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SOCIAL SERVICES LAWS

State of Iowa

November, 1973

Office of Public Information

**Iowa Department of Social Services
Lucas State Office Building
Des Moines, Iowa 50319**

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TABLE OF CONTENTS

This publication is a reprint of those laws governing the Department of Social Services as written in the 1973 Code of Iowa. Where sections are typewritten they are the changes noted in the first regular session of the 65th General Assembly, which convened in January, 1973.

This booklet is designed solely for the use of our social workers, probation and parole people, and others who must refer to the Code often, but cannot always carry the bulky two volume Code with them.

Therefore, the reprint has been edited to include only those chapters and revisions which might be used on a day to day basis.

The Code of Iowa will next be printed in 1975. In 1974, following the conclusion of the 2nd session of the 65th G.A., we will compile a further update which you will be expected to enter in this booklet.

<u>PAGE</u>	<u>CHAPTER TITLE</u>	<u>CODE CHAPTER AND PAGES</u>
1	Health Care Facilities	135C, 647-654
8	Social Welfare and Rehabilitation	217, 948-951
16	Government of Institutions	218, 951-963
28	Interstate Mental Health Compact	218A, 963-966
32	Soldiers' Home	219, 967-969
35	Interagency Information Service on Mentally Handicapped	220A, 969-970
36	Mental Retardation Comprehensive Plan	221, 971
37	Mentally Retarded Persons	222, 971-982
51	Iowa Security Medical Facility	223, 982-983
53	Drug Addicts	224, 983
55	Treatment of Drug Addiction or Dependency	224A, 984-985
57	Psychopathic Hospital	225, 985-990
62	Criminal Sexual Psychopaths	225A, 990-991
64	Iowa Mental Health Authority	225B, 992
65	State Mental Health Institutes	226, 993-997
70	County and Private Hospitals for Mentally Ill	227, 998-1000
73	Commission of Hospitalization	228, 1000-1001
75	Commitment and Discharge of Mentally Ill Persons	229, 1001-1008
82	Support of the Mentally Ill	230, 1008-1012
87	Juvenile Court	231, 1013-1020
95	Neglected, Dependent and Delinquent Children	232, 1020-1030
105	Contributing to Juvenile Delinquency	233, 1030-1031
106	Child and Family Services	234, 1031-1034
111	Child Welfare	235, 1034-1035
113	Abuse of Children	235A, 1036-1037
115	Maternity Hospitals	236, 1037-1040

<u>PAGE</u>	<u>CHAPTER TITLE</u>	<u>CODE</u>	<u>CHAPTER AND PAGES</u>
118	Children's Boarding Homes	237,	1040-1041
120	Child-Placing Agencies	238,	1041-1047
126	Aid to Dependent Children	239,	1048-1052
132	Private Institutions for Neglected, Dependent and Delinquent Children	240,	1052-1053
134	Aid for the Blind	241,	1053-1057
139	Aid to Disabled Persons	241A,	1057-1060
142	Training Schools	242,	1060-1061
144	Iowa Juvenile Home and the Iowa Annie Wittenmeyer Home	243,244,	1062-1063
146	Women's Reformatory	245,	1064-1065
148	Penitentiary and Men's Reformatory	246,	1065-1069
153	Correctional Release Center	246A,	1070
153	Paroles	247,	1070-1074
159	Work Release for Inmates of Institutions	247A,	1075-1076
161	Pardons, Commutations, Remission of Fines and Forfeitures, and Restoration to Citizenship	248,	1076-1077
163	Unnumbered Senate File 115 Relating to Disclosure of Criminal History and Intelligence Data and Providing Penalties		
170	Unnumbered Senate File 26 Relating to Sentencing in Criminal Cases; Relating to Probation and the Conditions Thereof; Providing a Procedure for Restitution as a Condition of Probation; Providing a Procedure for Deferring Judgment in Particular Cases; Relating to the Conditions of Parole; and Providing Procedures Necessary Thereto		
178	Old Age Assistance	249,	1077-1087
182	Medical Assistance	249A,	1087-1091
188	Commission on the Aging	249B,	1091-1092
190	Work and Training Program	249C,	1092-1094
192	Commission of Veteran Affairs	250,	1094-1096
195	Emergency Relief Administration	251,	1097-1098
197	Support of the Poor	252,	1098-1103
204	Uniform Support of Dependent Law	252A,	1103-1107
209	County Homes	253,	1107-1108
211	Tuberculosis Patients	254,	1108-1110
213	Medical and Surgical Treatment of Indigent Persons	255,	1110-1114
218	Eligibility of Persons Receiving Public Assistance	403A.23,	1815
218	Suspension of Taxes	427.9,	1960
219	Tax Levies (County Mental Health and Institutions Fund)	444.12,	2013
221	Dissolution of Marriage	598,	2905-2910
226	Adoption	600,	2911-2913
229	Desertion and Abandonment of Wife and Children	731,	3260-3261
230	Wanton Neglect of Children	731A,	3261-3262
231	Infringement of Civil Rights	735,	3265-3266

CHAPTER 135C

HEALTH CARE FACILITIES

Referred to in §§170.38, 229.43, 230.32, 241.26, 241A.17, 249.49, 249A.9, 368.27
Amendments to this chapter by 63GA, 2nd session, are effective July 1, 1971
Extent of prior licenses, 63GA, ch 1079, §28

- 135C.1 Definitions.
- 135C.2 Purpose.
- 135C.3 Nature of care.
- 135C.4 Custodial homes.
- 135C.5 Health care facilities, etc.
- 135C.6 License required.
- 135C.7 Application—fees.
- 135C.8 Scope of license.
- 135C.9 Inspection before issuance.
- 135C.10 Denial, suspension or revocation.
- 135C.11 Notice—hearings.
- 135C.12 Conditional operation.
- 135C.13 Appeal.
- 135C.14 Rules and regulations.
- 135C.15 Time to comply.
- 135C.16 Inspections.
- 135C.17 Duties of other departments.
- 135C.18 Employees.
- 135C.19 Confidential information.
- 135C.20 Information distributed.
- 135C.21 Penalty.
- 135C.22 Applicable to governmental units.
- 135C.23 Express requirements for admission or residence.
- 135C.24 Personal property or affairs of patients or residents.
- 135C.25 Care review committee.
- 135C.26 Commissioner notified of casualties.
- 135C.27 Federal funds to implement program.
- 135C.28 Conflicting statutes.

135C.1 Definitions.

1. "Adult foster home" means any private dwelling or other suitable place providing for a period exceeding twenty-four consecutive hours accommodation, board, and supervision, for which a charge is made, to not more than two individuals, not related to the owner or occupant of the dwelling or place within the third degree of consanguinity, who by reason of age, illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves, but who are essentially capable of managing their own affairs.

2. "Boarding home" means any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, and supervision to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of age, illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves, but who are essentially capable of managing their own affairs.

3. "Custodial home" means any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, and personal assistance in feeding, dressing, and other essential daily living activities to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of age, illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs, but who do not require the daily services of a registered or licensed practical nurse.

4. "Basic nursing home" means any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, and personal care and treatment or simple nursing care to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of age, illness, disease, or physical or mental infirmity require domiciliary care, simple nursing care, or occasional skilled nursing care, but who do not require hospital or skilled nursing home care.

5. "Intermediate nursing home" means any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, and nursing care and supporting services as directed by a physician to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of age, illness, disease, or physical or mental infirmity require continuous nursing care and related medical services, or occasional skilled nursing care, but who do not require hospital care.

6. "Skilled nursing home" means any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, and the health care services necessary for certification as a skilled nursing home under Title XIX of the United States Social Security Act (Title XLII, United States Code, sections 1396 through 1396g), as amended to January 1, 1970, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity.

7. "Extended care facility" means any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, and the health care services necessary for certification as an extended care facility under Title XVIII of the United States Social Security Act (Title XLII, United States Code, sections 1395 through 1395ll), as amended to January 1, 1970, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity.

8. "Health care facility" or "facility" means any adult foster home, boarding home, custodial home, basic nursing home, intermediate nursing home, skilled nursing home, or extended care facility.

Referred to in §204.501

9. "Patient" means an individual admitted to a basic nursing home, intermediate nursing home, skilled nursing home, or extended care facility in the manner prescribed by section 135C.23 for care requiring, at a minimum, the daily services of a registered or licensed practical nurse.

10. "Resident" means an individual admitted to a health care facility in the manner prescribed by section 135C.23, who does not require the daily services of a registered or licensed practical nurse. An employee of, or an individual related within the third degree of consanguinity to the administrator or owner of, a health care facility shall not be deemed a resident thereof for the purposes of this chapter solely by reason of being provided living quarters within such facility.

11. "Physician" means a person licensed to practice medicine and surgery, osteopathy and surgery or osteopathy under the laws of this state.

12. "Commissioner" means the commissioner of public health appointed pursuant to section 135.2.

13. "Department" means the state department of health.

14. "Person" means any individual, firm, partnership, corporation, company, association or joint stock association; and includes trustee, receiver, assignee or other similar representative thereof.

15. "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board or other agency of any of the foregoing. [C50, 54, 58, 62, 66, 71, §135C.1]

Referred to in §§80.27, 100.1(4), 100.35, 103.1, 135C.6, 148A.3, 152.2(5), 204.501, 347.14, 347.26, 380.15, 404.10(7), 444.12(3)

135C.2 Purpose.

1. The purpose of this chapter is to promote and encourage adequate and safe care and housing for individuals who are aged or who, regardless of age, are infirm, convalescent, or mentally or physically dependent, by both public and private agencies by providing for the adoption and enforcement of rules and standards:

a. For the housing, care and treatment of individuals in health care facilities, and

b. For the location, construction, maintenance, renovation, and sanitary operation of such health care facilities which will promote safe and adequate care of individuals in such homes so as to further the health, welfare and safety of such individuals.

2. Rules and standards prescribed, promulgated and enforced under this chapter shall not be arbitrary, unreasonable or confiscatory and the department or agency prescribing, promulgating or enforcing such rules or standards shall have the burden of proof to establish that such rules or standards meet such requirements and are consistent with the economic problems and conditions involved in the care and housing of persons in nursing homes and custodial homes. [C50, 54, §135C.5; C58, 62, 66, 71, §135C.2]

135C.3 Nature of care. Each facility licensed as an extended care facility, a skilled nursing home, an intermediate nursing home, or a basic nursing home, shall provide an organized continuing twenty-four hour program of nursing care commensurate with the needs of the patients and under the immediate direction of a licensed physician, licensed registered nurse or licensed practical nurse licensed by the state of Iowa, whose combined training and supervised experience is such as to assure adequate and competent nursing

direction. Medical and nursing care shall be under the direction of either a "house physician" or individually selected physicians, but surgery or obstetrical care shall not be provided within the home. All admissions to extended care facilities, skilled nursing homes, intermediate nursing homes, and basic nursing homes shall be based on an order written by a physician certifying that the individual being admitted requires no greater degree of nursing care than the facility to which the admission is made is capable of providing. [C58, 62, 66, 71, §135C.3]

135C.4 Custodial homes. Each facility licensed as a custodial home or boarding home shall provide an organized continuous twenty-four hour program of care commensurate with the needs of the residents of the home and under the immediate direction of a person whose combined training and supervised experience is such as to ensure adequate and competent care. All admissions to custodial homes, boarding homes, or adult foster homes shall be based on an order written by a physician certifying that the individual being admitted does not require nursing care. [C50, 54, §135C.9; C58, 62, 66, 71, §135C.4]

Persons not admitted to nursing homes, see §135C.3

135C.5 Health care facilities, etc. No other business or activity shall be carried on in a health care facility, nor in the same physical structure with a health care facility except as hereinafter provided, unless such business or activity is directly related to or necessary for the operation of the health care facility. No business or activity which is operated within the limitations of this section shall interfere in any manner with the use of the facility by the patients or residents, nor be disturbing to them. Any part of such business or activity open to customers other than patients or residents of the health care facility shall be physically separated from the facility, and an entrance shall be provided for such customers so that they do not pass through the health care facility in entering or leaving the area where such business or activity is conducted. [C58, 62, 66, 71, §135C.5]

135C.6 License required.

1. No person or governmental unit acting severally or jointly with any other person or governmental unit shall establish or operate a health care facility in this state without a license for such facility.

2. A health care facility suitable for separation and operation with distinct parts may, where otherwise qualified in all respects, be issued multiple licenses authorizing various parts of such facilities to be operated as health care facilities of different license categories.

3. No change in a health care facility, its operation, program, or services, of a degree or character affecting continuing licensability shall be made without prior approval thereof by the department. The department may by rule specify the types of changes which shall not be made without its prior approval.

4. No department, agency, or officer of this state or of any of its political subdivisions shall pay or approve for payment from public funds

§135C.6, HEALTH CARE FACILITIES

any amount or amounts to a health care facility under any program of state aid in connection with services provided or to be provided an actual or prospective patient or resident in a health care facility, unless the facility has a current license issued by the department and meets such other requirements as may be in effect pursuant to law.

5. No health care facility established and operated in compliance with law prior to July 1, 1970, shall be required to change its corporate or business name by reason of the definitions prescribed in section 135C.1, provided that no health care facility shall at any time represent or hold out to the public or to any individual that it is licensed as, or provides the services of, a health care facility of a type offering a higher grade of care than such health care facility is licensed to provide. Any health care facility which, by virtue of this section, operates under a name not accurately descriptive of the type of license which it holds shall clearly indicate in any printed advertisement, letterhead, or similar material, the type of license which it has in fact been issued. No health care facility established or renamed after July 1, 1971, shall use any name indicating that it holds a higher type of license than it has been issued. [C50, 54, §135C.2; C58, 62, 66, 71, §135C.6]

135C.7 Application—fees. Licenses shall be obtained from the department. Applications shall be upon such forms and shall include such information as the department may reasonably require, which may include affirmative evidence of compliance with such other statutes and local ordinances as may be applicable. Each application for license shall be accompanied by the annual license fee prescribed by this section, subject to refund to the applicant if the license is denied, which fee shall be paid over into the state treasury and credited to the general fund if the license is issued. There shall be an annual license fee based upon the bed capacity of the health care facility, as follows:

- 1. For extended care facilities, skilled nursing homes, intermediate nursing homes, and basic nursing homes having a total of:
 - a. Ten beds or less, ten dollars.
 - b. More than ten and not more than twenty-five beds, twenty dollars.
 - c. More than twenty-five and not more than seventy-five beds, thirty dollars.
 - d. More than seventy-five and not more than one hundred fifty beds, forty dollars.
 - e. More than one hundred fifty beds, fifty dollars.
- 2. For adult foster homes, boarding homes, and custodial homes, having a total of:
 - a. Ten beds or less, five dollars.
 - b. More than ten and not more than twenty-five beds, ten dollars.
 - c. More than twenty-five and not more than seventy-five beds, fifteen dollars.
 - d. More than seventy-five and not more than one hundred fifty beds, twenty dollars.

e. More than one hundred fifty beds, twenty-five dollars. [C50, 54, §135C.3, 135C.4; C58, 62, 66, 71, §135C.7]

Referred to in §135C.8

135C.8 Scope of license. Licenses for health care facilities shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the department, obtained prior to the purchase of the facility involved. Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by regulation of the department. Such licenses, unless sooner suspended or revoked, shall expire one year after the date of issuance and shall be renewed annually upon an application by the licensee. Applications for such renewal shall be made in writing to the department, accompanied by the required fee, at least thirty days prior to the expiration of such license in accordance with regulations promulgated by the department. Health care facilities which have allowed their licenses to lapse through failure to make timely application for renewal of their licenses shall pay an additional fee of twenty-five percent of the annual license fee prescribed in section 135C.7. [C50, 54, §135C.5; C58, 62, 66, 71, §135C.8]

135C.9 Inspection before issuance. The department shall not issue a health care facility license to any applicant until:

1. The department has ascertained that the staff and equipment of the facility is adequate to provide the care and services required of a health care facility of the category for which the license is sought. Prior to the review and approval of plans and specifications for any new facility and initial licensing under a new licensee, a resumé of the programs and services to be furnished and of the means available to the applicant for providing the same and for meeting requirements for staffing, equipment, and operation of the health care facility, with particular reference to the professional requirements for services to be rendered, shall be submitted in writing to the department for review and approval.

2. The facility has been inspected by the state fire marshal or his deputy for such purpose, the appointment of whom, including members of municipal fire departments, is hereby authorized, and the department has received a certificate signed by such marshal or his deputy that the premises comply with the fire-hazard and fire-safety rules, regulations and standards of the department as promulgated by the fire marshal.

The rules, regulations and standards shall be substantially in keeping with the latest generally recognized safety criteria for the facilities covered, of which the applicable criteria recommended and published from time to time by the national fire protection association shall be prima-facie evidence. [C50, 54, §135C.6; C58, 62, 66, 71, §135C.9]

135C.10 Denial, suspension or revocation. The department shall have the authority to deny, suspend, or revoke a license in any case where the department finds that there has been a failure to comply with the provisions of this chapter or the rules, regulations or minimum standards promulgated hereunder, or for any of the following reasons:

1. Cruelty or indifference to the welfare of health care facility residents or patients.

2. Appropriation or conversion of the property of a health care facility resident or patient without his written consent or the written consent of his legal guardian.

3. Evidence that the moral character of the applicant, manager or supervisor of the health care facility is not reputable.

4. Permitting, aiding, or abetting the commission of any illegal act in health care facility.

5. Inability or failure to operate and conduct the health care facility in accordance with the requirements of this chapter and the minimum standards, rules and regulations issued pursuant thereto.

6. Obtaining or attempting to obtain or retain a license by fraudulent means, misrepresentation, or by submitting false information.

7. Habitual intoxication or addiction to the use of drugs by the applicant, manager or supervisor of the health care facility.

8. Securing the devise or bequest of the property of a patient in a health care facility by undue influence. [C50, 54, §135C.6; C58, 62, 66, 71, §135C.10]

135C.11 Notice—hearings. Such denial, suspension, or revocation shall be effected by mailing to the applicant or licensee by certified mail or by personal service of a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or licensee, within such thirty-day period, shall give written notice to the department requesting a hearing, in which case the notice shall be deemed to be suspended. If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the department. At any time at or prior to the hearing the department may rescind the notice of the denial, suspension or revocation upon being satisfied that the reasons for the denial, suspension or revocation have been or will be removed. On the basis of any such hearing, or upon default of the applicant or licensee, the determination involved in the notice may be affirmed, modified, or set aside by the department. A copy of such decision shall be sent by certified mail, or served personally upon the applicant or licensee. The decision shall become final thirty days after it is so mailed or served, unless the applicant or licensee, within such thirty-day period, appeals

the decision to the court, pursuant to section 135C.13.

The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the department. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to section 135C.13. A copy or copies of the transcript may be obtained by an interested party upon payment of the cost of preparing such copy or copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the aforesaid rules. The commissioner may, with the advice and consent of the care review committee established pursuant to section 135C.25, remove all residents and patients and suspend the license or licenses of any health care facility, prior to a hearing, when he finds that the health or safety of residents or patients of the health care facility requires such action on an emergency basis. [C50, 54, §135C.6; C58, 62, 66, 71, §135C.11]

135C.12 Conditional operation. In any case where the department shall have the authority to deny, suspend or revoke a license, the department shall have the authority to conditionally issue or continue a license dependent upon the performance by the licensee of such reasonable conditions within such reasonable period of time as may be set by the department so as to permit the licensee to commence or continue the operation of the health care facility pending his full compliance with this chapter or any regulations issued hereunder. In such case, if the licensee does not make diligent efforts to comply with such conditions as prescribed, the department may, under the proceedings hereinbefore prescribed, suspend or revoke the license. No health care facility shall be operated on a conditional license for more than one year. The department, in evaluating corrections of deficiencies in a facility, may determine what is satisfactory compliance, provided that in so doing it shall employ established criteria which shall be uniformly applied to all facilities of the same license category. [C58, 62, 66, 71, §135C.12]

135C.13 Appeal. Any applicant or licensee who is dissatisfied with the decision of the commissioner as a result of the hearing procedure provided herein may appeal the decision within thirty days after the mailing or serving of notice of the decision by filing a notice of appeal in the district court of the county where the facility or proposed facility is located, and by serving a copy of said notice of appeal upon the department. Thereupon the department shall within thirty days certify and file with the court a copy of the record and decision, including the transcript of the hearings on which the decision is based. The trial before the court shall be de novo and all legal evidence pertaining to the matter of

§135C.13, HEALTH CARE FACILITIES

whether or not such license shall be denied, suspended, or revoked, as the case may be, may be submitted including new or additional evidence not submitted to the commissioner, and the court shall have power to affirm, modify, or reverse the decision of the commissioner. Pending final disposition of the matter the status quo of the applicant or licensee shall be preserved except when the commissioner, with the advice and consent of the care review committee established pursuant to section 135C.25, determines that the health, safety or welfare of the residents or patients of the facility are in immediate danger, in which case he may order the immediate removal of such residents or patients. [C58, 62, 66, 71, §135C.13]

Referred to in §135C.11

135C.14 Rules and regulations. The department may adopt by reference nationally recognized standards and rules or otherwise amend, promulgate and enforce rules setting minimum standards for health care facilities. Such rules and standards shall be formulated in consultation with the commissioner of social services or his designee, and shall be designed to further the accomplishment of the purposes of this chapter and shall relate to:

1. Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other housing conditions, which shall ensure the health, safety and comfort of residents and protection from fire hazards. Such rules and standards regarding location and construction of the home may impose requirements in excess of those provided in chapter 413 but shall not impose requirements less than those provided by such chapter. The rules of the department relating to protection from fire hazards and fire safety shall be promulgated by the state fire marshal, and shall be in keeping with the latest generally recognized safety criteria for the facilities covered of which the applicable criteria recommended and published from time to time by the national fire protection association shall be prima-facie evidence.

2. Number and qualifications of all personnel, including management and nursing personnel, having responsibility for any part of the care provided to residents or patients.

3. All sanitary conditions within the facility and its surroundings including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents or patients.

4. Diet related to the needs of each resident or patient and based on good nutritional practice and on recommendations which may be made by the physician attending the resident or patient.

5. Equipment essential to the health and welfare of the resident or patient. [C50, 54, §135C.5; C58, 62, 66, 71, §135C.14]

135C.15 Time to comply. Any health care facility which is in operation at the time of

adoption or promulgation of any applicable rules or minimum standards under this chapter shall be given reasonable time from the date of such promulgation to comply with such rules and minimum standards as provided for by the department. Renovation of an existing health care facility, not already in compliance with all applicable standards, shall be permitted only if the fixtures and equipment to be installed and the services to be provided in the renovated portion of the facility will conform substantially to current operational standards. Construction of an addition to an existing health care facility shall be permitted only if the design of the structure, the fixtures and equipment to be installed, and the services to be provided in the addition will conform substantially to current construction and operational standards. [C58, 62, 66, 71, §135C.15]

135C.16 Inspections. The department shall make or cause to be made such further inspections as it may deem necessary, and shall prescribe by rule that any licensee or applicant for license desiring to make specific types of physical or functional alterations or additions to its facility or to construct new facilities shall, before commencing such alteration or additions or new construction, submit plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to the compliance with the rules and standards herein authorized. An inspector of the department, department of social services, county board of social welfare or fire marshal, may enter any licensed health care facility without a warrant. If any such inspector has probable cause to believe that any institution, place, building, or agency not licensed as a health care facility is in fact a health care facility as defined by this chapter, and upon properly identifying himself he is denied entry thereto for the purpose of making an inspection, he may, with the assistance of the county attorney of the county in which the purported health care facility is located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been any violations of this chapter. [C58, 62, 66, 71, §135C.16]

135C.17 Duties of other departments. It shall be the duty of the department of social services, state fire marshal, and the officers and agents of other governmental units to assist the department in carrying out the provisions of this chapter, insofar as the functions of these respective offices and departments are concerned with the health, welfare, and safety of any resident or patient of any health care facility. [C58, 62, 66, 71, §135C.17]

135C.18 Employees. The department may employ, pursuant to chapter 19A, such assistants and inspectors as may be necessary to administer and enforce the provisions of this chapter. [C58, 62, 66, 71, §135C.18]

135C.19 Confidential information. Information received by the department through reports, inspection, or as otherwise authorized in this chapter shall not be disclosed publicly in such manner as to identify individuals or health care facilities without the written authorization of the licensee involved except in a proceeding involving the question of licensure or in the matter of the denial, suspension, or revocation of a license. [C58, 62, 66, 71, §135C.19]

135C.20 Information distributed. The department shall prepare, publish and send to licensed health care facilities an annual report of its activities and operations under this chapter and such other bulletins containing fundamental health principles and data as may be deemed essential to assure proper operation of health care facilities, and publish for public distribution copies of the laws, standards and rules pertaining to their operation. [C58, 62, 66, 71, §135C.20]

135C.21 Penalty. Any person establishing, conducting, managing, or operating any health care facility without a license shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months, or both. Each day of continuing violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense. Any such person establishing, conducting, managing or operating any health care facility without a license may be by any court of competent jurisdiction temporarily or permanently restrained therefrom in any action brought by the state. [C50, 54, §135C.7; C58, 62, 66, 71, §135C.21]

Constitutionality, 57GA, ch 93, §22
Prior licenses, see 57GA, ch 93, §23

135C.22 Applicable to governmental units. The provisions of this chapter shall be applicable to institutions operated by or under the control of the department of social services, the state board of regents, or any other governmental unit. [C50, 54, §135C.8; C58, 62, 66, 71, §135C.22]

135C.23 Express requirements for admission or residence. No individual shall be admitted to or permitted to remain in a health care facility as a patient or resident, except in accordance with the requirements of this section.

1. Each patient or resident shall be covered by a contract executed at the time of admission or prior thereto by the patient or resident, or his legal representative, and the health care facility. Each party to the contract shall be entitled to a duplicate original thereof, and the health care facility shall keep on file all contracts which it has with patients or residents and shall not destroy or otherwise dispose of any such contract for at least one year after its expiration or such longer period as the department may by rule require. Each such contract shall expressly set forth:

a. The terms of the contract.

b. The services and accommodations to be provided by the health care facility and the rates or charges therefor.

c. Specific descriptions of any duties and obligations of the parties in addition to those required by operation of law.

d. Any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter.

2. No health care facility shall knowingly admit or retain any patient or resident:

a. Who is dangerous to himself or other patients or residents.

b. Who is in an active or acute stage of alcoholism, drug addiction, mental illness, or communicable disease.

c. Whose condition or conduct is such that he would be unduly disturbing to other patients or residents.

d. Who is in need of medical procedures, as determined by a physician, or services, as determined by the care review committee, which cannot be carried out in the facility.

3. Except in emergencies, a patient or resident who is not essentially capable of managing his own affairs shall be transferred out of a health care facility or discharged for any reason only after prior notification to the next of kin, legal representative, or agency acting on the patient's or resident's behalf. When such next of kin, legal representative, or agency cannot be reached or refuses to cooperate, proper arrangements shall be made by the home for the welfare of the patient or resident before his transfer or discharge.

4. No owner, administrator, employee, or representative of a health care facility shall pay any commission, bonus, or gratuity in any form whatsoever, directly or indirectly, to any person for patients or residents referred to such facility. [C71, §135C.23]

Referred to in §135C.1(9, 10)

135C.24 Personal property or affairs of patients or residents. The admission of a patient or resident to a health care facility and his presence therein shall not in and of itself confer on such facility, its owner, administrator, employees, or representatives any authority to manage, use, or dispose of any property of the patient or resident, nor any authority or responsibility for the personal affairs of the patient or resident, except as may be necessary for the safety and orderly management of the facility and as required by this section.

1. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee or conservator for any patient or resident of such facility, or any of such patient's or resident's property, unless such patient or resident is related to the person acting as guardian within the third degree of consanguinity.

§135C.24, HEALTH CARE FACILITIES

2. A health care facility shall provide for the safekeeping of personal effects, funds and other property of its patients or residents, provided that whenever necessary for the protection of valuables or in order to avoid unreasonable responsibility therefor, the facility may require that they be excluded or removed from the premises of the facility and kept at some place not subject to the control of the facility.

3. A health care facility shall keep complete and accurate records of all funds and other effects and property of its patients or residents received by it for safekeeping.

4. Any funds or other property belonging to or due a patient or resident, or expendable for his account, which are received by a health care facility shall be trust funds, shall be kept separate from the funds and property of the facility and of its other patients or residents, or specifically credited to such patient or resident, and shall be used or otherwise expended only for the account of the patient or resident. Upon request the facility shall furnish the patient or resident, the guardian, trustee or conservator, if any, for any patient or resident, or any governmental unit or private charitable agency contributing funds or other property on account of any patient or resident, a complete and certified statement of all funds or other property to which this subsection applies detailing the amounts and items received, together with their sources and disposition. [C71, §135C.24]

135C.25 Care review committee. Each health care facility shall have a care review committee, established in accordance with the rules of the department, which shall periodically

review the needs of each individual patient or resident of the facility. The composition of the care review committee shall be in accordance with rules of the department, which shall in formulating such rules give consideration to the needs of patients and residents of each license category of health care facility and the services facilities of each category are authorized to render. [C71, §135C.25]

Referred to in §§135C.11, 135C.13

135C.26 Commissioner notified of casualties. The commissioner shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing major injury or death, and any fire or natural or other disaster occurring in a health care facility. [C71, §135C.26]

135C.27 Federal funds to implement program. If the department's services are necessary in order to assist another governmental unit to implement a federal program, the department may accept in compensation for such services federal funds initially available from the federal government to such other governmental unit for such purpose. Any governmental unit is authorized to transfer to the department for such services any federal funds available to such governmental unit, in accordance with applicable federal laws and regulations. [C71, §135C.27]

135C.28 Conflicting statutes. Provisions of this chapter in conflict with the state building code shall not apply where the state building code has been adopted or when the state building code applies throughout the state. [64GA, ch 1030, §27]

TITLE XI

SOCIAL WELFARE AND REHABILITATION

CHAPTER 217

DEPARTMENT OF SOCIAL SERVICES

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| 217.1 Programs of department. | 217.12 Additional powers of director. |
| 217.2 Council on social services. | 217.13 Director of division of corrections. |
| 217.3 Duties of council. | 217.14 Additional powers and duties. |
| 217.4 Meetings of council. | 217.15 Director of division of administration. |
| 217.5 Commissioner of social services. | 217.16 Co-operation with other divisions. |
| 217.6 Rules and regulations. | 217.17 Director of division of planning. |
| 217.7 Directors of divisions. | 217.18 Official seal. |
| 217.8 Division of child and family services. | 217.19 Expenses. |
| 217.9 Additional duties. | 217.20 Trips to other states. |
| 217.10 Director must be psychiatrist. | 217.21 Annual report. |
| 217.11 Institutions governed. | |

217.1 Programs of department. There is hereby established a department of social services to administer programs designed to improve the well-being and productivity of the people of the state of Iowa. The department shall concern itself with the problems of human behavior, adjustment and daily living through the administration of programs of family, child and adult welfare, economic assistance (including costs of medical care), rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of adult and juvenile offenders, care and treatment of the mentally ill and mentally retarded, and other related programs as provided by law. [C71,§217.1]

217.2 Council on social services. There is hereby created within the department of social services a council on social services which shall act in a policy-making and advisory capacity on matters within the jurisdiction of the department. The council shall consist of five members appointed by the governor with the consent of two-thirds of the senate. Appointments shall be made on the basis of interest in public affairs, good judgment, and knowledge and ability in the field of social services. Such appointments shall be made to provide a diversity of interest and point of view in the membership and without regard to religious opinions or affiliations. The term of each member of the council shall be for six years, except that those initially appointed shall serve as follows:

One member shall serve until June 30, 1969.

Two members shall serve until June 30, 1971.

Two members shall serve until June 30, 1973.

Each term shall commence on July 1 of the year of appointment.

All members of the council shall be electors of the state of Iowa. No more than three such members shall belong to the same political party and no two such members shall, at the time of appointment, reside in the same congressional district. Vacancies occurring during a term of office shall be filled in the same manner as the original appointment for the balance of the unexpired term subject to confirmation by two-thirds of the senate within sixty days of convening at its next regular session. [C71,§217.2]

217.3 Duties of council. The council of social services shall:

1. Organize annually and select a chairman and vice-chairman.

2. Adopt and establish policy for the operation and conduct of the department of social services and the implementation of all services and programs thereunder.

3. Report immediately to the governor any failure by the commissioner or any director of the department of social services to carry out any of the policy decisions or directives of the council.

4. Approve the budget of the department of social services prior to submission to the governor.

5. Insure that all programs administered or services rendered by the department directly to any citizen or through a local board of welfare to any citizen are co-ordinated and integrated so that any citizen does not receive a duplication of services from various departments or local agencies that could be rendered by one department or local agency. If the council finds that such is not the case, it shall hear and determine which department or local agency shall provide the needed service or services and enter an order of their determination by resolution of the council which must be concurred in by at least a majority of the members. Thereafter such order or resolution of the council shall be obeyed by all state departments and local agencies to which it is directed.

6. Adopt all necessary rules and regulations recommended by the commissioner or directors of divisions hereinafter established prior to their promulgation pursuant to chapter 17A.

7. Approve the establishment of any new division or reorganization, consolidation or abolition of any established division prior to the same becoming effective.

8. Recommend to the governor the names of individuals qualified for the position of commissioner of social services when a vacancy exists in the office. [C71,§217.3]

217.4 Meetings of council. The council shall meet at least four times a year. Special meetings shall be called by the chairman or upon written request of any three members thereof.

The chairman shall preside at all meetings or in his absence the vice-chairman shall preside. The members of the council shall be paid a per diem or forty dollars per day while in session, ten cents a mile for travel, and their reasonable and necessary expenses while attending such meetings. The amount of per diem any one member may receive in any fiscal year beginning with the date of employment shall not exceed eight hundred dollars. [C71,§217.4]

Powers of board of control and board of social welfare transferred, 62GA, ch 209,§5
Governor's executive order, 62GA, ch 209,§6

217.5 Commissioner of social services. There shall be a commissioner of social services who shall be the chief administrative officer for the department of social services. He shall be appointed by the governor with the approval and confirmation of two-thirds of the senate and shall serve at the pleasure of the governor. The governor shall fill a vacancy in this office in the same manner, as the original appointment. If the vacancy occurs while the general assembly is not in session, such appointment shall be reported to the senate within thirty days of its convening at its next regular session for confirmation. Such commissioner shall be selected primarily for his administrative ability.

He shall not be selected on the basis of his political affiliation and shall not engage in political activity while he holds this position. [C71,§217.5]

217.6 Rules and regulations. The commissioner is hereby authorized to recommend to the council for adoption such rules and regulations as are necessary to carry into practice the programs of the various divisions and to establish such divisions and to assign or reassign duties, powers, and responsibilities within his department, all with the approval of the council of social services, within his department as he deems necessary and appropriate for the proper administration of the duties, functions and programs with which the department is charged. Any action taken, decision made, or administrative rule adopted by any director of a division may be reviewed by the commissioner. The commissioner, upon such review, may affirm, modify, or reverse any such action, decision, or rule. The commissioner shall organize the department of social services into divisions to carry out in efficient manner the intent of this chapter.

NEW SECTION. The commissioner of social services or his designee, shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the department. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and

shall be subject to the provisions of chapter nineteen A (19A) of the Code.

In a county having more than 250,000 population, an agreement in existence on June 1, 1973 between the county and an employee organization representing employees who become subject to the preceding paragraph of this section shall remain in effect with respect to such employees for a period ending December 31, 1974.

The department of social services may be initially divided into the following divisions of responsibility: The division of child and family services, the division of mental health, the division of administration, the division of corrections and the division of planning, research and statistics. [C71,§217.6]

217.7 Directors of divisions. The commissioner may appoint a director of each of the aforementioned divisions. Such directors shall be selected on the basis of their particular professional qualifications, education and background relative to the intended assigned responsibilities of their division. [C71,§217.7]

217.8 Division of child and family services. The director of the division of child and family services shall be qualified by training, experience and education in the field of welfare and social problems. He shall be entrusted with the administration of programs involving neglected, dependent and delinquent children, child welfare, aid to dependent children, aid to disabled persons and shall administer and be in control of the Iowa juvenile home, The Iowa Annie Wittenmyer Home, the state juvenile home, the state training schools for boys and for girls, the Iowa soldiers home and such other related programs established for the general welfare of families, adults and children as directed by the commissioner. [C50, 54, 58, 62, 66,§218.79; C71,§217.8]

217.9 Additional duties. The director of the division of child and family services may have the additional following duties, powers and responsibilities:

1. Develop a program of basic education, recreation, vocational training and guidance for social adjustment.
2. Administer programs and statutes involved with child placement, employment and supervision of state boards.
3. Prepare a budget and such report or reports as required by law or as directed by the commissioner.
4. Develop a program in corrective institutions for juveniles designed to rehabilitate the inmates and patients and institute a program of placement and parole supervision for all parolees of said corrective institutions for juve-

niles. [C50, 54, 58, 62, 66, §218.80; C71, §217.9]

217.10 Director must be psychiatrist. The director of the division of mental health shall be a qualified psychiatrist. He shall be admitted to the practice of medicine in this state and shall have at least five years of actual experience in the care and treatment of persons afflicted with mental disease and three years' actual experience in institutional administration. He shall hold a certificate of qualifications in psychiatry issued by the American Board of Psychiatry and Neurology. [C50, 54, 58, 62, 66, §218.75; C71, §217.10]

217.11 Institutions governed. The director of the division of mental health shall be responsible for and in control of the administration of institutions and programs regarding the care, treatment and supervision of the mentally ill and the mentally retarded and in particular shall be in control of and administer and supervise the following state institutions: The Mount Pleasant Mental Health Institute, the Independence Mental Health Institute, the Cherokee Mental Health Institute, the Clarinda Mental Health Institute and the Glenwood and Woodward State Schools and Hospitals. He shall also carry out such other functions and duties as may be delegated to him by the commissioner of social services. [C50, 54, 58, 62, 66, §218.76; C71, §217.11]

217.12 Additional powers of director. The director of the division of mental health may also have the following additional powers, duties and responsibilities:

1. Establish psychiatric services for all institutions under the control of the commissioner of the department of social services in order that patients in such institutions shall receive the psychiatric services that are necessary and proper.

2. Appoint professional consultants who shall furnish advice on all matters pertaining to mental health. Such consultants shall be paid as provided by an appropriation of the general assembly.

3. Act as compact administrator with power to effectuate the purposes of and make necessary rules to implement interstate compacts on mental health.

4. Examine or cause to be examined by an assistant all public and private institutions receiving and caring for the mentally ill, mentally retarded and epileptics to determine their efficiency for adequate care and treatment of their patients.

5. Insure that the purposes of mental hospitals are carried into effect and to that end shall have all necessary powers not inconsistent with law.

6. Establish and supervise suitable standards of treatment and care of patients in all state hospitals for the mentally ill, mentally retarded and epileptic.

7. Establish the qualifications of all officers, physicians, nurses, attendants and other employees responsible for the care and treatment of patients.

8. Prepare a budget and such report or reports as required by law or as directed by the commissioner. [C50, 54, 58, 62, 66, §218.76; C71, §217.12]

217.13 Director of division of corrections. The director of the division of corrections shall be qualified in reformatory and prison management with special training in sociology and psychology. He shall also have practical experience in the field of criminology and discipline and in the supervision of inmates in corrective penal institutions. [C50, 54, 58, 62, 66, §218.77; C71, §217.13]

217.14 Additional powers and duties. The director of the division of corrections may have the following powers, duties and responsibilities:

1. Administer and control the operation of the men's reformatory, women's reformatory and state penitentiary and the Iowa security medical facility.

2. Supervision and control over all state agents whose duties relate primarily to the division of corrections.

3. Establishment and maintenance of acceptable standards of treatment, training, education and rehabilitation in the various state penal and corrective institutions.

4. Examination of all state institutions which are penal, reformatory or corrective to determine their efficiency for adequate care, custody and training of their inmates and report his findings and conclusions to the commissioner of the department of social services. He shall inquire into and determine the qualifications of wardens, matrons, superintendents, officers, attendants, guards and other employees responsible for the care, custody, training, discipline and rehabilitation of inmates and make recommendations to the commissioner regarding same.

5. Preparation of a budget and such other reports as required by law or as directed by the commissioner.

6. Supervise all persons placed on parole by the parole board and develop and administer such additional programs of rehabilitation for persons on parole as will insure their adjustment to society.

7. Establish and operate a system of rehabilitation camps within the state. The department of social services may designate appropriate facilities of the department as a part of this camp system. Persons committed to institutions under the department may be transferred to the facilities of the camp system and upon transfer shall be subject to the same laws as pertain to the transferring institution.

The commissioner of social services may establish for any inmate sentenced pursuant to section 789.13 a furlough program under which inmates sentenced to and confined in an institution under the jurisdiction of the department of social services may be temporarily released. Furloughs for a period not to exceed fourteen days may be granted when an immediate member of the inmate's family is seriously ill or has died, when an inmate is to be interviewed by a prospective employer, or when an inmate is authorized to participate in a training program not available within the institution. Furloughs for a period not to exceed fourteen days may also be granted in order to allow the inmate to participate in programs or activities that serve rehabilitative objectives. The commissioner of social services shall promulgate rules and regulations to carry out the provisions of this paragraph.

NEW SECTION.

As used in this Act, unless the context otherwise requires:

"Community-based correctional programs and services" means locally administered correctional programs and services designed to rehabilitate persons charged with or convicted of a felony or indictable misdemeanor and persons on parole or probation as a result of a sentence for or conviction of these offenses.

NEW SECTION.

Community-based correctional programs and services may be established to serve the judicial districts of the state.

NEW SECTION.

