remain in force so long as the court deems the same necessary; and whenever it shall appear to said court by affidavit or otherwise that such husband or parent is in good faith furnishing his wife, child, or children with the necessary and proper home, food, care, and clothing, the court may annul the said bond. [S13,§4775-c; C24, 27, 31, 35, 39,§13233; C46, 50, 54, 58, 62, §731.4]

731.5 Failure of undertaking—commitment -release. Upon failure of said husband or parent to comply with his undertaking he or she may be arrested by the sheriff or other officer upon a warrant issued from the court in which the case is pending or the conviction was had and the court may thereupon order a forfeiture of the undertaking and that the defendant be tried or committed in execution of the sentence, or for good cause shown may release the defendant upon a new undertaking. [S13,§4775-d; C24, 27, 31, 35, 39,§13234; C46, 50, 54, 58, 62, §731.51

731.6 Prima-facie evidence. Proof of the desertion of wife, child, or children in destitute or necessitous circumstances or of neglect to furnish such wife, child, or children necessary and proper food, clothing, or shelter, shall be prima-facie evidence that such desertion or neglect was willful. [S13,§4775-e; C24, 27, 31, 35, 39,§13235; C46, 50, 54, 58, 62,§731.6]

731.7 Exposing and abandoning child. If the father or mother of any child under the age of six years, or any person to whom such child has been entrusted or confided, expose such child in any highway, street, field, house, or outhouse, or in any other place, with intent wholly to abandon it, he or she, upon conviction thereof, shall be imprisoned in the penitentiary not exceeding five years. [C51,§2589; R60,§4212; C73,§3870; C97,§4766; C24, 27, 31, 35, 39,§13236; C46, 50, 54, 58, 62,§731.7]

CHAPTER 731A WANTON NEGLECT OF CHILDREN

731A.1 Wanton neglect unlawful. 731A.2 Definition.

731A.3 Punishment. 731A.4 Jurisdiction and appeal. **731A.1** Wanton neglect unlawful. Wanton neglect on the part of a parent in the care or supervision of his or her child under the age of eighteen years shall be unlawful. [C50, 54, 58, 62,§731A.1]

Referred to in §§731A.2, 731A.3

731A.2 Definition. "Wanton neglect" as contemplated by section 731A.1 is willful neglect of such a nature, arising under such circumstances as a parent of ordinary intelligence actuated by normal and natural concern for the welfare of the child would not permit or be a party to. [C50, 54, 58, 62,§731A.2]

731A.3 Punishment. A violation of section 731A.1 shall be punishable by a fine of not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days. [C50, 54, 58, 62,§731A.3]

731A.4 Jurisdiction and appeal. Juvenile courts shall have jurisdiction in the prosecu-

tion of the offense set forth herein, though the defendant or defendants in such actions be adults. Said proceedings in juvenile court shall be commenced by filing a sworn complaint or information and the matter shall be tried summarily and without a jury. Provided, however, that prior to the filing of such complaint or information the probation officer for the territory in question, or the county attorney, shall make such investigation as he may deem necessary, and no such complaint or information shall be filed without the approval of such probation officer or county attorney, except by order of a judge of the juvenile court. Any defendant convicted upon such trial shall have the right of appeal and trial de novo, including the right of trial by jury, in the district court, the same as in case of appeals thereto from the justice courts. [C50, 54, 58, 62,§731A.4]

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