The department of social services shall provide assistance, support and guidelines for the establishment and operation of community-based correctional programs and services.

NEW SECTION.

The department of social services shall provide for the allocation of any state funds appropriated for the establishment, operation, maintenance, support and evaluation of community-based correctional programs and services. State funds shall not be allocated unless the department has reviewed and approved the programs and services for compliance with state guidelines.

If community-based correctional programs and services are not established in a judicial district, or if established are designed to service only part of the judicial district, the department of social services may provide community-based correctional programs and services for the judicial district or the parts of the judicial district not served by an established program.

NEW SECTION.

The guidelines established by the department of social services shall include, but not necessarily be limited to:

1. Providing for the utilization of existing facilities with a minimum of capital expenditures for acquisition, renovation and repair.

2. Providing for the maximum utilization of existing local rehabilitative resources, such as, but not limited to: employment; job training; general, special, and remedi-

al education; psychiatric and marriage counseling; alcohol and drug abuse treatment.

3. Providing for pretrial release, presentence investigation, probation and parole services and residential treatment centers.

4. Providing for locating community-based correctional programs and services in or near municipalities providing a substantial number of rehabilitation resources.

5. Providing for practices and procedures which maximize the availability of federal funding.

6. Providing for gathering and evaluating performance data.

217.15 Director of division of administration. The director of the division of administration shall be qualified in the general field of governmental administration with special training and experience in the areas of competitive bidding, contract letting, accounting and budget preparation. [C71,§217.15]

217.16 Co-operation with other divisions. The director of the division of administration shall co-operate with the directors of the other divisions of the department of social services, assist them and the commissioner of the department in the preparation of their and his annual budgets and such other like reports as may be requested by the commissioner or required by law. [C71,§217.16]

217.17 Director of division of planning. The director of the division of planning, research and statistics shall be qualified in the general field of governmental planning with special training and experience in the areas of preparation and development of plans for future efficient reorganization and administration of government social functions. The director of the division of planning, research and statistics shall co-operate with the directors of the other divisions of the department of social services assisting them and the commissioner of the department in their planning, research and statistical problems. He shall assist the directors, commissioner and the council of social services by proposing administrative and organizational changes at both the state and local level to provide more efficient and integrated social services to the citizens of this state. The planning, research and statistical operations now forming an integral part of the present state functions assigned to the directors of this department along with their future needs in this regard are hereby all assigned to and shall be administered by the director of this division. [C71,§217.17]

217.18 Official seal. The department shall have an official seal with the words "Iowa Department of Social Services" and such other design as the department prescribes engraved thereon. Every commission, order or other paper of an official nature executed by the department may be attested with such seal. [S13,§2727-a1; SS15,§2727-a3; C24, 27, 31, 35, 39, §3281; C46, 50, 54, 58, 62, 66,§217.8; C71,§217.18]

217.19 Expenses. The commissioner of said department, his staff, assistants and employees shall, in addition to salary, receive their necessary traveling expenses by the nearest traveled and practicable route, when engaged in the performance of official business, [S13, §2727-a5; C24, 27, 31, 35, 39,§3282; C46, 50, 54, 58, 62, 66,§217.9; C71,§217.19]

217.20 Trips to other states. No authority shall be granted to any person to travel to another state except by approval of the commissioner and the executive council. [S13, §2727-a5; C24, 27, 31, 35, 39,§3284; C46, 50, 54, 58, 62, 66,§217.10; C71,§217.20]

Referred to in §8.13

217.21 Annual report. The department shall, annually, at the time provided by law make a report to the governor and general assembly, and cover therein the annual period ending with June 30 preceding, which report shall embrace:

1. An itemized statement of its expenditures concerning each program under its administration.
2. Adequate and complete statistical reports for the state as a whole concerning all payments made under its administration.
3. Such recommendations as to changes in laws under its administration as the commissioner may deem necessary.
4. The observations and recommendations of the commissioner and the council of social services relative to the programs of the department.
5. Such other information as the commissioner or council of social services may deem advisable, or which may be requested by the governor or by the general assembly. [S13, §§2727-a9,-a12,-a16,-a34; SS15,§2727-a3; C24, 27, 31, 35, 39,§3285; C46, 50, 54, 58, 62, 66,§217.11; C71,§217.21]

NEW SECTION. CONFIDENTIALITY OF RECORDS; REPORT OF RECIPIENTS.

1. The following information relative to individuals receiving services or assistance from the department shall be held confidential:

- a. Names and addresses of individuals receiving services or assistance from the department, and the types of

services or amounts of assistance provided, except as otherwise provided in subsection four (4) of this section.

b. Information concerning the social or economic conditions or circumstances of particular individuals who are receiving or have received services or assistance from the department.

c. Agency evaluations of information about a particular individual.

d. Medical or psychiatric data, including diagnosis and past history of disease or disability, concerning a particular individual.

2. Information described in subsection one (1) of this section shall not be disclosed to or used by any person or agency except for purposes of administration of the programs of services or assistance, and shall not in any case, except as otherwise provided in paragraph b of subsection four (4) of this section, be disclosed to or used by persons or agencies outside the department unless they are subject to standards of confidentiality comparable to those imposed on the department by this Act.

3. Nothing in this section shall restrict the disclosure or use of information regarding the cost, purpose, number of persons served or assisted by, and results of any program administered by the department, and other general and statistical information, so long as the information does not identify particular individuals served or assisted.

4. a. The general assembly finds and determines that the use and disclosure of information as provided in this subsection are for purposes di-

rectly connected with the administration of the programs of services and assistance referred to in this section and are essential for their proper administration.

b. Confidential information described in subsection one (1), paragraphs a, b and c of this section shall be disclosed to public officials, for use in connection with their official duties relating to law enforcement, audits and other purposes directly connected with the administration of such programs, upon written application to and with approval of the commissioner or designee.

c. The department 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 last known addresses of all recipients of assistance under sections three (3) through five (5) of this Act or chapters two hundred thirty-nine (239) or two hundred forty-nine A (249A) of the Code, together with the amount paid to or for each recipient during the preceding calendar quarter. The report shall contain a separate section for each county, including all such recipients whose last known addresses are in the county. The department shall prepare and file in the office of each county board of social welfare a copy of the county section of each report for that county, on or before the same day specified in this paragraph. Each report shall be securely fixed in a record book to be used only for such reports. Each record book shall be a public record, open to public inspection at all times during the regular office hours of the office where filed. Each person who examines the record shall first sign a

written agreement that the signer will not use any information obtained from the record for commercial or political purposes.

d. It shall be unlawful for any person to solicit, disclose, receive, use or to authorize or knowingly permit, participate in, or acquiesce in the use of any information obtained from any such report or record for commercial or political purposes.

5. If it is definitely established that any provision of this section would cause any of the programs of services or assistance referred to in this section to be ineligible for federal funds, such provision shall be limited or restricted to the extent which is essential to make such program eligible for federal funds. The department shall adopt, pursuant to chapter seventeen A (17A) of the Code, any rules or regulations necessary to implement this subsection.

6. The provisions of this section shall apply to recipients of assistance under chapter two hundred fifty-two (252) of the Code. The reports required to be prepared by the department under this section shall, with respect to such assistance or services, be prepared by the person or officer charged with the oversight of the poor.

7. Violation of this section shall constitute a misdemeanor punishable by a fine 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.

NEW SECTION. Any person may institute a civil action for damages under chapter twenty-five A (25A) of the Code or to restrain the dissemination of confidential records set out in subsection one (1), paragraphs b, c, or d of section twelve (12) of this Act in violation of that section, and any person, agency or governmental body proven to have disseminated or to have requested and received confidential records in violation of subsection one (1), paragraphs b, c, or d of section twelve (12) of this Act shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorneys' fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

Any reasonable grounds that a public employee has violated any provision of this section or section twelve (12) of this Act shall be grounds for immediate removal from access of any kind to confidential records or suspension from duty without pay.

NEW SECTION. Where the department of social services assigns personnel to an office located in a county for the purpose of performing in the county designated duties and responsibilities assigned by law to the department, it shall be the responsibility of the county to provide and maintain the necessary office space and office supplies and equipment for the personnel so assigned in the same manner as if they were employees of the county. The department shall at least

annually, or more frequently if the department so elects, reimburse the county for a portion, designated by law, of the cost of maintaining office space and providing supplies and equipment as required by this section, and also for a similar portion of the cost of providing the necessary office space if in order to do so it is necessary for the county to lease office space outside the courthouse or any other building owned by the county. The portion of the foregoing costs reimbursed to the county under this section shall be equivalent to the proportion of those costs which the federal government authorizes to be paid from available federal funds, unless the general assembly directs otherwise when appropriating funds for support of the department.

CHAPTER 218
GOVERNMENT OF INSTITUTIONS

- 218.1 Institutions controlled.
- 218.2 Powers of governor—report of abuses.
- 218.3 Primary authority for management.
- 218.4 Recommendation for rules.
- 218.5 Fire protection contracts.
- 218.6 Business managers.
- 218.7 Accounting and reports.
- 218.8 Duties and prohibitions.
- 218.9 Appointment of superintendents.
- 218.10 Subordinate officers and employees.
- 218.11 Interagency case information service.
- 218.12 Bonds.
- 218.13 Salaries.
- 218.14 Dwelling house and provisions.
- 218.15 Salaries—how paid.
- 218.16 Annuity contracts for employees.
- 218.17 Authority for vacation.
- 218.18 Record of employees and inmates.
- 218.19 Districts.
- 218.20 Place of commitments—transfers.
- 218.21 Record of inmates.
- 218.22 Record privileged.
- 218.23 Reports to director.
- 218.24 Questionable commitment
- 218.25 Religious beliefs.
- 218.26 Religious worship.
- 218.27 Religious belief of minors.
- 218.28 Investigation.
- 218.29 Scope of investigation.
- 218.30 Investigation of other institutions.
- 218.31 Witnesses.
- 218.32 Contempt.
- 218.33 Transcript of testimony.
- 218.34 State agents.
- 218.35 Rooms and supplies.
- 218.36 Duties of agents.
- 218.37 Advancing expense fund.
- 218.38 Expenses.
- 218.39 Receiving officers—duties.
- 218.40 Services required.
- 218.41 Custody.
- 218.42 Wages of inmates.
- 218.43 Deduction to pay court costs.
- 218.44 Wages paid to dependent—deposits.
- 218.45 Conferences.
- 218.46 Scientific investigation.
- 218.47 Monthly report.
- 218.48 Annual reports.
- 218.49 Contingent fund.
- 218.50 Requisition for contingent fund.
- 218.51 Monthly reports of contingent fund.
- 218.52 Supplies—competition.
- 218.53 Dealers may file addresses.
- 218.54 Samples preserved.
- 218.55 Purchase from an institution.
- 218.56 Purchase of supplies.
- 218.57 Combining appropriations.
- 218.58 State architect.
- 218.59 Plans and specifications.
- 218.60 Letting of contracts—repairs, or alterations.
- 218.61 Preliminary deposit.
- 218.62 Improvements by day labor.
- 218.63 Improvements at institutions.
- 218.64 Payment for improvements.
- 218.65 Property of deceased inmate.
- 218.66 Property of small value.
- 218.67 When no administration granted.
- 218.68 Money deposited with treasurer of state.
- 218.69 Permanent record.
- 218.70 Payment to party entitled.
- 218.71 Special policemen.
- 218.72 Temporary quarters in emergency.
- 218.73 Industries.
- 218.74 Sale of agricultural products.
- 218.75 to 218.82 Repealed by 62GA, ch 209,§95.
- 218.83 Co-operation.
- 218.84 Abstracting claims and keeping accounts.
- 218.85 Uniform system of accounts.
- 218.86 Abstract of claims.
- 218.87 Warrants issued by comptroller.
- 218.88 Institutional payrolls.
- 218.89 Abstracts of payrolls.
- 218.90 Transfer of prisoners.
- 218.91 Boys transferred from training school to reformatory.
- 218.92 Dangerous mental patients.
- 218.93 Consultants for commissioner or directors.
- 218.94 Commissioner may buy and sell real estate—options.
- 218.95 Synonymous terms.
- 218.96 Gifts, grants and devises.
- 218.97 Diagnostic clinic — information furnished.
- 218.98 Canteen maintained.
- 218.99 County auditors to be notified of patients' personal accounts.
- 218.100 Central warehouse and supply depot.

218.1 Institutions controlled. The commissioner of the state department of social services shall have the general and full authority given under statute to control, manage, direct and operate the following institutions under his jurisdiction, and may at his discretion execute the powers and authorities given him by statute to any one of his division directors or to any of the officers or employees of the divisions of the department of social services:

1. Soldiers Home.
2. Glenwood State Hospital-School.
3. Woodward State Hospital-School.
4. Mental Health Institute, Cherokee, Iowa.
5. Mental Health Institute, Clarinda, Iowa.
6. Mental Health Institute, Independence, Iowa.
7. Mental Health Institute, Mount Pleasant, Iowa.
8. Training School for Boys.
9. Training School for Girls.
10. Juvenile Home.
11. The Iowa Annie Wittenmyer Home.
12. Women's Reformatory.
13. Men's Reformatory.
14. State Penitentiary.
15. Iowa Security Medical Facility.
16. Correctional Release Center.
17. Camps.

18. Other facilities not attached to the campus of the main institution as program developments require. [S13, §§2727-a8, -a77; SS15, §§2713-n2, 2727-a96; C24, 27, 31, 35, 39, §3287; C46, 50, 54, 58, 62, 66, 71, §218.1]

Referred to in §§218.2, 218.3, 218.4
See §§145.1, 226.1

218.2 Powers of governor—report of abuses. Nothing contained in section 218.1 shall limit the general supervisory or examining powers vested in the governor by the laws or Constitution of the state, or legally vested by him in any committee appointed by him.

The division director to whom primary responsibility of a particular institution has been assigned shall make such reports to the commissioner of the department of social services as are requested by him and the commissioner shall report, in writing, to the governor any abuses found to exist in any of the said institutions. [S13, §§2727-a9 a18; C24, 27, 31, 35, 39, §§3288, 3289; C46, 50, 54, 58, 62, 66, §§218.2, 218.3; C71, §218.2]

218.3 Primary authority for management. The primary authority and responsibility to control, manage, direct and operate the institutions set forth in section 218.1 is hereby assigned to the directors of the various divisions of the state department of social services as follows:

1. The director of the division of child and family services of the department of social services shall have primary authority and responsibility relative to the following said institutions: Soldiers Home, Training School for Boys, Training School for Girls, Juvenile Home and The Iowa Annie Wittenmyer Home.

2. The director of the division of mental health of the department of social services shall have primary authority and responsibility relative to the following institutions: Glenwood State Hospital-School, Woodward

State Hospital-School, Mental Health Institute, Cherokee, Iowa, Mental Health Institute, Clarinda, Iowa, Mental Health Institute, Independence, Iowa and Mental Health Institute, Mount Pleasant, Iowa.

3. The director of the division of corrections of the department of social services shall have primary authority and responsibility relative to the following institutions: Women's Reformatory, Men's Reformatory and State Penitentiary. [C71, §218.3]

218.4 Recommendation for rules. The directors of particular institutions shall recommend to the council on social services for adoption such rules not inconsistent with law as they may deem necessary for the discharge of their duties, the management of each of such institutions, the admission of inmates thereto and the treatment, care, custody, education and discharge of inmates. It is made the duty of the particular directors to establish rules by which danger to life and property from fire will be minimized. In the discharge of their duties and in the enforcement of their rules, they may require any of their appointees to perform duties in addition to those required by statute.

Such rules when prescribed or approved by the council shall be uniform and shall apply to all institutions under the particular director and to all other institutions under his jurisdiction and the primary rules of the director of the division of mental health for use in institutions where the mentally ill are kept shall, unless otherwise indicated, uniformly apply to county or private hospitals wherein the mentally ill are kept, but such rules shall not interfere with proper medical treatment administered patients by competent physicians. Annually, signed copies of such rules shall be sent to the chief executive officer of each such institution or hospital under the control or supervision of a particular director and copies shall also be sent to the clerk of each district court, the chairman of the board of supervisors of each county and, as appropriate, to the officer in charge of institutions or hospitals caring for the mentally ill in each county who shall be responsible for seeing that the same is posted in each institution or hospital in a prominent place. Such rules shall be kept current to meet the public need and shall be revised and published annually.

The state fire marshal shall cause to be made an annual inspection of all the institutions listed in section 218.1 and shall make written report thereof to the particular director of the state department of social services in control of such institution. [S13, §§2727-a30, -a48, 5718-a3; SS15, §§2727-a50, -a96; C24, 27, 31, 35, 39, §3290; C46, 50, 54, 58, 62, 66, 71, §218.4]

218.5 Fire protection contracts. The directors of the divisions of the state department of social services shall have power to enter into contracts with the governing body of any city, town, or other municipal corporation for the protection from fire of any property under such directors primary control, located in any such municipal corporation or in territory con-

tiguous thereto, upon such terms as may be agreed upon. [C31, 35,§3290.d1; C39,§3290.1; C46, 50, 54, 58, 62, 66, 71,§218.5]

218.6 Business managers. The superintendent or executive officer of each of the institutions under the control of a particular director of the division of the department of social services shall appoint a business manager with the approval of the particular division director and such appointed person shall hold no other office and shall act in no other capacity at the institution to which he has been appointed, nor shall he be eligible to any other lucrative office, elective or appointive, in the state during his term of service but he shall devote his time entirely to his duties as business manager of the institution to which he is appointed. He shall receive such compensation as ordered by the division director in charge of his particular institution with the consent and approval of the commissioner of the department of social services, and such employee shall hold office at the pleasure of the division director. [C39,§3291.1; C46, 50, 54, 58, 62, 66, 71,§218.6]

218.7 Accounting and reports. The business manager shall be responsible to the division director in control of his particular institution and shall file such accounting and other statistical reports and statements with the auditor of state, as the auditor may designate by written request to the particular division director, at such times and periods as the auditor might require. [C39,§3291.2; C46, 50, 54, 58, 62, 66, 71,§218.7]

218.8 Duties and prohibitions. Subject to the orders and directions of the division director in control of his particular institution and to the written request of the auditor of state made to such division director, such business manager shall have the following powers, duties and responsibilities:

1. He shall be the general business manager of the institution to which he has been appointed and shall have complete charge and supervision over all business matters and financial affairs relating to such institution, including the general institution, farms and gardens and all industries engaged in at such institution.

2. He shall replace the steward at the institution and shall have all the powers and be charged with all the duties and responsibilities vested in the steward as provided for in section 218.39.

3. Under the direction and supervision of the particular division director, he shall have complete charge of all of the accounting and all other statistical records and keep same in a manner and as directed by the particular division director which manner, method, system and form of accounting records shall be prescribed by the state comptroller.

4. He shall have complete control and be charged with the full accountability of all property and moneys of the institution to which he has been appointed.

5. He shall have complete charge and supervision over the condition and repair of all buildings, improvements, equipment and/or property of such institution to which he has been appointed, subject however, to the approval of the superintendent in instances where such equipment is used directly in the medical, mental, moral and/or therapeutic treatment or care of the patients or inmates.

6. He shall have charge and be accountable for all of the livestock at the institution to which he has been appointed, but he shall not be permitted to exhibit any such livestock at state and county fairs or livestock shows.

7. He shall have the power to appoint, direct and discharge all employees excepting doctors, nurses, ward attendants, laboratory technicians or assistants and all other personnel charged with the medical, mental or therapeutical treatment and/or care of any patient or inmate of said institution, which personnel shall be appointed, directed and discharged by the superintendent. However, he shall be charged with the keeping of all records relating to the entire personnel of the institution as provided for in section 218.10.

8. He shall exercise no control or direction whatsoever over the medical, mental, moral or therapeutical care or treatment of any patient or inmate of said institution, or over the doctors, orderlies, nurses, ward attendants, laboratory technicians and all other personnel directly charged with the medical, mental or therapeutical care or treatment of any patient or inmate, employed by the superintendent, but will report all violations to the superintendent. Likewise, the control and direction of employees, by the superintendent, is hereby confined to the doctors, orderlies, nurses, ward attendants, laboratory and all other personnel directly charged with the medical, mental, moral or therapeutical care or treatment of any patient or inmates of said institution. [C39, §3291.3; C46, 50, 54, 58, 62, 66, 71,§218.8]

218.9 Appointment of superintendents. The director of the division of mental health of the department of social services, subject to the approval of the commissioner of such department, shall appoint the superintendents of the state hospital-schools for the mentally retarded and the mental health institutes.

The director of the division of corrections of the department of social services, subject to the approval of the commissioner of such department, shall appoint the wardens of the state penitentiary and the men's reformatory and the superintendents of the Iowa security medical facility and of the women's reformatory.

The director of the division of child and family services of the department of social services, subject to the approval of the commissioner of such department shall appoint the superintendents of The Iowa Annie Wittenmyer Home, the juvenile home, the training school for boys, the training school for girls and the commandant of the soldiers home.

The superintendent, warden or other execu-

GOVERNMENT OF INSTITUTIONS

tive officer shall have the immediate custody and control, subject to the orders and policies of the director in charge of his institution, of all property used in connection with the institution except as provided in this chapter. The tenure of office of the officers shall be at the pleasure of the appointing authority but they may be removed for inability or refusal to properly perform the duties of the office. Such removal shall be had only after an opportunity is given the person to be heard before the director of the department of social services in charge of the particular institution involved and upon preferred written charges. The removal when made shall be final. [S13, §2727-a24; C24, 27, 31, 35, 39, §3292; C46, 50, 54, 58, 62, 66, 71, §218.9]

Referred to in §223.2
See also §219.7

218.10 Subordinate officers and employees. The division director in charge of a particular institution; with the consent and approval of the commissioner of the department of social services, shall determine the number and compensation of subordinate officers and employees for each institution. Subject to the provisions of this chapter, such officers and employees shall be appointed and discharged by the chief executive officer or business manager. Such officer shall keep, in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of each discharge, and the reasons therefor. All of these employees, except physicians and surgeons, shall be bona fide residents and citizens of the state of Iowa at the time of employment. An exception to this provision of residence may be granted by such division director for the sole purpose of securing professional and/or scientific services which are unavailable from among the citizens of the state of Iowa. [S13, §2727-a37; SS15, §§2713-n2, 2727-a96; C24, 27, 31, 35, 39, §3293; C46, 50, 54, 58, 62, 66, 71, §218.10]

Referred to in §218.8(7)

218.11 Interagency case information service. The department of social services shall provide for and be the administrative agency for the interagency case information service. The department shall perform such duties and responsibilities as required under the provisions of chapter 220A. [C71, §218.11]

218.12 Bonds. The state director in charge of any particular institution shall require each officer and any employee of such director and of every institution under his control who may be charged with the custody or control of any money or property belonging to the state to give an official bond, properly conditioned, and signed by sufficient sureties in a sum to be fixed by the director, which bond shall be approved by the director, and filed in the office of the secretary of state. [S13, §2727-a31; C24, 27, 31, 35, 39, §3295; C46, 50, 54, 58, 62, 66, 71, §218.12]

218.13 Salaries. The division director having control of any state institution shall annually, on each employee's employment anniversary date, review and fix the annual, monthly, or semimonthly salaries of said employees, except such salaries as are fixed by the general

assembly. The division director shall classify the officers and employees into grades and the salary and wages to be paid in each grade shall be uniform in similar institutions. The authority given in this section is all subject to the consent and approval of the commissioner of the department of social services. [S13, §2727-a38; C24, 27, 31, 35, 39, §3296; C46, 50, 54, 58, 62, 66, 71, §218.13]

218.14 Dwelling house and provisions. The division director having control over any state institution shall furnish the executive head of each of said institutions, in addition to salary, with a dwelling house or with appropriate quarters in lieu thereof, and, from supplies purchased for the institution, the necessary household provisions for himself, wife, and minor children or the particular division director may compensate the executive head of each of said institutions in lieu of furnishing all of the above items. [S13, §2727-a38; SS15, §§2713-n2, 2727-a96; C24, 27, 31, 35, 39, §3297; C46, 50, 54, 58, 62, 66, 71, §218.14]

Referred to in §219.9

218.15 Salaries—how paid. The salaries and wages shall be included in the semimonthly payrolls and paid in the same manner as other expenses of the several institutions. [S13, §2727-a38; C24, 27, 31, 35, 39, §3298; C46, 50, 54, 58, 62, 66, 71, §218.15]

218.16 Annuity contracts for employees. At the request of an employee through contractual agreement, the department of social services or any institution under its jurisdiction may purchase an individual annuity contract for an employee, from such insurance organization authorized to do business in this state and through an Iowa-licensed insurance agent as the employee may select, for retirement or other purposes and may make payroll deductions in accordance with such arrangements for the purpose of paying the entire premium due and to become due under such contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section 403(b) of the Internal Revenue Code of 1954 and amendments thereto. The employee's rights under such annuity contracts shall be nonforfeitable except for the failure to pay premiums. [C71, §218.16]

218.17 Authority for vacation. Vacations and sick leave with pay as authorized in section 79.1 shall only be taken at such times as the executive officer or the business manager in charge of said officer or employee, as the case may be, may direct, and only after written authorization by him, and for the number of days specified therein. A copy of such permit shall be attached to the institution's copy of the payroll of the institution, for audit purposes, for the period during which the vacation was taken, and the semimonthly payroll shall show the number of days the person was absent under the permit. [S13, §§2727-a74c, -a74d; C24, 27, 31, 35, 39, §3300; C46, 50, 54, 58, 62, 66, 71, §218.17]

218.18 Record of employees and inmates. The director of the department of social services in control of a particular state institution shall require the proper officer of each institution to keep a record prepared for the purpose, with entries to be made each day, of the number of hours of service of each employee. The semimonthly payroll shall be made from such record, and shall be in accord therewith. When an appropriation is based on the number of inmates in or persons at an institution the director shall require a daily record to be kept of the persons actually residing at and domiciled in such institution. [S13,§2727-a34; C24, 27, 31, 35, 39,§3301; C46, 50, 54, 58, 62, 66, 71, §218.18]

218.19 Districts. The director having control over any state institution shall, from time to time, divide the state into districts from which the several institutions may receive inmates. The particular division directors shall promptly notify the proper county or judicial officers of all changes in such districts. [S13, §2727-a21; C24, 27, 31, 35, 39,§3302; C46, 50, 54, 58, 62, 66, 71,§218.19]

218.20 Place of commitments — transfers. Commitments, unless otherwise permitted by the division director having control over any state institution, shall be to the institution located in the district embracing the county from which the commitment is issued. The particular division directors may, at the expense of the state, transfer an inmate of one institution to another like institution. [S13, §2727-a26; C24, 27, 31, 35, 39,§3303; C46, 50, 54, 58, 62, 66, 71,§218.20]

Power of the board to transfer inmates, §§222.6, 222.7, 224.5, 226.30, 227.6, 227.10, 227.11, 244.5, 245.10, 245.12, 246.12-246.14, 246.16

Transfers for medical treatment, §255.28

218.21 Record of inmates. The director of the department of social services in control of a state institution shall, as to every person committed to any of said institutions, keep the following record: Name, residence, sex, age, nativity, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge was final, condition of the person when discharged, the name of the institutions from which and to which such person has been transferred, and, if dead, the date, and cause of death. [S13,§2727-a22; C24, 27, 31, 35, 39,§3304; C46, 50, 54, 58, 62, 66, 71, §218.21]

Referred to in §218.22

218.22 Record privilege. Except with the consent of the director in charge of an institution, or on an order of a court of record, the record provided in section 218.21 shall be accessible only to the director of the division of the department of social services in control of such institution, the commissioner of the department of social services and to assistants and proper clerks authorized by such director or his commissioner. The director of the division of such institution is authorized to permit the state libraries and historical department division of archives to copy or reproduce by any photographic, photostatic, microfilm, microcard or other process which accurately

reproduces a durable medium for reproducing the original and to destroy in the manner described by law such records of inmates designated in section 218.21. [S13,§2727-a22; C24, 27, 31, 35, 39,§3305; C46, 50, 54, 58, 62, 66, 71,§218.22]

218.23 Reports to director. The managing officer of each institution shall, within ten days after the commitment or entrance of a person to the institution, cause a true copy of his entrance record to be made and forwarded to the director in control of such institution. When a patient or inmate leaves, or is discharged, or transferred, or dies in any institution, the superintendent or person in charge shall within ten days thereafter send such information to the office of such director on forms which the director prescribes. [S13, §2727-a22; C24, 27, 31, 35, 39,§3306; C46, 50, 54, 58, 62, 66, 71,§218.23]

218.24 Questionable commitment. The superintendent is required to immediately notify the director in control of his particular institution if there is any question as to the propriety of the commitment or detention of any person received at such institution, and said director, upon such notification, shall inquire into the matter presented, and take such action as may be deemed proper in the premises. [S13,§2727-a29; C24, 27, 31, 35, 39,§3307; C46, 50, 54, 58, 62, 66, 71,§218.24]

218.25 Religious beliefs. The chief executive officer, receiving a person committed to any of said institutions, shall inquire of such person as to his religious preference and enter the same in the book kept for the purpose, and cause said person to sign the same. [S13, §5718-a1; C24, 27, 31, 35, 39,§3308; C46, 50, 54, 58, 62, 66, 71,§218.25]

218.26 Religious worship. Any such inmate, during the time of his detention, shall be allowed, for at least one hour on each Sunday and in times of extreme sickness, and at such other suitable and reasonable times as is consistent with proper discipline in said institution, to receive spiritual advice, instruction, and ministrations from any recognized clergyman of the church or denomination which represents his religious belief. [S13,§§5718-a1,-a2; C24, 27, 31, 35, 39,§3309; C46, 50, 54, 58, 62, 66, 71,§218.26]

218.27 Religious belief of minors. In case such inmate is a minor and has formed no choice, his preference may, at any time, be expressed by himself with the approval of parents or guardian, if he has any such. [S13, §5718-a3; C24, 27, 31, 35, 39,§3310; C46, 50, 54, 58, 62, 66, 71,§218.27]

218.28 Investigation. The director of the department of social services in control of a particular institution or his authorized officer or employee shall visit, and minutely examine, at least once in six months, and oftener if necessary or required by law, the institutions under such director's control, and the financial condition and management thereof. [S13, §§2727-a10,-a19; C24, 27, 31, 35, 39,§3311; C46, 50, 54, 58, 62, 66, 71,§218.28]

GOVERNMENT OF INSTITUTIONS, §218.39

218.29 Scope of investigation. The director of the department of social services in control of a particular institution or his authorized officer or employee shall, during such investigation and as far as possible, see every inmate of each institution, especially those admitted since the preceding visit, and shall give such inmates as may require it, suitable opportunity to converse with such director or his authorized officer or employee apart from the officers and attendants. [S13,§2727-a19; C24, 27, 31, 35, 39,§3312; C46, 50, 54, 58, 62, 66, 71,§218.29]

218.30 Investigation of other institutions. The directors of the department of social services to whom control of state institutions has been delegated, or their authorized officers or employees, may investigate charges of abuse, neglect or mismanagement on the part of any officer or employee of any private institution which is subject to such director's particular supervision or control. The director of the division of mental health, or his authorized officer or employee, shall likewise investigate charges concerning county homes in which mentally ill persons are kept. [S13,§2727-a74b; C24, 27, 31, 35, 39,§3313; C46, 50, 54, 58, 62, 66, 71,§218.30]

218.31 Witnesses. In aid of any investigation the director shall have the power to summon and compel the attendance of witnesses; to examine the same under oath, which he shall have power to administer; to have access to all books, papers, and property material to such investigation, and to order the production of any other books or papers material thereto. Witnesses other than those in the employ of the state shall be entitled to the same fees as in civil cases in the district court. [S13,§2727-a10; C24, 27, 31, 35, 39,§3314; C46, 50, 54, 58, 62, 66, 71,§218.31]

Referred to in §218.32
Witness fees, §622.69 et seq.

218.32 Contempt. Any person failing or refusing to obey the orders of the director issued under section 218.31, or to give or produce evidence when required, shall be reported by the director to the district court in the county where the offense occurs and shall be dealt with by the court as for contempt of court. [S13,§2727-a10; C24, 27, 31, 35, 39,§3315; C46, 50, 54, 58, 62, 66, 71,§218.32]

Contempts, ch 665

218.33 Transcript of testimony. The particular director involved shall cause the testimony taken at such investigation to be transcribed and filed in his office at the seat of government within ten days after the same is taken, or as soon thereafter as practicable, and when so filed the same shall be open for the inspection of any person. [S13,§2727-a10; C24, 27, 31, 35, 39,§3316; C46, 50, 54, 58, 62, 66, 71,§218.33]

218.34 State agents. A sufficient number of persons shall be appointed as state agents for the soldiers' orphans home, the two training schools, the juvenile home, and the women's reformatory. [SS15,§2692-a; C24, 27, 31, 35, 39, §3317; C46, 50, 54, 58, 62, 66, 71,§218.34]

218.35 Rooms and supplies. Such agents shall be furnished with such office rooms and all necessary supplies as are furnished other officers of the divisions of the department of social services involved. Such agents, while stopping at any of said institutions, may be furnished with rooms, board, and facilities therein, free of cost. [SS15,§2692-a; C24, 27, 31, 35, 39,§3318; C46, 50, 54, 58, 62, 66, 71,§218.35]

218.36 Duties of agents. Said agents shall:

1. Perform such duties as may be required by law or by said appointing director.
2. Find suitable homes and employment for inmates of said institutions who are to be or who have been released.
3. Inspect such homes.
4. Exercise supervision over such discharged or released persons and examine into their conduct and environment.
5. Return to the institution from which released, all inmates who have been conditionally released and whose conduct has been bad, or in violation of their release.
6. Obtain new homes or new employment for released inmates when their environment is bad.
7. Keep records of their acts as agents and make all reports called for by the appointing director. [S13,§2692-b; C24, 27, 31, 35, 39,§3319; C46, 50, 54, 58, 62, 66, 71,§218.36]

218.37 Advancing expense fund. The appointing director may cause to be advanced to each agent, from time to time, from the funds appropriated for such purpose, sums to be used in defraying the official expenses of such agent. The aggregate amount of money so advanced and not expended at any time shall not exceed the sum of two hundred fifty dollars. The agent shall give security, to be approved by the appointing director, for the proper use and accounting each month of all money so advanced. [SS15,§2692-c; C24, 27, 31, 35, 39, §3320; C46, 50, 54, 58, 62, 66, 71,§218.37]

218.38 Expenses. Said agents shall receive their actual and necessary expenses incurred in the discharge of their duties. [SS15,§2692-c; C24, 27, 31, 35, 39,§3321; C46, 50, 54, 58, 62, 66, 71,§218.38]

218.39 Receiving officers—duties. The stewards of the hospitals for the mentally ill, the clerks of the prisons, and the proper officers, who shall be designated by the director of a division of the department of social services in control of the particular institution, of the other institutions, shall each:

1. Have charge of and be accountable for all supplies and stores of such institution and be chargeable therewith, at their invoice value.
2. Issue stores and supplies upon requisition approved by the superintendent or other officer designated by the particular director in control, which requisition shall be his voucher therefor.
3. Present, monthly, to the particular director in control an abstract of all expenditures,

together with the accounts and payrolls for the preceding month.

4. Examine and register all goods delivered, as to their amount and quality, and certify to the correctness of the bills therefor, if the goods correspond to the samples, are in good order, and correct in prices.

5. Maintain a perpetual inventory of the subsistence supplies and stock in his possession and control, and transmit, monthly, a report showing the condition of such inventory, duly verified by him, to the particular director in control.

6. Make to the particular director in control, at the close of each fiscal year period, a report of all purchases and transactions of his department.

7. Pay into the state treasury, from time to time, such amount as the particular director in control may determine is necessary to reimburse the state for his negligent loss of such stores or supplies, and shall so do within sixty days of such determination by the particular director in control. If default be made in such payment, he shall be discharged and suit shall be brought on his bond. [S13,§2727-a46; C24, 27, 31, 35, 39,§3322; C46, 50, 54, 58, 62, 66, 71,§218.39]

Referred to in §218.8(2)
Business manager as steward, §218.8

218.40 Services required. Inmates of said institutions subject to the provisions hereinafter provided, may be required to render any proper and reasonable service either in the institutions proper or in the industries established in connection therewith. [S13,§2727-a51; SS15,§5718-a11; C24, 27, 31, 35, 39,§3323; C46, 50, 54, 58, 62, 66, 71,§218.40]

218.41 Custody. When an inmate of an institution is so working outside the institution proper, he shall be deemed at all times in the actual custody of the head of the institution. [SS15,§5718-a11; C24, 27, 31, 35, 39,§3324; C46, 50, 54, 58, 62, 66, 71,§218.41]

218.42 Wages of inmates. When an inmate performs services for the state at an institution, the director in control of such institution may, when he deems such course practicable, pay such inmate such wage as he deems proper in view of the circumstances, and in view of the cost attending the maintenance of such inmate. In no case shall such wage exceed the amount paid to free labor for a like service or its equivalent. [SS15,§5718-a11a; C24, 27, 31, 35, 39,§3325; C46, 50, 54, 58, 62, 66, 71,§218.42]

218.43 Deduction to pay court costs. If such wage be paid, the director in control of such institution may deduct therefrom an amount sufficient to pay all or a part of the costs taxed to such inmate by reason of his commitment to said institution. In such case the amount so deducted shall be forwarded to the clerk of the district court or proper official. [SS15, §5718-a11a; C24, 27, 31, 35, 39,§3326; C46, 50, 54, 58, 62, 66, 71,§218.43]

218.44 Wages paid to dependent—deposits. If such wage be paid, the director in control of such institution may pay all or any part of the same directly to any dependent of such inmate, or may deposit such wage to the account of such inmate, or may so deposit part thereof and allow the inmate a portion for his own personal use, or may pay to the county of commitment all or any part of his care, treatment or subsistence while at said institution from any credit balance accruing to the account of said inmate. [SS15,§5718-a11a; C24, 27, 31, 35, 39,§3327; C46, 50, 54, 58, 62, 66, 71,§218.44]

218.45 Conferences. Quarterly conferences of the chief executive officers of said institutions shall be held with the director in control of such institution at Des Moines or at institutions under his jurisdiction, for the consideration of all matters relative to the management of said institutions. Full minutes of such meetings shall be preserved in the records of the director. The director in control may cause papers to be prepared and read, at such conferences, on appropriate subjects. [S13, §2727-a20; C24, 27, 31, 35, 39,§3328; C46, 50, 54, 58, 62, 66, 71,§218.45]

218.46 Scientific investigation.

1. The directors of divisions of the department of social services who are in charge of institutions shall encourage the scientific investigation, on the part of the executive heads and medical staffs of the various institutions, as to the most successful methods of managing such institutions and treating the persons committed thereto, shall procure and furnish to such heads and staffs information relative to such management and treatment, and, from time to time, publish bulletins and reports of scientific and clinical work done in said institutions.

2. The directors of such state institutions are authorized to provide services and facilities for the scientific observation, rechecking and treatment of mentally ill persons within the state. Application by, or on behalf of, any person for such services and facilities shall be made to the director in charge of the particular institution involved and shall be made on forms furnished by such director. The time and place of admission of any person to outpatient or clinical services and facilities for scientific observation, rechecking and treatment and the use of such services and facilities for the benefit of persons who have already been committed as mentally ill shall be in accordance with rules and regulations adopted by the director in control of the particular institution involved. [S13,§2727-a27; C24, 27, 31, 35, 39,§3329; C46, 50, 54, 58, 62, 66, 71,§218.46]

218.47 Monthly report. The chief executive officer of each institution, or business manager of institutions having the same, shall, on the first day of each month, account to the director in control of his particular institution for all state funds received during the preceding

month, and, at said time, remit the same to the treasurer of state. [S13,§2727-a40; C24, 27, 31, 35, 39,§3330; C46, 50, 54, 58, 62, 66, 71,§218.47]

218.48 Annual reports. The executive head or business manager of each institution shall make an annual report to the director in control of his particular institution and embrace therein a minute and accurate inventory of the stock and supplies on hand, and the amount and value thereof, under the following heads: Livestock, farm produce on hand, vehicles, agricultural implements, machinery, mechanical fixtures, real estate, furniture, and bedding in inmates' department, state property in superintendent's department, clothing, dry goods, provisions and groceries, drugs and medicine, fuel, library, and all other state property under appropriate heads to be determined by the particular director involved. [S13,§§2705-b, 2727-a32; C24, 27, 31, 35, 39,§3331; C46, 50, 54, 58, 62, 66, 71,§218.48]

218.49 Contingent fund. The director in control of a state institution may permit the executive head, which shall include the business manager as provided in this chapter, of each institution to retain a stated amount of funds in his possession as a contingent fund for the payment of freight, postage, commodities purchased on authority of the particular director involved on a cash basis, salaries, and bills granting discount for cash. [SS15,§2727-a44; C24, 27, 31, 35, 39,§3332; C46, 50, 54, 58, 62, 66, 71,§218.49]

218.50 Requisition for contingent fund. If necessary, the commissioner of the department of social services shall make proper requisition upon the state comptroller for a warrant on the state treasurer to secure the said contingent fund for each institution. [SS15,§2727-a44; C24, 27, 31, 35, 39,§3333; C46, 50, 54, 58, 62, 66, 71,§218.50]

218.51 Monthly reports of contingent fund. A monthly report of the status of such contingent fund shall be submitted by the proper officer of said institution to the director in control of the institution involved and such rules as such director may establish. [SS15, §2727-a44; C24, 27, 31, 35, 39,§3334; C46, 50, 54, 58, 62, 66, 71,§218.51]

218.52 Supplies—competition. The director in control of a state institution shall, in the purchase of supplies, afford all reasonable opportunity for competition, and shall give preference to local dealers and Iowa producers when such can be done without loss to the state. [S13,§2727-a46; SS15,§2727-a50; C24, 27, 31, 35, 39,§3335; C46, 50, 54, 58, 62, 66, 71,§218.52]

Preference to Iowa products, §73.1 et seq.

218.53 Dealers may file addresses. Jobbers or others desirous of selling supplies shall, by filing with the director in control of a state institution a memorandum showing their address and business, be afforded an opportunity to compete for the furnishing of supplies,

under such rules as such director may prescribe. [SS15,§2727-a50; C24, 27, 31, 35, 39, §3336; C46, 50, 54, 58, 62, 66, 71,§218.53]

218.54 Samples preserved. When purchases are made by sample, the same shall be properly marked and retained until after an award or delivery of such items is made. [SS15, §2727-a50; C24, 27, 31, 35, 39,§3337; C46, 50, 54, 58, 62, 66, 71,§218.54]

218.55 Purchase from an institution. The director of a division of the department of social services may purchase supplies of any institution under his control, for use in any other such institution, and reasonable payment therefor shall be made as in case of other purchases. [S13,§2727-a47; C24, 27, 31, 35, 39, §3338; C46, 50, 54, 58, 62, 66, 71,§218.55]

218.56 Purchase of supplies. The directors shall, from time to time, adopt and make of record, rules and regulations governing the purchase of all articles and supplies needed at the various institutions under their control, and the form and verification of vouchers for such purchases. [S13,§§2727-a41,-a42,-a49; C24, 27, 31, 35, 39,§3339; C46, 50, 54, 58, 62, 66, 71,§218.56]

218.57 Combining appropriations. The state comptroller is authorized to combine the balances carried in all specific appropriations into a special account for each institution under the control of a particular director of a division of the department of social services, except that the support fund for each institution shall be carried as a separate account. [S13,§2727-a43; C24, 27, 31, 35, 39,§3344; C46, 50, 54, 58, 62, 66, 71,§218.57]

218.58 State architect. The commissioner of the department of social services may employ a competent architect, and such draftsmen as may be authorized by law. Said architect shall, in addition to salary, be reimbursed for his actual and necessary expenses within the state while engaged in official business. In cases of sufficient magnitude the commissioner may secure the advice of a consulting architect, or may secure plans and specifications from other architects, at a cost not exceeding one thousand five hundred dollars in any year, unless a larger amount is approved by the budget and financial control committee. [S13, §2727-a23; C24, 27, 31, 35, 39,§3345; C46, 50, 54, 58, 62, 66, 71,§218.58]

Referred to in §18A.1

218.59 Plans and specifications. Said commissioner shall cause plans and specifications to be prepared for all improvements authorized and costing over five thousand dollars. No appropriation for any improvement shall be expended until the adoption of suitable plans and specifications, prepared by a competent architect, and accompanied by a detailed statement of the amount, quality, and description of all material and labor required for the completion of such improvement.

No plans shall be adopted, and no improvement shall be constructed, which contemplates an expenditure of money in excess of the appropriation. [S13,§2727-a17; C24, 27, 31, 35, 39,§3346; C46, 50, 54, 58, 62, 66, 71,§218.59]

218.60 Letting of contracts—repairs or alterations. The commissioner shall, in writing, let all contracts for authorized improvements costing in excess of five thousand dollars to the lowest responsible bidder, after such advertisement for bids as the commissioner may deem proper in order to secure full competition. The commissioner may reject all bids and re-advertise. Provided, however, if the improvement be the repair or alteration of any building or grounds and is not new construction and the estimated cost thereof does not exceed twenty-five thousand dollars, the commissioner with the approval of the budget and financial control committee may proceed with such repairs or alterations under a negotiated contract on such terms as the commissioner and the budget and financial control committee may determine to be for the best interests of the state. [S13,§2727-a51; C24, 27, 31, 35, 39, §3347; C46, 50, 54, 58, 62, 66, 71,§218.60]

218.61 Preliminary deposit. A preliminary deposit of money, or certified check upon a solvent bank in such amount as the commissioner of the department of social services may prescribe, shall be required as an evidence of good faith, upon all proposals for the construction of said improvements, which deposit or certified check shall be held under the direction of such commissioner. [S13,§2727-a51; C24, 27, 31, 35, 39,§3348; C46, 50, 54, 58, 62, 66, 71,§218.61]

218.62 Improvements by day labor. Upon prior authorization by the director in control of a particular institution, improvements costing five thousand dollars or less may be made by the executive head of any institution by day labor subject to the approval of such director. [S13,§2727-a51; C24, 27, 31, 35, 39,§3349; C46, 50, 54, 58, 62, 66, 71,§218.62]

218.63 Improvements at institutions. Contracts shall not be required as to improvements at any state institution where the labor of inmates may be utilized on the particular work to be done, to the advantage of the inmates or of the state. [S13,§2727-a51; C24, 27, 31, 35, 39,§3350; C46, 50, 54, 58, 62, 66, 71,§218.63]

218.64 Payment for improvements. No payment shall be authorized for construction purposes until satisfactory proof has been furnished to the commissioner of the department of social services, by the proper officer or supervising architect, that the contract has been complied with by the parties; and all payments shall be made in a manner similar to that in which the current expenses of the several institutions are paid. [S13,§2727-a51; C24, 27, 31, 35, 39,§3351; C46, 50, 54, 58, 62, 66, 71, §218.64]

218.65 Property of deceased inmate. The chief executive officer or business manager of each institution shall, upon the death of any inmate or patient, immediately take possession of all property of the deceased left at said institution, and deliver the same to the duly appointed and qualified representative of the deceased. [S13,§2727-a72; C24, 27, 31, 35, 39, §3352; C46, 50, 54, 58, 62, 66, 71,§218.65]

218.66 Property of small value. If administration be not granted within one year from the date of the death of the decedent, and the value of the estate of decedent is so small as to make the granting of administration inadvisable, then delivery of the money and other property left by the decedent may be made to the surviving spouse and heirs of the decedent. [S13,§2727-a72; C24, 27, 31, 35, 39,§3353; C46, 50, 54, 58, 62, 66, 71,§218.66]

218.67 When no administration granted. If administration be not granted within one year from the death of decedent, and no surviving spouse or heir is known, said executive officer may convert all said property into money and in so doing he shall have the powers possessed by a general administrator. [S13,§2727-a72; C24, 27, 31, 35, 39,§3354; C46, 50, 54, 58, 62, 66, 71,§218.67]

218.68 Money deposited with treasurer of state. Said money shall be transmitted to the treasurer of state as soon after one year after the death of the intestate as practicable, and be credited to the support fund of the institution of which the intestate was an inmate. [S13,§2727-a72; C24, 27, 31, 35, 39,§3355; C46, 50, 54, 58, 62, 66, 71,§218.68]

218.69 Permanent record. A complete permanent record of the money so sent, showing by whom and with whom it was left, its amount, the date of the death of the owner, his reputed place of residence before he became an inmate of the institution, the date on which it was sent to the state treasurer and any other facts which may tend to identify the intestate and explain the case, shall be kept by the chief executive officer of the institution or business manager, as the case may be, and a transcript thereof shall be sent to, and kept by, the treasurer of state. [S13,§2727-a72; C24, 27, 31, 35, 39,§3356; C46, 50, 54, 58, 62, 66, 71,§218.69]

218.70 Payment to party entitled. Said money shall be paid, at any time within ten years from the death of the intestate, to any person who is shown to be entitled thereto. Payment shall be made from the state treasury out of the support fund of such institution in the manner provided for the payment of other claims from that fund. [S13,§2727-a73,-a74; C24, 27, 31, 35, 39,§3357; C46, 50, 54, 58, 62, 66, 71,§218.70]

218.71 Special policemen. The director of a division of the department of social services

in control of a particular institution may, by order entered of record, commission one or more of the employees at each of said institutions as special police. Such police shall, on the premises of the institution of which they are employees, and in taking an inmate into custody, have and exercise the powers of regular peace officers. No additional salary shall be granted by reason of such appointment. [S13,§2727-a71; C24, 27, 31, 35, 39,§3358; C46, 50, 54, 58, 62, 66, 71,§218.71]

Powers, ch 754 et seq.

218.72 Temporary quarters in emergency. In case the buildings at any institution under the management of a director of the division of the department of social services are destroyed or rendered unfit for habitation by reason of fire, storms, or other like causes, to such an extent that the inmates cannot be there confined and cared for, said director shall make temporary provision for the confinement and care of the inmates at some other place in the state. Like provision may be made in case any pestilence breaks out among the inmates. The reasonable cost of the change, including transfer of inmates, shall be paid from any money in the state treasury not otherwise appropriated. [C51,§3143; R60,§5156; C73,§4795; C97,§5693; SS15,§2713-n18; C24, 27, 31, 35, 39, §3359; C46, 50, 54, 58, 62, 66, 71,§218.72]

218.73 Industries. The director of a division of the department of social services in control of a state institution may establish such industries as he may deem advisable at or in connection with any of said institutions under his control. [SS15,§5718-a11; C24, 27, 31, 35, 39, §3360; C46, 50, 54, 58, 62, 66, 71,§218.73]

218.74 Sale of agricultural products. The proceeds from the sale of any livestock or agricultural product by any institution under the control of the department of social services shall be deposited with the treasurer of state and credited to the account of the institution making the sale to be used for farm operating expenses and repairs. [64GA, ch 75,§2]

218.75 to 218.82 Repealed by 62GA, ch 209,§95.

218.83 Co-operation. The commissioner of the department of social services and the directors of the divisions therein are directed to co-operate with any department or agency of the state government in any manner, including the exchange of employees, calculated to improve administration of the affairs of the institutions under the control of the department of social services. [C50, 54, 58, 62, 66, 71, §218.83]

Constitutionality, 52GA, ch 116,§10
Omnibus repeal, 52GA, ch 116,§11

218.84 Abstracting claims and keeping accounts. The commissioner of the department of social services shall have sole charge of abstracting and certifying claims for payment and the keeping of a central system of accounts in institutions under his control. [C50, 54, 58, 62, 66, 71,§218.84]

218.85 Uniform system of accounts. The commissioner of the department of social services through the directors of the divisions in control of state institutions shall install in all such state institutions under his control and supervision the most modern, complete, and uniform system of accounts, records, and reports possible, which system shall be prescribed by the state comptroller as authorized in subsection 4 of section 8.6 and, among other matters, shall clearly show the detailed facts relative to the handling and uses of all purchases. [S13,§2727-a13; C24, 27, 31, 35, 39,§3286; C46,§217.12; C50, 54, 58, 62, 66, 71,§218.85]

Requirement of auditor of state, §11.5

218.86 Abstract of claims. When vouchers for expenditures other than salaries have been duly audited as provided for in section 8.6 said audited vouchers shall be submitted to the state comptroller who shall therefrom prepare in triplicate an abstract of claims submitted showing the name of the claimant, the institutions and fund thereof on account of which the payment is made. Said claims and abstracts of claims shall then be returned to such commissioner where the correctness of said abstracts shall then be certified by the commissioner. The original abstract shall then be delivered to the state comptroller, the duplicate to be retained in the office of such commissioner and the triplicate forwarded to the proper institution to be retained there as a record of claims paid. [C50, 54, 58, 62, 66, 71, §218.86]

Referred to in §218.100

218.87 Warrants issued by comptroller. Upon such certificate the state comptroller shall, if the institution named has sufficient funds, issue his warrants upon the state treasurer, for the amounts and to the claimants indicated thereon. The comptroller shall deliver the warrants thus issued to the commissioner, who will cause same to be transmitted to the payees thereof. [C50, 54, 58, 62, 66, 71,§218.87]

Referred to in §218.100

218.88 Institutional payrolls. At the close of each pay period, the chief executive officer of each institution or business manager of each institution having the same, shall prepare and forward to the commissioner of the department of social services a semimonthly payroll which shall show the name of each officer and employee, the semimonthly pay, time paid for, the amount of pay, and any deductions. In no event shall a substitute be permitted to receive compensation in the name of the employee for whom he is acting. [C50, 54, 58, 62, 66, 71, §218.88]

Referred to in §218.100

218.89 Abstracts of payrolls. After said payroll has been audited as provided for in section 8.6, audited payroll vouchers shall be submitted to the state comptroller who shall therefrom prepare in triplicate an abstract, and shall draw one warrant for the sum total of said payroll in favor of the institution having submitted said payroll voucher. [C50, 54,

58, 62, 66, 71, §218.89]

Referred to in §218.100

218.90 Transfer of prisoners. The directors of the divisions of the department of social services in control of state institutions may transfer any prisoners under their jurisdiction from any institution supervised by them to any other institution under their control or under the control of another director of a division of the department of social services with the consent and approval of such other director and they may likewise transfer any prisoner to any other institution for medical or physical examination or treatment retaining jurisdiction over such prisoner when so transferred. [C58, 62, 66, 71, §218.90]

218.91 Boys transferred from training school to reformatory. The director of the division of child and family services with the consent and approval of the director of the division of corrections of the department of social services may order the transfer of inmates of the training school for boys to the men's reformatory for custodial care whenever it is determined that such action will be conducive to the welfare of the other inmates of the school. Such transfer shall be effected by application in writing to the district court, or any judge thereof, of the county in which the said training school is situated. Upon the granting of the order of transfer, the transfer shall take place. The county attorney of the said county shall appear in support of such application. The cost of the transfer shall be paid from the funds of the training school for boys. Subsequent to a transfer made under this section, the person transferred shall be subject to all the provisions of law and regulations of the institution to which he is transferred, and for the purposes of chapter 745 such person shall be regarded as having been committed to the institution. [C62, 66, 71, §218.91]

218.92 Dangerous mental patients. Whenever a patient in any state hospital-school for the mentally retarded, any mental health institute, or any institution under the administration of the director of the division of mental health of the department of social services, has become so mentally disturbed as to constitute a danger to self, to other patients in the institution or to the public, and the institution involved cannot provide adequate security, the director of such institution with the consent of the director of corrections of the department of social services may order the patient to be transferred to the Iowa security medical facility, provided that the executive head of the institution involved with the support of a majority of his medical staff recommends the transfer in the interest of the patient, other patients or the public. The order of the director of the division of mental health shall have the same force and effect as a warrant of commitment for mental illness. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made. [C62, 66, 71, §218.92]

Referred to in §222.7
See also §226.30

218.93 Consultants for commissioner or directors. The commissioner of the department of social services or the directors of divisions in control of state institutions are authorized to secure the services of consultants to furnish advice on administrative, professional or technical problems to the commissioner or such directors, their employees or employees of institutions under their jurisdiction or to provide in-service training and instruction for such employees. The commissioner and directors are authorized to pay the consultants at a rate to be determined by them from funds appropriated to their division or to any institution under their jurisdiction as such commissioner or director may determine. [C62, 66, 71, §218.93]

218.94 Commissioner may buy and sell real estate—options. The commissioner of the department of social services shall have full power, subject to the approval of the executive council to secure options to purchase real estate and to acquire and sell real estate for the proper uses of said institutions. Real estate shall be acquired and sold upon such terms and conditions as the commissioner may recommend subject to the approval of the executive council. Upon sale of such real estate, the proceeds thereof shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the department of social services, which with the prior approval of the executive council may be used to purchase other real estate or for capital improvements upon property under such commissioner's control.

The costs incident to securing of options, acquisition and sale of real estate including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which such real estate is located. Such fund shall be reimbursed from the proceeds of the sale. [C62, 66, 71, §218.94]

218.95 Synonymous terms. For purposes of construing the provisions of this title relating to the mentally ill and reconciling same with other former and present provisions of statute, the following terms shall be considered synonymous:

1. "Mentally ill" and "insane";
2. "Mental defectives" and "mentally retarded";
3. "Feeble-minded" and "mentally retarded";
4. "Defectiveness" and "retardation";
5. "Parole" and "convalescent leave";
6. "Inmate" and "patient";
7. "Escape" and "depart without proper authorization";
8. "Warrant" and "order of admission";
9. "Escapee" and "patient";
10. "Sane" and "in good mental health";
11. "Commissioners of insanity" and "commissioners of hospitalization";
12. "Idiot" and "mental retardate";
13. "Recapture" and "take into protective

custody";

- 14. "Asylum" and "hospital";
- 15. "Commitment" and "admission".

It is hereby declared to be the policy of the general assembly that words which have come to have a degrading meaning shall not be employed in institutional records having reference to the mentally afflicted and that in all such records the less discriminatory of the foregoing synonyms shall be employed. [C62, 66, 71, §218.95]

218.96 Gifts, grants and devises. The commissioner of the department of social services is authorized to accept gifts, grants, devises or bequests of real or personal property from the federal government or any source. The commissioner may exercise such powers with reference to the property so accepted as may be deemed essential to its preservation and the purposes for which given, devised or bequeathed. [C62, 66, 71, §218.96]

218.97 Diagnostic clinic—information furnished. The commissioner of the department of social services and the directors of divisions directly involved are authorized to provide facilities and personnel for a diagnostic clinic. The work of the clinic shall include a scientific study of each prisoner, his career and life history, the causes of his criminal acts and recommendations for his custody, care, training, employment and counseling with a view to his rehabilitation and to the protection of society. To facilitate the work of the clinic and to aid in the rehabilitation of such prisoners, the trial judge and the prosecuting attorney shall, when requested by the commissioner or the directors of divisions directly involved, furnish the commissioner or such director with such information as is provided the state board of parole under section 247.15. [C62, 66, 71, §218.97]

218.98 Canteen maintained. The directors of divisions in the department of social services in control of state institutions may maintain a canteen at any institution under their jurisdiction and control for the sale to persons confined therein of toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise therefor. Such directors shall specify what commodities will be sold therein. The sale prices of the articles offered for sale shall be fixed by such directors at such amounts as will, as far as possible, render each such canteen self-supporting. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen. [C62, 66, 71, §218.98]

218.99 County auditors to be notified of patients' personal accounts. The director of a division of the department of social services in control of a state institution shall direct the business manager of each institution under his jurisdiction mentioned in section 444.12 to quarterly inform the auditor of the patient's or inmate's county of legal settlement of any patient or inmate who has an amount in excess of two hundred dollars to his account in the patients' personal deposit fund and the amount thereof. Such directors shall direct the business manager to further notify the auditor of such county at least fifteen days before the release of such funds in excess of two hundred dollars or upon the death of such patient or inmate. If any such patient or inmate shall have no county of legal settlement, notice as required by this section shall be made to the commissioner of the department of social services and the director of a division of such department in control of the particular institution involved. [C66, 71, §218.99]

218.100 Central warehouse and supply depot. The department of social services shall establish a fund for maintaining and operating a central warehouse as a supply depot and distribution facility for surplus government products, carload canned goods, paper products, other staples and such other items as determined by the department. The fund shall be permanent and shall be composed of the receipts from the sales of merchandise, recovery of handling, operating and delivery charges of such merchandise and from the funds contributed by the institutions now in a contingent fund being used for this purpose. All claims for purchases of merchandise, operating and salary expenses shall be subject to the provisions of sections 218.86 through 218.89. [C71, §218.100]

CHAPTER 218A
INTERSTATE MENTAL HEALTH COMPACT

218A.1 Mental health compact enacted.
218A.2 Administrator.
218A.3 Supplementary agreements.

218A.4 Payments.
218A.5 Consultation.
218A.6 Distribution of compact.

218A.1 Mental health compact enacted. The interstate compact on mental health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

ARTICLE I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

As used in this compact:

a. "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

b. "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

c. "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

d. "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

e. "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

f. "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

g. "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

h. "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE III

a. Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

b. The provisions of paragraph "a" of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

c. No state shall be obliged to receive any patient pursuant to the provisions of paragraph "b" of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

d. In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken

in the same order and at the same time that he would be taken if he were a local patient.

e. Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

ARTICLE IV

a. Whenever; pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

b. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

c. In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

ARTICLE V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Referred to in Article IX(a)

ARTICLE VI

The duly accredited officers of any state party to this compact, upon the establishment

of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

ARTICLE VII

a. No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

b. The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

Referred to in Article XIII(b)

c. No provision of this compact shall be construed to alter or affect any internal relationships 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.

d. 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 any provision of this compact.

e. Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Referred to in §218A.3

ARTICLE VIII

a. Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever

INTERSTATE MENTAL HEALTH COMPACT

it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

b. The term "guardian" as used in paragraph "a" of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

ARTICLE IX

a. No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

b. To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

a. Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general co-ordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

b. The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or co-operative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Referred to in Article XIII(b), §218A.3

ARTICLE XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

ARTICLE XIII

a. A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

b. Withdrawal from any agreement permitted by Article VII "b" as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [C66, 71, §218A.1]

Referred to in §218A.3

218A.2 Administrator. Pursuant to said compact, the director of the division of mental health of the department of social services shall be the compact administrator and who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to co-operate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact of any supplementary agreement or agreements entered into by this state thereunder. [C66, 71, §218A.2]

218A.3 Supplementary agreements. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this

INTERSTATE MENTAL HEALTH COMPACT

state or require or contemplate the provisions of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service. [C66, 71,§218A.3]

218A.4 Payments. The compact administrator, subject to the approval of the commissioner of the department of social services, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder. [C66, 71,§218A.4]

218A.5 Consultation. The compact administrator is hereby directed to consult with the immediate family of our proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to take no final action without approval of the district court of the county of admission or commitment. [C66, 71,§218A.5]

218A.6 Distribution of compact. Duly authorized copies of this chapter shall, upon its approval be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments. [C66, 71,§218A.6]

CHAPTER 219
SOLDIERS HOME

- 219.1 For whom maintained.
- 219.2 Right to admission.
- 219.3 Eligibility — rules — general management.
- 219.4 Married couples.
- 219.5 Widows of veterans.
- 219.6 Certificate of eligibility.
- 219.7 Commandant.
- 219.8 Qualifications of commandant.
- 219.9 Salary.
- 219.10 Repealed by 59GA, ch 131,§1.
- 219.11 Employees' and officers' compensation.
- 219.12 Repealed by 59GA, ch 131,§3.

- 219.13 Mentally ill and intemperate persons.
- 219.14 Contributing to own support.
- 219.15 Payment to dependents.
- 219.16 Conditional admittance.
- 219.17 Remittance to treasurer.
- 219.18 Rules enforced—power to dismiss.
- 219.19 Dual conviction—probation.
- 219.20 Assignment of deposit.
- 219.21 Report by director.
- 219.22 Repealed by 63GA, ch 156,§1.
- 219.23 "Soldier" includes air force.
- 219.24 "Director" defined.

219.1 For whom maintained. The Iowa soldiers home, located in Marshalltown, shall be maintained for honorably discharged soldiers, sailors, marines and nurses who have served the United States in any of its wars, including the Korean conflict at any time between June 27, 1950, and July 27, 1953, both dates inclusive, and including the Vietnam conflict at any time between August 5, 1964, and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities, both dates inclusive, and who do not have sufficient means or ability to support themselves, and for the dependent widows and wives of such soldiers, sailors or marines.

For the purposes of this section World War II shall be from December 7, 1941, to September 2, 1945, both dates inclusive. [C97,§§2601, 2602, 2606; S13,§§2601, 2602, 2606; SS15,§2606; C24, 27, 31, 35,§§3366, 3367; C39,§3384.01; C46, 50, 54, 58, 62, 66, 71,§219.1]

Referred to in §219.2
Utility easements, 64GA, ch 1135,§2

219.2 Right to admission. All persons named in section 219.1 who do not have sufficient means for their own support, or who are disabled by disease, wounds, old age or otherwise, or who are unable to earn a livelihood, and who have been residents and citizens of the state of Iowa for the three years immediately preceding the date of the application and who are residents of the state of Iowa at the time of the application, may be admitted to the home as members thereof under such rules and regulations as may be adopted by the director. [C97,§2602; S13,§§2602, 2606; SS15,§2606; C24, 27, 31, 35,§§3366; C39, §3384.02; C46, 50, 54, 58, 62, 66, 71,§219.2]

219.3 Eligibility — rules — general management. The director shall have power to determine the eligibility of applicants for admission to the home in accordance with the provisions of this chapter, and shall adopt all the necessary rules and regulations for the preservation of order and enforcement of discipline, the promotion of health and well-being

of all the members and for the management and control of the home and the grounds thereof. [C97,§2602; C24, 27, 31, 35,§§3367; C39, §3384.03; C46, 50, 54, 58, 62, 66, 71,§219.3]

219.4 Married couples. When a married man is or becomes a member of the home, his wife, if she has been married to him for one year and is otherwise eligible under this chapter, may be admitted as a member of the home subject to all rules and regulations of said home. Husband and wife may be permitted to occupy, together, cottages or other quarters on the grounds of the home. [C97, §2606; S13,§2606; SS15,§2606; C24, 27, 31, 35, §§3366, 3368; C39,§3384.04; C46, 50, 54, 58, 62, 66, 71,§219.4]

219.5 Widows of veterans. If any deceased soldier, sailor or marine, who would be entitled to admission to the home if he were living, has left a widow surviving him, such widow shall be entitled to admission to the home with the same rights, privileges and benefits as though her soldier, sailor or marine husband were living and a member of the home, provided, however, that such widow has been the wife of said veteran for at least one year immediately prior to his death, and has reached the age of fifty years or is found by the commandant to be totally and permanently disabled and she does not have sufficient means or is unable to support and maintain herself, and provided further that she has been for the three years preceding the date of her application, a resident of the state of Iowa, and that she has not married at any time since the death of her veteran husband except to a member of the home. [C97,§2606; S13, §2606; C24, 27, 31, 35,§§3366; C39,§3384.05; C46, 50, 54, 58, 62, 66, 71,§219.5]

219.6 Certificate of eligibility. Before admission, each applicant shall file with the commandant an affidavit signed by two members of the soldiers relief commission of the county in which such person resides, stating that such person to the best of their knowledge and belief is a resident of such county as required under this chapter and that such person is

§219.6, SOLDIERS HOME

unable to earn a livelihood and his income is less than twelve hundred dollars per annum exclusive of pension, compensation, war risk insurance payments, or pensions or annuities under the social security Act and the railroad retirement Acts. Such affidavit shall be conclusive evidence of the residence of such persons and prima facie only in all other matters affecting the eligibility of the applicant and the liability of the county with respect to the expense of any such person for which the county may be liable. All records of admission shall show the residence of the applicant. [C97,§2602; S13,§2602; C24, 27, 31, 35,§3369; C39, §3384.06; C46, 50, 54, 58, 62, 66, 71,§219.6]

219.7 Commandant. The director shall appoint a commandant who shall serve as the chief executive of the home and who shall have the immediate custody and control, subject to the orders of the director, of all property used in connection with the home. [C97, §2604; S13,§2604; SS15,§2604; C39,§3384.07; C46, 50, 54, 58, 62, 66, 71,§219.7]

See also §218.9

219.8 Qualifications of commandant. The commandant shall be a resident of the state of Iowa who has an honorable discharge from the United States army, navy or marine corps and who has served in the military or naval forces of the United States in any war, including the Korean conflict at any time between June 27, 1950, and July 27, 1953, both dates inclusive, and including the Vietnam conflict at any time between August 5, 1964, and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities, both dates inclusive. [C97, §2604; S13,§2604; SS15,§2604; C24, 27, 31, 35, §3374; C39,§3384.08; C46, 50, 54, 58, 62, 66, 71, §219.8]

219.9 Salary. The commandant shall receive such annual salary as the director may determine. In addition to said salary, the director shall furnish said commandant with a dwelling house or with appropriate quarters in lieu thereof and such additional allowances as are provided in section 218.14 for executive heads of state institutions. [C97,§2604; S13, §2604; SS15,§2604; C24, 27, 31, 35,§3373; C39, §3384.09; C46, 50, 54, 58, 62, 66, 71,§219.9]

219.10 Repealed by 59GA, ch 131,§1. See §219.11.

219.11 Employees' and officers' compensation. The commandant, subject to the director's approval, shall appoint all subordinate officers. The employees shall be appointed by the commandant who shall keep in the record of each officer and employee, the date of employment, the compensation, and the date of discharge and the reasons therefor. The commandant shall have the power to discharge any officer or employee for insubordination or neglect of duty or other good cause and his acts and decisions shall be reviewable only by the director whose decision shall be

final. [C97,§2604; S13,§2604; SS15,§2604; C24, 27, 31, 35,§3375; C39,§3384.10, 3384.11; C46, 50, 54, 58,§§219.10, 219.11; C62, 66, 71,§219.11]

219.12 Repealed by 59GA, ch 131,§3.

219.13 Mentally ill and intemperate persons. No person shall be received or retained in the home who is mentally ill, is an inebriate, or is addicted to the use of drugs. When a member of the home is discharged therefrom, or voluntarily leaves the home, or is adjudged mentally ill after admittance, his or her residence shall be that of the county in which he or she was residing at the time of his or her admittance to the home. [C97,§2605; C24, 27, 31, 35,§3370; C39,§3384.13; C46, 50, 54, 58, 62, 66, 71,§219.13]

219.14 Contributing to own support. Every member of the home who receives pension, compensation or gratuity from the United States government, or income from any source of more than twenty dollars per month, shall contribute to his or her maintenance or support while a member of the home. The wages, salaries or payments for services rendered to the home by a member as an employee thereof shall not be included in computing the amount of member contribution. Payments for maintenance or support shall be made first, and to the fullest extent possible, from sources of income other than pension or compensation paid by the veterans administration of the United States government. The amount of such contribution and method of collection shall be determined by the director but in no case to exceed the actual cost of keeping and maintaining such person in said home. The director may require and compensate, at rates established by the director, members of the home to render such assistance in the care of the home and grounds as their physical condition will permit. [S13,§§2602-a, 2606-a; C24, 27, 31, 35,§3377; C39,§3384.14; C46, 50, 54, 58, 62, 66, 71,§219.14]

219.15 Payment to dependents. Each member of the home who receives a pension or compensation and who has a dependent wife or child, as defined in section 234.1, shall deposit with the commandant forthwith on receipt of his pension or compensation check one-half of the amount thereof, which shall be sent at once to the wife if she be dependent upon her own labor or others for support, or, if there be no wife, to the guardian of the child, as defined in section 234.1, if dependent upon others for support. The commandant, if satisfied that the wife has deserted her husband, or is of bad character, or is not dependent upon others for support, may pay the money deposited as herein provided to the guardian of the dependent child, as defined in section 234.1. [S13,§2606-c; C24, 27, 31, 35, §3379, 3384; C39,§3384.15; C46, 50, 54, 58, 62, 66, 71,§219.15; 64GA, ch 1027,§16]

Referred to in §219.20

219.16 Conditional admittance. The director may, if there is room for all dependent applicants and members, admit and allow to remain

in the home, persons who have sufficient means for their own support, but are otherwise eligible to become members of the home, on payment of the cost of their support, which cost and method of collection shall be fixed from time to time by the director. [S13,§2606-a; C24, 27, 31, 35,§3371; C39,§3384.16; C46, 50, 54, 58, 62, 66, 71,§219.16]

219.17 Remittance to treasurer. All sums paid to and received by the business manager or the commandant, under this chapter, for the support of members in the home, shall be paid monthly by him to the treasurer of state and credited to the general fund of the state. [S13,§2602-a; C24, 27, 31, 35,§3372; C39,§3384.17; C46, 50, 54, 58, 62, 66, 71,§219.17]

Temporary use of certain fees; 64GA, ch 1133,§1

219.18 Rules enforced—power to dismiss. The commandant shall administer and enforce all rules and regulations adopted by the director, including rules of discipline, and shall have power to dismiss any member from the home for infraction of such rules and regulations subject to the approval of the director. [C39,§3384.18; C46, 50, 54, 58, 62, 66, 71,§219.18]

219.19 Dual conviction — probation. Any person who, while a member of the home, is twice convicted of an offense against the statutes of the state, or twice found guilty by the commandant or a court martial of intoxication or other infraction of the rules of the home, shall be required to deposit all of his pension money with the commandant immediately upon receipt of his pension check or warrant. In lieu of trial by the commandant the member may demand a court martial. Such pension money shall be deposited by the commandant in a separate account for and in behalf of such pensioner and the commandant shall, under such rules as the director may provide, pay the same out with the consent of the pensioner in such manner and for such

purposes as the director may approve. If, after a period of six months, the pensioner shall conduct himself in an orderly and sober manner, said deposit shall be returned to him. If the pensioner be discharged from the home the balance of such deposit shall be paid to said pensioner within thirty days after his discharge. [S13,§2606-b; C24, 27, 31, 35,§§3378, 3380, 3381, 3382; C39,§3384.19; C46, 50, 54, 58, 62, 66, 71,§219.19]

Referred to in §219.20

219.20 Assignment of deposit. Pension money deposited with the commandant shall not be assignable for any purpose except as provided in sections 219.15 and 219.19. [S13, §2606-b; C24, 27, 31, 35,§3383; C39,§3384.20; C46, 50, 54, 58, 62, 66, 71,§219.20]

Assignments in general, ch 639

Exemption of pension money, §627.8

219.21 Report by director. The director shall, biennially, on or before October 1, prior to the meeting of the general assembly, make a full and detailed report to the governor showing the condition of the home, the number of members in the home, the order and discipline enforced, and the needs of the home financially and otherwise, together with an itemized statement of all receipts and disbursements and any and all other matters of importance in the management and control of the home. [C39, §3384.21; C46, 50, 54, 58, 62, 66, 71,§219.21]

Time for filing report, §17.3

219.22 Repealed by 63GA, ch 156,§1.

Constitutionality, 48GA, ch 94,§24

Vested rights not prejudiced, 63GA, ch 156,§2

219.23 "Soldier" includes air force. Wherever the word "soldier" appears in this chapter, it shall include, without limitation, the members of the United States air force. [C71, §219.23]

219.24 "Director" defined. The term "director" or "state director" means the director of the division of child and family services of the department of social services. [C71,§219.24]

CHAPTER 220
STATE SANATORIUM

Transferred to chapter 271

CHAPTER 220A
INTERAGENCY INFORMATION SERVICE
ON MENTALLY HANDICAPPED

Referred to in §218.11

220A.1 Purpose.
220A.2 Definitions.
220A.3 Administrative agency.
220A.4 Agencies involved.
220A.5 Duties of department.

220A.6 Information to others.
220A.7 Restrictions not applicable.
220A.8 Statistical information.
220A.9 Statutory immunity.

220A.1 Purpose. The purpose of this chapter is to permit information concerning persons believed to be mentally handicapped to be efficiently used by and exchanged among the state and local governments, their departments and agencies, and with other public or private agencies, where the use or exchange of the information is for the purpose of assisting any of the agencies in providing care, evaluation, services, assistance, education, or habilitation to such persons. [C71,§220A.1]

220A.2 Definitions. When used in this chapter, unless the context otherwise requires:

1. "Service" means the interagency case information service.
2. "Public agency" means any agency, department, board, commission, or division of the state of Iowa or the United States, any political subdivision of or school board in the state of Iowa, any state of the United States, and the District of Columbia.
3. "Private agency" means any individual and any nonprofit or business organization authorized under the laws of Iowa.
4. "Department" means the department of social services. [C71,§220A.2]

220A.3 Administrative agency. The department of social services is hereby designated as the administrative agency to provide for a central data control and exchange agency known as the interagency case information service. [C71,§220A.3]

220A.4 Agencies involved. The service shall receive from and make available to the following state agencies case information on persons believed to be mentally handicapped: The state department of health, the state department of public instruction, the state board of regents, and the state department of social services. [C71,§220A.4]

Referred to in §220A.6

220A.5 Duties of department. The department shall:

1. Administer and enforce the provisions of this chapter.

2. Be the official agency to join or co-operate with the government of the United States or any state of the United States and the District of Columbia through their appropriate agencies or departments in carrying out the provisions of this chapter.

3. Apply for and receive funds, appropriations, moneys, grants, gifts, or services of any kind from the United States or any agency thereof, as well as this state and any person or private agency for the purpose of carrying out the provisions of this chapter and the services hereunder.

4. Make such reports and budget estimates to the governor and to the general assembly as are necessary to obtain the appropriation of state funds for the service.

5. Co-operate with the other state departments and public and private agencies as authorized by this chapter in obtaining, exchanging, and disseminating case information.

6. Employ personnel for the administration of the service and contract with other public or private agencies to carry out the services. [C71,§220A.5]

220A.6 Information to others. The state agencies designated in section 220A.4 may receive from and disseminate to other public agencies or private agencies such information as is necessary or proper for the purpose of providing evaluation services, treatment services, education, support or habilitation services to the mentally handicapped person. The enumerated state agencies or their designated staff shall be authorized to make determination of the proper receipt or dissemination of information to other public or private agencies. [C71,§220A.6]

220A.7 Restrictions not applicable. Any law or departmental rule of the state of Iowa which restricts or declares confidential information concerning persons believed to be mentally handicapped shall not apply to information exchanged through the service for the purposes of this chapter. Information supplied under a restriction by the government of the United States, its departments or agencies, or by other state government, its departments

INTERAGENCY ON MENTALLY HANDICAPPED

and agencies, shall be processed in compliance with such restrictions. Any case information restricted by any order of court shall be processed in compliance with the order. [C71, §220A.7]

220A.8 Statistical information. For purposes of research, study, and public information, public or private agencies may receive from the service comprehensive statistical information which may be disseminated to the public. Such information shall not use names of individual persons nor be so specific as to make possible the identification of individual persons. [C71, §220A.8]

220A.9 Statutory immunity. Any person or any public or private agency or employee thereof who participates in good faith in the collection, exchange, or dissemination of case information for the purposes of this chapter shall have immunity from any liability, civil or criminal, which might be otherwise imposed. [C71, §220A.9]

CHAPTER 221

MENTAL RETARDATION COMPREHENSIVE PLAN

221.1 State agency.
221.2 Staff.

221.3 Aids and grants received.

221.1 State agency. The director of mental health of the state department of social services is hereby designated as the single state agency to act as the administrative agency to provide for the continuation of comprehensive planning to combat mental retardation. [C66, 71, §221.1]

221.2 Staff. The division of mental health of the state department of social services shall employ the staff necessary for the purposes of

interpretation, evaluation, and dissemination of Iowa's Comprehensive Plan to Combat Mental Retardation and to carry on needed research. [C66, 71, §221.2]

221.3 Aids and grants received. The director of mental health of the state department of social services is authorized and empowered to apply for and receive federal aids, grants, and gifts for purposes relating to mental retardation. [C66, 71, §221.3]

CHAPTER 222

MENTALLY RETARDED PERSONS

Referred to in §§444.12(1, b), (3, a, b)

- 222.1 Purpose of state schools.
- 222.2 Definitions.
- 222.3 Superintendents.
- 222.4 Duties.
- 222.5 Preadmission diagnostic evaluation.
- 222.6 State districts.
- 222.7 Transfers.
- 222.8 Communications by patients.
- 222.9 Unauthorized departures.
- 222.10 Duty of peace officer.
- 222.11 Expense.
- 222.12 Deaths investigated.
- 222.13 Voluntary admissions.
- 222.14 Care by county pending admission.
- 222.15 Discharge of voluntary patients.
- 222.16 Petition for adjudication of retardation.
- 222.17 Allegations verified.
- 222.18 County attorney to appear.
- 222.19 Party respondents.
- 222.20 Notice served.
- 222.21 Order requiring attendance.
- 222.22 Time of appearance.
- 222.23 Persons to be present.
- 222.24 When held.
- 222.25 Custody pending hearing.
- 222.26 Hearing in equity.
- 222.27 Hearing in public.
- 222.28 Commission to examine.
- 222.29 Report.
- 222.30 Ruling on report.
- 222.31 Guardianship or commitment.
- 222.32 Committed person under jurisdiction of court.
- 222.33 Power of guardian.
- 222.34 Guardianship under jurisdiction of court.
- 222.35 No change without notice.
- 222.36 Custody pending admission.
- 222.37 Order to deliver committed person.
- 222.38 Delivery of person to school or special unit.
- 222.39 Receipt acknowledged by superintendent.
- 222.40 Filing order with clerk.
- 222.41 Exclusive method of discharge.
- 222.42 Petition for discharge.
- 222.43 Grounds.
- 222.44 Notice to superintendent.
- 222.45 Power of court.
- 222.46 No bar to future petitions.
- 222.47 Penalty for false petition of commitment.
- 222.48 Fees for witnesses.
- 222.49 Costs paid.
- 222.50 County of legal settlement to pay.
- 222.51 Costs collected.
- 222.52 Proceedings against delinquent—hearing on retardation.
- 222.53 Conviction—suspension.
- 222.54 Procedure after hearing.
- 222.55 Procedure as mentally ill person.
- 222.56 Transfer to institution for mentally retarded.
- 222.57 Court records.
- 222.58 Director to keep record.
- 222.59 Superintendent may return patient.
- 222.60 Costs paid by county or state.
- 222.61 Legal settlement determined.
- 222.62 Settlement in another county.
- 222.63 Finding of settlement—objection.
- 222.64 Foreign state or unknown.
- 222.65 Investigation.
- 222.66 Transfers—expenses.
- 222.67 Change in finding of settlement.
- 222.68 Costs paid in first instance.
- 222.69 Payment by state.
- 222.70 Dispute between counties.
- 222.71 Finding by court.
- 222.72 Finding settlement outside state.
- 222.73 Superintendent to prepare expense schedule.
- 222.74 Duplicate to county.
- 222.75 Delinquent payments—penalty.
- 222.76 Paid from institution funds.
- 222.77 Patients on leave.
- 222.78 Parents and others liable for support.
- 222.79 Statement presumed correct.
- 222.80 Liability to county.
- 222.81 Claim against estate.
- 222.82 Collection of claims.
- 222.83 Nonresident patients.
- 222.84 Patients' personal deposit fund.
- 222.85 Deposit of moneys—exception to guardians.
- 222.86 Payment for care from fund.
- 222.87 Deposit in bank.
- 222.88 Special mental retardation unit.
- 222.89 Location—staff and personnel.
- 222.90 Superintendent.
- 222.91 Direct referral to special unit.

§222.1, MENTALLY RETARDED

222.1 Purpose of state schools. The Glenwood state hospital-school and the Woodward state hospital-school shall be maintained for the purpose of providing treatment, training, instruction, care, habilitation, and support of mentally retarded persons in this state.

A special mental retardation unit may be maintained at one of the state mental health institutes for the purposes set forth in sections 222.88 through 222.91, inclusive. [S13, §§2727-a93, -a95; SS15, §§2727-a93, -a96; C24, 27, 31, 35, 39, §§3465, 3468; C46, 50, 54, 58, 62, §§223.1, 223.4; C66, 71, §222.1]

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

1. "Hospital-schools" means the Glenwood state hospital-school and the Woodward state hospital-school.

2. "Special unit" means a special mental retardation unit established at a state mental health institute pursuant to sections 222.88 through 222.91, inclusive.

3. "Director" or "state director" means the director of the division of mental health of the department of social services.

4. "Superintendents" means the superintendents of the state hospital-schools.

5. "Mental retardation" or "mentally retarded" means a term or terms to describe children and adults who as a result of inadequately developed intelligence are significantly impaired in ability to learn or to adapt to the demands of society. [C97, §2699; C24, 27, 31, 35, 39, §§3411; C46, 50, 54, 58, 62, §222.1; C66, 71, §222.2]

Referred to in §226.8

222.3 Superintendents. The state director shall appoint a qualified superintendent for each of the hospital-schools who shall receive such salary as the state director shall determine. [SS15, §2727-a96; C24, 27, 31, 35, 39, §3466; C46, 50, 54, 58, 62, §223.2; C66, 71, §222.3]

222.4 Duties. The superintendents shall:

1. Perform all duties required by law and by the state director not inconsistent with law.

2. Oversee and insure individual treatment and professional care of each patient in the hospital-schools.

3. Maintain a full and complete record of the condition of each patient in the hospital-schools.

4. Have custody, control, and management of all patients in such manner as deemed best subject to the regulations of the state director.

[SS15, §2727-a96; C24, 27, 31, 35, 39, §3467; C46, 50, 54, 58, 62, §223.3; C66, 71, §222.4]

Referred to in §222.90

222.5 Preadmission diagnostic evaluation. No person shall be eligible for admission to a hospital-school or a special unit until a pre-admission diagnostic evaluation has been made by a hospital-school or a special unit which confirms or establishes the need for admission. [C24, 27, 31, 35, 39, §3444; C46, 50, 54, 58, 62, §222.34; C66, 71, §222.5]

222.6 State districts. The state director shall divide the state into two districts in such manner that one of the hospital-schools shall be located within each of the districts. Such districts may from time to time be changed. After such districts have been established, the director shall notify all boards of supervisors, county auditors, and clerks of the district courts of the action. Thereafter, unless the state director otherwise orders, all admissions or commitments of mentally retarded persons from a district shall be to the hospital-school located within such district. [C24, 27, 31, 35, 39, §3476; C46, 50, 54, 58, 62, §223.10; C66, 71, §222.6]

222.7 Transfers. The state director may transfer patients from one state hospital-school to the other and may at any time transfer any patient from the hospital-schools to the hospitals for the mentally ill, or from the latter to the former, transfer patients in the hospital-schools to a special unit or vice versa, or make such transfers as are permitted in section 218.92. [SS15, §2727-a96; C24, 27, 31, 35, 39, §§3456, 3472, 3477; C46, 50, 54, 58, 62, §§222.46, 223.8, 223.11; C66, 71, §222.7]

Referred to in §226.8

222.8 Communications by patients. Persons admitted to the hospital-schools or a special unit shall have all reasonable opportunity and facility for communication with their friends. Such persons shall be permitted to write and send letters, provided the letters contain nothing of an offensive character. Letters written by any patient to the state director or to any state or county official shall be forwarded unopened. [C24, 27, 31, 35, 39, §3445; C46, 50, 54, 58, 62, §222.35; C66, 71, §222.8]

222.9 Unauthorized departures. If any mentally retarded person shall depart without proper authorization from a hospital-school or a special unit, it shall be the duty of the superintendent and his assistants and all peace officers of any county in which such patient may

be found, to take and detain the patient without a warrant or order and to immediately report such detention to the superintendent who shall immediately provide for the return of such patient to the hospital-school or special unit. [C24, 27, 31, 35, 39, §3469; C46, 50, 54, 58, 62, §222.50; C66, 71, §222.9]

222.10 Duty of peace officer. When any mentally retarded person departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain the patient without warrant or order and shall report such detention to the state director. The state director shall provide for the return of the patient to the authorities in the state from which the unauthorized departure was made. Pending return, such patient may be detained temporarily at one of the institutions of this state governed by the state director or by the director of the division of child and family services of the department of social services. The provisions of this section relating to the state director shall also apply to the return of other nonresident mentally retarded persons having legal settlement outside the state of Iowa. [C58, 62, §222.55; C66, 71, §222.10]

222.11 Expense. All actual and necessary expenses incurred in the taking into protective custody, restraint, and transportation of such patients to the hospital-schools shall be paid on itemized vouchers, sworn to by the claimants, and approved by the superintendent and the state director from any money in the state treasury not otherwise appropriated. [C24, 27, 31, 35, 39, §3461; C46, 50, 54, 58, 62, §222.51; C66, 71, §222.11]

222.12 Deaths investigated. In the event of a sudden or mysterious death of a patient of a hospital-school or the special unit or any private institution for the mentally retarded, an investigation shall be held by the county medical examiner. The superintendent of a hospital-school or a special unit or chief administrative officer of any private institution may request an investigation of the death of any patient by the county medical examiner. Notice of the death of the patient, and the cause thereof, shall be sent to the county board of supervisors and to the judge of the court having had jurisdiction over a committed patient. The fact of death with the time, place, and alleged cause shall be entered upon the docket of the court. The parent, guardian, or other person responsible for the admission of a patient to such institutions may request an investigation by the county medical examiner in the event of the death of the patient. The person or persons making the request shall be liable for the expense of such investigation and payment therefor may be required in advance. The expense of a county medical examiner's investigation when requested by the superintendent of a state hospital-school or a special unit shall be paid from support funds

of that institution. [C24, 27, 31, 35, 39, §3447; C46, 50, 54, 58, 62, §222.37; C66, 71, §222.12]

222.13 Voluntary admissions. The parent, guardian, or other person responsible for any person believed to be mentally retarded within the meaning of this chapter may on behalf of such person request the county board of supervisors or their designated agent to apply to the superintendent of any state hospital-school for the voluntary admission of such person either as an inpatient or an outpatient of the hospital-school. After determining the legal settlement of such person as provided by this chapter, the board of supervisors shall, on forms prescribed by the state director, apply to the superintendent of the hospital-school in the district for the admission of such person to the hospital-school. An application for admission to a special unit of any person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the parent, guardian, or other person responsible for the handicapped person. The superintendent shall accept the application providing a preadmission diagnostic evaluation confirms or establishes the need for admission, except that no application may be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

If the hospital-school has no appropriate program for the treatment of such persons, the board of supervisors shall arrange for the placement of the persons in any public or private facility within or without the state, approved by the commissioner of the department of social services, which offers appropriate services for such persons. [C24, 27, 31, 35, 39, §§3464, 3477.2; C46, 50, 54, 58, 62, §§222.54, 223.13; C66, 71, §222.13]

Referred to in §222.14

222.14 Care by county pending admission. If the institution is unable to receive a patient, the superintendent shall notify the county board of supervisors of the county from which the application in behalf of the prospective patient was made of the time when such person may be received. Until such time as the patient is able to be received by the institution, or when application has been made for admission to a public or private facility as provided in section 222.13 and the application is pending, the care of said person shall be provided as arranged by the county board of supervisors. [C24, 27, 31, 35, 39, §3433; C46, 50, 54, 58, 62, §222.23; C66, 71, §222.14]

222.15 Discharge of voluntary patients. The parent, guardian, or any other person responsible for the voluntary admission of any person to a hospital-school or a special unit may, upon ten days' notice, obtain the discharge of such person by giving to the superintendent of the institution and the county board of supervisors of the county from which such person was admitted written notice of the desire for such

§222.16, MENTALLY RETARDED

discharge. [SS15,§2727-a96; C24, 27, 31, 35, 39, §3473; C46, 50, 54, 58, 62,§223.9; C66, 71,§222.15]

222.16 Petition for adjudication of retardation. A petition for the adjudication of the mental retardation of a person within the meaning of this chapter may, with the permission of the court be filed without fee against such person with the clerk of the district court of the county or city in which such alleged mentally retarded person resides or is found. The petition may be filed by any relative of such person, by a guardian, or by any reputable citizen of the county of such residence or of such place of finding. [C24, 27, 31, 35, 39,§3413; C46, 50, 54, 58, 62,§222.3; C66, 71, §222.16; 64GA, ch 1124,§114]

222.17 Allegations verified. The petition shall be verified by affidavit, may be filed on information or belief, and shall:

1. Allege that such person is mentally retarded within the meaning of this chapter.
2. Allege that the filing of the petition is conducive to the welfare of such person and of the community.
3. List the name and residence of all known persons supervising, caring for, or supporting such person, or assuming, or under obligation to do so.
4. List the name and residence, if known, of the parents of such person and of all other persons legally chargeable with the supervision, care, or support of such person.
5. List the names of all obtainable witnesses known to the petitioner by which the allegations of the petition may be established.
6. State whether such person has been examined by a qualified physician with a view of determining his mental condition. [C24, 27, 31, 35, 39,§§3414, 3415; C46, 50, 54, 58, 62,§§222.4, 222.5; C66, 71,§222.17]

222.18 County attorney to appear. The county attorney shall, if requested, appear on behalf of any petitioner for the appointment of a guardian or commitment of a person alleged to be mentally retarded under this chapter, and on behalf of all public officials and superintendents in all matters pertaining to the duties imposed upon them by this chapter. [C24, 27, 31, 35, 39,§3412; C46, 50, 54, 58, 62,§222.2; C66, 71,§222.18]

222.19 Party respondents. The following persons, in addition to the person alleged to be mentally retarded, shall be made party respondents if the persons reside in this state and their names and residences are known:

1. The parent or parents of said principal person.
2. The person with whom said principal person is living.
3. The person or persons assuming to give the principal respondent care and attention.
4. The guardian, if there be such, of the person or property of the principal respon-

dent. [C24, 27, 31, 35, 39,§3416; C46, 50, 54, 58, 62,§222.6; C66, 71,§222.19]

222.20 Notice served. Notice of the pendency of said petition and of the time and place of hearing thereon shall be served upon all respondents who are residents of the county in which the petition is filed, in the manner in which original notices are served. The court shall by written order direct the manner and time of service on all other parties. No notice need be served on those who are personally before the court. [C24, 27, 31, 35, 39,§3417; C46, 50, 54, 58, 62,§222.7; C66, 71, §222.20]

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

222.21 Order requiring attendance. If the person alleged to be mentally retarded is not before the court, the court may issue an order requiring the person, who has the care, custody, and control of the alleged mentally retarded person to bring said alleged mentally retarded person into court at the time and place stated in said order. [C24, 27, 31, 35, 39, §3417; C46, 50, 54, 58, 62,§222.7; C66, 71,§222.21]

222.22 Time of appearance. The time of appearance shall not be less than five days after completed service unless the court orders otherwise. Appearance on behalf of such alleged mentally retarded person may be made by any citizen of the county or by any relative. The district court shall assign counsel for the alleged mentally retarded person. Counsel shall prior to proceedings personally consult with such person unless the judge appointing such counsel certifies that in his opinion, such consultation shall serve no useful purpose. Such certification shall be made a part of the record. An attorney so assigned shall receive such compensation as the district court shall fix to be paid in the first instance by the county. [C24, 27, 31, 35, 39, §3418; C46, 50, 54, 58, 62,§222.8; C66, 71,§222.22]

Referred to in §336B.2

222.23 Persons to be present. At any hearing for commitment under this chapter, the person whose commitment is sought, his appointed counsel, his own attorney, if any, and any physician or psychologist whose testimony is to be made a part of the record shall be present unless the presiding judge shall determine that the presence will not be in the best interest of the person whose commitment is sought. Such determination shall be made a part of the record. [C66, 71, §222.23]

222.24 When held. The hearing may be heard in term time or in vacation. The petition shall be taken as confessed by all respondents, except the principal person, who are duly served and who do not appear at the time required by the notice. [C24, 27, 31, 35, 39,§3419; C46, 50, 54, 58, 62,§222.9; C66, 71, §222.24]

222.25 Custody pending hearing. Pending final hearing, the court may at any time after

the filing of the petition and on satisfactory showing that it is in the best interest of the alleged mentally retarded person and of the community that such person be at once taken into custody, or that service of notice will be ineffectual if the person is not taken into custody, issue an order for the immediate production of such person before the court. In such case, the court may make any proper order for the custody or confinement of such person as will protect the person and the community and insure the presence of such person at the hearing. Such person shall not be confined with those accused or convicted of crime. [C24, 27, 31, 35, 39, §3420; C46, 50, 54, 58, 62, §222.10; C66, 71, §222.25]

222.26 Hearing in equity. The hearing on the allegations of the petition shall be as in equity proceedings. Answers to allegations shall not be required but may be filed. The court may require the petitioner to answer under oath such interrogatories as may be propounded by said court. [C24, 27, 31, 35, 39, §§3421, 3422; C46, 50, 54, 58, 62, §§222.11, 222.12; C66, 71, §222.26]

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

222.27 Hearing in public. Hearings shall be public, unless otherwise requested by the parent, guardian, or other person having the custody of the mentally retarded person, or if the judge considers, a closed hearing in the best interests of the mentally retarded person. [C24, 27, 31, 35, 39, §3423; C46, 50, 54, 58, 62, §222.13; C66, 71, §222.27]

222.28 Commission to examine. The court may, at or prior to the final hearing, appoint a commission of one qualified physician and one qualified psychologist who shall make a personal examination of the person alleged to be mentally retarded for the purpose of determining the mental condition of the person. [C24, 27, 31, 35, 39, §3424; C46, 50, 54, 58, 62, §222.14; C66, 71, §222.28]

Referred to in §222.31

222.29 Report. Said commission shall report in writing to the court the facts attending the mental condition of said person, its conclusion based thereon, and its recommendations concerning such person. The commission shall also report to the court sworn answers to such questions as may be required by the court. Such reports shall be filed with the clerk of the court. [C24, 27, 31, 35, 39, §3425; C46, 50, 54, 58, 62, §222.15; C66, 71, §222.29]

222.30 Ruling on report. No objections or exceptions need be made to said report. The court may set the report aside, and may order a new examination by the same or by a new commission, or may make such findings of fact in lieu of said report as may be justified by the evidence before the court. [C24, 27, 31, 35, 39, §3426; C46, 50, 54, 58, 62, §222.16; C66, 71, §222.30]

222.31 Guardianship or commitment. If in the opinion of the court, or of a commission

as authorized in section 222.28, the person is mentally retarded within the meaning of this chapter and the court determines that it will be conducive to the welfare of such person and of the community to place the person under guardianship, or to commit the person to some proper institution for treatment, training, instruction, care, habilitation, and support, the court shall by proper order:

1. Appoint a guardian of the person of such person, provided no such guardian has already been appointed.

2. Commit the person to any public or private facility within or without the state, approved by the commissioner of the department of social services. If the person has not been examined by a commission as appointed in section 222.28, the court shall, prior to issuing an order of commitment, appoint such a commission to examine the person for the purpose of determining the mental condition of the person. No order of commitment shall be issued unless the commission shall recommend that such order be issued and the private institution to which the person is to be committed shall advise the court that it is willing to receive the person.

3. Commit the person to the state hospital-school designated by the director to serve the county in which the hearing is being held, or to a special unit. The court shall prior to issuing an order of commitment request that a diagnostic evaluation of the person be made by the superintendent of the hospital-school or the special unit, or his qualified designee. The evaluation shall be conducted at such place as the superintendent may direct. The cost of the evaluation shall be defrayed by the county of legal settlement from its state institution fund unless otherwise ordered by the court. Such cost may be equal to but shall not exceed the actual cost of the evaluation. Persons referred by a court to a hospital-school or the special unit for diagnostic evaluation shall be considered as outpatients of such institution. No order of commitment shall be issued unless the superintendent of the institution shall recommend that such order be issued, and shall advise the court that adequate facilities for the care of such person are available. [C24, 27, 31, 35, 39, §3428; C46, 50, 54, 58, 62, §222.18; C66, 71, §222.31]

Referred to in §§222.34, 222.36

222.32 Committed person under jurisdiction of court. Any person committed to any private institution shall remain under the jurisdiction of the court and the order of commitment may at any time be set aside or modified by changing the place of commitment or terminating the commitment and appointing a guardian in lieu thereof. [C24, 27, 31, 35, 39, §3429; C46, 50, 54, 58, 62, §222.19; C66, 71, §222.32]

222.33 Power of guardian. A guardian appointed under this chapter shall have the same power over the person as possessed by a parent over a minor child. The guardian

§222.33, MENTALLY RETARDED

shall be subordinate to any duly appointed guardian of the property of such person. [C24, 27, 31, 35, 39, §3430; C46, 50, 54, 58, 62, §222.20; C66, 71, §222.33]

Guardianship generally, §§633.552 to 633.560

222.34 Guardianship under jurisdiction of court. Guardianship proceedings shall remain under the jurisdiction of the court. The court may at any time on application of any reputable person terminate such guardianship, remove the guardian and appoint a new guardian, or order that such mentally retarded person be removed from the custody of the guardian and committed to an institution or hospital-school as permitted in section 222.31. [C24, 27, 31, 35, 39, §3431; C46, 50, 54, 58, 62, §222.21; C66, 71, §222.31]

222.35 No change without notice. No order shall be made discharging or varying a prior order placing the mentally retarded person under guardianship without giving one or more of the relatives or a friend of the mentally retarded person, his guardian, or the state director notice and an opportunity to be heard. [C24, 27, 31, 35, 39, §3432; C46, 50, 54, 58, 62, §222.22; C66, 71, §222.35]

222.36 Custody pending admission. If a hospital-school or a special unit is unable to immediately receive a person committed under subsection 3 of section 222.31, the superintendent shall notify the court of the time when such person may be received. In the meantime, said person shall be cared for under such order as the court may enter. [C24, 27, 31, 35, 39, §3433; C46, 50, 54, 58, 62, §222.23; C66, 71, §222.36]

222.37 Order to deliver committed person. Upon the entry of an order of commitment, the clerk shall deliver to a suitable person designated by the court, an order of commitment and a duplicate thereof commanding such person to immediately deliver the committed person to the institution, hospital-school, or special unit, as designated by the court. [C24, 27, 31, 35, 39, §3434; C46, 50, 54, 58, 62, §222.24; C66, 71, §222.37]

222.38 Delivery of person to school or special unit. The court may for the purpose of committing said person direct the clerk to authorize the employment of one or more assistants. No mentally retarded female shall be taken to an institution, hospital-school, or special unit by any male person not her husband, father, brother, or son without the attendance of a woman of good character and mature age. [C24, 27, 31, 35, 39, §3435; C46, 50, 54, 58, 62, §222.25; C66, 71, §222.38]

222.39 Receipt acknowledged by superintendent. The superintendent of the institution, hospital-school, or special unit on the order of commitment shall acknowledge receipt for said person. The duplicate order shall be left with the superintendent and shall be sufficient authority to restrain and care for

said committed person. [C24, 27, 31, 35, 39, §3436; C46, 50, 54, 58, 62, §222.26; C66, 71, §222.39]

222.40 Filing order with clerk. The person executing said order shall make due return thereon of his doings and forthwith file the same with the clerk. [C24, 27, 31, 35, 39, §3437; C46, 50, 54, 58, 62, §222.27; C66, 71, §222.40]

222.41 Exclusive method of discharge. No person committed under this chapter shall be discharged from the institution, hospital-school, or special unit except as provided in this chapter. Nothing in this chapter shall abridge the right of petition for a writ of habeas corpus. [C24, 27, 31, 35, 39, §3438; C46, 50, 54, 58, 62, §222.28; C66, 71, §222.41]

Constitutional provision, Art. 1, §13
Habeas corpus, ch 663

222.42 Petition for discharge. A petition for the discharge of a person who has been committed to an institution, a hospital-school, or a special unit under this chapter or to vary such order of commitment may at any time after six months from the date of such commitment be filed by the person committed or by any reputable person. If the commitment be to a private institution, the petition shall be filed with the court ordering such commitment. If the commitment be to a hospital-school or a special unit, the petition shall be filed in the proper court of the county where the institution is situated. [C24, 27, 31, 35, 39, §3439; C46, 50, 54, 58, 62, §222.29; C66, 71, §222.42]

222.43 Grounds. Discharges and modifications of orders may be made on any of the following grounds:

1. That the person adjudged to be mentally retarded is not mentally retarded.

2. That the person adjudged to be mentally retarded has improved as to be capable of caring for himself.

3. That the relatives or friends of the mentally retarded person are able and willing to support and care for him and request his discharge, and in the judgment of the superintendent of the institution or hospital-school having charge of the person, no harmful consequences are likely to follow such discharge.

4. That, for any other cause, said discharge should be made or such modification should be entered.

Petitions for discharge or modification of an order of commitment to a special unit may be made upon any of the foregoing grounds, when applicable. [C24, 27, 31, 35, 39, §3440; C46, 50, 54, 58, 62, §222.30; C66, 71, §222.43]

222.44 Notice to superintendent. Notice of the hearing for discharge or modification of orders shall be served on the superintendent of the institution, hospital-school, or special unit, and on such parties as the court may find from the record are interested. [C24, 27, 31, 35, 39, §3441; C46, 50, 54, 58, 62, §222.31; C66, 71, §222.44]

222.45 Power of court. On the hearing, the court may discharge the mentally retarded person from all supervision, control, and care, or may place him under guardianship, or may transfer him from a public institution to a private institution, or vice versa, or transfer the person from a special unit to a hospital-school, or vice versa, as the court deems appropriate under all the circumstances. [C24, 27, 31, 35, 39, §3442; C46, 50, 54, 58, 62, §222.32; C66, 71, §222.45]

222.46 No bar to future petitions. The denial of one petition for discharge or modification shall be no bar to another on the same or different grounds within a reasonable time thereafter, such reasonable time to be determined by the court. [C24, 27, 31, 35, 39, §3443; C46, 50, 54, 58, 62, §222.33; C66, 71, §222.46]

222.47 Penalty for false petition of commitment. Any person who shall maliciously seek to have any person adjudged mentally retarded, knowing that such person is not mentally retarded, shall be fined not exceeding one thousand dollars or imprisoned not exceeding one year in the county jail. [C24, 27, 31, 35, 39, §3448; C46, 50, 54, 58, 62, §222.38; C66, 71, §222.47]

222.48 Fees for witnesses. The fees for attendance of witnesses and execution of legal process shall be the same as are allowed by law for similar service in other cases. For service as commissioner, a reasonable sum as determined by the court and the actual and necessary traveling expenses shall be allowed. [C24, 27, 31, 35, 39, §3449; C46, 50, 54, 58, 62, §222.39; C66, 71, §222.48]

Fees, §§337.11, 622.69

222.49 Costs paid. The costs of proceedings shall be defrayed from the county treasury unless otherwise ordered by the court. When the person alleged to be mentally retarded is found not to be mentally retarded, the court shall render judgment for such costs against the person filing the petition except when the petition is filed by order of court. [C24, 27, 31, 35, 39, §3450; C46, 50, 54, 58, 62, §222.40; C66, 71, §222.49]

222.50 County of legal settlement to pay. When the proceedings are instituted in a county in which the alleged mentally retarded person was found but which is not the county of legal settlement of the person, and the costs are not taxed to the petitioner, the county which is the legal settlement of such person shall, on presentation of a properly itemized bill for such costs, repay the same to the former county. When the person's legal settlement is outside the state or is unknown, the costs shall be paid out of money in the state treasury not otherwise appropriated, itemized on vouchers executed by the auditor of the county which paid the costs, and approved by the state director. [C24, 27, 31, 35, 39, §3451; C46, 50, 54, 58, 62, §222.41; C66, 71, §222.50]

222.51 Costs collected. Costs incident to guardianship and to the hearings and commitment of a mentally retarded person to an institution, a hospital-school, or a special unit, may be collected from such mentally retarded person and from all persons legally chargeable with the support of such mentally retarded person. [C24, 27, 31, 35, 39, §3452; C46, 50, 54, 58, 62, §222.42; C66, 71, §222.51]

222.52 Proceedings against delinquent — hearing on retardation. When in proceedings against an alleged delinquent or dependent child, the court is satisfied from any evidence that such child is mentally retarded, the court may order a continuance of such proceeding, and may direct an officer of the court or some other proper person to file a petition against such child permitted under the provisions of this chapter. Pending hearing of the petition the court may by order provide proper custody for the child. [C24, 27, 31, 35, 39, §3453; C46, 50, 54, 58, 62, §222.43; C66, 71, §222.52]

Referred to in §§222.53, 222.54

222.53 Conviction—suspension. If on the conviction in the district court of any person for any crime or for any violation of any municipal ordinance, or if on the determination in said courts that a child is dependent, neglected, or delinquent and it appears from any evidence presented to the court before sentence, that such person is mentally retarded within the meaning of this chapter, the court may suspend sentence or order, and may order any officer of the court or some other proper person to file a petition permitted under the provisions of this chapter against said person. Pending hearing of the petition, the court shall provide for the custody of said person as directed in section 222.52. [C24, 27, 31, 35, 39, §3454; C46, 50, 54, 58, 62, §222.44; C66, 71, §222.53; 64GA, ch 1124, §115]

Referred to in §222.54

222.54 Procedure after hearing. Should it be found under sections 222.52 and 222.53 that said person is not mentally retarded, the court shall proceed with the original proceedings as though no petition had been filed. [C24, 27, 31, 35, 39, §3455; C46, 50, 54, 58, 62, §222.45; C66, 71, §222.54]

222.55 Procedure as mentally ill person. If it appears at any time that a person has under the provisions of this chapter been placed under guardianship or committed to a private institution and should be committed to a hospital for the mentally ill, the person may be proceeded against under the chapters relating to the mentally ill. [C24, 27, 31, 35, 39, §3457; C46, 50, 54, 58, 62, §222.47; C66, 71, §222.55]

Commitment of mentally ill, ch 229

222.56 Transfer to institution for mentally retarded. When the mental condition of a person in a private institution for the mentally ill is found to be such that such patient should be transferred to an institution for the men-

§222.56, MENTALLY RETARDED

tally retarded or placed under guardianship, such person may be proceeded against under this chapter. [C24, 27, 31, 35, 39, §3458; C46, 50, 54, 58, 62, §222.48; C66, 71, §222.56]

222.57 Court records. Each court having jurisdiction under this chapter shall keep a separate docket of proceedings in which shall be made such entries as shall, together with the papers filed, preserve a complete and perfect record of each case. The original petitions, writs, and returns made thereto and the reports of commissions shall be filed with the clerk of the court. [C24, 27, 31, 35, 39, §3462; C46, 50, 54, 58, 62, §222.52; C66, 71, §222.57]

222.58 Director to keep record. The state director shall keep a record of all persons adjudged to be mentally retarded and of the orders respecting such persons by the courts throughout the state. Copies of such orders shall be furnished by the clerk of the court without the state director's application therefor. [C24, 27, 31, 35, 39, §3463; C46, 50, 54, 58, 62, §222.53; C66, 71, §222.58]

222.59 SUPERINTENDENT MAY RETURN PATIENT.

1. The superintendent of a hospital-school or a special unit may, on application of the parent or guardian, return a patient to the parent, or guardian. The superintendent in cooperation with other social agencies under the supervision of the Iowa department of social services may arrange for the patient to be placed at an appropriate health care facility licensed under chapter one hundred thirty-five C (135C) of the Code or at some other appropriate facility, which may include a foster home or group home, either under an arrangement which involves full-time responsibility for the patient by such facility, or as part of an arrangement under which the patient is to participate in one or more educational, developmental or employment programs conducted by other responsible persons, agencies or facilities. Such return or placement may be made at any time, even though the patient was committed by a court, upon

recommendation of the professional staff of the hospital-school or special unit that the patient is unlikely to benefit from further treatment, training, instruction, or care at the institution or is likely to improve his life status in an alternative facility.

2. In planning for the placement of a patient outside the hospital-school or special unit, it shall be the superintendent's responsibility to arrange for representation of the patient's interest by the patient's parent or legal guardian. If the patient has no living parent and no legal guardian other than the department or one of its officers or employees, the superintendent shall request some person who has demonstrated by prior activities an informed concern for the welfare and habilitation of the mentally retarded, and who is not an officer or employee of the department nor of any agency or facility which is a party to the arrangement for placement of the patient, to act as the patient's advocate. The superintendent may request some such person to serve as advocate for a patient who has no legal guardian. If either or both of the patient's parents are living but are deemed unlikely to or have shown themselves unable to represent the patient's interest effectively due to physical or mental infirmity, residence outside the state at such a distance as to make their effective participation unfeasible, or lack of interest demonstrated by refusal to participate in planning for

the patient's placement or by failure to respond within thirty days to a letter sent by restricted certified mail to the last known address of the parent or parents.

3. Each proposed placement shall be reported to the state director, who may approve, modify, alter, or rescind the action if deemed necessary. In so doing, the superintendent of the hospital-school or special unit involved shall certify in writing to the state director that there has been compliance with subsection two (2) of this section and that the patient's parent, guardian or advocate is or is not satisfied with the proposed placement, as the case may be. In the latter case, the state director shall afford the parent, guardian or advocate an opportunity to explain objections to the proposed placement and, if he decides to approve the proposed placement despite such objections, shall advise the parent, guardian or advocate of his right to appeal the decision pursuant to subsection four (4) of this section.

4. If a proposed placement of a patient from a hospital-school or special unit which is not satisfactory to the patient's parent, guardian or advocate is approved by the state director; or a proposed placement which is satisfactory to the patient's parent, guardian or advocate is modified, altered or rescinded by the state director, the parent, guardian or advocate may appeal to the department of social services, within thirty

days after notification to the parent, guardian or advocate of the proposed placement. The department shall give the appellant reasonable notice and opportunity for a fair hearing, conducted by the commissioner or his designee who shall act as an impartial arbiter of fact and law. In such hearing the parent, guardian or advocate shall have the opportunity to confront witnesses, to have access to hospital records, to present evidence and witnesses on their behalf and to be represented by counsel. The standard for such fair hearing shall be to provide "that placement which inures to the best interest of the patient."

An appellant aggrieved by the result of such hearing may, within thirty days, appeal to the district court of Polk County or of the county in which the appellant resides, by serving notice of such appeal upon the commissioner of social services or his designee, in the manner required for the service of original notice in a civil action. Upon such notice, the department shall furnish the appellant with a copy of any papers filed by him in support of his position, a transcript of any testimony taken, and a copy of the department's decision.

In the district court hearings, the parent, guardian or advocate has the right to be represented by counsel. The court shall, in all cases where the interests of the patient conflict with that of parent,

guardian or advocate, appoint counsel as guardian ad litem for the patient.

In all cases where an appeal is taken from a proposed placement, the proposed placement shall be stayed pending the outcome of said appeal.

5. Placement of a patient outside of a hospital-school or special unit under this section shall not relieve the Iowa department of social services of continuing responsibility for the welfare of the patient, except in cases of discharge under section two hundred twenty-two point fifteen (222.15) or two hundred twenty-two point forty-three (222.43) of the Code. Unless such discharge has occurred, the department shall provide for review of each placement arrangement made under this section at least once each year, or not more often than once each six months upon the written request of the patient's parent, guardian or advocate, with a view to ascertaining whether such arrangements continue to satisfactorily meet the patient's current needs.

6. The proposed return or placement of a patient outside a hospital-school or special unit shall be reported to the board of supervisors of the patient's county of legal settlement. The county board may not change a placement or program arranged and approved under this section if state funds are being made available to the county which the county may by law use to pay a portion of the cost of care of the patient so placed, however the board may at any time pro-

pose an alternative placement or program to the state director. No such alternative placement or program shall be carried out without the prior written approval of the state director, which shall be granted only after evaluation in the same manner as provided by this section for initial placements from a hospital-school or special unit.

7. When a patient committed by a court is to be returned to the parent or guardian, or placed out from a hospital-school or a special unit as otherwise provided by this section, notice shall be sent to the clerk of the court which committed the patient, and to the board of supervisors of both the patient's county of legal settlement and the county to which the patient is to be released, thirty days prior to the time the patient leaves the hospital-school or special unit.

222.60 Costs paid by county or state. All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of patients in a state hospital-school for the mentally retarded, or in a special unit, or any public or private facility within or without the state, approved by the commissioner of the department of social services, shall be paid by either:

1. The county in which such person has legal settlement as defined in section 252.16.

2. The state when such person has no legal settlement or when such settlement is unknown. [C39, §§3477.3, 3477.4, 3477.7; C46, 50, 54, 58, 62, §§223.14, 223.15, 223.18; C66, 71, §222.60]

Referred to in §§222.73, 222.76, 222.78

222.61 Legal settlement determined. When the board of supervisors of any county receives an application on behalf of any person for admission to a hospital-school or a special unit or when any court issues an order committing any person to a hospital-school or a special unit, the board of supervisors or the court shall determine and enter as a matter of record whether the legal settlement of the person is:

1. In the county in which the board of supervisors or court is located.
2. In some other county of the state.
3. In another state or in a foreign country.
4. Unknown. [C66, 71, §222.61]

222.62 Settlement in another county. When ever the board of supervisors or the court determines that the legal settlement of the person is other than in the county in which the board or court is located, the board or court shall, as soon as determination is made, certify such finding to the superintendent of the hospital-school or the special unit where the person is a patient. The superintendent shall charge the expenses already incurred and unadjusted, and all future expenses of the patient, to the county so certified until said legal settlement shall be otherwise determined as provided by this chapter. [C66, 71, §222.62]

222.63 Finding of settlement — objection. Said finding of legal settlement shall also be certified by the board of supervisors or the court to the county auditor of the county of legal settlement. Such auditor shall lay such notification before the board of supervisors of his county whereupon it shall be conclusively presumed that the patient has a legal settlement in said county unless the county shall, within six months, in writing filed with the board of supervisors or the court giving such notice, dispute said legal settlement. [C66, 71, §222.63]

222.64 Foreign state or unknown. If the legal settlement of the person is found by the board of supervisors or the court to be in a foreign state or country or is found to be unknown, the board of supervisors or the court shall immediately notify the state director of such finding and shall furnish the state director with a copy of the evidence taken on the question of legal settlement. The care of said person shall be as arranged by the board of supervisors or by such order as the court may enter. Application for admission or order of commitment may be made pending investigation by the state director. [C66, 71, §222.64]

222.65 Investigation. The state director shall immediately investigate the legal settlement of the person and proceed as follows:

1. If the state director finds that the decision of the board of supervisors or the court as to legal settlement of the person is correct, the state director shall cause the person either to be transferred to a hospital-school or a special unit and there maintained at the expense of the state or to be transferred to the place of foreign settlement.
2. If the state director finds that the decision of the board of supervisors or the court is not correct, the state director shall order the person transferred to a state hospital-school or a special unit and there maintained at the expense of the county of legal settlement in this state. [C66, 71, §222.65]

222.66 Transfers—expenses. The transfer to a hospital-school or a special unit or to the place of legal settlement of a mentally retarded person who has no legal settlement in this state or whose legal settlement is unknown, shall be made in accordance with such directions as shall be prescribed by the state director and when practicable by employees of the state hospital-school or the special unit. The actual and necessary expenses of such transfers shall be paid on itemized vouchers sworn to by the claimants and approved by the state director from any funds in the state treasury not otherwise appropriated. [C66, 71, §222.66]

222.67 Change in finding of settlement. Where a person has been received into a hospital-school or a special unit as a patient whose legal settlement is supposedly outside the state or is unknown and the state director finds that the legal settlement of the patient was at the time of admission or commitment in a county of this state, the state director shall charge all legal costs and expenses pertaining to the admission or commitment and support of the patient to the county of such legal settlement. The costs and expenses shall be collected as provided by law in other cases. [C66, 71, §222.67]

222.68 Costs paid in first instance. All necessary and legal expenses for the cost of admission or commitment of a person to a hospital-school or a special unit when the person's legal settlement is found to be in another county of this state shall in the first instance be paid by the county from which the person was admitted or committed. The county of legal settlement shall reimburse the county so paying for all such expenses. Where any county fails to make such reimbursement within sixty days following submission of a properly itemized bill to the county of legal settlement, a penalty of not greater than one percent per month on and after sixty days from submission of the bill may be added to the amount due. [C24, 27, 31, 35, 39, §3451; C46, 50, 54, 58, 62, §222.41; C66, 71, §222.68]

222.69 Payment by state. All necessary and legal expenses for the cost of admission or commitment of a person to a hospital-school or a special unit when the person's legal settlement is outside this state or is unknown shall be paid out of any money in the state treasury not otherwise appropriated. Such payments shall be made on itemized vouchers executed by the auditor of the county from which the expenses have been paid and approved by the state director. [C66, 71, §222.69]

222.70 Dispute between counties. When a dispute arises between counties or between the state director and a county as to the legal settlement of a person committed to a hospital-school or a special unit, the attorney general at the request of the state director shall without advancement of fees cause an action to be brought in the district court of any county where such dispute exists. The action shall be brought to determine such legal settlement,

MENTALLY RETARDED

except that such action shall in no case be filed in a county in which the district court or a judge thereof originally made the disputed finding. Said action may be brought at any time when it appears that the dispute cannot be amicably settled. All counties which may be the county of such legal settlement, so far as known, shall be made defendants and the allegation of settlement may be in the alternative. Said action shall be tried as in equity. [C66, 71, §222.70]

222.71 Finding by court. The court shall determine whether the legal settlement of said mentally retarded person at the time of admission or commitment was in one of the defendant counties. If the court so finds, judgment shall be entered against the county of such settlement in favor of any other county for all necessary and legal expenses arising from said admission or commitment and paid by said other county. If any such costs have not been paid, judgment shall be rendered against the county of settlement in favor of the parties, including the state, to whom said costs or expenses may be due. [C66, 71, §222.71]

222.72 Finding settlement outside state. If the court finds that the legal settlement of said mentally retarded person, at the time of admission or commitment was outside the state or was unknown an order shall be entered that the mentally retarded person shall be maintained in the hospital-school or the special unit at the expense of the state. In such case, the state shall refund to any county all necessary and legal expenses for the cost of said admission or commitment paid by a county. A decision by the court shall be final. [C66, 71, §222.72]

222.73 Superintendent to prepare expense schedule. The superintendent of each hospital-school and special unit shall certify to the state comptroller on a schedule approved by the comptroller any amount not previously certified by the superintendent due the state for the expenses of patients in each hospital-school and special unit from the several counties responsible under section 222.60. The comptroller shall thereupon charge the amounts so certified to the proper counties. The amount certified by the superintendent to the comptroller to be charged against each county shall be the per-patient-per-day cost of the hospital-school or special unit, as the case may be, multiplied by the number of days each patient for which such county is liable to the state was carried on the rolls of the hospital-school or special unit as an inpatient, plus the amount due for the treatment of outpatients for which such county is liable to the state during the period for which expenses are being certified. The per-patient-per-day cost shall be determined by listing the number of days each inpatient was actually in the hospital-school or special unit during the period for which expenses are being certified and dividing the total of all such days into one hundred percent of the portion of the appropriation for the hospital-

school or special unit expended during such period, unless otherwise specified in the biennial appropriations for support of such institutions. The amount charged for the treatment of outpatients shall be at a rate to be established by the state director on the basis of the actual cost of such treatment. [SS15, §2727-a96; C24, 27, 31, 35, 39, §3469; C46, 50, 54, 58, 62, §223.5; C66, 71, §222.73]

Referred to in §222.74

222.74 Duplicate to county. When certifying to the comptroller amounts to be charged against each county as provided in section 222.73, the superintendent shall send to the county auditor of each county against which he has so certified any amount, a duplicate of such certificate. The county auditor upon receipt of the duplicate certificate shall enter the same to the credit of the state in his ledger of state accounts, and shall immediately issue a notice to the county treasurer authorizing the treasurer to transfer the amount from the county mental health and institutions fund to the general state revenue. The treasurer shall file such notice as his authority for making such transfer and shall include the amount so transferred in his next remittance of state taxes to the treasurer of state, designating the fund to which the amount belongs. [C66, 71, §222.74; 64GA, ch 1108, §3]

222.75 Delinquent payments — penalty. Should any county fail to pay the bills within sixty days from the date of certificate from the superintendent, the state comptroller may charge the delinquent county a penalty of not greater than one percent per month on and after sixty days from date of certificate until paid. [C66, 71, §222.75]

222.76 Paid from institution funds. All expenses required to be paid by counties under section 222.60 shall be paid from the state institution fund of the county. The cost of care of patients discharged or removed from the hospital-schools or a special unit for placement within a county may be paid from the state institution fund or the county fund for mental health of the county of legal settlement. [C39, §3477.7; C46, 50, 54, 58, 62, §223.18; C66, 71, §222.76]

222.77 Patients on leave. The cost of support of patients placed on convalescent leave or removed as a habilitation measure from a hospital-school, or a special unit, except when living in the home of a person legally bound for the support of such patient, shall be paid from the state institution fund or the county mental health fund of the county of legal settlement. If the patient has no county of legal settlement, the cost shall be paid from the support fund of the hospital-school or special unit and charged on abstract in the same manner as other state inpatients until such time as the patient becomes self-supporting or qualifies for support under other existing statutes. [C66, 71, §222.77]

Referred to in §222.78

222.78 Parents and others liable for sup-

port. The father and mother of any person admitted or committed to a hospital-school or to a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract hereafter made for support of such person shall be and remain liable for the support of such person. Such person and those legally bound for the support of the person shall be liable to the county for all sums advanced by the county to the state under the provisions of sections 222.60 and 222.77. The liability of any person, other than the patient, who is legally bound for the support of any patient under twenty-one years of age in a hospital-school or a special unit shall in no instance exceed the average minimum cost of the care of a normally intelligent, non-handicapped minor of the same age and sex as such minor patient. The state director shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the aid to dependent children program. Provided further that the father or mother of such person shall not be liable for the support of such person after such person attains the age of twenty-one years and that the father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the state director for caring for such mentally retarded person. [C39,§3477.5; C46, 50, 54, 58, 62,§§223.16, 223.20; C66, 71,§222.78]

Referred to in §§222.79, 222.80, 222.81, 226.8

222.79 Statement presumed correct. In actions to enforce the liability imposed by section 222.78, the certificate from the superintendent to the county auditor stating the sums charged in such cases shall be presumptively correct. [C66, 71,§222.79]

222.80 Liability to county. Any person admitted or committed to a county institution or home or admitted or committed at county expense to any private hospital, sanitorium, or other facility for treatment, training, instruction, care, habilitation, and support as a mentally retarded patient thereof shall be liable to the county for the reasonable cost of such support as provided in section 222.78. [C66, 71,§222.80]

222.81 Claim against estate. The total amount of liability provided in section 222.78 shall be allowed as a claim of the sixth class against the estate of the person or against the estate of the father or mother of such person. [C66, 71,§222.81]

222.82 Collection of claims. The board of supervisors of each county may direct the county attorney to proceed with the collection of said claims as a part of the duties of his office when the board of supervisors deems such action advisable. The board of super-

visors may and is hereby empowered to compromise any and all liabilities to the county arising under this chapter when such compromise is deemed to be in the best interests of the county. Any collections and liens shall be limited in conformance to section 614.1 subsection 4. [C39,§3477.6; C46, 50, 54, 58, 62, §223.17; C66, 71,§222.82]

222.83 Nonresident patients. The estates of all nonresident patients who are provided treatment, training, instruction, care, habilitation, and support in or by a hospital-school or a special unit, and all persons legally bound for the support of such persons, shall be liable to the state for the reasonable value of such services. The certificate of the superintendent of the hospital-school or special unit in which any nonresident is or has been a patient, showing the amounts drawn from the state treasury or due therefrom as provided by law on account of such nonresident patient shall be presumptive evidence of the reasonable value of such services furnished such patient by the hospital-school or special unit. [C66, 71,§222.83]

222.84 Patients' personal deposit fund. There is hereby established at each hospital-school and special unit a fund which shall be known as the "patients' personal deposit fund"; provided that in the case of a special unit, the commissioner may direct that the patients' personal deposit fund be maintained and administered as a part of the fund established, pursuant to sections 226.43 through 226.46, inclusive, by the mental health institute where the special unit is located. [C66, 71, §222.84]

222.85 Deposit of moneys — exception to guardians. Any funds coming into the possession of the superintendent or any employee of a hospital-school or special unit belonging to any patient in that institution shall be deposited in the name of the patient in the patients' personal deposit fund, except that if a guardian of the property has been appointed for the person, the guardian shall have the right to demand and receive such funds. Funds belonging to a patient deposited in the patients' personal deposit fund may be used for the purchase of personal incidentals, desires, and comforts for the patient. [C66, 71,§222.85]

222.86 Payment for care from fund. Whenever the amount in the account of any patient in the patients' personal deposit fund exceeds the sum of two hundred dollars, the business manager of the hospital-school or special unit may apply any amount of the excess to reimburse the county of legal settlement for liability incurred by such county for the payment of care, support, and maintenance of the patient when billed therefor by the county of legal settlement. Money earned by a patient for work performed in or for a hospital-school or special unit shall not be subject to this section or to attachment. [C66, 71,§222.86]

222.87 Deposit in bank. The business man-

MENTALLY RETARDED

ager shall deposit the patients' personal deposit fund in a commercial account of a bank of reputable standing. When deposits in the commercial account exceed average monthly withdrawals, the business manager may deposit the excess at interest. The savings account shall be in the name of the patients' personal deposit fund and interest paid thereon may be used for recreational purposes for the patients at the hospital-school or special unit. [C66, 71, §222.87]

222.88 Special mental retardation unit. The commissioner of social services may organize and establish a special mental retardation unit at an existing institution which may provide:

1. Psychiatric and related services to mentally retarded children and adults who are also emotionally disturbed or otherwise mentally ill.

2. Specific programs to meet the needs of such other special categories of mentally retarded persons as may be designated by the commissioner.

3. Appropriate diagnostic evaluation services. [C71, §222.88]

Referred to in §§222.1, 222.2 (2), 222.13, 222.91

222.89 Location—staff and personnel. The commissioner may:

1. Designate a portion of the physical facilities of one of the mental health institutes to be occupied by the offices and facilities of the special unit.

2. Determine the extent to which the special unit may effectively utilize services of the mental health institute staff, and what staff personnel should be employed for and assigned specifically to the special unit. [C71, §222.89]

Referred to in §§222.1, 222.2 (2)

222.90 Superintendent. The commissioner shall appoint a qualified superintendent of the special unit. The superintendent shall employ all staff personnel to be assigned specifically to the special unit, and shall have the same duties with respect to the special unit as are imposed upon superintendents of hospital-schools by section 222.4. [C71, §222.90]

Referred to in §§222.1, 222.2 (2)

222.91 Direct referral to special unit. In addition to any other manner of referral, admission, or commitment to the special unit provided for by this chapter, persons may be referred directly to the special unit by courts, law enforcement agencies, or state penal or correctional institutions for services under subsection 2 of section 222.88; but persons so referred shall not be admitted or committed unless a preadmission diagnostic evaluation indicates that the person would benefit from such services, and the admission or commitment of the person to the special unit would not cause the special unit's patient load to exceed its capacity. [C71, §222.91]

Referred to in §§222.1, 222.2 (2)

CHAPTER 223
IOWA SECURITY MEDICAL FACILITY

223.1 Institution established.
223.2 Superintendent.
223.3 Duties.
223.4 Sources of patients.

223.1 Institution established. There is hereby established an institution for persons displaying evidence of mental illness or psychosocial disorders and requiring diagnostic services and treatment in a security setting. The institution shall be under the jurisdiction of the department of social services and shall be known as the Iowa security medical facility. [C71,§223.1]

223.2 Superintendent. A superintendent of the Iowa medical facility shall be appointed as designated in section 218.9. The superintendent shall be a reputable and qualified person experienced in the administration of programs for the care and treatment of persons afflicted with mental disorders and with such other qualifications as the department deems necessary. [C71,§223.2]

223.3 Duties. The superintendent shall:

1. Perform all duties required by law and by the state department of social services not inconsistent with this chapter.

2. Maintain cognizance of and secure the professional care and treatment of each patient.

3. Maintain a complete record on the condition of each patient.

4. Retain custody of all patients in such manner as deemed necessary and in the best interest of the patients subject to the regulations of the department of social services. [C71,§223.3]

223.4 Sources of patients. Patients admitted to the facility may originate from the following sources:

1. Residents of any institution under the jurisdiction of the department of social services.

2. Commitments by the courts as mentally incompetent to stand trial under chapter 783.

3. Referrals by the courts for psychosocial diagnosis and recommendations as part of the pretrial or presentence procedure or determination of mental competency to stand trial.

4. Mentally ill prisoners from county and city jails for diagnosis, evaluation, or treatment.

Patients from other sources may be admitted providing such admission is not inconsistent with the law and is within the capacity of the facilities and staff to accommodate same. [C71,§223.4]

223.5 Admissions in writing only. All admissions to the facility shall be by written application only. Application shall be made

223.5 Admissions in writing only.
223.6 Final decision.
223.7 Return of patient.
223.8 Costs and charges.

by the head of the state institution, agency, governmental body, or court requesting same to the superintendent of the facility. An application shall not be accepted by the superintendent if by so doing the admission will result in an overcrowded condition or if adequate staff or facilities are not available. [C71,§223.5]

223.6 Final decision. The final decision regarding admission and discharge of patients shall rest with the superintendent of the facility. [C71,§223.6]

223.7 Return of patient. When a patient transferred to the facility from any other state institution or admitted by request or order of any agency, governmental body, or court no longer requires special treatment in the security setting, the patient may be returned to the source from which received. The state institution, agency, governmental body, or court that referred the patient for hospitalization shall retain constructive jurisdiction over the patient. Patients without legal encumbrances may be discharged directly from the facility upon concurrence of the superintendent of the facility and the head of the referring institution, agency, governmental body, or court. The support, commitment, and release statutes applicable to a patient at the state institution from which transferred shall remain applicable while the person is a patient at the facility. [C71,§223.7]

223.8 Costs and charges. Chapter 230 shall govern the determination of the costs and charges for the care and treatment of mentally ill patients admitted to the Iowa security medical facility as direct civil commitments upon authorization of a county hospitalization commission or persons having no legal settlement in this state. The charge for the cost of other admittees shall be as follows:

1. Transferees from mental health institutions under the jurisdiction of the department of social services shall be charged to the county or state at a cost not to exceed that being billed counties or the state for other patients at the transferring institution.

2. Referees by the courts for psychosocial diagnosis and recommendations as part of the pretrial or presentence procedure or determination of competency to stand trial shall be

charged to the court referring such persons.

3. Mentally ill prisoners from county or city jails admitted for diagnosis shall be charged to the county or city government so referring.

4. Commitments by the courts as mentally incompetent to stand trial shall be charged to the court by which committed after twelve months of such commitment.

5. Commitments by the courts upon conviction in a county outside the county of legal residence of the convicted person shall be considered a responsibility of the state.

6. Commitments of persons from other sources where admission is not inconsistent with the law and is within the capacity of the facility and staff to accommodate such person shall be charged to the court, county, city, governmental body, or agency so referring.

7. Transferees from other institutions under the jurisdiction of the department of social services shall be considered a responsibility of the state. [C71,§223.8]

CHAPTER 224

DRUG ADDICTS

- 224.1 Commitment.
 224.2 Statutes applicable.
 224.3 Term of commitment—leave.

- 224.4 Places of commitment.
 224.5 Mental illness of narcotic addicts.

224.1 COMMITMENT. Persons addicted to the excessive use of intoxicating liquors, or any controlled substance contained in schedules I, II, III, or IV of chapter two hundred four (204) of the Code may be committed by the commissioners of hospitalization of each county to such institutions as the commissioner of the state department of social services may designate, or to such private facilities as the commission on alcoholism, or a state department designated as the single state agency to prepare and administer a state plan to combat drug abuse pursuant to United State Public Law ninety-two dash two hundred fifty-five (92-255), may designate; or to any hospital accredited to give psychiatric care, provided that, commitments to private facilities shall only be made upon approval of the board of supervisors or upon agreement by the patient or responsible relatives to pay the full costs of treatment and upon having made the necessary arrangements for admission and support.

224.2 Statutes applicable. All statutes governing the commitment, custody, treatment, and maintenance of the mentally ill shall, so far as applicable, govern the commitment, custody, treatment, and maintenance of those addicted to the excessive use of such drugs and intoxicating liquors. [S13, §§2310-a6-a8, -a10-a22, -a24, -a28-a36; SS15, §2310-a37; C24, 27, 31, 35, 39, §3479; C46, 50, 54, 58, 62, 66, 71, §224.2]

Referred to in §224.3
 Commitment of mentally ill, ch 229 et seq.

224.3 Term of commitment—leave. Persons committed under sections 224.1 and 224.2 shall be retained in custody until cured, except that such patients may be placed on convalescent leave under such conditions as the commissioner of the state department of social services may prescribe. [S13, §§2310-a6-a8, -a10-a22, -a24, -a28-a36; SS15, §2310-a37; C24, 27, 31, 35, 39, §3480; C46, 50, 54, 58, 62, 66, 71, §224.3]

224.4 PLACES OF COMMITMENT. The commissioner of the state department of social services shall designate the state institutions to which commitments may be made under this chapter, and to that end may divide the state into districts, and shall promptly notify each clerk of the district court of such designation and all changes therein. The commission on alcoholism shall designate the private facilities to which persons suffering from alcoholism may be committed under section two hundred twenty-four point one (224.1) of the Code. The state department designated as the single state agency to prepare and administer a state plan to combat drug abuse pursuant to United States Public Law ninety-two dash two hundred fifty-five (92-255) shall designate the private facilities to which persons suffering from the effects of controlled substances enumerated in section two hundred twenty-four point one (224.1) of the Code shall be committed.

224.5 Mental illness of narcotic addicts. Should a person, committed because of his excessive use of narcotic drugs or intoxicating liquors, become mentally ill, the commissioner of the state department of social services, on complaint of the superintendent having the custody of such person, and on due hearing, may order such person committed to a hospital for the mentally ill. Such order shall have the same force and effect as though entered by the commissioners of hospitalization of the county of the patient's residence, and such person may appeal from such order in the same manner in which appeals are allowed from the orders of the commissioners of hospitalization. [S13, §§2310-a6-a8, -a10-a22, -a24, -a28-a36; SS15, §2310-a37; C24, 27, 31, 35, 39, §3482; C46, 50, 54, 58, 62, 66, 71, §224.5]

Manner of appeal, §229.17

§224A.1, DRUG ADDICTION TREATMENT

CHAPTER 224A

TREATMENT OF DRUG ADDICTION OR DEPENDENCY

- 224A.1 Definitions.
 224A.2 Request for treatment.
 224A.3 Examination and evaluation.

- 224A.4 Medicine used.
 224A.5 Statistical report quarterly.
 224A.6 Penalties.

224A.1 Definitions. For the purposes of this chapter, unless the context clearly indicates a contrary intent:

1. "Medical practitioner" means a physician and surgeon or osteopathic physician and surgeon licensed to practice medicine in this state.

2. "Hospital" means a public or private hospital licensed pursuant to the laws of this state or any employee, agent, or representative thereof. "Hospital" includes a public agency or a nonprofit agency or corporation providing treatment or rehabilitation services and any employee, agent, or representative thereof, if the commissioner of public health has previously approved the program of treatment or rehabilitation services offered by such public agency, nonprofit agency or corporation.

3. "Drug" means a controlled substance as defined in section 204.101, subsection 6. For the purpose of this chapter the provisions hereof shall be applicable to the treatment and rehabilitation of those who are users of glue by means of inhalation, commonly known as "glue sniffing." [C71,§224A.1; 64GA, ch 149, §8]

Referred to §224A.2

224A.2 Request for treatment.

A person may request treatment and rehabilitation for addiction or dependency to any drug as defined in section 224A.1 from a medical practitioner or a hospital and such medical practitioner or any employee or person acting under his direction or supervision, or any hospital shall not report or disclose the name of such person or the fact that treatment was requested or has been undertaken to any law enforcement officer or agency; nor shall such information be admissible as evidence in any court, grand jury, or administrative proceeding unless authorized by the person seeking treatment. A medical practitioner or hospital may undertake the treatment and rehabilitation of such person or refer such person to another medical practitioner or hospital for such purpose. If the person seeking such treatment or rehabilitation is a minor, the fact that such minor sought treatment or rehabilitation for such drug addiction or dependency, or that he is receiving such treatment or rehabilitation service, shall not be reported or disclosed to the parents or legal guardian of such minor without his consent, and such minor may give legal consent to receive such treatment and rehabilitation. [C71,§224A.2]

224A.3 Examination and evaluation. A person seeking treatment or rehabilitation for

drug addiction or dependency shall first be examined and evaluated by a medical practitioner. Such medical practitioner shall prescribe a proper course of treatment and medication, if needed. The treating medical practitioner may further prescribe a course of treatment or rehabilitation and authorize another medical practitioner or hospital to provide the prescribed treatment or rehabilitation services. Treatment or rehabilitation services may be provided to a person individually or in a group. Any hospital providing or engaging in such treatment or rehabilitation shall not report or disclose to a law enforcement officer or agency the name of any person receiving or engaging in such treatment or rehabilitation; nor shall any person receiving or participating in such treatment or rehabilitation report or disclose the name of any other person engaged in or receiving such treatment or rehabilitation or that such program is in existence, to a law enforcement officer or agency. Such information shall not be admitted in evidence in any court, grand jury, or administrative proceeding. However, any person engaged in or receiving such treatment or rehabilitation may authorize the disclosure of his name and individual participation. [C71,§224A.3]

224A.4 Medicine used. A medical practitioner may use any drug or medicine which shall be authorized or released by a federal agency or authority with jurisdiction to so act, to treat a person addicted to or dependent on drugs as an inpatient or outpatient or to maintain such person for a reasonable period of time until proper treatment or rehabilitation for such addiction or dependency can be obtained. [C71,§224A.4]

224A.5 Statistical report quarterly. Every medical practitioner or hospital that provides treatment or rehabilitation services to a person addicted to or dependent upon drugs, shall each quarter of every year make a statistical report to the commissioner of public health in such form and manner as the commissioner shall prescribe for each such person treated or to whom rehabilitation services were provided during the preceding quarter. The form of the report prescribed shall be furnished by the commissioner of health and be so designated that a carbon copy will be available which shall be sent quarterly to the narcotics law enforcement division of the state, such report not to include doctor's signature. The name or address of any person treated or to whom rehabilitation services were provided shall not be reported. Such report shall in-

clude the number of persons treated or to whom rehabilitation services were provided; the county of such person's legal settlement; the age of such person; the medication prescribed, if any; number of such persons treated as inpatients and the number treated as outpatients; the number treated who had received previous treatment or rehabilitation services; the number of such persons who maintained their employment while receiving treatment or rehabilitation services; the number of such persons who themselves or their family received public assistance during such treatment or rehabilitation and the type of public assistance received; and any other data required by the commissioner. If treatment or rehabilitation services are provided to a person by a

hospital, public agency, nonprofit agency or corporation, such hospital, agency or nonprofit corporation shall co-ordinate with the treating medical practitioner so that the statistical reports required in this section shall not duplicate one another. The commissioner shall cause all such reports to be compiled into quarterly reports which shall be a public record. The names and addresses of the reporting medical practitioners or hospitals shall not be a public record unless authorized by the person or entity filing the report. [C71,§224A.5]

224A.6 Penalties. Any person who violates any provision of this chapter shall, upon conviction, be fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding thirty days. [C71,§224A.6]

CHAPTER 225

PSYCHOPATHIC HOSPITAL

GENERAL PROVISIONS

- 225.1 Establishment.
- 225.2 Name—location.
- 225.3 Under control state board of regents.
- 225.4 Medical director.
- 225.5 Co-operation of hospitals.
- 225.6 Duties of director.
- 225.7 Classes of patients.
- 225.8 Maintenance.
- 225.9 Voluntary private patients.
- 225.10 Application for admission.
- 225.11 Medical examiner.
- 225.12 Examination and report.
- 225.13 Financial condition.
- 225.14 Notice—trial and order.
- 225.15 Examination and treatment.
- 225.16 Voluntary public patients—commitment.
- 225.17 Committed private patients—treatment.
- 225.18 Attendants.
- 225.19 Compensation for attendant.
- 225.20 Compensation for physician.
- 225.21 Vouchers.
- 225.22 Liability of private patients—payment.
- 225.23 Collection for treatment.
- 225.24 Collection of preliminary expense.

GENERAL PROVISIONS

225.1 Establishment. There shall be established a state psychopathic hospital, especially designed, kept, and administered for the care, observation, and treatment of those persons who are afflicted with abnormal mental conditions. [C24, 27, 31, 35, §3954; C39, §3482.01; C46, 50, 54, 58, 62, 66, 71, §225.1]

225.2 Name—location. It shall be known as the state psychopathic hospital, and shall be located at Iowa City, and integrated with the college of medicine and hospital of the state University of Iowa. [C24, 27, 31, 35, §3955; C39, §3482.02; C46, 50, 54, 58, 62, 66, 71, §225.2]

225.3 Under control state board of regents. The state board of regents shall have full power to manage, control, and govern the said hospital the same as other institutions already under its control. [C24, 27, 31, 35, §3957; C39, §3482.03; C46, 50, 54, 58, 62, 66, 71, §225.3]

225.4 Medical director. The state board of regents shall appoint a medical director of the said hospital, who shall serve as professor of psychiatry in the college of medicine of the state University of Iowa. [C24, 27, 31, 35, §3958; C39, §3482.04; C46, 50, 54, 58, 62, 66, 71, §225.4]

225.5 Co-operation of hospitals. The medical director of the said hospital shall seek to bring about systematic co-operation between the several state hospitals for the mentally ill and the said state psychopathic hospital. [C24, 27, 31, 35, §3959; C39, §3482.05; C46, 50, 54, 58, 62, 66, 71, §225.5]

38GA, ch 235, §6, editorially divided

- 225.25 Commitment of private patient as public.
- 225.26 Private patients—disposition of funds.
- 225.27 Discharge—transfer.
- 225.28 Appropriation.
- 225.29 Minimum appropriation.
- 225.30 Blanks—audit.
- 225.31 Duplicate reports by physician.
- 225.32 Report and order to accompany patient.
- 225.33 Death of patient—disposal of body.
- 225.34 Appropriation.
- 225.35 Expense collected.

TRANSFER OF INCURABLES

- 225.36 Application for commitment to hospital for mentally ill.
- 225.37 Special commission.
- 225.38 Secretary—records—certification.
- 225.39 Appeal—procedure—custody of patient.
- 225.40 Jurisdiction of board after appeal.
- 225.41 Accompanying patients—payment.
- 225.42 Special officers—female patients.
- 225.43 Mental health research fund.
- 225.44 Purpose of fund.
- 225.45 Approval of use by board of regents.

225.6 Duties of director. He shall be the director and in sole charge of the clinical and pathological work of the said hospital. He shall, from time to time, visit the state hospitals for the mentally ill, upon the request of the superintendents thereof, or upon the request of the director of the division of mental health of the state department of social services or of the commissioner of such state department, and may advise the medical officers of such state hospitals for the mentally ill, or the said director, in subjects relating to the phenomena of mental illness. [C24, 27, 31, 35, §3960; C39, §3482.06; C46, 50, 54, 58, 62, 66, 71, §225.6]

225.7 Classes of patients. Patients admitted to the said state psychopathic hospital shall be divided into four classes:

1. Voluntary private patients.
2. Committed private patients.
3. Voluntary public patients.
4. Committed public patients. [C24, 27, 31, 35, §3961; C39, §3482.07; C46, 50, 54, 58, 62, 66, 71, §225.7]

38GA, ch 235, §7, editorially divided

225.8 Maintenance. All voluntary private patients and committed private patients shall be kept and maintained without expense to the state, and the voluntary public patients and committed public patients shall be kept and maintained by the state. [C24, 27, 31, 35, §3962; C39, §3482.08; C46, 50, 54, 58, 62, 66, 71, §225.8]

225.9 Voluntary private patients. Voluntary private patients may be admitted in accordance with the regulations to be established by the state board of regents, and their care,

PSYCHOPATHIC HOSPITAL

nursing, observation, treatment, medicine, and maintenance shall be without expense to the state. However, the charge for such care, nursing, observation, treatment, medicine, and maintenance shall not exceed the cost of the same to the state. The physicians on the hospital staff may charge such patients for their medical services under such rules, regulations and plan therefor as approved by the state board of regents. [C24, 27, 31, 35, §3963; C39, §3482.09; C46, 50, 54, 58, 62, 66, 71, §225.9]

225.10 Application for admission. Persons suffering from mental diseases may be admitted as committed public patients as follows: Any physician authorized to practice his profession in the state of Iowa or any citizen of the state may file information with any district court of the state or with any judge thereof, alleging that the person named therein is suffering from some abnormal mental condition that can probably be remedied by observation, treatment, and hospital care; and that he is, of himself or through those legally responsible for him, unable to provide the means for such observation and hospital care. [C24, 27, 31, 35, §3964; C39, §3482.10; C46, 50, 54, 58, 62, 66, 71, §225.10; 64GA, ch 1124, §116]

38GA, ch 235, §9, editorially divided

225.11 Medical examiner. Said judge of the district court or the clerk of such court may, upon his own motion or upon the information contained in such report filed as aforesaid, appoint some physician who shall personally examine said person with respect to his mental condition. [C24, 27, 31, 35, §3965; C39, §3482.11; C46, 50, 54, 58, 62, 66, 71, §225.11; 64GA, ch 1124, §117]

225.12 Examination and report. Said physician shall make a written report to the said judge, giving such a history of the case as will be likely to aid in the observation, treatment, and hospital care of said person and describing the same, all in detail, and stating whether or not, in his opinion, the said person would probably be helped by observation, treatment, and hospital care in said state psychopathic hospital. Such report shall be made within such time as may be fixed by the court. [C24, 27, 31, 35, §3966; C39, §3482.12; C46, 50, 54, 58, 62, 66, 71, §225.12]

Referred to in §225.16

225.13 Financial condition. It shall be the duty of the said judge to have a thorough investigation made by the county attorney of the county in which the said person resides, regarding his financial condition and the financial condition of those legally responsible for him. [C24, 27, 31, 35, §3967; C39, §3482.13; C46, 50, 54, 58, 62, 66, 71, §225.13]

225.14 Notice—trial and order. Upon the filing of such report or reports, said judge of the district court as aforesaid shall fix a day for the hearing upon the complaint and shall cause the person or those legally responsible for him to be served with a notice of the hearing; and he shall also notify the county attorney, who shall appear and conduct the

proceedings, and upon such complaint evidence may be introduced. Upon such hearing the person against whom the complaint is made shall be entitled to a trial by jury. If the judge or jury finds that the said person is suffering from an abnormal mental condition which can probably be remedied by observation, medical or surgical treatment, and hospital care, and that he, or those legally responsible for him, are unable to pay the expenses thereof, said judge shall enter an order directing that the said person shall be sent to the state psychopathic hospital at the state University of Iowa for observation, treatment, and hospital care as a committed public patient. [C24, 27, 31, 35, §3968; C39, §3482.14; C46, 50, 54, 58, 62, 66, 71, §225.14; 64GA, ch 1124, §118]

Referred to in §§225.16, 225.17

225.15 Examination and treatment. When the patient arrives at said hospital it shall be the duty of the director, or of some physician acting for him, to examine the said patient and determine whether or not, in his judgment, he is a fit subject for such observation, treatment, and hospital care. If, upon said examination, he decides that such patient should be admitted to the said hospital, the medical director shall provide him with a proper bed in said hospital; and the physician or surgeon who shall have charge of said patient shall proceed with such observation, medical or surgical treatment, and hospital care as in his judgment are proper and necessary.

A proper and competent nurse shall also be assigned to look after and care for such patient during such observation, treatment, and care as aforesaid. [C24, 27, 31, 35, §3969; C39, §3482.15; C46, 50, 54, 58, 62, 66, 71, §225.15]

Referred to in §§225.16, 225.17, 225.36

225.16 Voluntary public patients—commitment. If the said judge of the district court, or the clerk of the court, as aforesaid, finds from the physician's report which was filed under the provisions of section 225.12, that the said person is suffering from an abnormal mental condition which can probably be remedied by observation, medical or surgical treatment, and hospital care, and the report of the county attorney shows that he, or those legally responsible for him, are unable to pay the expenses thereof, said judge or clerk shall enter an order directing that the said person shall be sent to the state psychopathic hospital at the state University of Iowa for observation, treatment, and hospital care as a voluntary public patient; provided that the said person, or those legally responsible for him, request the said court or judge to commit said person without the hearing which is required under the provisions of section 225.14.

When the said patient arrives at the said hospital, he shall receive the same treatment as is provided for committed public patients in section 225.15. [C24, 27, 31, 35, §3970; C39, §3482.16; C46, 50, 54, 58, 62, 66, 71, §225.16; 64GA, ch 1124, §119]

225.17 Committed private patients—treat-

ment. If the said judge of the district court, as aforesaid, finds in the hearing as provided for under the provisions of section 225.14 that the said person is suffering from an abnormal mental condition which can probably be remedied by observation, medical or surgical treatment, and hospital care, and that he, or those legally responsible for him, are able to pay the expenses thereof, said judge shall enter an order directing that the said person shall be sent to the state psychopathic hospital at the state University of Iowa for observation, treatment, and hospital care as a committed private patient.

When the said patient arrives at the said hospital, he shall receive the same treatment as is provided for committed public patients in section 225.15. [C24, 27, 31, 35, §3971; C39, §3482.17; C46, 50, 54, 58, 62, 66, 71, §225.17; 64GA, ch 1124, §120]

225.18 Attendants. The court or clerk may, in his discretion, appoint some person to accompany said committed public patient or said voluntary public patient or said committed private patient from the place where he may be to the state psychopathic hospital of the state University at Iowa City, or to accompany such patient from the said hospital to such place as may be designated by the court or clerk. If the patient be a female, the person appointed to accompany her must be a woman. [C24, 27, 31, 35, §3974; C39, §3482.18; C46, 50, 54, 58, 62, 66, 71, §225.18; 64GA, ch 1124, §121]

38GA, ch 235, §15, editorially divided

225.19 Compensation for attendant. Any person appointed by the court or judge or clerk to accompany said person to or from the hospital or to make an investigation and report on any question involved in the complaint, other than the physician making the examination, shall receive the sum of three dollars per day for the time actually spent in making such investigation (except in cases where the person appointed therefor receives a fixed salary or compensation) and his actual necessary expenses incurred in making such investigation or trip. [C24, 27, 31, 35, §3975; C39, §3482.19; C46, 50, 54, 58, 62, 66, 71, §225.19; 64GA, ch 1124, §122]

225.20 Compensation for physician. The physician appointed to make the examination and report shall receive the sum of five dollars for each and every examination and report so made, and his actual necessary expenses incurred in making such investigation, in conformity with the requirements of this chapter. [C24, 27, 31, 35, §3976; C39, §3482.20; C46, 50, 54, 58, 62, 66, 71, §225.20]

225.21 Vouchers. The person making claim to such compensation shall present to the court or judge an itemized sworn statement thereof, and when such claim for compensation has been approved by the court or judge or clerk, the same shall be filed in the office of the county auditor and shall be allowed by the board of supervisors and paid from the state institution fund. [C24, 27, 31, 35, §3977; C39, §3482.21; C46, 50, 54, 58, 62, 66, 71, §225.21; 64GA, ch 1124, §123]

Referred to in §225.24

225.22 Liability of private patients — payment. Every committed private patient, if he has an estate sufficient for that purpose, or if those legally responsible for his support are financially able, shall be liable to the county and state for all expenses paid by them in behalf of such patient. All bills for the care, nursing, observation, treatment, medicine, and maintenance of such patients shall be paid by the state comptroller in the same manner as those of committed and voluntary public patients as hereinafter provided, unless said patient or those legally responsible for him make such settlement with the medical director of said state psychopathic hospital. [C24, 27, 31, 35, §3978; C39, §3482.22; C46, 50, 54, 58, 62, 66, 71, §225.22]

38GA, ch 235, §16, editorially divided

225.23 Collection for treatment. If the bills for such patient are paid by the state, it shall be the duty of the medical director of the said state psychopathic hospital to file a certified copy of the claim which has been so paid, with the auditor of the proper county, who shall proceed to collect the same by action, if necessary, in the name of the state psychopathic hospital, and when collected pay the same to the state comptroller. The said medical director shall also, at the same time, forward a duplicate of the account to the state comptroller. [C24, 27, 31, 35, §3979; C39, §3482.23; C46, 50, 54, 58, 62, 66, 71, §225.23]

Referred to in §225.35

225.24 Collection of preliminary expense. Unless said committed private patient or those legally responsible for him offer to make such settlement, it shall also be the duty of the county auditor of the proper county as aforesaid to proceed to collect, by action if necessary, in the name of the said county, the amount of all claims for per diem and expenses that have been approved by the said court or judge and paid by the county treasurer of said county as provided for under the provisions of section 225.21, and when collected to pay the same into the county treasury. [C24, 27, 31, 35, §3980; C39, §3482.24; C46, 50, 54, 58, 62, 66, 71, §225.24]

Referred to in §225.35

225.25 Commitment of private patient as public. If any patient be admitted to the state psychopathic hospital and thereafter an order of commitment of said patient as a public patient be made by the court or judge or clerk having jurisdiction thereof, the expense of keeping and maintaining said patient from the date of the filing of the information upon which said order is made shall be paid by the state. [C24, 27, 31, 35, §3981; C39, §3482.25; C46, 50, 54, 58, 62, 66, 71, §225.25; 64GA, ch 1124, §124]

225.26 Private patients — disposition of funds. All moneys collected from private patients shall be used for the support of the said hospital. [C24, 27, 31, 35, §3982; C39, §3482.26; C46, 50, 54, 58, 62, 66, 71, §225.26]

225.27 Discharge — transfer. The medical director of the state psychopathic hospital may, at any time, discharge any patient as recovered, as improved, or as not likely to be benefited by further treatment, and upon said

PSYCHOPATHIC HOSPITAL.

discharge said director shall notify the committing judge or court thereof; and the said court or judge shall appoint some person to accompany said discharged patient from the said state psychopathic hospital to such place as he may designate, or authorize the said medical director to appoint such attendant. [C24, 27, 31, 35, §3983; C39, §3482.27; C46, 50, 54, 58, 62, 66, 71, §225.27]

225.28 Appropriation. The state shall pay to the state psychopathic hospital, out of any money in the state treasury not otherwise appropriated, all expenses for the administration of said hospital, and for the care, treatment, and maintenance of committed and voluntary public patients therein, including their clothing and all other expenses of said hospital for said public patients. The bills for said expenses shall be rendered monthly in accordance with rules agreed upon by the state comptroller and the state board of regents. [C24, 27, 31, 35, §3984; C39, §3482.28; C46, 50, 54, 58, 62, 66, 71, §225.28]

38GA, ch 235, §19, editorially divided
Referred to in §225.34

225.29 Minimum appropriation. Until such time as the said hospital is actually treating and caring for one hundred patients, the sum of nine thousand dollars per month, or as much thereof as may be necessary, is hereby appropriated, out of any money in the state treasury not otherwise appropriated, for the support and maintenance of said hospital. [C24, 27, 31, 35, §3985; C39, §3482.29; C46, 50, 54, 58, 62, 66, 71, §225.29]

225.30 Blanks—audit. The medical faculty of the hospital of the college of medicine of the state University of Iowa shall prepare blanks containing such questions and requiring such information as may be necessary and proper to be obtained by the physician who examines the patient under order of court; and such blanks shall be printed by the state and a supply thereof shall be sent to the clerk of each district court of the state. The state comptroller shall audit, allow, and pay the cost of the blanks as other bills for public printing are allowed and paid. [C24, 27, 31, 35, §3986; C39, §3482.30; C46, 50, 54, 58, 62, 66, 71, §225.30; 64GA, ch 1124, §125]

38GA, ch 235, §20, editorially divided

225.31 Duplicate reports by physician. The physician making such examination shall make his report to the court in duplicate on said blanks, answering the questions contained therein and setting forth the information required thereby. [C24, 27, 31, 35, §3987; C39, §3482.31; C46, 50, 54, 58, 62, 66, 71, §225.31]

225.32 Report and order to accompany patient. One of said duplicate reports shall be sent to the state psychopathic hospital with the patient, together with a certified copy of the order of the court. [C24, 27, 31, 35, §3988; C39, §3482.32; C46, 50, 54, 58, 62, 66, 71, §225.32]

225.33 Death of patient—disposal of body. In the event that a committed public patient or a voluntary public patient or a committed

private patient should die while at the state psychopathic hospital or at the general hospital of the college of medicine of the state University of Iowa, the medical director of the said state psychopathic hospital is hereby authorized and directed to have the body prepared for shipment in accordance with the rules and regulations prescribed by the state board of health for shipping such bodies; and it shall be the duty of the state board of regents to make arrangements for the embalming and such other preparation as may be necessary to comply with said rules and regulations, and for the purchase of suitable caskets. [C24, 27, 31, 35, §3989; C39, §3482.33; C46, 50, 54, 58, 62, 66, 71, §225.33]

39GA, ch 245, §6, editorially divided
Disposal of dead bodies, ch 141

225.34 Appropriation. The state shall pay, to the state psychopathic hospital, out of any money in the state treasury not otherwise appropriated, the cost of the casket, the embalming, and all other expenses incurred in preparing the body for shipment, and, in addition thereto, the cost of transportation from Iowa City to the place where the said patient lived at the time when he was committed or taken to the said state psychopathic hospital; said expenses to be paid in accordance with the provisions of section 225.28. [C24, 27, 31, 35, §3990; C39, §3482.34; C46, 50, 54, 58, 62, 66, 71, §225.34]

225.35 Expense collected. In the event that the said person is a committed private patient, it shall be the duty of the county auditor of the proper county to proceed to collect all of such expenses, in accordance with the provisions of sections 225.23 and 225.24. [C24, 27, 31, 35, §3991; C39, §3482.35; C46, 50, 54, 58, 62, 66, 71, §225.35]

TRANSFER OF INCURABLES

225.36 Application for commitment to hospital for mentally ill. If, upon the examination provided for in section 225.15, or at any time thereafter, the medical director, or, in his absence, the assistant medical director, shall be of the opinion that such patient, or any patient in said state psychopathic hospital, is a fit subject for care, observation, and treatment in a state hospital for the mentally ill, he shall file an application, substantially as provided in section 229.1, with the commission of hospitalization hereinafter created. [C24, 27, 31, 35, §3992; C39, §3482.36; C46, 50, 54, 58, 62, 66, 71, §225.36]

39GA, ch 245, §1, editorially divided

225.37 Special commission. The medical director, the assistant medical director, and one other member of the medical staff of the state psychopathic hospital shall constitute a commission of hospitalization; and said commission is hereby vested with all the rights, powers, duties, and obligations of the commission of hospitalization as now constituted by law, except as herein provided, with full power to receive and act upon all applications filed hereunder, as fully as the commission of hospitalization is empowered and authorized by law to do. The procedure of the commis-

sion hereby created shall be the same as now provided by law, except as herein modified. [C24, 27, 31, 35, §3993; C39, §3482.37; C46, 50, 54, 58, 62, 66, 71, §225.37]

County commission of hospitalization, chs 228, 229

225.38 Secretary — records — certification. Said board shall elect one of its members secretary, who shall keep a record, in a book provided for that purpose, of all the proceedings of said board and certify a copy thereof forthwith, to the clerk of the district court of the county of the legal residence of the person against whom said proceedings were had. Said clerk of the district court shall file and record said proceedings in the records of his office the same as if said proceedings had been before the commission of hospitalization of said county. [C24, 27, 31, 35, §3994; C39, §3482.38; C46, 50, 54, 58, 62, 66, 71, §225.38]

225.39 Appeal—procedure—custody of patient. Any person found to be mentally ill under the provisions herein authorized may appeal from such finding to the district court of the county of the legal residence of such person. Said appeal and proceedings thereon shall be the same as if said finding appealed from had been made by the commission of hospitalization of said county; except that a copy of the notice of appeal served, or to be served, upon the clerk of said district court shall be served on a member of the commission of hospitalization hereby created, and if, at the time the copy of said notice of appeal is served on a member of said board, the patient is still in the actual custody of said board and not en route to a hospital for the mentally ill, the said board hereby created shall cause said patient to be conducted, by its appointee or appointees, to the county of the legal residence of said patient in which said appeal was taken and delivered to the custody of the sheriff of said county, and thereafter the said patient shall be cared for and disposed of as if the proceedings appealed from had been had by the commissioners of hospitalization of said county. [C24, 27, 31, 35, §3995; C39, §3482.39; C46, 50, 54, 58, 62, 66, 71, §225.39]

Appeals in proceedings in mental illness, §§229.17, 229.18

225.40 Jurisdiction of board after appeal. In the case of an appeal as herein provided, the jurisdiction of the commission hereby created shall immediately cease, except as herein otherwise specially provided. [C24, 27, 31, 35, §3996; C39, §3482.40; C46, 50, 54, 58, 62, 66, 71, §225.40]

225.41 Accompanying patients — payment. Whenever the commission hereby created shall designate any person, or persons, to accompany any patient from said state psychopathic hospital to any state hospital for the mentally ill, or to the county of the legal residence of the patient, the pay of such person, or persons, for performing such duty shall not exceed three dollars per day for the time thus necessarily employed, and the actual, reasonable, and necessary expenses incurred in accompanying said patient and in returning home therefrom. Said per diem and expenses shall be itemized, verified, presented, and

allowed in connection with the bills for maintenance as herein provided. If the party accompanying said patient is a parent or other relative, or an officer or employee receiving other compensation, the said person shall receive no per diem, but only his actual, reasonable, and necessary traveling expenses. [C24, 27, 31, 35, §3997; C39, §3482.41; C46, 50, 54, 58, 62, 66, 71, §225.41]

225.42 Special officers—female patients. All duties imposed by law upon the sheriff, or his deputy, relating to the attendance and commitment of insane patients may, by order of said commission hereby created, be performed by such person or persons as said commission may designate. If the patient be a female, she shall be accompanied to the state hospital for the mentally ill, or to the county of her legal residence, as the case may be, by at least one woman. [C24, 27, 31, 35, §3998; C39, §3482.42; C46, 50, 54, 58, 62, 66, 71, §225.42]

225.43 Mental health research fund. There is hereby created as a permanent fund in the office of the treasurer of state to be known as the mental health research fund, and for the purpose of establishing and maintaining said fund for each fiscal year beginning July 1, 1957, there is appropriated thereto from funds in the general fund, not otherwise appropriated, the sum of seventy-five thousand dollars. Any balance in said fund on June 30 of the second fiscal year shall revert to the general fund. [C58, 62, 66, 71, §225.43]

225.44 Purpose of fund. The purpose of the said mental health research fund is to provide for improvement in the care, diagnosis and treatment of adults and children afflicted with mental or emotional illness or mental retardation, and for the prevention thereof, through research and study at the state psychopathic hospital, the mental health institutes, hospital for epileptics and schools for mentally retarded. [C58, 62, 66, 71, §225.44]

225.45 Approval of use by board of regents. Money from the mental health research fund shall be requisitioned for research projects by the medical director of the state psychopathic hospital after consultation with the professional co-ordination board and any special research study committee that the said director appoints or employs to evaluate any given research project or activity. Such requisitions shall be filed by the director with the state board of regents. Approval of such requisitions by the state board of regents shall be authority for the state comptroller to issue a warrant upon the mental health research fund payable to the agency or agencies conducting the research. [C58, 62, 66, 71, §225.45]

CHAPTER 225A

CRIMINAL SEXUAL PSYCHOPATHS

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| 225A.1 Definition. | 225A.9 Trial. |
| 225A.2 Petition for commitment. | 225A.10 Evidence admissible. |
| 225A.3 Bail ordered. | 225A.11 Commitment. |
| 225A.4 Notice of hearing. | 225A.12 Application for release. |
| 225A.5 Counsel—evidence—appeal. | 225A.13 Effect of finding. |
| 225A.6 Compensation of physicians. | 225A.14 Support and maintenance. |
| 225A.7 Report of examination. | 225A.15 Other laws applicable. |
| 225A.8 Dismissal or trial ordered. | |

225A.1 Definition. All persons charged with a public offense, who are suffering from a mental disorder and are not a proper subject for the schools for the mentally retarded or for commitment as a mentally ill person, having criminal propensities toward the commission of sex offenses, and who may be considered dangerous to others, are hereby declared to be "criminal sexual psychopaths." [C58, 62, 66, 71, §225A.1]

225A.2 Petition for commitment. When any person is charged with a public offense and it shall appear to the county attorney of the county wherein such person is so charged that such person is a criminal sexual psychopath, or when any reputable person having knowledge that an individual who is charged with a public offense is a criminal sexual psychopath as defined in this chapter, or that any such individual has committed an act or acts which indicated that he may be a criminal sexual psychopath, and so informs the county attorney of the county where the act or acts charged were committed, and the county attorney is satisfied that the allegations have merit, are based on actual knowledge of the informant, and are capable of proof, he shall prepare a petition verified upon his information and belief, in sufficient detail so that the person complained against will be reasonably informed of the charges against him, which petition shall be filed with the clerk of the district court in the county wherein such persons stand charged with a public offense. [C58, 62, 66, 71, §225A.2]

225A.3 Bail ordered. Upon filing of such petition, the court in which the public offense is charged may order that the bail furnished be released and that additional bail be ordered. [C58, 62, 66, 71, §225A.3]

225A.4 Notice of hearing. After the petition charging criminal sexual psychopathy has been filed and docketed, notice in writing, including a copy of the petition shall be served on said named defendant in the manner prescribed for serving an original notice setting forth that a hearing thereon will be held by the court on a date and at a time specified in said notice, said date of hearing to be not

less than five days later than the date of the service of said notice upon him. At said hearing the court shall determine whether he shall be medically examined, if so, by whom such examination shall be conducted, and the time and place thereof. [C58, 62, 66, 71, §225A.4]

225A.5 Counsel—evidence—appeal. The person charged shall have counsel at every stage of the proceedings and shall have the right to present evidence in his behalf and shall have full rights of appeal, and if the named defendant has not employed counsel, the court shall appoint a competent attorney to represent him and a reasonable attorney fee shall be charged as part of the costs in the proceedings. [C58, 62, 66, 71, §225A.5]

225A.6 Compensation of physicians. Upon application the court shall allow reasonable compensation to the examining physicians and shall order such allowances to be taxed as costs in the proceedings. [C58, 62, 66, 71, §225A.6]

225A.7 Report of examination. In the event a medical examination is ordered, the court shall continue the hearing until such time as the examination can be completed. Report of such examination shall be in writing and such report shall be filed in court as part of its record but shall not be open to public inspection. A copy thereof shall be furnished without cost by the clerk of the court to the person examined or his attorney of record, upon request. [C58, 62, 66, 71, §225A.7]

225A.8 Dismissal or trial ordered. After the filing of the report of the medical examination, if sufficient proof be not made to the court of the criminal propensities to the commission of sex offenses of the person charged with criminal sexual psychopathy, or if the report of the examining physician or physicians does not establish the fact of a mental disorder to which such propensities are attributable in the person examined, the court shall dismiss the petition. If sufficient proof be made to the court of the criminal propensities to the commission of sex offenses of the person so charged, and if the report of the examining physicians does establish the fact of a mental

disorder to which such propensities are attributable in the person examined, the court shall order that a final hearing pursuant to the order of continuance be held on the petition setting the time and place of such hearing. [C58, 62, 66, 71, §225A.8]

225A.9 Trial. The action shall be tried as a special proceeding and the defendant shall be entitled to a jury trial. The judge may, at the request of the person in the petition, provide for the final determination of the issue of criminal sexual psychopathy by the court without jury. The court may order the public excluded from such proceedings. [C58, 62, 66, 71, §225A.9]

225A.10 Evidence admissible. At the final hearing, the examining physicians appointed or designated by the court may testify as to their examination or examinations of the person charged and the results thereof, but their report or reports filed in court as herein provided shall not be admissible in evidence against the person charged. Evidence of past acts of sexual deviation by the person charged shall be admissible at the hearing. [C58, 62, 66, 71, §225A.10]

225A.11 Commitment. If the person is found to be a criminal sexual psychopath the court may commit him to a state hospital for the mentally ill, where he shall be detained and treated until released in accordance with the provisions of this chapter or may order such person to be tried upon the criminal charges against him, as the interests of substantial justice may require. The hospital staff shall make periodic examinations of any such person committed, with the view of determining the progress of treatment, and shall report to the court not less than once a year. [C58, 62, 66, 71, §225A.11]

225A.12 Application for release. At any time after commitment, an application in writing may be filed with the committing court, setting forth facts showing that such criminal psychopath has, in the opinion of three qualified psychiatrists designated by the superintendent to examine said person, attained maximum hospital benefit and that in their opinion his release will not be incompatible with the welfare of society. Whereupon the court shall issue an order which will return the person to the jurisdiction of said court for a hearing. This hearing shall in all respects be like the original hearing to determine the mental condition of the defendant. Following such hearing, the court shall issue an order which shall cause the defendant either to be (1) placed on probation for a minimum of three years, or (2) returned to the hospital, provided that upon the expiration of said probationary period the said person may be discharged. [C58, 62, 66, 71, §225A.12]

225A.13 Effect of finding. Nothing in this chapter shall be construed as changing in meaning any portion of the criminal code, nor shall a finding of criminal sexual psychopathy, under the provisions of this chapter, constitute a defense in any criminal action. [C58, 62, 66, 71, §225A.13]

CRIMINAL SEXUAL PSYCHOPATHS, §225A.15

225A.14 Support and maintenance. Any person committed to the state hospital under the provisions of this chapter shall be supported and maintained at the expense of the state. [C58, 62, 66, 71, §225A.14]

Support of mentally ill, ch 230

225A.15 Other laws applicable. All laws now in force not in conflict with this chapter relating to the admission of mentally ill persons to state hospitals shall apply to criminal sexual psychopaths. [C58, 62, 66, 71, §225A.15]

Constitutionality, 56GA, ch 121, §16

CHAPTER 225B

IOWA MENTAL HEALTH AUTHORITY

- 225B.1 Authority named.
- 225B.2 Committee on mental hygiene.
- 225B.3 Meetings.
- 225B.4 Supervision.

- 225B.5 Office of administrator.
- 225B.6 Expenses of committee members.
- 225B.7 Policies and programs reviewed.

225B.1 Authority named. The "Iowa Mental Health Authority" for the purposes of directing the benefits of Public Law 487, 79th Congress of the United States and amendments thereto, [60 Stat. L. 538; 42 U.S.C., ch 6A] shall be named by the state board of regents with the advice of the dean of the college of medicine of the University of Iowa and the committee on mental hygiene hereinafter created. [C66, 71, §225B.1]

225B.2 Committee on mental hygiene. A committee on mental hygiene is hereby created to consist of the director of the psychopathic hospital at Iowa City, the commissioner of the state department of health, the dean of the college of medicine at the University of Iowa, a member of the state board of regents appointed by the board, the commissioner of the state department of social services and the director of mental health of the state department of social services, a member of the state board of public instruction appointed by the board, and eight members to be appointed by the governor. The appointive members by the governor shall be one from the membership of the subcommittee on nervous and mental disease of the Iowa medical society, one from the membership of the Iowa psychiatric society, two from the membership of the boards of directors of the Iowa community mental health centers, one from the membership of the Iowa association for mental health, one from the membership of the Iowa psychological association, one from the membership of the Iowa society of osteopathic physicians and surgeons and one from the membership of the Iowa association for retarded children. The appointive members, by the governor and the various boards shall serve for terms of three years beginning July 4 of the year of appointment; however, of the initial appointees by the governor, the terms shall be three for terms of three years, three for terms of two years, and two for terms of one year. Vacancies shall be filled for the unexpired term in the same manner as original appointment. [C66, 71, §225B.2]

225B.3 Meetings. The committee shall hold an organizational meeting on the first Monday in July each year at the psychopathic hospital in Iowa City at which meeting a chairman and other officers shall be chosen. Other meetings shall be determined by the committee but shall be at least once in each four-month period. The committee shall keep minutes of its meetings and both its meetings and its minutes shall be open to the public. [C66, 71, §225B.3]

225B.4 Supervision. All authorized funds of the mental health authority shall be disbursed under the supervision of the state board of regents and programs of the Iowa mental health authority shall be administered according to policies established by the committee on mental hygiene. [C66, 71, §225B.4]

225B.5 Office of administrator. The administrative office of the Iowa mental health authority shall be located at the college of medicine at the University of Iowa. A duplicate file of official correspondence, statistical information and minutes of the committee on mental hygiene shall be maintained in the office of the director of mental health of the state department of social services at the capitol. [C66, 71, §225B.5]

225B.6 Expenses of committee members. Members of the committee on mental hygiene shall serve without compensation but shall receive reimbursement for expenses to attend meetings of the mental hygiene committee from funds allocated under Public Law 487 [60 Stat. L. 538; 42 U.S.C., ch 6A]. [C66, 71, §225B.6]

225B.7 Policies and programs reviewed. When specifically requested to do so by persons legally responsible, the mental hygiene committee shall review policies and programs relating to mental health of the requesting governmental agency, and shall suggest ways of co-ordinating the programs with those of the mental health authority, relating to research, training, and the demonstration of new techniques. [C66, 71, §225B.7]

CHAPTER 226

STATE MENTAL HEALTH INSTITUTES

Referred to in §§229.38, 229.39

- 226.1 Official designation.
- 226.2 Qualifications of superintendent.
- 226.3 Assistant physicians.
- 226.4 Salary of superintendent.
- 226.5 Superintendent as witness.
- 226.6 Duties of superintendent.
- 226.7 Order of receiving patients.
- 226.8 Mental retardates not receivable — exception.
- 226.9 Custody of patient.
- 226.10 Equal treatment.
- 226.11 Special care permitted.
- 226.12 Monthly visitation—women inspectors.
- 226.13 Patients allowed to write.
- 226.14 Writing material.
- 226.15 Letters to state director.
- 226.16 Unauthorized departure and retaking.
- 226.17 Expense attending retaking.
- 226.18 Investigation as to mental health.
- 226.19 Discharge—certificate.
- 226.20 Duty of clerk.
- 226.21 Certificate and record as evidence.
- 226.22 Clothing furnished.
- 226.23 Convalescent leave of patients.
- 226.24 Certificate covering subsequent recovery.

226.1 Official designation. The hospitals for the mentally ill shall be designated as follows:

1. Mental Health Institute, Mount Pleasant, Iowa.
2. Mental Health Institute, Independence, Iowa.
3. Mental Health Institute, Clarinda, Iowa.
4. Mental Health Institute, Cherokee, Iowa. [R60,§1471; C73,§1383; C97,§2253; S13,§2253-a; C24, 27, 31, 35, 39,§3483; C46, 50, 54, 58, 62, 66, 71,§226.1]

See §§145.1, 218.1

226.2 Qualifications of superintendent. The superintendent of each hospital shall be either a qualified hospital administrator or a physician of acknowledged skill and ability in his profession and authorized to practice medicine in this state. No physician may serve as both superintendent and business manager. When a hospital administrator is appointed superintendent he may also be designated to perform the duties of business manager, without additional compensation therefor, and a physician having the requisite qualifications for appointment as superintendent shall be designated clinical director and shall perform the duties imposed on the superintendent by section 226.6, subsection 1, and such other duties of the superintendent as must by their nature be performed by a physician. [R60,§§1430, 1474; C73,§§1386, 1391; C97,§§2255, 2258; C24, 27, 31, 35, 39,§3484; C46, 50, 54, 58, 62, 66, 71, §226.2]

- 226.25 Certificate and effect thereof.
- 226.26 Dangerous incurables.
- 226.27 Patient accused of crime.
- 226.28 Return by sheriff.
- 226.29 Discharge of mentally ill criminals.
- 226.30 Transfer of dangerous patients.
- 226.31 Examination by court—notice.
- 226.32 Overcrowded conditions.
- 226.33 Notice to commissioners.
- 226.34 Investigation of death—notice.

REHABILITATION OF ALCOHOLICS

- 226.35 Application for admission.
- 226.36 Segregation.
- 226.37 Discharge.
- 226.38 Demand for release—liability.
- 226.39 Request for commitment.
- 226.40 Emergency patients.
- 226.41 Charge permitted.
- 226.42 Emergency powers of superintendents.

MENTAL PATIENTS' PERSONAL FUNDS

- 226.43 Fund created.
- 226.44 Deposits.
- 226.45 Reimbursement to county.
- 226.46 Deposit of fund.
- 226.47 "Director" defined.

226.3 Assistant physicians. The assistant physicians shall be of such character and qualifications as to be able to perform the ordinary duties of the superintendent during his absence or inability to act. [R60,§1432; C73,§1394; C97,§2260; C24, 27, 31, 35, 39,§3485; C46, 50, 54, 58, 62, 66, 71,§226.3]

226.4 Salary of superintendent. The salary of the superintendent of each hospital shall be determined by the state director. [R60, §§1469, 1496; C97,§2258; C24, 27, 31, 35, 39,§3486; C46, 50, 54, 58, 62, 66, 71,§226.4]

Director, §226.47

226.5 Superintendent as witness. The superintendents and assistant physicians of said hospitals, when called as witnesses in any court, shall be paid the same mileage which other witnesses are paid and in addition thereto shall be paid a fee of twenty-five dollars per day, said fee to revert to the support fund of the hospital he serves. [C73,§1429; C97,§2293; C24, 27, 31, 35, 39,§3487; C46, 50, 54, 58, 62, 66, 71,§226.5]

Mileage, §622.69

226.6 Duties of superintendent. The superintendent shall:

1. Have the control of the medical, mental, moral, and dietetic treatment of the patients in his custody subject to the approval of the state director.

2. Require all subordinate officers and employees to perform their respective duties.

§226.6, MENTAL HEALTH INSTITUTES

3. Have an official seal with the name of the hospital and the word "Iowa" thereon and affix the same to all notices, orders of discharge, or other papers required to be given by him.

4. Keep proper books in which shall be entered all moneys and supplies received on account of any patient and a detailed account of the disposition of the same.

5. Report, in December of each year, to each county, the mental and physical condition of each patient from said county and the probable safety of removing any such patient to the county hospital. [R60, §§1430, 1431; C73, §§1391, 1393, 1430; C97, §§2258, 2294; C24, 27, 31, 35, 39, §3488; C46, 50, 54, 58, 62, 66, 71, §226.6]

Referred to in §226.2

226.7 Order of receiving patients. Preference in the reception of patients into said hospitals shall be exercised in the following order:

1. Cases of less duration than one year.

2. Chronic cases, where the disease is of more than one-year duration, presenting the most favorable prospect for recovery.

3. Those for whom application has been longest on file, other things being equal.

Where cases are equally meritorious in all other respects, the indigent shall have the preference. [R60, §1438; C73, §1422; C97, §2286; C24, 27, 31, 35, 39, §3489; C46, 50, 54, 58, 62, 66, 71, §226.7]

226.8 Mental retardates not receivable — exception. No person who is mentally retarded, as defined by section 222.2, shall be admitted, or transferred pursuant to section 222.7, to a state mental health institute unless a professional diagnostic evaluation indicates that such person will benefit from psychiatric treatment or from some other specific program available at the mental health institute to which it is proposed to admit or transfer the person. Charges for the care of any mentally retarded person admitted to a state mental health institute shall be made by the institute in the manner provided by chapter 230, but the liability of any other person to any county for the cost of care of such mentally retarded person shall be as prescribed by section 222.78. [R60, §§1468, 1491; C73, §1434; C97, §2298; C24, 27, 31, 35, 39, §3490; C46, 50, 54, 58, 62, 66, 71, §226.8]

226.9 Custody of patient. The superintendent, upon the receipt of a duly executed order of admission of a patient into the hospital for the mentally ill, accompanied by the physician's certificate provided by law, shall take such patient into custody and restrain him as provided by law and the rules of the state director, without liability on the part of such superintendent and all other officers of the hospital to prosecution of any kind on account thereof, but no person shall be detained in the hospital who is found by the superintendent to be in good mental health. [C73, §1411; C97, §2278; C24, 27, 31, 35, 39, §3491; C46, 50, 54, 58, 62, 66, 71, §226.9]

Order of admission, §229.10

226.10 Equal treatment. The several patients, according to their different conditions of mind and body, and their respective needs, shall be provided for and treated with equal care. [C73, §1420; C97, §2284; C24, 27, 31, 35, 39, §3492; C46, 50, 54, 58, 62, 66, 71, §226.10]

226.11 Special care permitted. Patients may have such special care as may be agreed upon with the superintendent, if the friends or relatives of the patient will pay the expense thereof. Charges for such special care and attendance shall be paid quarterly in advance. [C73, §§1420, 1421; C97, §§2284, 2285; C24, 27, 31, 35, 39, §3493; C46, 50, 54, 58, 62, 66, 71, §226.11]

226.12 Monthly visitation—women inspectors. The state director shall make monthly and thorough examinations of each hospital. He may appoint a woman to make examinations of any hospital and to make written report thereof to the state director. [C73, §§1435, 1441; C97, §2299; SS15, §2727-a11; C24, 27, 31, 35, 39, §3494; C46, 50, 54, 58, 62, 66, 71, §226.12]

226.13 Patients allowed to write. The name and address of the state director shall be kept posted in every ward in each hospital. Every patient shall be allowed to write once a week what he pleases to said state director and to any other person. The superintendent may send letters addressed to other parties to the state director for inspection before forwarding them to the individual addressed. [C73, §1436; C97, §2300; C24, 27, 31, 35, 39, §3495; C46, 50, 54, 58, 62, 66, 71, §226.13]

226.14 Writing material. Every patient shall be furnished by the superintendent or party having charge of such person, at least once in each week, with suitable materials for writing, enclosing, sealing, and mailing letters, if he requests and uses the same. [C73, §1437; C97, §2301; C24, 27, 31, 35, 39, §3496; C46, 50, 54, 58, 62, 66, 71, §226.14]

226.15 Letters to state director. The superintendent or other officer in charge of a patient shall, without reading the same, receive all letters addressed to the state director, if so requested, and shall properly mail the same, and deliver to such patient all letters or other writings addressed to him. Letters written to the person so confined may be examined by the superintendent, and if, in his opinion, the delivery of such letters would be injurious to the person so confined, he shall return the letters to the writer with his reasons for not delivering them. [C73, §1438; C97, §2302; C24, 27, 31, 35, 39, §3497; C46, 50, 54, 58, 62, 66, 71, §226.15]

226.16 Unauthorized departure and retaking. It shall be the duty of the superintendent and of all other officers and employees of any of said hospitals, in case of the unauthorized departure of any patient, to exercise all due diligence to take into protective custody and return said patient to the hospital. A notification by the superintendent of such unauthor-

§226.29, MENTAL HEALTH INSTITUTES

serve it. [C97,§2280; C24, 27, 31, 35, 39,§3510; C46, 50, 54, 58, 62, 66, 71,§226.28]

226.29 Discharge of mentally ill criminals. No patient who may be under criminal charge or conviction shall be discharged without the order of the district court or judge, and notice to the county attorney of the proper county. [R60,§1482; C73,§1408; C97,§2276; C24, 27, 31, 35, 39,§3511; C46, 50, 54, 58, 62, 66, 71,§226.29]

226.30 Transfer of dangerous patients. When a patient of any hospital for the mentally ill becomes incorrigible, and unmanageable to such an extent that he is dangerous to the safety of others in the hospital, the state director may apply in writing to the district court or to any judge thereof, of the county in which such hospital is situated, for an order to transfer said patient to the Iowa security medical facility and if such order be granted such patient shall be so transferred. The county attorney of said county shall appear in support of such application on behalf of the state director. [C24, 27, 31, 35, 39,§3512; C46, 50, 54, 58, 62, 66, 71,§226.30]

Referred to in §226.31
see also §218.92

226.31 Examination by court—notice. Before granting the order authorized in section 226.30 the court or judge shall investigate the allegations of the petition and before proceeding to a hearing thereon shall require notice to be served on any relative, friend, or guardian of the person in question of the filing of said application. On such hearing the court or judge shall appoint a guardian ad litem for said person, if it deems such action necessary to protect the rights of such person. [C24, 27, 31, 35, 39,§3513; C46, 50, 54, 58, 62, 66, 71,§226.31]

226.32 Overcrowded conditions. The state director shall order the discharge or removal from the hospital of incurable and harmless patients whenever it is necessary to make room for recent cases, and shall notify the auditor of the county interested at least ten days in advance of the day of actual discharge. [R60, §1483; C73,§1425; C97,§2289; C24, 27, 31, 35, 39, §3514; C46, 50, 54, 58, 62, 66, 71,§226.32]

226.33 Notice to commissioners. When a patient who has not fully recovered is discharged from the hospital without application therefor, notice of the order shall at once be sent to the commissioners of hospitalization of the county of which the patient is a resident, and the commissioners shall forthwith cause the patient to be removed, and shall at once provide for his care in the county as in other cases. [R60,§1484; C73,§1426; C97,§2290; C24, 27, 31, 35, 39,§3515; C46, 50, 54, 58, 62, 66, 71,§226.33]

226.34 Investigation of death—notice. An investigation by the county medical examiner shall be held in those cases where a death shall occur suddenly and without apparent cause, or a patient die and his relatives so request, but in the latter case the relatives making the

request shall be liable for the expense of the same, and payment therefor may be required in advance. When a patient in any mental health institute shall die from any cause, the superintendent of said institute shall within three days of the date of death, send by certified mail a written notice of death to:

1. The decedent's nearest relative.
2. The clerk of the district court of the county from which the patient was committed, and
3. The sheriff of the county from which the patient was committed. [C73,§1439; C97,§2303; C24, 27, 31, 35, 39,§3516; C46, 50, 54, 58, 62, 66, 71,§226.34]

REHABILITATION OF ALCOHOLICS

226.35 Application for admission. Any resident of the state may apply for voluntary admission for the treatment of alcoholism to Mental Health Institute, Cherokee, Iowa, Mental Health Institute, Independence, Iowa, Mental Health Institute, Clarinda, Iowa, or Mental Health Institute, Mt. Pleasant, Iowa, the state hospital serving the district in which he resides. This application shall be made on forms provided by the state director and under such regulations as the director may prescribe. If the superintendent shall be satisfied, after examination of the applicant by the staff, that he is in need of hospital treatment and will be benefited thereby, the superintendent may receive and care for the applicant in the state hospital for such a period of time as he shall deem necessary for the treatment, improvement or recovery of said patient.

Chapter 230 shall apply so far as applicable in connection with the payment of the costs, expenses and maintenance of the applicant in any of said institutions. [C54, 58, 62, 66, 71, §226.35]

Referred to in §226.38

226.36 Segregation. The state director is directed to segregate and set aside such accommodations as may be necessary which shall be used exclusively for the treatment of patients received under this chapter. [C54, 58, 62, 66, 71,§226.36]

Referred to in §226.38

226.37 Discharge. The discharge of patients from the state hospitals who voluntarily entered the hospital shall be only by order of the superintendent, but he shall be guided in his decisions by the physicians attending such patient. [C54, 58, 62, 66, 71,§226.37]

Referred to in §226.38

226.38 Demand for release—liability. Neither the superintendent nor any other official or employee of the state hospital shall be liable for the detention of any person voluntarily admitted in such state hospital under the provisions herein until thirty days after the patient has made demand in writing for his release from detention, and then only if it be established that such detention was unreasonable and arbitrary. Nothing in sections 226.35

MENTAL HEALTH INSTITUTES, §226.47

to 226.39, inclusive, however, shall in any way restrict the right of any patient to secure, or attempt to secure, his freedom by habeas corpus proceedings as now provided by law. [C54, 58, 62, 66, 71, §226.38]

Habeas corpus, ch 663

226.39 Request for commitment. Upon receipt of such a demand for discharge the superintendent may immediately request a writ of commitment from the district court in which the hospital is located. Such request shall be accompanied by a statement of attending physician that further treatment is necessary in the best interests of the patient and the public. The court shall set said request for immediate hearing before the court and prescribe the notice to be given therefor. If it appears that the patient is not represented by counsel, the court shall appoint one to appear and defend said patient and who shall receive such compensation as the court shall fix, which shall be taxed as costs. The state director shall pay the costs of such proceedings. Such hearing shall be private and all records made thereof shall be confidential. If upon such hearing which shall be in presence of the patient the court shall find the patient to be an alcoholic and in further need of treatment, he shall issue a writ of commitment to the state hospital for a period not to exceed ninety days. [C54, 58, 62, 66, 71, §226.39]

Referred to in §226.38

Commitment by commissioners, ch 224

226.40 Emergency patients. In case of emergency disaster, with the infliction of numerous casualties among the civilian population, the mental health institutes are authorized to accept sick and wounded persons without commitment or any other formalities. [C62, 66, 71, §226.40]

226.41 Charge permitted. The hospital is authorized to make a charge for these patients, in the manner now provided by law and subject to the changes hereinafter provided. [C62, 66, 71, §226.41]

226.42 Emergency powers of superintendents. In case the mental health institutes lose contact with the statehouse, due to enemy action or otherwise, the superintendents of the institutes are hereby delegated the following powers and duties:

1. May collect moneys due the state treasury from the counties and from responsible persons or other relatives, these funds to be collected monthly, instead of quarterly, and to be deposited for use in operating the institutes.

2. The superintendent shall have the power to requisition supplies, such as food, fuel, drugs and medical equipment, from any source

available, in the name of the state, with the power to enter into contracts binding the state for payment at an indefinite future time.

3. The superintendent shall be authorized to employ personnel in all categories and for whatever remuneration he deems necessary, without regard to existing laws, rules or regulations, in order to permit the institute to continue its old functions, as well as meet its additional responsibilities. [C62, 66, 71, §226.42]

MENTAL PATIENTS' PERSONAL FUNDS

226.43 Fund created. There is hereby established at each hospital a fund known as the "patients' personal deposit fund". [C66, 71, §226.43]

Referred to in §222.84

226.44 Deposits. Any funds, including social security benefits, coming into the possession of the superintendent or any employee of the hospital belonging to any patient in that hospital, shall be deposited in the name of that patient in the patients' personal deposit fund, except that if a guardian of the property of that patient has been appointed, the guardian shall have the right to demand and receive such funds. Funds belonging to a patient deposited in the patients' personal deposit fund may be used for the purchase of personal incidentals, desires and comforts for the patient. [C66, 71, §226.44]

Referred to in §222.84

226.45 Reimbursement to county. Whenever the amount to the account of any patient in the patients' personal deposit fund exceeds the sum of two hundred dollars, the business manager of the hospital may apply any of the excess to reimburse the county of legal settlement for liability incurred by such county for the payment of care, support and maintenance of the patient, when billed therefor by the county of legal settlement. [C66, 71, §226.45]

Referred to in §222.84

226.46 Deposit of fund. The business manager shall deposit the patients' personal deposit fund in a commercial account of a bank of reputable standing. When deposits in the commercial account exceed average monthly withdrawals, the business manager may deposit the excess at interest. The savings account shall be in the name of the patients' personal deposit fund and interest paid thereon may be used for recreational purposes at the hospital. [C66, 71, §226.46]

Referred to in §222.84

226.47 "Director" defined. For the purpose of this chapter "director" or "state director" shall mean the director of the division of mental health of the department of social services. [C71, §226.47]

CHAPTER 227

COUNTY AND PRIVATE HOSPITALS FOR MENTALLY ILL

Referred to in §§229.38, 229.39

- 227.1 Supervision.
- 227.2 Inspection.
- 227.3 Patients to have hearing.
- 227.4 Repealed by 52GA, ch 126,§2.
- 227.5 Repealed by 52GA, ch 126,§3.
- 227.6 Removal of patients.
- 227.7 Cost—collection from county.
- 227.8 Notification to guardians.
- 227.9 Investigating mental health.
- 227.10 Transfers from county or private institutions.

- 227.11 Transfers from state hospitals.
- 227.12 Difference of opinion.
- 227.13 Discharge of transferred patient.
- 227.14 Caring for mentally ill of other counties.
- 227.15 Authority to confine in hospital.
- 227.16 State aid.
- 227.17 State mental aid fund.
- 227.18 Claims filed quarterly.
- 227.19 "Director" defined.

227.1 Supervision. All county and private institutions wherein mentally ill persons are kept shall be under the supervision of the state director. [S13,§2727-a58; C24, 27, 31, 35, 39,§3517; C46, 50, 54, 58, 62, 66, 71,§227.1]

227.2 Inspection. Said state director shall make, or cause to be made, at least two inspections each year of every private and county institution wherein mentally ill persons are kept. Such inspection shall be made by the state director or by some competent and disinterested person appointed by him. Inspectors shall be persons who are acquainted with and interested in the handling and care of mental patients and shall be required to consult and advise with the county authorities on plans and practices that will improve the care given patients and shall make such recommendations to the state director for co-ordinating and improving the relationships between the stewards of county homes, the state director, the superintendents of hospitals and other co-operating agencies, as will make for improved and more satisfactory care of patients. Written report as to such inspections shall be filed with the state director and shall embrace:

1. The capacity of said institution for the care of patients.
2. The number and sex of the patients kept therein.
3. The arrangement, method of construction, and adaptability of buildings for the purposes intended.
4. The condition of buildings as to sewerage, ventilation, light, heat, cleanliness, means of water supply, fire escapes, and fire protection.
5. The care of patients, their food, clothing, medical treatment, and employment.
6. The number, kind, sex, duties, and salaries of all employees.
7. The cost to the state or county of maintaining mentally ill patients therein, separate from the cost of maintaining sane paupers.
8. The recommendations given to and received from county authorities on methods and practices that will improve the conditions under which the county home is operated.

9. Such other matters as the state director may require.

In addition to the aforesaid inspections, the state director shall make or cause to be made an inspection of each county home where mental patients are kept at least once each year by a competent psychiatrist employed by the state hospital in the hospital district where the county home is located. Such inspection shall include an examination of each mental patient which shall reveal the patient's condition of health and the likelihood of improvement or discharge and such other recommendations concerning the care of patients as the inspector deems pertinent. One copy of said inspection report shall be filed with the state director, one copy mailed to the county board of supervisors and one copy mailed to the steward of the home inspected. [S13,§2727-a59; C24, 27, 31, 35, 39,§3518; C46, 50, 54, 58, 62, 66, 71,§227.2]

227.3 Patients to have hearing. The inspector shall give each patient an opportunity to converse with him out of the hearing of any officer or employee of the institution, and shall fully investigate all complaints and report the result thereof in writing to said state director. The state director before acting on said report adversely to the institution, shall give the persons in charge thereof a copy of such report and an opportunity to be heard. [S13,§2727-a60; C24, 27, 31, 35, 39,§3519; C46, 50, 54, 58, 62, 66, 71,§227.3]

227.4 Repealed by 52GA, ch 126,§2.

227.5 Repealed by 52GA, ch 126,§3.

227.6 Removal of patients. Said state director, in case of failure to comply with his rules, is authorized to remove all said mentally ill persons kept in such institutions at public expense, to the proper state hospital, or to some private or county institution or hospital for the care of the mentally ill that has complied with the rules prescribed by said state director, such removal of patients, if to a state hospital, to be made by an attendant or attendants sent from the state hospital. If a female

is removed under the provisions of this section, at least one attendant shall be a female. [S13,§2727-a63; C24, 27, 31, 35, 39,§3522; C46, 50, 54, 58, 62, 66, 71,§227.6]

227.7 Cost — collection from county. The cost of such removal, including all expenses of said attendant, shall be certified by the superintendent of the hospital receiving the patient, to the state comptroller, who shall draw his warrant upon the treasurer of state for said sum, which shall be credited to the support fund of said hospital and charged against the general revenues of the state and collected by the comptroller from the county which sent said patient to said institution. [S13,§2727-a63; C24, 27, 31, 35, 39,§3523; C46, 50, 54, 58, 62, 66, 71,§227.7]

Referred to in §227.10

227.8 Notification to guardians. The state director shall notify the guardian, or one or more of the relatives, of patients kept at private expense, of all violations of said rules by said private or county institutions, and of the action of the state director as to all other patients. [S13,§2727-a63; C24, 27, 31, 35, 39, §3524; C46, 50, 54, 58, 62, 66, 71,§227.8]

227.9 Investigating mental health. Should the state director believe that any person in any such county or private institution is in good mental health, or illegally restrained of liberty, he shall institute and prosecute proceedings in the name of the state, before the proper officer, board, or court, for the discharge of such person. [S13,§2727-a63; C24, 27, 31, 35, 39,§3525; C46, 50, 54, 58, 62, 66, 71,§227.9]

227.10 Transfers from county or private institutions. Patients who are suffering from acute mental illness, and who are violent, and confined at public expense in any such institution, may be removed by the state director to the proper state hospital for the mentally ill when, on competent medical testimony, the state director finds that said patient can be better cared for and with better hope of recovery in the state hospital. Such removal shall be at the expense of the proper county. Said expense shall be recovered as provided in section 227.7. [S13,§2727-a64; C24, 27, 31, 35, 39,§3526; C46, 50, 54, 58, 62, 66, 71,§227.10]

227.11 Transfers from state hospitals. A county chargeable with the expense of a patient in a state hospital for the mentally ill shall remove such patient to a county or private institution for the mentally ill which has complied with the aforesaid rules when the state director so orders on a finding that said patient is suffering from chronic mental illness or from senility and will receive equal benefit by being so transferred. A county shall remove to its county home any patient in a state hospital for the mentally ill upon a finding by a commission, consisting of the superintendent of the state hospital in which the patient is confined and a physician or physicians chosen by the board of supervisors

of the county of the patient's residence, said physician or physicians to be paid by the county of the patient's residence, that such patient can be properly cared for in the county home; and the finding of the commission, after its approval by the board of supervisors of the county of the patient's residence, shall be complete authority for such removal. In no case shall a patient be thus transferred except upon the written consent of a relative, friend, or guardian if such relative, friend, or guardian pays the expense of the care of such patient in a state hospital. [S13,§2727-a64; C24, 27, 31, 35,§§3527, 3528; C39,§3527; C46, 50, 54, 58, 62, 66, 71,§227.11]

Referred to in §227.16

227.12 Difference of opinion. When a difference of opinion exists between the state director and the authorities in charge of any private or county hospital in regard to the removal of a patient or patients as herein provided, the matter shall be submitted to the district court of the county in which such hospital is situated and shall be summarily tried as an equitable action; and the judgment of the district court shall be final. [S13,§2727-a68; C24, 27, 31, 35, 39,§3529; C46, 50, 54, 58, 62, 66, 71,§227.12; 64GA, ch 1013,§12]

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

227.13 Discharge of transferred patient. Patients transferred from a state hospital to such county or private institutions shall not be discharged, when not cured, without the consent of the state director. [S13,§2727-a64; C24, 27, 31, 35, 39,§3530; C46, 50, 54, 58, 62, 66, 71,§227.13]

227.14 Caring for mentally ill of other counties. Boards of supervisors of counties having no proper facilities for caring for the mentally ill, may, with the consent of the state director, provide for such care at the expense of the county in any convenient and proper county or private institution for the mentally ill which is willing to receive them. [S13,§2727-a65; C24, 27, 31, 35, 39,§3531; C46, 50, 54, 58, 62, 66, 71,§227.14]

227.15 Authority to confine in hospital. No person shall be confined and restrained in any private institution or hospital or county hospital or other general hospital with psychiatric ward for the care or treatment of the mentally ill, except upon the certificate of the commission of hospitalization of the county in which such person resides, or of two reputable physicians, at least one of whom shall be a bona fide resident of this state, who shall certify that such person is a fit subject for treatment and restraint in said institution or hospital, which certificate shall be the authority of the owners and officers of said hospital or institution for receiving and confining said patient or person therein. [S13,§2727-a66; C24, 27, 31, 35, 39,§3532; C46, 50, 54, 58, 62, 66, 71,§227.15]

227.16 State aid. For each patient heretofore or hereafter received on transfer from a

§227.16, COUNTY AND PRIVATE HOSPITALS

state hospital for the mentally ill under the provisions of section 227.11, or committed to a county home by a commission of hospitalization, or any mentally retarded adult patient discharged or removed from the state hospital-schools and cared for and supported by the county in the county home or elsewhere outside a state institution for the mentally ill or mentally retarded the county shall be entitled to receive the amount of five dollars per week for each patient from the state mental aid fund hereinafter provided for. [C50, 54, 58, 62, 66, 71,§227.16]

227.17 State mental aid fund. There is hereby created as a permanent fund in the office of the treasurer of state a fund to be known as the state mental aid fund, and for the purpose of establishing and maintaining said fund for each fiscal year, there is appropriated thereto from funds in the general fund, not otherwise appropriated, the sum of one million seventy-five thousand dollars. Any balance in said fund on June 30 of the second

fiscal year shall revert to the general fund. [C50, 54, 58, 62, 66, 71,§227.17; 64GA, ch 152,§1]

227.18 Claims filed quarterly. The state aid herein provided for shall be paid to the claimant county upon a verified claim being filed quarterly with the state director setting forth the total of weekly patient care furnished to transferees in county or private institutions from the county mental health and institutions fund. Approval of said verified claim by the state director shall be authority for the state comptroller to issue a warrant upon the state mental aid fund payable to the claimant county which shall be credited by that county to the county mental health and institutions fund established by section 444.12. [C50, 54, 58, 62, 66, 71,§227.18; 64GA, ch 1108,§4]

227.19 "Director" defined. For the purpose of this chapter "director" or "state director" shall mean the director of the division of mental health of the department of social services. [C71,§227.19]

CHAPTER 228
COMMISSION OF HOSPITALIZATION

Referred to in §§229.38, 229.39, 783.5

- 228.1 Number of members.
- 228.2 Personnel of commission.
- 228.3 Appointment and term.
- 228.4 Organization.
- 228.5 Temporary vacancy.
- 228.6 Duty of clerk.
- 228.7 Service of notice—reports.

228.1 Number of members. In each county there shall be a commission of hospitalization which shall be composed of three members. In counties having two places where district court is held there shall be one such commission at each place. [C73,§1395; C97,§2261; C24, 27, 31, 35, 39,§3533; C46, 50, 54, 58, 62, 66, 71, §228.1]

228.2 Personnel of commission. Said commission shall consist of the clerk of the district court, one reputable physician in actual practice, and one reputable attorney in actual practice. Said two latter members shall reside as near as may be convenient to the place where the district court is held. In the absence or inability of the clerk to act in any case, his deputy may act. [C73,§1395; C97,§2261; C24, 27, 31, 35, 39,§3534; C46, 50, 54, 58, 62, 66, 71,§228.2]

228.3 Appointment and term. Said commission shall be appointed by the district court. Appointments shall be for two years and be so arranged that the term of one member shall expire each year. The appointment of successors may be made at any time within three months prior to the expiration of the term of the incumbent. [C73,§1395; C97,§2261; C24, 27, 31, 35, 39,§3535; C46, 50, 54, 58, 62, 66, 71,§228.3]

228.4 Organization. The members shall organize by choosing one of their number president. The clerk of the district court or his deputy shall be clerk of the commission. The commission shall hold its meetings at the office of the clerk, unless for good reasons it shall fix on some other place, and shall also meet on notice from the clerk or his deputy. [C73, §1396; C97,§2261; C24, 27, 31, 35, 39,§3536; C46, 50, 54, 58, 62, 66, 71,§228.4]

228.5 Temporary vacancy. In the temporary absence or inability of two members to act, the member present may call to his aid, temporarily, a person possessed of the qualifications required for a member, who, after qualifying as in other cases, may act in the same capacity. If one of the absent members is a clerk, his deputy shall act. The record in such cases must show the facts. [C73,§1395; C97,§2261; C24, 27, 31, 35, 39,§3537; C46, 50, 54, 58, 62, 66, 71,§228.5]

228.6 Duty of clerk. The clerk of said commission shall:

- 228.8 Jurisdiction — holding under criminal charge.
- 228.9 Compensation and expenses.
- 228.10 Costs—how paid.
- 228.11 Transportation expenses—return of patient on leave.

1. Issue all processes required to be given by the commission, and affix thereto his seal as clerk of the court.

2. File and preserve in his office all papers and records connected with any inquest by the commission.

3. Keep separate books of the proceedings of the commission with entries sufficiently full to show, with the papers filed, a complete record of its findings, orders, and proceedings. [C73,§1397; C97,§2262; C24, 27, 31, 35, 39,§3538; C46, 50, 54, 58, 62, 66, 71,§228.6]

228.7 Service of notice—reports. The notices, reports, and communications required to be given or made by said commission may be sent by mail, unless otherwise expressed, and the facts and date of such sending and their reception must be noted on the proper record. [C73,§1397; C97,§2262; C24, 27, 31, 35, 39,§3539; C46, 50, 54, 58, 62, 66, 71,§228.7]

228.8 Jurisdiction—holding under criminal charge. Said commission shall, except as otherwise provided, have jurisdiction of all applications for the commitment to the state hospitals for the mentally ill, or for the otherwise safekeeping, of mentally ill persons within its county, unless the application is filed with the commission at a time when the alleged mentally ill person is being held in custody under an indictment returned by the grand jury or under a trial information filed by the county attorney. [R60,§§1458, 1459; C73,§§1398, 1412; C97,§§2263, 2279; C24, 27, 31, 35, 39,§3540; C46, 50, 54, 58, 62, 66, 71,§228.8]

Drug addicts, ch 224

228.9 Compensation and expenses. Compensation and expenses shall be allowed as follows:

1. The compensation and expenses of the commissioners of hospitalization shall be as follows: To the member of the commission serving as physician, fifteen dollars and fifty cents for each admission or release of any person brought before said commission for each actual hearing, and to the member of the commission serving as attorney, fifteen dollars and fifty cents for each admission or release of any person brought before said commission for each actual hearing.

2. To the examining physician, when not a member of the commission, the same fees as a member and in addition mileage of five cents per mile each way.

COMMISSION OF HOSPITALIZATION, §228.11

3. To witnesses the same fees as witnesses in the district court.

4. Fees on appeal shall be the same as in ordinary actions. [C73, §§1410, 3825; C97, §2309; C24, 27, 31, 35, 39, §3541; C46, 50, 54, 58, 62, 66, 71, §228.9]

Fees and costs, §622.69 et seq.; ch 625

228.10 Costs—how paid. The compensation and expenses provided for above, and the fees of the sheriff provided for in such cases, shall be allowed and paid out of the county treasury in the usual manner. [C73, §§1410, 3825; C97, §2309; C24, 27, 31, 35, 39, §3542; C46, 50, 54, 58, 62, 66, 71, §228.10]

Sheriff's fees, §337.11

228.11 Transportation expenses—return of patient on leave. When funds to pay the expenses of transporting a patient to a hospital are needed in advance, the commission shall estimate the probable expense, including the necessary assistance, and not including the compensation allowed the sheriff, and on such estimate, certified by the clerk, the auditor of the county shall issue a county warrant for the amount, as estimated, in favor of the sheriff or other person intrusted with the execu-

tion of such order of admission. The sheriff or other person executing such order shall accompany his return with a statement of the expenses incurred, and the excess or deficiency may be deducted from or added to his compensation, as the case may be. If funds are not so advanced, such expenses shall be certified and paid in the manner above prescribed on the return of the order. When the commission orders the return of a patient, compensation and expenses shall be in like manner allowed.

When the commission orders the return of a patient who is on leave from a mental health institute, such notification from the commission of hospitalization or superintendent of the mental health institute from which the patient is on leave to any peace officer of the state or to any private person shall be sufficient authority for such officer or person to take and return such patient to the respective mental health institute. Compensation and expenses incurred in executing an order to return a patient shall be allowed in the same manner as other transportation expenses. [C73, §§1410, 3825; C97, §2309; C24, 27, 31, 35, 39, §3543; C46, 50, 54, 58, 62, 66, 71, §228.11]

CHAPTER 229

COMMITMENT AND DISCHARGE OF MENTALLY ILL PERSONS

Referred to in §783.5

- 229.1 Form of information—temporary observation.
- 229.2 Hearing—custody.
- 229.3 Subpoenas and oaths.
- 229.4 Hearings.
- 229.5 Appearance—right to counsel.
- 229.6 Examining physician.
- 229.7 Answers to interrogatories.
- 229.8 Correction of answers.
- 229.9 Findings and order—screening center.
- 229.10 Order.
- 229.11 Service.
- 229.12 Record and commitment of one accused.
- 229.13 Repealed by 52GA, ch 129, §6.
- 229.14 Assistants—females.
- 229.15 Preference in executing order.
- 229.16 Confinement of mentally ill—females.
- 229.17 Appeal.
- 229.18 Custody pending appeal.
- 229.19 Final order.
- 229.20 Beneficiaries of veterans bureau.
- 229.21 Transfer from state hospital.
- 229.22 Commitment continues.
- 229.23 Blanks.
- 229.24 Temporary custody in certain cases.
- 229.25 Care by relatives or friends.
- 229.26 Care by county.
- 229.27 Custody outside state hospitals.
- 229.28 Neglected mentally ill persons.
- 229.29 Transfers from county and private hospitals.
- 229.30 Discharge from custody.
- 229.31 Commission of inquiry.
- 229.32 Duty of commission.
- 229.33 Hearing.
- 229.34 Finding and order filed.
- 229.35 Compensation—payment.
- 229.36 Limitation on proceedings.
- 229.37 Habeas corpus.
- 229.38 Cruelty or official misconduct.
- 229.39 Failure to furnish writing material.
- 229.40 "Mental illness" defined.
- 229.41 Voluntary admission.
- 229.42 Costs paid by county.
- 229.43 Nonresidents or no-settlement patients.
- 229.44 "Director" defined.

229.1 Form of information—temporary observation. Applications for admission to the hospitals for the mentally ill shall be by sworn information which shall allege and show:

1. That the person in whose behalf the application is made is believed to be mentally ill, and a fit subject for custody and treatment in the hospital.

2. That such person has been found in the county.

3. The place of residence of such person or where it is believed to be, or that such residence is not known.

Provided, however, that application for admission may be made on behalf of a person by his attending physician and another physician experienced in the treatment of mental diseases, for a temporary admission for observation, examination, diagnosis and treatment, which admission shall not be for a period of more than thirty days and only after the written consent of said person. The application shall be made to the superintendent of the state hospital in the district in which the county of his residence is located. Said application shall not be accepted by the superintendent if by doing so it will result in an overcrowded condition or if adequate facilities are not available. At the expiration of the admission period, the superintendent shall make a certified report of the findings as to the mental

illness of said applicant, one copy of which shall be sent to the attending physician filing the application and, if said report finds that said person is mentally ill and in need of treatment, a copy shall be sent to the commission of hospitalization of the county in which the applicant is a resident.

If the certification of the patient's condition to his attending physician by the hospital superintendent states that a further period of observation and treatment is indicated without commitment of the person as mentally ill, the attending physician may authorize a further period of such observation and treatment as recommended. During such extended period of observation, if the patient is not discharged a recommendation for commitment as mentally ill may be filed with the commission. If the commission does not issue a commitment as mentally ill after recommendation by the superintendent within five days following receipt of such recommendation, the superintendent may, upon authority of the state director, discharge such patient from the hospital, and the hospital and state director, after discharge of such patient, shall be absolved of further responsibility in connection with the case until such time as the same person may be committed.

The cost of hospitalization of persons committed temporarily under the provisions of this section shall be paid for in the same way

as persons committed otherwise as mentally ill. [R60,§1480; C73,§1399; C97,§2264; C24, 27, 31, 35, 39,§3544; C46, 50, 54, 58, 62, 66, 71,§229.1]

Referred to in §225.36

229.2 Hearing—custody. On the filing of such information, the commission, if satisfied that there is reasonable cause therefor, may require the alleged mentally ill person to be brought before it and, to this end, may issue its order to any peace officer of the county. The commission may provide for the custody of such person until its investigation is concluded. [R60,§1480; C73,§1400; C97,§2265; C24, 27, 31, 35, 39,§3545; C46, 50, 54, 58, 62, 66, 71, §229.2]

Referred to in §229.9

229.3 Subpoenas and oaths. The commission shall have power to issue subpoenas. Each member of the commission shall have power to administer oaths to witnesses. In case a witness fails to appear or refuses to testify, the commission shall, in writing, report such refusal to the district court and said court shall proceed as though such refusal occurred in a legal proceeding before said court. [C73,§1398; C97,§2263; C24, 27, 31, 35, 39,§3546; C46, 50, 54, 58, 62, 66, 71,§229.3]

Referred to in §229.9

Contempts, ch 665

229.4 Hearings. Hearings shall be had in the presence of such person unless the commission finds that such course would probably be injurious to such person or attended with no advantage. [R60,§1480; C73,§1400; C97,§2265; C24, 27, 31, 35, 39,§3547; C46, 50, 54, 58, 62, 66, 71,§229.4]

Referred to in §229.9

229.5 Appearance—right to counsel. Appearance on behalf of such alleged mentally ill person may be made by any citizen of the county, or by any relative, either in person or by counsel.

If at said hearing such person appears without counsel or appearance is made in his behalf without counsel, the commission, before proceeding further, shall inform such person or persons appearing for him of his right to legal counsel, then if no counsel is employed, the district court shall assign him counsel. An attorney so assigned shall receive such compensation as the district court shall fix to be paid in the first instance by the county. [C73, §1400; C97,§2265; C24, 27, 31, 35, 39,§3548; C46, 50, 54, 58, 62, 66, 71,§229.5]

Referred to in §229.9

229.6 Examining physician. The commission shall, in all cases, appoint, either from, or outside, its own membership, some regular practicing physician of the county to make a personal examination of the person in question for the purpose of determining his mental and physical condition. Said physician shall certify to the commission whether said person is in good mental health or mentally ill. [C73, §1400; C97,§2265; C24, 27, 31, 35, 39,§3549; C46, 50, 54, 58, 62, 66, 71,§229.6]

229.7 Answers to interrogatories. The examining physician shall accompany his certificate with correct answers to the following questions so far as correct answers can be obtained:

1. Name of patient? Age? Married or single?
2. Number of children? Age of youngest child?
3. Place of birth?
4. Residence?
5. Past occupation?
6. Present occupation?
7. Is this the first attack?
8. If there were other attacks when did they occur?
9. Duration of other attacks?
10. When were the first symptoms of the present attack manifested? In what way were they manifested?
11. Is disease increasing, decreasing, or stationary?
12. Is the disease variable?
13. Are there rational intervals?
14. Do rational intervals occur at regular periods?
15. State fully on what subjects or in what way is derangement now manifested?
16. Disposition to injure others?
17. Has suicide ever been attempted? If so, in what way? Is the propensity to suicide now active?
18. Is there a disposition to filthy habits, destruction of clothing, breaking of glass, etc.?
19. What relatives, including grandparents and cousins, have been mentally ill?
20. Did the patient manifest any peculiarities of temper, habits, disposition, or pursuits before the accession of the disease? Any predominant passion, religious impressions, etc.?
21. Was the patient ever addicted to intemperance in any form?
22. Has the patient been subject to epilepsy? Suppressed eruptions? Discharge of sores?
23. Other bodily diseases suffered by patient? If so, name them.
24. Has patient ever had any injury of the head? If so, explain nature of injury.
25. Has restraint or confinement been employed? If so, what kind, and how long?
26. What is supposed to be the cause of the disease?
27. What treatment has been pursued for the relief of the patient? Mention particulars and effects.
28. State any other matter supposed to have a bearing on the case. [R60,§1490; C73,§1407; C97,§2275; C24, 27, 31, 35, 39,§3550; C46, 50, 54, 58, 62, 66, 71,§229.7]

229.8 Correction of answers. If the commission on further examination after the answers are given finds that any of said answers are incorrect, it shall correct the same. [C73, §1407; C97,§2275; C24, 27, 31, 35, 39,§3551; C46, 50, 54, 58, 62, 66, 71,§229.8]

229.9 Findings and order—screening center. If the commission finds from the evidence that it would be in the best interests of the person to be examined at a state mental health institute, it shall order his observation and treatment at the screening center located at the

hospital in the district nearest to the county in which the hearing is conducted. No finding that the person is mentally ill and no order of commitment shall issue unless the superintendent of the hospital at which said screening center is located so recommends. If a recommendation of commitment is made, the commission may order upon hearing pursuant to sections 229.2, 229.3, 229.4 and 229.5 the person's commitment to the hospital in the district in which the county is situated or upon authorization by the county board of supervisors, the commission may order commitment and treatment to a local hospital instead of a state hospital; and in connection with such finding and order shall determine and enter of record the county which is the legal settlement of such person. If such settlement is unknown the record shall show such fact.

No person shall be ordered to a state hospital for observation and treatment until the commission has first communicated with the superintendent of said hospital, and has been advised that adequate facilities are available. A person ordered to screening center for observation and treatment shall have the same right to appeal from the order as from the order of commitment finding him mentally ill as provided in sections 229.17 to 229.19, inclusive. [R60,§1479; C73,§1401; C97,§2266; C24, 27, 31, 35, 39,§3552; C46, 50, 54, 58, 62, 66, 71,§229.9; 64GA, ch 153,§1]

229.10 Order. Unless an appeal is taken, the commission shall issue its order of commitment and a duplicate thereof, stating such finding, with the settlement of the person, if found, and, if not found, its information, if any, in regard thereto, authorizing the superintendent of the hospital to receive and keep him as a patient therein. [C73,§1401; C97, §2266; C24, 27, 31, 35, 39,§3553; C46, 50, 54, 58, 62, 66, 71,§229.10]

229.11 Service. Said order and duplicate, with the certificate and finding of the physician, shall be delivered to the person's attending physician or some one designated by said physician, who shall execute the same by conveying such person to the hospital, and delivering him, with such duplicate and physician's certificate and finding, to the superintendent, who shall, over his official signature, acknowledge such delivery on the original order, which said physician shall return to the clerk of the commission, with his costs and expenses endorsed thereon. [R60,§§1458, 1459, 1479; C73, §§1401, 1412; C97,§§2266, 2279; C24, 27, 31, 35, 39, §§3554, 3556; C46,§§229.11, 229.13; C50, 54, 58, 62, 66, 71,§229.11]

229.12 Record and commitment of one accused. If, after the commission has acquired jurisdiction over a person under a charge of mental illness, the district court also acquires jurisdiction over such person under a formal charge of crime, the findings of the commission and the order of commitment, if any, shall state the fact of jurisdiction in the district court, and the name of the criminal charge. [R60,§1459; C73,§1412; C97,§2279; C24, 27, 31, 35, 39,§3555; C46, 50, 54, 58, 62, 66, 71,§229.12]

229.13 Repealed by 52GA, ch 129,§6. See §229.11.

229.14 Assistants—females. The person's attending physician or some one designated by said physician, or any person appointed, may call to his aid such assistants as he may need to execute such order; but no female shall thus be taken to the hospital without the attendance of some other female or some relative. The superintendent, in his acknowledgment of delivery, must state whether there was any such person in attendance, and give the name or names, if any. [C73,§1401; C97, §2266; C24, 27, 31, 35, 39,§3557; C46, 50, 54, 58, 62, 66, 71,§229.14]

229.15 Preference in executing order. If any relative or immediate friend of the patient, who is a suitable person, shall so request, he shall have the privilege of executing such order, in preference to the sheriff or any other person, without taking such oath, and for so doing shall be entitled to his necessary expenses, but no fees. [C73,§1401; C97,§2266; C24, 27, 31, 35, 39,§3558; C46, 50, 54, 58, 62, 66, 71, §229.15]

229.16 Confinement of mentally ill — females. No person who shall be found to be mentally ill shall, during investigation or after such finding, and pending commitment to the hospital, or when on the way there, be confined in any jail, prison, or place of solitary confinement, except in cases of extreme violence, when it may be necessary for the safety of such person or of the public; and if such person be so confined, there shall, at all times during its continuance, be some suitable person or persons in attendance in charge of such person; but at no time shall any female be placed in such confinement without at least one female attendant remaining in charge of her. [C97,§2266; C24, 27, 31, 35, 39, §3559; C46, 50, 54, 58, 62, 66, 71,§229.16]

229.17 Appeal. Any person found to be mentally ill, or his next friend, may appeal from such finding to the district court by giving the clerk thereof, within thirty days after such finding has been made, notice in writing that an appeal is taken, which may be signed by the party, his agent, next friend, guardian, or attorney, and, when thus appealed, it shall stand for trial anew. Upon appeal it shall be the duty of the county attorney, without additional compensation, to prosecute the action on behalf of the informant. Such person shall have the right to have the appeal decided by a jury under the rules and statutes relating to jury trials in civil cases. [C97,§2267; S13,§2267; C24, 27, 31, 35, 39,§3560; C46, 50, 54, 58, 62, 66, 71,§229.17]

Referred to in §229.9

229.18 Custody pending appeal. If the appellant is in the custody of the commission at the time of service of the notice of appeal he shall be discharged from custody pending appeal unless the commission finds that he cannot with safety be allowed to go at large, in which case it shall require him to be suitably provided for in the manner hereinafter specified. If the appellant is in the custody of an institution under the jurisdiction of the di-

rector of mental health at the time of service of the notice of appeal, he shall be discharged from custody pending appeal unless the superintendent of the institution with the concurrence of at least two members of his medical staff finds that he cannot with safety be allowed to go at large, in which case the appellant shall remain in the custody of the institution or shall be otherwise suitably provided for in the manner hereinafter specified. [C97,§2268; C24, 27, 31, 35, 39,§3561; C46, 50, 54, 58, 62, 66, 71,§229.18]

Referred to in §229.9

229.19 Final order. If, upon the trial of the appeal, such person is found mentally ill, and a fit subject for custody and treatment in the hospital, an order of commitment shall be entered, and the clerk shall issue an order therefor, and the proceedings thereunder shall be as provided in cases before the commission. [C97,§2269; C24, 27, 31, 35, 39,§3562; C46, 50, 54, 58, 62, 66, 71,§229.19]

Referred to in §229.9
Warrant of commitment, §229.10

229.20 Beneficiaries of veterans bureau.

1. Whenever, in any proceeding under the laws of this state for the commitment of a person alleged to be of unsound mind or otherwise in need of confinement in a hospital or other institution for his proper care, it is determined after such adjudication of the status of such person as may be required by law that commitment to a hospital for mental disease or other institution is necessary for safekeeping or treatment and it appears that such person is eligible for care or treatment by the veterans administration or other agency of the United States government, the court, upon receipt of a certificate from the veterans administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to said veterans administration or other agency. The person whose commitment is sought shall be personally served with notice of the pending commitment proceeding in the manner as provided by the law of this state; and nothing in this section shall affect his right to appear and be heard in the proceedings. Upon commitment, such person, when admitted to any facility operated by any such agency within or without this state shall be subject to the rules and regulations of the veterans administration or other agency. The chief officer of any facility of the veterans administration or institution operated by any other agency of the United States to which the person is so committed shall with respect to such person be vested with the same powers as superintendents of state hospitals for mental diseases within this state with respect to retention of custody, transfer, convalescent leave or discharge. Jurisdiction is retained in the committing or other appropriate court of this state at any time to inquire into the mental condition of the person so committed, and to determine the necessity for continuance of his restraint, and all commitments pursuant to this section are so conditioned.

2. The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia, committing a person to the veterans administration, or other agency of the United States government for care or treatment shall have the same force and effect as to the committed person while in this state as in the jurisdiction in which is situated the court entering the judgment or making the order; and the courts of the committing state, or of the District of Columbia, shall be deemed to have retained jurisdiction of the person so committed for the purpose of inquiring into the mental condition of such person, and of determining the necessity for continuance of his restraint; as is provided in subsection 1 of this section with respect to persons committed by the courts of this state. Consent is hereby given to the application of the law of the committing state or district in respect to the authority of the chief officer of any facility of the veterans administration, or of any institution operated in this state by any other agency of the United States to retain custody, or transfer, place on convalescent leave or discharge the committed person.

3. Upon receipt of a certificate of the veterans administration or such other agency of the United States that facilities are available for the care or treatment of any person heretofore committed to any hospital for the mentally ill or other institution for the care or treatment of persons similarly afflicted and that such person is eligible for care or treatment, the superintendent of the institution may cause the transfer of such person to the veterans administration or other agency of the United States for care or treatment. Upon effecting any such transfer, the committing court or proper officer thereof shall be notified thereof by the transferring agency. No person shall be transferred to the veterans administration or other agency of the United States if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of mental illness, unless prior to transfer the court or other authority originally committing such person shall enter an order for such transfer after appropriate motion and hearing.

4. Any person transferred as provided in this section shall be deemed to be committed to the veterans administration or other agency of the United States pursuant to the original commitment. [C27, 31, 35,§3562-b1; C39,§3562.1; C46, 50, 54, 58, 62, 66, 71,§229.20].

229.21 Transfer from state hospital. A veteran of any war committed to any state hospital may, with the approval of the state director, be transferred to and placed in the custody of any hospital maintained for war veterans within the state of Iowa on being notified by the authorities of such veterans hospital that the veteran is acceptable for hospitalization, provided no charge for his care and support is made against the state of Iowa or the county from which committed. [C39,§3562.2; C46, 50, 54, 58, 62, 66, 71,§229.21]

229.22 Commitment continues. The transfer of a veteran from one hospital to another shall in no way invalidate the original commitment and such commitment together with all such laws and rules of the state director pertaining to convalescent leave or discharge shall remain in full force and effect as the original commitment. [C39,§3562.3; C46, 50, 54, 58, 62, 66, 71,§229.22]

229.23 Blanks. The state director shall furnish the commissions of insanity of the counties with such forms for blanks for orders, certificates, and other papers as will enable them with regularity and facility to comply with the provisions of this chapter, and also with copies of the regulations of the hospital, when printed. [C73,§1431; C97,§2295; C24, 27, 31, 35, 39,§3563; C46, 50, 54, 58, 62, 66, 71,§229.23]

229.24 Temporary custody in certain cases. If any person found to be mentally ill cannot at once be admitted to the hospital, or, in case of appeal from the finding of the commission, if such person cannot with safety be allowed to go at liberty, the commission of hospitalization shall require that such person shall be suitably provided for either in the county home or otherwise until such admission can be had, or until the occasion therefor no longer exists. [R60,§1436; C73,§1403; C97,§2271; S13, §2271; C24, 27, 31, 35, 39,§3564; C46, 50, 54, 58, 62, 66, 71,§229.24]

229.25 Care by relatives or friends. Such patients may be cared for as private patients when relatives or friends will obligate themselves to provide such care without public charge. In such case the commission shall in writing appoint some suitable person special custodian who shall have authority and shall in all suitable ways restrain, protect, and care for such patient, in such manner as to best secure his safety and comfort, and to best protect the persons and property of others. [C73, §1403; C97,§2271; S13,§2271; C24, 27, 31, 35, 39, §3565; C46, 50, 54, 58, 62, 66, 71,§229.25]

Referred to in §229.26

229.26 Care by county. If care and custody of the patient is not provided as authorized in section 229.25 the commission shall require that he be restrained and cared for by the board of supervisors, at the expense of the county, at the county home or some other suitable place, and the commission of hospitalization shall issue its mandate to the board of supervisors, which shall forthwith comply therewith. [R60,§1436; C73,§1403; C97,§2271; S13,§2271; C24, 27, 31, 35, 39,§3566; C46, 50, 54, 58, 62, 66, 71,§229.26]

229.27 Custody outside state hospitals. The commission of hospitalization may grant applications, made in substantially the form provided in this title, for the restraint, protection and care, within the county and outside the state hospitals, of alleged mentally ill persons, either as public or private patients, but all patients so cared for shall be reported to the state director. [R60,§1437; C73,§1404; C97, §2272; C24, 27, 31, 35, 39,§3567; C46, 50, 54, 58, 62, 66, 71,§229.27]

229.28 Neglected mentally ill persons. On information laid before the commission of hospitalization of any county that a mentally ill

person in the county is suffering for want of proper care, it shall forthwith inquire into the matter, and, if it finds that such information is true, it shall make all needful provisions for the care of such person as provided in other cases. [R60,§1467; C73,§1405; C97,§2273; C24, 27, 31, 35, 39,§3568; C46, 50, 54, 58, 62, 66, 71,§229.28]

229.29 Transfers from county and private hospitals. Mentally ill persons who have been under care, either as public or private patients, outside of the hospital, by authority of the commission of hospitalization may, on application, be transferred to the state hospital, whenever they can be admitted thereto. Such admission may be had without another inquest, at any time within six months after the inquest already had, unless the commission shall think further inquest advisable. [C73, §1406; C97,§2274; C24, 27, 31, 35, 39,§3569; C46, 50, 54, 58, 62, 66, 71,§229.29]

229.30 Discharge from custody. When it shall be shown to the satisfaction of the commission of hospitalization that cause no longer exists for the care within the county of any person as a mentally ill patient, it shall, with the approval of the state director, order his immediate discharge, and shall find if such person is in good mental health or mentally ill at the time of such discharge, which finding shall be entered of record by the clerk of the commission of hospitalization. [C73,§1409; C97, §2277; C24, 27, 31, 35, 39,§3570; C46, 50, 54, 58, 62, 66, 71,§229.30]

229.31 Commission of inquiry. A sworn complaint, alleging that a named person is not mentally ill and is unjustly deprived of his liberty in any hospital in the state, may be filed by any person with the clerk of the district court of the county in which such named person is so confined, or of the county in which such named person has a legal settlement, and thereupon a judge of said court shall appoint a commission of not more than three persons to inquire into the truth of said allegations. One of said commissioners shall be a physician and if additional commissioners are appointed, one of such commissioners shall be a lawyer. [C73,§1442; C97,§2304; C24, 27, 31, 35, 39,§3571; C46, 50, 54, 58, 62, 66, 71,§229.31]

Referred to in §229.36

229.32 Duty of commission. Said commission shall at once proceed to the place where said person is confined and make a thorough and discreet examination for the purpose of determining the truth of said allegations and shall promptly report its findings to said judge in writing. Said report shall be accompanied by a written statement of the case signed by the superintendent. [C73,§1442; C97,§2304; C24, 27, 31, 35, 39,§3572; C46, 50, 54, 58, 62, 66, 71, §229.32]

Referred to in §229.36

229.33 Hearing. If, on such report and statement, and the hearing of testimony if any is offered, the judge shall find that such person is in good mental health, he shall order his discharge; if the contrary, he shall so state, and authorize his continued detention. [C73, §1442; C97,§2304; C24, 27, 31, 35, 39,§3573; C46, 50, 54, 58, 62, 66, 71,§229.33]

Referred to in §229.36

CHAPTER 230

SUPPORT OF THE MENTALLY ILL

Referred to in §§223.8, 226.8, 226.35, 229.42, 783.5

- 230.1 Liability of county and state.
- 230.2 Finding of legal settlement.
- 230.3 Certification of settlement.
- 230.4 Certification to debtor county.
- 230.5 Nonresidents.
- 230.6 Determination by director.
- 230.7 Removal of nonresidents.
- 230.8 Transfers of mentally ill persons—expenses.
- 230.9 Subsequent discovery of residence.
- 230.10 Preliminary payment of costs.
- 230.11 Recovery of costs from state.
- 230.12 Action to determine legal settlement.
- 230.13 Judgment when settlement found within state.
- 230.14 Order when nonresidence or unknown settlement appears.
- 230.15 Personal liability.
- 230.16 Presumption.
- 230.17 Board may compromise lien.

230.1 Liability of county and state. The necessary and legal costs and expenses attending the taking into custody, care, investigation, admission, commitment, and support of a mentally ill person admitted or committed to a state hospital shall be paid:

1. By the county in which such person has a legal settlement, or
2. By the state when such person has no legal settlement in this state, or when such settlement is unknown.

The legal settlement of any person found mentally ill who is a patient of any state institution shall be that existing at the time of admission thereto. [C73,§1402; C97,§2270; S13,§2270; C24, 27, 31, 35, 39,§3581; C46, 50, 54, 58, 62, 66, 71,§230.1]

230.2 Finding of legal settlement. The commission of hospitalization shall, when a person is found to be mentally ill, or as soon thereafter as it obtains the proper information, determine and enter of record whether the legal settlement of said person is:

1. In the county of the residence of said commissioners;
2. In some other county of the state;
3. In some foreign state or country; or
4. Unknown.

[C24, 27, 31, 35, 39,§3582; C46, 50, 54, 58, 62, 66, 71,§230.2]

230.3 Certification of settlement. If such legal settlement is found to be in another county of this state, the commission shall, as soon as said determination is made, certify such finding to the superintendent of the hospital to which said patient is admitted or committed, and thereupon said superintendent shall charge the expenses already incurred and unadjusted, and all future expenses of

- 230.18 Expense in county or private hospitals.
- 230.19 Nonresidents liable to state—presumption.
- 230.20 Expenses certified to counties.
- 230.21 Duty of county auditor and treasurer.
- 230.22 Penalty.
- 230.23 Cost paid from institution fund.
- 230.24 Psychiatric treatment—mental health center.
- 230.25 Lien of assistance.
- 230.26 Auditor to keep record.
- 230.27 Board and county attorney to collect.
- 230.28 Closing estates—homestead.
- 230.29 Releasing lien.
- 230.30 Claim against estate.
- 230.31 Departers from other states.
- 230.32 Support of nonresident patients on leave.
- 230.33 Reciprocal agreements.
- 230.34 "Director" defined.

such patient, to the county so certified until said settlement shall be otherwise determined as hereinafter provided. [C73,§1417; C97,§2281; C24, 27, 31, 35, 39,§3583; C46, 50, 54, 58, 62, 66, 71, §230.3]

230.4 Certification to debtor county. Said finding of legal settlement shall also be certified by the commission to the county auditor of the county of such legal settlement. Such auditor shall lay such notification before the board of supervisors of his county, and it shall be conclusively presumed that such person has a legal settlement in said notified county unless said county shall, within six months, in writing filed with the commission of hospitalization giving said notice, dispute such legal settlement. [C73,§1402; C97,§2270; S13,§2270; C24, 27, 31, 35, 39,§3584; C46, 50, 54, 58, 62, 66, 71, §230.4]

230.5 Nonresidents. If such legal settlement is found by the commission to be in some foreign state or country, or unknown, it shall, without entering an order of admission or commitment to the state hospital, immediately notify the state director of such finding and furnish the state director with a copy of the evidence taken on the question of legal settlement, and hold said patient for investigation by said state director. [C73,§1402; C97, §2270; S13,§§2270, 2727-a28a; C24, 27, 31, 35, 39, §3585; C46, 50, 54, 58, 62, 66, 71,§230.5]

Director, §230.34

230.6 Determination by director. The state director shall immediately investigate the legal settlement of said patient and proceed as follows:

1. If the state director finds that the decision of the commission of hospitalization as to legal settlement is correct, the state director shall cause said patient either to be trans-

ferred to a state hospital for the mentally ill and there maintained at the expense of the state, or to be transferred to the place of foreign settlement.

2. If the state director finds that the decision of the commission of hospitalization is not correct, the state director shall order said patient transferred to a state hospital for the mentally ill and there maintained at the expense of the county of legal settlement in this state. [S13,§2727-a28a; C24, 27, 31, 35, 39,§3586; C46, 50, 54, 58, 62, 66, 71,§230.6]

Expenses certified to counties, §230.20

230.7 Removal of nonresidents. If at any time the state director discovers that a mentally ill patient in a state hospital was, at the time of admission or commitment, a nonresident of this state, he may cause said patient to be conveyed to his place of residence if his condition permits of such transfer and other reasons do not render such transfer inadvisable. [C73,§1419; C97,§2283; S13,§§2283, 2727-a28a; C24, 27, 31, 35, 39,§3587; C46, 50, 54, 58, 62, 66, 71,§230.7]

230.8 Transfers of mentally ill persons—expenses. The transfer to state hospitals or to the places of their legal settlement of mentally ill persons who have no legal settlement in this state or whose legal settlement is unknown, shall be made according to the directions of the state director, and when practicable by employees of state hospitals, and the actual and necessary expenses of such transfers shall be paid on itemized vouchers sworn to by the claimants and approved by the state director, from any funds in the state treasury not otherwise appropriated. [S13,§§2308-a, 2727-a28b; C24, 27, 31, 35, 39,§3588; C46, 50, 54, 58, 62, 66, 71,§230.8]

Referred to in §230.31

230.9 Subsequent discovery of residence. If, after a patient has been received into a state hospital for the mentally ill as a patient whose legal settlement is supposed to be outside this state or unknown, the state director finds that the legal settlement of said patient was, at the time of admission or commitment, in a county of this state, said state director shall charge all legal costs and expenses pertaining to the admission or commitment and support of said patient to the county of such legal settlement, and the same shall be collected as provided by law in other cases. [S13, §2727-a28a; C24, 27, 31, 35, 39,§3589; C46, 50, 54, 58, 62, 66, 71,§230.9]

Collection, §230.20

230.10 Preliminary payment of costs. All legal costs and expenses attending the taking into custody, care, investigation, and admission or commitment of a person to a state hospital for the mentally ill under a finding that such person has a legal settlement in another county of this state, shall, in the first instance, be paid by the county of admission or commitment. The county of such legal settlement shall reimburse the county so paying for all such payments, with interest. [S13, §2308-a; C24, 27, 31, 35, 39,§3590; C46, 50, 54, 58, 62, 66, 71,§230.10]

230.11 Recovery of costs from state. Costs and expenses attending the taking into custody, care, and investigation of a person who has been admitted or committed to a state hospital, veterans administration hospital or other agency of the United States government, for the mentally ill and who has no legal settlement in this state or whose legal settlement is unknown, including cost of commitment, if any, shall be paid out of any money in the state treasury not otherwise appropriated, on itemized vouchers executed by the auditor of the county which has paid them, and approved by the state director. [S13,§2308-a; C24, 27, 31, 35, 39,§3591; C46, 50, 54, 58, 62, 66, 71,§230.11]

230.12 Action to determine legal settlement. When a dispute arises between different counties or between the state director and a county as to the legal settlement of a person admitted or committed to a state hospital for the mentally ill, the attorney general, at the request of the state director, shall, without the advancement of fees, cause an action to be brought in the district court of any county where such dispute exists, to determine such legal settlement. Said action may be brought at any time when it appears that said dispute cannot be amicably settled. All counties which may be the place of such legal settlement, so far as known, shall be made defendants and the allegation of such settlement may be in the alternative. Said action shall be tried as in equity. [C73,§1418; C97,§§2270, 2282; S13, §2270; C24, 27, 31, 35, 39,§3592; C46, 50, 54, 58, 62, 66, 71,§230.12]

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

230.13 Judgment when settlement found within state. The court shall determine whether the legal settlement of said mentally ill person, at the time of the admission or commitment, was in one of the defendant counties. If the court so find, judgment shall be entered against the county of such settlement in favor of any other county for all legal costs and expenses arising out of said proceedings in mental illness, and paid by said other county. If any such costs have not been paid, judgment shall be rendered against the county of settlement in favor of the parties, including the state, to whom said costs or expenses may be due. [C73,§1418; C97,§2282; S13,§2308-a; C24, 27, 31, 35, 39,§3593; C46, 50, 54, 58, 62, 66, 71, §230.13]

230.14 Order when nonresidence or unknown settlement appears. If the court finds that the legal settlement of said mentally ill person, at the time of admission or commitment, was in a foreign state or country, or was unknown, an order shall be entered that said mentally ill person shall be maintained in the hospital for the mentally ill at the expense of the state. In such case the state shall refund to any county, with interest, all legal costs and expenses arising out of said proceedings in mental illness and paid by said county. Any decision by the court shall be final. [C73,§1402; C97,§2270; S13,§2270; C24, 27, 31, 35, 39,§3594; C46, 50, 54, 58, 62, 66, 71,§230.14]

230.15 Personal liability.

Mentally ill persons and persons legally liable for their support shall remain liable for the support of such mentally ill. Persons legally liable for the support of a mentally ill person shall include the spouse of the mentally ill person, any person, firm, or corporation bound by contract for support of the mentally ill persons, and, with respect to mentally ill persons under twenty-one years of age only, the father and mother of the mentally ill person. The county auditor, subject to the direction of the board of supervisors, shall enforce the obligation herein created as to all sums advanced by the county. The liability to the county incurred under this section on account of any mentally ill person shall be limited to one hundred percent of the cost of care and treatment of the mentally ill person at a state mental health institute for one hundred twenty days of hospitalization, whether occurring subsequent to a single admission or accumulated as a consequence of two or more separate admissions, and thereafter to an amount not in excess of the average minimum cost of the maintenance of a physically and mentally healthy individual residing in his own home, which standard shall be established and may from time to time be revised by the department of social services. No lien imposed by section 230.25 shall exceed the amount of the liability which may be incurred under this section on account of any mentally ill person.

Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost of the care and treatment of any mentally ill person as established by the department of social services.

Persons who as of July 1, 1972, are hospitalized in any state mental health institute, or who on that date or any later date have been so hospitalized for a total of one hundred twenty days or more, shall be considered to have incurred liability for one hundred percent of the cost of their care and treatment for one hundred twenty days, and shall thereafter be entitled to reduced liability as provided by this section. There shall be no forgiveness of any liability existing on July 1, 1972, for the cost of care and treatment of mentally ill persons, except as provided in section 230.17 and no person who has paid any such costs prior to that date shall be entitled to any refund by reason of this section. [R60,§1488; C73,§1433; C97,§2297; C24, 27, 31, 35, 39,§3595; C46, 50, 54, 58, 62, 66, 71,§230.15; 64GA, ch 1108,§5]

Referred to in §230.16
Statutes made applicable, §224.2

230.16 Presumption. In actions to enforce the liability imposed by section 230.15, the certificate from the superintendent to the county auditor stating the sums charged in such cases, shall be presumptively correct. [R60,§1488; C73,§1433; C97,§2297; C24, 27, 31, 35, 39,§3596; C46, 50, 54, 58, 62, 66, 71,§230.16]

230.17 Board may compromise lien. The board of supervisors is hereby empowered to compromise any and all liabilities to the county, created by this chapter, when such compromise is deemed to be for the best interests of the county. [C73,§1433; C97,§2297; C24, 27, 31, 35, 39,§3597; C46, 50, 54, 58, 62, 66, 71, §230.17]

230.18 Expense in county or private hospitals. The estates of mentally ill persons who may be treated or confined in any county hospital or home, or in any private hospital or sanatorium, and the estates of persons legally bound for their support, shall be liable to the county for the reasonable cost of such support. [R60,§1488; C73,§1433; C97,§2297; C24, 27, 31, 35, 39,§3598; C46, 50, 54, 58, 62, 66, 71,§230.18]

230.19 Nonresidents liable to state — presumption. The estates of all nonresident patients provided for and treated in state hospitals for the mentally ill in this state, and all persons legally bound for the support of such patients, shall be liable to the state for the reasonable value of the care, maintenance, and treatment of such patients while in such hospitals. The certificate of the superintendent of the state hospital in which any nonresident is or has been a patient, showing the amounts drawn from the state treasury or due therefrom as provided by law on account of such nonresident patient, shall be presumptive evidence of the reasonable value of the care, maintenance, and treatment furnished such patient. [S13,§2297-a, C24, 27, 31, 35, 39,§3599; C46, 50, 54, 58, 62, 66, 71,§230.19]

230.20 Expenses certified to counties. Each superintendent of a state hospital where mentally ill patients are cared for shall certify to the state comptroller on the first days of January, April, July, and October, the amount not previously certified by him due the state from the several counties having patients chargeable thereto, and the comptroller shall thereupon charge the same to the county so owing. In determining the amount due the state from the counties the superintendent shall divide the total expenditures less the amount of billings for outpatient services, by the total patient days in determining a per diem rate. The daily per diem shall be billed at one hundred percent unless otherwise specified in the biennial appropriation for support of the state hospitals. A duplicate certificate shall also be mailed to the auditor of each county having patients chargeable thereto. [R60,§1487; C73,§1428; C97,§2292; S13,§2292; C24, 27, 31, 35, 39,§3600; C46, 50, 54, 58, 62, 66, 71,§230.20]

Similar provisions, §§244.14, 271.14

230.21 Duty of county auditor and treasurer. The county auditor, upon receipt of such certificate, shall thereupon enter the same to the credit of the state in his ledger of state accounts, and at once issue a notice to his county treasurer, authorizing him to transfer the amount from the county mental health and institutions fund to the general state revenue; which notice shall be filed by the treasurer as his authority for making such transfer, and shall include the amount so transferred in his next remittance of state taxes to the treasurer of state, designating the fund to which it belongs. [R60,§1487; C73,§1428; C97,§2292; S13, §2292; C24, 27, 31, 35, 39,§3601; C46, 50, 54, 58, 62, 66, 71,§230.21; 64GA, ch 1108,§6]

Similar provisions, §244.14

230.22 Penalty. Should any county fail to pay these bills within sixty days from the date of certificate from the superintendent, the state comptroller shall charge the delinquent county the penalty of one percent per month on and after sixty days from date of certificate until paid. Provided, however, that the penalty shall not be imposed if the county has notified the comptroller of error or questionable items in the billing, in which event, the comptroller may suspend penalty only during the period of negotiation. [C97,§2292; S13,§2292; C24, 27, 31, 35, 39,§3602; C46, 50, 54, 58, 62, 66, 71,§230.22]

230.23 Cost paid from institution fund. All expenses required to be paid by counties for the care, admission, commitment, and transportation of mentally ill patients in state hospitals shall be paid by the board of supervisors from the state institution fund. [C97,§2292; S13,§2292; C24, 27, 31, 35, 39,§3603; C46, 50, 54, 58, 62, 66, 71,§230.23]

230.24 Psychiatric treatment—mental health center. The county board of supervisors are authorized to expend from the county mental health and institutions fund established by section 444.12 funds for psychiatric examination and treatment of persons in need thereof, or for professional evaluation, treatment, and habilitation of mentally retarded persons, in each

county which has facilities available for such treatment, and any county not having such facilities may contract through its board of supervisors with any other county, which has facilities for psychiatric examination and treatment or for professional evaluation, treatment, and habilitation of mentally retarded persons, for the use thereof. However, the county board of supervisors shall not expend from such fund for treatment other than in a state institution an amount which would exceed eight dollars per capita for counties having less than forty thousand population.

A county, or affiliated counties, desiring to establish an incorporated mental health center and having a total or combined population in excess of thirty-five thousand according to the last federal census, may establish such new mental health center in conjunction with the Iowa mental health authority. In establishing such mental health center, the board of supervisors of each such county is authorized to expend therefor from the county mental health and institutions fund an amount equal to, but not to exceed, two hundred fifty dollars per thousand population or major fraction thereof. Such appropriation shall not be recurring and shall not be applicable to any mental health center established prior to January 1, 1963. [C97,§2308; S13,§2308; C24, 27, 31, 35, 39,§3604; C46, 50, 54, 58, 62, 66, 71,§230.24; 64GA, ch 1108, §7]

230.25 Lien of assistance. Any assistance furnished under this chapter shall be and constitute a lien on any real estate owned by the person admitted or committed to such institution or owned by either the husband or the wife of such person. Such lien shall be effective against the real estate owned by the husband or wife of such person only in the event that the name of the husband or the wife of such person is indexed by the auditor. No lien imposed by this statute against any real estate of a husband or wife of such person prior to July 4, 1959, shall be effective against the property of such husband or wife unless prior to July 4, 1960, the name of such husband or wife of such person shall be indexed. [C39,§3601.1; C46, 50, 54, 58, 62, 66, 71,§230.25]

48GA, ch 98,§4, editorially divided

Referred to in §230.15

230.26 Auditor to keep record. The auditor of each county shall keep an accurate account of the cost of the maintenance of any patient kept in any institution as provided for in this chapter and keep an index of the names of the persons admitted or committed from such county and the indexing and the record of the account of such patient in the office of the county auditor shall constitute notice of such lien. The name of the husband or the wife of such person designating such party as the spouse of the person admitted or committed shall also be indexed in the same manner as the names of the persons admitted or committed are indexed. [C39,§3604.2; C46, 50, 54, 58, 62, 66, 71,§230.26]

230.27 Board and county attorney to collect. It shall be the duty of the board of supervisors to collect said claims and direct the county attorney to proceed with the collection of said claims as a part of the duties of his office. [C39,§3604.3; C46, 50, 54, 58, 62, 66, 71,§230.27]

230.28 Closing estates—homestead. In the case of the death of either the husband or wife the estate of the deceased shall not be settled or the homestead sold until the surviving spouse shall die or cease to occupy the homestead as such or while it is occupied by the deceased's child, as defined in section 234.1. Provided, however, no lien shall be enforced against any homestead so long as it be occupied by such person, his or her spouse or child. [C39,§3604.4; C46, 50, 54, 58, 62, 66, 71, §230.28; 64GA, ch 1027,§17]

230.29 Releasing lien. The board of supervisors of the county shall release liens accruing under the provisions of this chapter when fully paid or when compromised and settled by the board of supervisors or when the estate of which the real estate affected by this chapter is a part has been probated and the proceeds allowable have been applied on such liens. [C39,§3604.5; C46, 50, 54, 58, 62, 66, 71, §230.29]

230.30 Claim against estate. On the death of a person receiving or who has received assistance under the provisions of this chapter, the total amount paid for their care shall be allowed as a claim of the second class against the estate of such decedent. [C39,§3604.6; C46, 50, 54, 58, 62, 66, 71,§230.30]

230.31 Departers from other states. When any mentally ill person departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain him without order and shall report such detention to the state direc-

tor who shall provide for the return of such patient to the authorities of the state where the unauthorized leave was made. Pending such return such patient may be detained temporarily at one of the institutions of this state governed by the state director or any other director of the state department of social services. Expenses incurred under this section shall be paid in the same manner as is provided for transfers in section 230.8. [C58, 62, 66, 71,§230.31]

230.32 Support of nonresident patients on leave. The cost of support of patients without legal settlement in this state, who are placed on convalescent leave or removed from a state mental institute to any health care facility licensed under chapter 135C for rehabilitation purposes, shall be paid from the hospital support fund and shall be charged on abstract in the same manner as state inpatients, until such time as the patient becomes self-supporting or qualifies for support under existing statutes. [C66, 71,§230.32]

230.33 Reciprocal agreements. The state director is hereby authorized to enter into agreements with other states, through their duly constituted authorities, to effect the reciprocal return of mentally ill and mentally retarded persons to the contracting states, and to effect the reciprocal supervision of persons on convalescent leave.

Provided that in the case of a proposed transfer of a mentally ill or mentally retarded person from this state that no final action be taken without the approval either of the commission of hospitalization, or of the district court, of the county of admission or commitment. [C66, 71,§230.33]

230.34 "Director" defined. As used in this chapter, "director" or "state director" means the director of the division of mental health of the department of social services. [C71, §230.34]

CHAPTER 231

JUVENILE COURT

Referred to in §232.2(1)

- 231.1 Jurisdiction.
- 231.2 How constituted.
- 231.3 Designation of judge—referee.
- 231.4 Effect.
- 231.5 Courts always open.
- 231.6 Records of court.
- 231.7 Clerk.
- 231.8 Probation officers—salaries.

231.1 Jurisdiction. There is hereby established in each county a juvenile court within the district court, which 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, 66, 71,§231.1; 64GA, ch 1124,§126]

231.2 How constituted. The juvenile court of each county shall be constituted as follows:

1. Of the judges of the district court.
2. Of the district associate judges if and as long as so designated by the chief judge of the district. [S13,§254-a13; C24, 27, 31, 35, 39, §3606; C46, 50, 54, 58, 62, 66, 71,§231.2; 64GA, ch 1124,§127]

231.3 Designation of judge — referee. The chief judge of the district shall designate one or more of the district judges or district associate judges, or both, to act as judge or judges of the juvenile court in any county or counties.

The judge of the juvenile court may appoint a referee in juvenile court proceedings. The referee shall be qualified for his duties by training and experience and shall hold office at the pleasure of the judge. The compensation of the referee shall be fixed by the judge. The judge may direct that any case or class of cases arising under chapter 232 shall be heard in the first instance by the referee in the manner provided for the hearing of cases by the court.

Upon the conclusion of a hearing held as provided herein, the referee shall transmit to the judge findings of fact. Notice of the findings of fact of the referee, together with a statement concerning the right to a rehearing, shall be given to the parties to the proceeding heard by the referee, including the parents, guardian or custodian of a minor, and to any other interested person as the court may direct. This notice may be given orally at the hearing, or by certified mail or other service as directed by the court.

The parties to a proceeding heard before the referee shall be entitled to a rehearing by the judge of the juvenile court if requested within seven days after receiving notice of the findings of fact of the referee. In the interest of justice, the court may allow a rehearing at any time. If a rehearing is not requested, the

- 231.9 Physicians and nurses.
- 231.10 Powers and duties—office and supplies.
- 231.11 Duties of clerk.
- 231.12 Salaries—expenses—how paid.
- 231.13 Salaries and expenses in certain counties.
- 231.14 Interstate juvenile compacts.
- 231.15 Confinement of delinquent juvenile.

court may enter any appropriate order based upon the referee's findings of fact.

In counties having a population of more than two hundred fifty thousand, the judge of the juvenile court may appoint a director of court services and shall fix his compensation. [C24, 27, 31, 35, 39,§3607; C46, 50, 54, 58, 62, 66, 71, §231.3; 64GA, ch 1124,§§128, 129]

Referred to in §602.32

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, 66, 71,§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, 66, 71,§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, 66, 71,§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, 66, 71,§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

§231.8, JUVENILE COURT

the district court judge nor shall the salary of a deputy probation officer exceed sixty per cent 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 who are designated juvenile court judges for 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 per cent of the salary of a district court judge.

All probation officers so appointed shall serve at the pleasure of the juvenile court judge or judges and shall be selected and appointed in accordance with such rules, standards, and qualifications as shall be established by the supreme court pursuant to section 684.21. The provision of this section shall not affect in any way the appointment or term of office of any probation officer presently serving in any county or counties.

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, subject to the approval of the board of supervisors, 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, 66, 71, §231.8; 64GA, ch 154, §1, ch 1124, §130]

RULES, STANDARDS AND QUALIFICATIONS

The Supreme Court of Iowa has established the following rules, standards and qualifications of probation officers to be selected and appointed by juvenile court judges in Iowa.

FOR PROBATION OFFICERS

A. Age, Education and Experience

1. Age at least 21 years, and a citizen of the United States.
2. A bachelor's degree from an accredited college or university with emphasis on criminology, psychology, sociology or related fields of social sciences.
3. A working knowledge of the Iowa court system and the functions of juvenile courts.

B. Personal Qualities

1. Emotional maturity and stability; personal and professional integrity; ability to establish effective interpersonal relationships; an honest conviction of the dignity and value of the individual; belief in the capacity of people to change for the better; a genuine interest in helping others; a large amount of patience.
2. Intellectual depth, mature judgment, warmth, continuing interest in professional improvement.

3. Ability to co-operate with others and to accept constructive criticism, and suggestions and directions from superiors.

FOR CHIEF PROBATION OFFICERS OF JUDICIAL DISTRICTS OR MORE POPULOUS COUNTIES

A. Age, Education and Experience

1. Same as for probation officers, as stated in 1, 2 and 3 above, plus at least three years of paid, full-time employment in the field of juvenile court service or comparable social casework agency.

B. Personal Qualities

1. Same as for probation officers as stated in 1, 2 and 3 above, plus
2. Ability to develop casework skills in others within the agency's legal, administrative, and budgetary limitations and to interpret departmental policies and procedures to staff.
3. Demonstrated administrative and organizing abilities.
4. Ability to write and speak effectively.
5. Demonstrated ability to establish and maintain effective working relationships with individuals and groups.

MISCELLANEOUS

No one should be selected or appointed probation officer or chief probation officer without at least one personal interview between the juvenile court judge and the person under consideration.*

*By supreme court order July 18, 1968; amended by order of September 4, 1968.

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, 66, 71, §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, 66, 71, §231.10]

231.11 Duties of clerk. The clerk of court shall, if practicable, notify a convenient proba-

tion 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, 66, 71,§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, 66, 71,§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,§3616-b1; C39,§3616.1; C46, 50, 54, 58, 62, 66, 71,§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 acceptance 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 affidavits and other documents as may be deemed proper may be submitted with such

§231.14, JUVENILE COMPACTS

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 dependent 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, 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, 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 delinquent 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 judg-

ment, 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, imprison-

ment, 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, 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

a. That the duly constituted judicial and administrative authorities of a state party to this

§231.14, JUVENILE COMPACTS

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, 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

Referred to in Art. XIV

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 cooperative 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 allega-

tions 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

§231.14, JUVENILE COMPACTS

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, 66, 71, §231.14]

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. [C66, 71, §231.15]

CHAPTER 232

NEGLECTED, DEPENDENT AND DELINQUENT CHILDREN

Referred to in §§106.13, 231.3, 233.1(1), 235A.5, 238.32(1), 238.41,
240.2, 242.5, 244.4, 244.15, 321.452, 321G.14, 600.3, 714.41

- 232.1 Rule of construction.
 232.2 Definitions.
 232.3 Information—investigation—petition.
 232.4 Hearing—appearance—summons.
 232.5 Service of notice.
 232.6 Subpoena.
 232.7 Child taken into custody.
 232.8 Personal service.
 232.9 Who may serve summons.
 232.10 Contempt.
 232.11 Parent or guardian to be present.
 232.12 Other issues adjudicated.
 232.13 Examination of child.
 232.14 Report of social investigation.
 232.15 When immediate custody may be taken.
 232.16 Parents or guardians notified.
 232.17 Court notified of detention of child.
 232.18 Where child may be detained.
 232.19 Detention in jail—when.
 232.20 Notice to court by custodian of jail.
 232.21 Juvenile home may be maintained.
 232.22 Issuance of bonds.
 232.23 Supplies for instruction.
 232.24 Rules and regulations.
 232.25 Standards by state director.
 232.26 Financial aid from state.
 232.27 Hearings to court.
 232.28 Right to counsel.
 232.29 County attorney to present evidence.
 232.30 Presence of child waived.
 232.31 Evidence by child and parents, etc.
 232.32 Reporter required.
 232.33 Disposition of case of neglect or dependency.
 232.34 Disposition of case of delinquency.
 232.35 Commitment to state director.
 232.36 Orders continue to majority of child.
 232.37 Periodical reports to court.
 232.38 Transfer of custody to agency or institution.
 232.39 Transfer in case of change of residency.
 232.40 Parent-child relationship not changed.
 232.41 When relationship changed.
 232.42 Venue for proceedings.
 232.43 Petition by any reputable person.
 232.44 Termination only after hearing.
 232.45 Notice of time, place and purpose of hearing.
 232.46 Degree of proof required.
 232.47 Order of court.
 232.48 Termination of parent-child relationship.
 232.49 Copy of findings forwarded.
 232.50 Removal of guardian.
 232.51 Expenses.
 232.52 Expenses charged to county.
 232.53 Recovery of costs—from another county or from the state.
 232.54 Legal record not confidential.
 232.55 Petitions and reports segregated.
 232.56 Records kept separate.
 232.57 Records confidential.
 232.58 Appeal.
 232.59 Report to state department of social services.
 232.60 Religious belief.
 232.61 Repealed by 62GA, ch 203, §12.
 232.62 Concurrent jurisdiction of criminal offenses.
 232.63 When jurisdiction is exclusive.
 232.64 Juveniles transferred—exceptions.
 232.65 How transferred.
 232.66 Jurisdiction attaches immediately.
 232.67 Limited jurisdiction.
 232.68 Venue.
 232.69 Transfer of venue.
 232.70 Order of court.
 232.71 Resident of another state.
 232.72 Prosecution under criminal law.
 232.73 Information or indictment.

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, 66, 71, §232.1]

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" or "child" means a person less than eighteen years of age or a person who is at least eighteen years of age but less than twenty-one years of age who is regularly attending an approved 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 either as a part of a regular school program or under special arrangements adapted to the in-

dividual person's needs.

5. "Adult" means a person eighteen 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.

7. "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 limited to:

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 minor.

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

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 parent.

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 necessary 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 custody.

13. "Delinquent child" means a child:

a. Who has violated any state law or 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.

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

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.

17. The terms "director" or "state director" means the director of the division of child and family services of the department of social services. [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; C66, 71, §232.2; 64GA, ch 1027, §18]

232.3 Information — investigation — petition. Whenever the court or any of its officers are informed by any competent person that a minor is within the purview of this chapter, an inquiry shall be made of the facts presented which bring the minor under this chapter to determine whether the interests of the public or of the minor require that further action be taken. After such an inquiry the judge, probation officer, or county attorney may authorize the filing of a petition with the clerk of the court by any informed person without payment of a filing fee. If the facts pleaded are admitted by the minor and consent is ob-

NEGLECTED, DEPENDENT AND DELINQUENT CHILDREN

tained from the parents, or guardian of the minor, the court may make whatever informal 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 found.

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

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; C66, 71,§232.3]

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; C66, 71,§232.4]

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; C66, 71,§232.5]

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. [C66, 71,§232.6]

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; C66, 71,§232.7]

Referred to in §§232.15, 232.45

232.8 Personal service. Service of the summons shall be made personally by the delivery of a 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. All notices of subsequent proceedings, after an initial valid notice or summons has been made, shall be made in such manner and under such provisions as shall be prescribed by the court. [C66, 71,§232.8]

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,§3625; C46, 50, 54, 58, 62, 66, 71,§232.9]

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; C66, 71,§232.10]

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; C66, 71,§232.11]

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. [C66, 71, §232.12]

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 order 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. [C66, 71, §232.13]

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. [C66, 71, §232.14]

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; C66, 71, §232.15]

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. [C66, 71, §232.16]

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 has 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. [C66, 71, §232.17]

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; C66, 71, §232.18]

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, §254-a24; SS15, §254-a16; C24, 27, 31, 35, 39, §3633; C46, 50, 54, 58, 62, §232.17; C66, 71, §232.19]

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. [C66, 71, §232.20]

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; C66, 71,§232.21]

Referred to in §273.13(14)

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 one-half mill for the purpose of maintaining a county or multicounty juvenile home. In counties of over one hundred fifty thousand population, the board of supervisors is authorized to levy a tax not to exceed three-fourths mill for the maintenance of a 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; C66, 71,§232.22]

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. [C66, 71,§232.23]

232.24 Rules and regulations. The state director 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 chapter. Said state director 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; C66, 71,§232.24]

232.25 Standards by state director. The state director 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 state director. [S13,§§254-a20,-a26; C24, 27, 31, 35, 39,§3655; C46, 50, 54, 58, 62, §232.37; C66, 71,§232.25]

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 director. 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. [C66, 71,§232.26]

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; C66, 71, §232.27]

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 legal 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; C66, 71,§232.28]

Referred to in §§232.4, 232.5, 336B.2

232.29 County attorney to present evidence. The county attorney shall present the evidence upon request of the court in all proceedings except adoptions. [C66, 71,§232.29]

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 interests 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. [C66, 71, §232.30]

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.

The court's finding with respect to neglect, dependency, and delinquency shall be based upon clear and convincing 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 admit-

ted 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. [C66, 71, §232.31]

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. The juvenile shall not be considered as competent to make such waiver. However if the juvenile is represented by an attorney or guardian ad litem, the waiver may be made by the attorney or guardian. If the juvenile is not so represented, the waiver may be made by either of the parents or by the guardian of his person. [C66, 71, §232.32]

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 department of social welfare or the state department of social services.
- c. A reputable individual of good moral character.

4. Commit the child to the commissioner of social services or his designee for placement.

5. Commit to or place the child in any private institution or hospital for the care and training of children or any public institution or hospital for the care and training of children other than an institution named in subsection 4 of this section and section 232.34, subsection 4.

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; C66, 71, §232.33]

Referred to in §§232.34, 232.42, 232.47, 232.52
Authorized institutions, §238.52

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 commissioner of social services or his designee for placement.

5. Commit to or place the child in any private institution or hospital for care and training or any public institution or hospital for care and training other than an institution named in subsection 4 of this section and section 232.33, subsection 4.

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; C66, 71, §232.34]

Referred to in §§232.33, 232.52
Authorized institutions, §238.32

232.35 Commitment to state director. Commitment to the state director shall vest guardianship of the person of the child so committed in the state director and shall terminate the court's jurisdiction. [C66, 71, §232.35]

Orders for supervision, custody, or commitment under section two hundred thirty-two point thirty-five (232.35) of the Code entered before July 1, 1973 shall terminate when the person who was a minor attains eighteen years of age, regardless of the age of termination stated in the order.

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 eighteen 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.

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. [C66, 71, §232.37]

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; C66, 71, §232.38]

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. [C66, 71, §232.39]

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. [C66, 71, §232.40]

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. [C66, 71, §232.41]

Referred to in §§232.40, 232.63

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. [C66, 71, §232.42]

Referred to in §§232.40, 232.63

232.43 Petition by any reputable person. Any reputable person 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. [C66, 71, §232.43]

Referred to in §§232.40, 232.63

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. [C66, 71, §232.44]

Referred to in §§232.40, 232.63

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. [C66, 71, §232.45]

Referred to in §§232.40, 232.63

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 informa-

tion 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. [C66, 71, §232.46]

Referred to in §§232.40, 232.63

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. [C66, 71, §232.47]

Referred to in §§232.40, 232.63

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 department of social welfare or the commissioner of social services or his designee.

2. A licensed child placing agency.

3. A reputable individual of good moral character.

4. The commissioner of social services or his designee for placement. [S13, §254-a21; C24, 27, 31, 35, 39, §3638; C46, 50, 54, 58, 62, §232.22; C66, 71, §232.48]

Referred to in §§232.40, 232.50, 232.63

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, director, 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. [C66, 71, §232.49]

Referred to in §§232.40, 232.63

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. [C66, 71, §232.50]

Referred to in §§232.40, 232.63

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 to the board of supervisors. 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.

Any such sums ordered by the court shall be a judgment against each of the parents and a lien as provided in section 624.23. If juvenile court jurisdiction has been lodged in the municipal court, all such orders and judgments made by that court shall be transferred by the clerk thereof to the district court as provided in section 602.43.* If all or any part of the sums that the parents are ordered to pay, is subsequently paid by the county, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of such payments. [S13, §§254-a25, -a31, -a45, -a47; C24, 27, 31, 35, 39, §§3644, 3645; C46, 50, 54, 58, 62, §§232.25, 232.26; C66, 71, §232.51]

Referred to in §232.53

*Repealed by 64GA, ch 1124, §282

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 a 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.

5. The expense of treatment or care ordered by the court under authority of subsection 6 of section 232.33 or subsection 6 of section 232.34. [C66, 71, §232.52]

Referred to in §232.53

232.53 RECOVERY OF COSTS -- FROM ANOTHER COUNTY OR FROM THE STATE. The county charg-

ed with the costs 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. The county charged with the cost of foster home care for a child may recover the cost of such care from the general fund of the state if the child would otherwise have been eligible for admission to the Iowa juvenile home or the Annie Wittenmyer Home under the provisions of subsection 1 of section 244.3. The county shall make claim to the state department of social services which shall audit the claim and certify it to the state comptroller for payment.

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. [C66, 71, §232.54]

232.55 Petitions and reports segregated. The proceedings concerning delinquency petitions filed by parents and petitions concerning neglected or dependent children; the reports of juvenile court probation officers, social workers, doctors, and psychologists; and the reports of juvenile homes shall not be public records, but the court may make them public in its discretion. [C66, 71, §232.55]

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. [C66, 71, §232.56]

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 anyone other than the judge or others entitled under this chapter to receive such information unless otherwise ordered by the judge. [C66, 71, §232.57]

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. [C66, 71, §232.58]

232.59 Report to state department of social services. 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 director. 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; C66, 71, §232.59]

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; C66, 71, §232.60]

232.61 Repealed by 62GA, ch 203, §12.

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. [C66, 71, §232.62]

Constitutionality, 61GA, ch 215, §66

232.63 When jurisdiction is exclusive. The juvenile court shall have exclusive original jurisdiction, only, in proceedings concerning any child alleged to be delinquent, neglected, or dependent, and in proceedings for termination of parental rights under sections 232.41 through 232.50, and in proceedings concerning any minor alleged to have been a delinquent prior to having become eighteen years of age except as otherwise provided by law. [C71, §232.63]

232.64 Juveniles transferred — exceptions. All juveniles appearing in any court other than the juvenile court and charged with a public offense not exempted by law and who are under eighteen years of age or who were under eighteen years of age at the time of the commission of the alleged offense shall immediately be transferred to the juvenile court

of the county. [C71,§232.64]

Referred to in §§232.65, 232.73

232.65 How transferred. Transfer of cases under section 232.64 shall be made by filing with the clerk of the juvenile court a certificate or order of the transferring court showing the name, age, and residence of the minor, the names and addresses of the parents or guardian, if known, and the reasons for appearance of the minor in court, together with all the papers, documents, and testimony connected therewith. The case shall then be processed the same as all cases where the court has been informed that a child may be within the purview of this chapter. [C71,§232.65]

232.66 Jurisdiction attaches immediately. The jurisdiction of the juvenile court shall attach immediately upon the signing of the certificate or order of transfer and from the time of transfer any custody or detention of the minor shall be in accordance with this chapter. [C71,§232.66]

232.67 LIMITED JURISDICTION. Jurisdiction obtained by the court in the case of a minor shall be retained by the court until the minor becomes eighteen years of age unless terminated prior thereto by order of court or provision of law. If a child is referred to the juvenile court because of alleged delinquency by reason of the commission of an indictable offense, the court may withhold an adjudication of delinquency, retain jurisdiction of the child, and place the child on probation until he is eighteen years of age at which time he shall be discharged. If the terms of the probation are violated before the person reaches the age of eighteen years, the court may enter an order referring the alleged commission of an indictable offense to the appropriate prosecuting authority for the proper action under the criminal law.

232.68 Venue. Venue for neglect, dependency and delinquent proceedings shall be in the county where the minor is found or in the county of the minor's residence. If a minor is alleged to be delinquent, the county where the alleged delinquency occurred shall also have venue. [C71,§232.68]

232.69 Transfer of venue. The judge may transfer any proceedings brought under this chapter to the court of any county having venue at any stage of the proceedings and in the following manner:

1. When it appears that the best interests of the minor, society, or the convenience of the proceedings shall be served by a transfer, the court may transfer the case to the court of the county of the minor's residence.

2. With the consent of the receiving court, the court may transfer the case to the court of the county where the minor is found.

3. With the consent of the receiving court, the court may transfer the case to the county where the alleged delinquency occurred if an alleged delinquency is based on the commission of a public offense. [C71,§232.69]

232.70 Order of court. The court shall transfer the case by ordering the transfer and a continuance and by forwarding to the clerk of the receiving court a certified copy of all papers filed together with an order of transfer. The judge of the receiving court may accept the filings of the transferring court or may direct the filing of a new petition and hear the case anew. [C71,§232.70]

232.71 Resident of another state. If it appears at any stage of the proceedings that a minor before the court is a resident of another state, the court may invoke the provisions of the interstate compact on juveniles or, when in the best interests of the minor, the court may place the minor in the custody of the parents, guardian, or custodian, if the parents, guardian, or custodian agree to accept custody of the minor and to return the minor to the other state. [C71,§232.71]

232.72 Prosecution under criminal law. When a petition alleging delinquency is based on an alleged act committed after the minor's fourteenth birthday, and the court, after a hearing, deems it contrary to the best interest of the minor or the public to retain jurisdiction, the court may enter an order making such findings and referring the alleged violation to the appropriate prosecuting authority for proper action under the criminal law. When such child pleads guilty or is found guilty of a public offense in another court that court may with the consent of the juvenile court refer the child back to juvenile court for further disposition. In any event the court before whom the plea was made or the conviction was had is expressly authorized to set aside such plea or conviction but only after the child has successfully completed a period of probation of not less than one year. [C71, §232.72]

232.73 Information or indictment. A child referred to juvenile court pursuant to section 232.64, may also be transferred to criminal court and tried as an adult by the filing of a county attorney's information or grand jury indictment charging the child with an indictable offense. No such county attorney's information, grand jury indictment, or information shall be filed or be valid to affect such a transfer after there has been an adjudication of delinquency in juvenile court. [C71,§232.73]

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:

1. To encourage any child under eighteen years of age to commit any act of delinquency defined in chapter 232 of this title.

2. To 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. To 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. To knowingly permit, encourage, or cause such child to be guilty of any vicious or immoral conduct.

5. For a parent willfully to fail to support his child under eighteen years of age whom he has a legal obligation to support. [C24, 27, 31, 35, 39, §3658; C46, 50, 54, 58, 62, 66, 71, §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 jail 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, 66, 71, §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, and 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, 66, 71, §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, 66, 71, §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, 66, 71, §233.5]

*43GA, ch 90

CHAPTER 234
CHILD AND FAMILY SERVICES

Referred to in §§241A.4, 249.1(3)

- 234.1 Definitions.
- 234.2 Division created.
- 234.3 to 234.5 Repealed by 62GA, ch 209, §215.
- 234.6 Powers and duties of the state director.
- 234.7 Repealed by 62GA, ch 209, §215.
- 234.8 State division employees.
- 234.9 County board of social welfare.
- 234.10 Compensation of county board members.
- 234.11 Duties of the county board—food stamp program.
- ~~234.12 County board employees.~~
- ~~234.13 Compensation of county board employees.~~
- 234.14 Federal grants.

BANKHEAD-JONES FARM TENANT ACT

- 234.15 Agency.

- 234.16 Agreements.
- 234.17 Assets.
- 234.18 Powers.
- 234.19 Delegation of authority.
- 234.20 Liability.

FAMILY PLANNING SERVICES

- 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.

234.1 Definitions. As used in this chapter: "Division" or "state division" means the division of child and family services of the department of social services; "director" or "state director" means the director of the division of child and family services of the department of social services; "county board" means the county board of social welfare. "Child" means a person less than eighteen years of age or a person who is at least eighteen years of age but less than twenty-one years of age who is regularly attending an approved 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 either as a part of a regular school program or under special arrangements adapted to the individual person's needs. [C71, §234.1; 64GA, ch 1027, §21]

Referred to in §§123B.14, 219.15, 230.28, 235.1, 249A.2, 252.14, 425.15

234.2 Division created. Within the state Department of social services, there is hereby created a division of child and family services which shall be administered by the director of said division and such other officers and employees as may be hereafter provided. [C71, §234.2]

234.3 to 234.5 Repealed by 62GA, ch 209, §215.

234.6 The state director shall be vested with the authority to administer aid to dependent children, child welfare, and emergency relief, family

and adult service programs and any other form of public welfare assistance and institutions that may hereafter be placed under his administration. He 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. Subject to restrictions that may be imposed upon him by the commissioner of the department of social services and the council of social services, he shall have power to abolish or change offices created in connection therewith. He may employ necessary personnel and fix their compensation. He may allocate or reallocate functions and duties among any subdivisions now existing or hereafter established. He

§234.6, CHILD AND FAMILY SERVICES

may promulgate rules and regulations relating to the employment of personnel and the allocation of their functions and duties among the various subdivisions as competent and efficient administration may require.

The state director shall:

1. 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.

2. Exercise general supervision over the county boards of social welfare and their employees.

3. Furnish information to acquaint the public generally with the operation of the acts under the jurisdiction of the state director.

4. With the approval of the commissioner of the department of social services, the governor and comptroller, set up from the funds under his control and management an administrative fund and from said administrative fund to pay the expenses of operating the state division.

5. Notwithstanding any provisions to the contrary in chapters 239, ~~241, 241A, and 240~~ relating to the consideration of income and resources of claimants for assistance, the state director, with the consent and approval of the commissioner of the department of social services and the council of social services, shall make such rules and regulations as may be necessary to qualify for federal aid in the assistance programs administered by the state director.

6. The department of social services shall have the power and authority to use the funds available to it, to purchase services of all kinds from public or private agencies to provide for the needs of children, including but not limited to psychiatric services, supervision, specialized group, foster homes and institutional care. [C39, §3661.007; C46, 50, 54, 58, 62, 66, 71, §234.6]

See 813.6

NEW SUBSECTION. Have authority to use funds available to the department, subject to any limitations placed on the use thereof by the legislation appropriating the funds, to pro-

vide to or purchase, for families and individuals eligible therefore, services including but not limited to the following:

a. Day care for children or adults, in facilities which are licensed or are approved as meeting standards for licensure.

b. Foster care, including foster family care, group homes and institutions.

c. Homemaker services, meeting the standards of the department, provided by agency trained or supervised homemakers placed in the homes of families or adults to assist with maintenance and management of the home, upgrade the level of living of occupants of the home, provide care for children while one or both parents are away, or provide personal care for an ill or disabled family member.

d. Family planning.

e. Protective services.

f. Chore services.

g. Preparation and delivery of meals to families or individuals living in private homes who, by reason of illness, infirmity or disability are unable to prepare nourishing meals and have no spouse or other individual living with or responsible for them who are able to do so.

h. Transportation services.

i. Any services, not otherwise enumerated in this subsection, authorized by or pursuant to the United States Social Security Act of 1934, as amended.

234.7 Repealed by 62GA, ch 209, §215.

234.8 State division employees. Under employment procedures set up and provided for by the commissioner of the department of social services and the state council of social services, all employees of the state division shall be selected from among those who have successfully qualified in an examination given by the state director under and pursuant to rules promulgated by the commissioner, 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 commissioner of the department of social services. [C39, §3661.009; C46, 50, 54, 58, 62, 66, 71, §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. Annually 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 state director. [C39, §3661.010; C46, 50, 54, 58, 62, 66, 71, §234.9]

Referred to in §239.1(2)

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 six dollars per diem, but such compensation shall not exceed a total of one hundred fifty dollars in any one year. 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, 66, 71, §234.10]

234.11 DUTIES OF THE COUNTY BOARD--FOOD STAMP PROGRAM. The county board shall be vested with the authority to director emergency relief with only such powers and duties as are prescribed in the laws relating thereto. The board shall act in an advisory capacity on programs within the jurisdiction of the department of social services. The board shall review policies and procedures of the local departments of social services and make recommendations for changes to insure that effective services are provided in their respective communities. The county board may also make recommendations for new programs which it is believed would meet needs in the community. The state department shall establish a procedure to insure that county board recommendations receive appropriate review at the level of policy determination.

Each county shall participate in federal commodity or food stamp program.

~~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 director. 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 892.17 to 892.21, inclusive, the person named to perform the combined duties shall be employed as herein provided. [C39, §3661.019; C46, 50, 54, 58, 62, 66, 71, §234.12]~~

~~Referred to in §§241.4(2), 892.22~~

~~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 director from funds made available for that purpose. However, the compensation of all employees shall be subject to the approval of the state director and the county board of supervisors. [C39, §3661.014; C46, 50, 54, 58, 62, 66, 71, §234.13]~~

CHILD AND FAMILY SERVICES

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 division, and all such funds are hereby appropriated for expenditure upon authorization of the state director. [C39,§3661.015; C46, 50, 54, 58, 62, 66, 71,§234.14]

BANKHEAD-JONES FARM TENANT ACT

234.15 Agency. The state director* is hereby designated as the state agent 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, 66, 71, §234.15]

Referred to in §234.17

*State social services commissioner

234.16 Agreements. The state director is authorized, in his discretion, to enter into agreements with the secretary 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, 66, 71,§234.16]

Referred to in §§234.17, 234.19

*7 U.S.C. §§1001-1005d, 1006, 1006c-1006e, 1007, 1008-1029

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 director and administered by him 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 director 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 director and the secretary of agriculture of the United States as required by section 2(c), Public Law 499, Eighty-first Congress. [C54, 58, 62, 66, 71, §234.17]

Referred to in §234.18(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 1253, page 143 in the office of the county recorder of Polk county, Iowa, the state director 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, 66, 71,§234.18]

Referred to in §234.19

234.19 Delegation of authority. The authority conferred upon the state director 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, 66, 71,§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 director of the division, of child and family services of the department of social services of the state of Iowa pursuant to this division. [C54, 58, 62, 66, 71,§234.20]

FAMILY PLANNING SERVICES

234.21 SERVICES TO BE OFFERED. The state division may offer, provide, or purchase family planning and birth control services to every person who is an eligible applicant or recipient of service or any financial assistance from the department of social services, or who is receiving federal supplementary security income as defined in section two (2) of this Act.

garding 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, 66, 71, §235.3]

235.4 Duties of county departments. County departments are hereby charged with the duty of co-operating with the state division in carrying out the provisions of this chapter. They shall, upon request, make to the state division such reports regarding child welfare services, or the need thereof, within the respective counties. They shall also, when requested by the state division, 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 division. [C27, 31, 35, §§3661-a1; C39, §3661.019; C46, 50, 54, 58, 62, 66, 71, §235.4]

235.5 Licenses. Licenses issued to maternity hospitals, private boarding homes for children, and private child-placing agencies by the state director, 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 director for a new license, and to submit to such rules regarding the same as the state director may prescribe. [C39, §3661.020; C46, 50, 54, 58, 62, 66, 71, §235.5]

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, 58, 62, 66, 71, §235.6]

1. The first part of the report...

2. The second part of the report...

3. The third part of the report...

4. The fourth part of the report...

5. The fifth part of the report...

6. The sixth part of the report...

7. The seventh part of the report...

8. The eighth part of the report...

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. [C66, 71, §235A.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. [C66, 71, §235A.6]

Referred to in §235A.2(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. [C66, 71, §235A.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 a health practitioner as to confidential communications, 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. [C66, 71, §235A.8]

CHAPTER 236

MATERNITY HOSPITALS

Child and family services, see ch 234

Referred to in §§135B.17, 235.1

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|--------|---------------------------------|--------|--|
| 236.1 | Definitions. | 236.19 | Record of licenses. |
| 236.2 | "Maternity hospital" defined. | 236.20 | Notice of license. |
| 236.3 | Prohibited location. | 236.21 | Revocation of license. |
| 236.4 | License required. | 236.22 | Child placements by maternity hospitals. |
| 236.5 | Power to license. | 236.23 | Attending physician. |
| 236.6 | Conditions to granting license. | 236.24 | Reports as to births. |
| 236.7 | Unlicensed hospital nuisance. | 236.25 | Reports as to deaths. |
| 236.8 | Applications for license. | 236.26 | Inspection of reports. |
| 236.9 | Removal of hospital—inspection. | 236.27 | Records and inspection. |
| 236.10 | Fees. | 236.28 | Reports and information confidential. |
| 236.11 | Renewal of license. | 236.29 | Inspections. |
| 236.12 | Exceptions. | 236.30 | Minimum inspection. |
| 236.13 | Repealed by 63GA, ch 152,§61. | 236.31 | Sanitary inspection. |
| 236.14 | Tenure of license. | 236.32 | Licensee to grant assistance. |
| 236.15 | Rules and regulations. | 236.33 | Burden of proof. |
| 236.16 | Form of license. | 236.34 | Penalty. |
| 236.17 | Posting of license. | | |
| 236.18 | Prohibited acts. | | |

236.1 Definitions. The word "person" where used in this chapter shall include individuals, partnerships, voluntary associations, and corporations.

When used in this chapter the word "commissioner" or "state commissioner" means the commissioner of public health.

When used in this chapter the word "department" or "state department" means the state department of health.

When used in this chapter the word "division" or "state division" means the division of child and family services of the department of social services. [C27, 31, 35,§3661-a8; C39, §3661.022; C46, 50, 54, 58, 62, 66, 71,§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 confinement in the homes of the patients, nor any institution under the management of the state board of regents or any division of the department of social services, nor any general hospital. [S13,§2575-a20; C24,§§2365, 2366; C27, 31, 35,§3661-a9; C39,§3661.023; C46, 50, 54, 58, 62, 66, 71,§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, 66, 71,§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 commissioner 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, 66, 71,§236.4]

41GA, ch 79,§3, editorially divided

236.5 Power to license. The state commissioner 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, 66, 71,§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, 66, 71,§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, 66, 71,§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 commissioner, 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, 66, 71, §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, 66, 71, §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, 66, 71, §236.10]

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

236.11 Renewal of license. The state commissioner 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, 66, 71, §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, 66, 71, §236.12]

236.13 Repealed by 63GA, ch 152, §61.

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, 66, 71, §236.14]

41GA, ch 79, §8, editorially divided

236.15 Rules and regulations. It shall be the duty of the state commissioner to satisfy himself 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, 66, 71, §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, 66, 71, §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, 66, 71, §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, 66, 71, §236.18]

236.19 Record of licenses. A record of the licenses so issued shall be kept by the state commissioner. [C27, 31, 35, §3661-a26; C39, §3661.040; C46, 50, 54, 58, 62, 66, 71, §236.19]

236.20 Notice of license. The state commissioner 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, 66, 71, §236.20]

236.21 Revocation of license. The state commissioner 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, 66, 71, §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, 66, 71, §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, 66, 71, §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 commissioner, 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 commissioner. [S13, §§2575-a23, -a24; C24, §§2375, 2376; C27, 31, 35, §3661-a31; C39, §3661.045; C46, 50, 54, 58, 62, 66, 71, §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 commissioner with such details as the state commissioner may require. [S13, §§2575-a23, a24; C24, §§2375, 2376; C27, 31, 35, §3661-a32; C39, §3661.046; C46, 50, 54, 58, 62, 66, 71, §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 commissioner and his authorized employees or agents, 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, 66, 71, §236.26]

236.27 Records and inspection. The state commissioner 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, 66, 71, §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, 66, 71, §236.28]

Information confidential—conditions, §238.24

236.29 Inspections. Authorized officers and agents of the state commissioner 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, 66, 71, §236.29]

236.30 Minimum inspection. Authorized officers and agents of the state commissioner 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, 66, 71, §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, 66, 71, §236.31]

236.32 Licensee to grant assistance. The licensee shall give all reasonable information to such inspectors and afford them every rea-

sonable facility for the performance of the duties mentioned. [C27, 31, 35, §3661-a39; C39, §3661.053; C46, 50, 54, 58, 62, 66, 71, §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, 66, 71, §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 commissioner 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, 66, 71, §236.34]

CHAPTER 237
CHILDREN'S BOARDING HOMES

Referred to in §235.1

Child and family services, see ch 234

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| <p>237.1 Definitions.
237.2 "Children's boarding home" defined.
237.3 Power to license.
237.4 Conditions to granting.
237.5 Form of license.
237.6 Record of license.
237.7 Notice of granting.
237.8 License essential.</p> | <p>237.9 Prohibited acts.
237.10 Posting of license.
237.11 Rules and regulations.
237.12 Tenure of license.
237.13 Revocation of license.
237.14 Records and inspection.
237.15 Burden of proof.
237.16 Penalty—injunction.</p> |
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237.1 Definitions. 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 any division of the department of social services or any director thereof.

As used in this chapter the word "director" or "state director" means the director of the division of child and family services of the department of social services. [C27, 31, 35, §3661-a42; C39, §3661.056; C46, 50, 54, 58, 62, 66, 71, §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, 66, 71, §237.2]

237.3 Power to license. The state director 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, 66, 71, §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, 66, 71, §237.4]

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, 66, 71, §237.5]

237.6 Record of license. A record of the licenses so issued shall be kept by the state director. [C27, 31, 35, §3661-a47; C39, §3661.061; C46, 50, 54, 58, 62, 66, 71, §237.6]

237.7 Notice of granting. The state director shall forthwith give notice to the state department of health and to the local board of health in whose jurisdiction 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, 66, 71, §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 director within twelve months preceding to conduct such home. [C27, 31, 35, §3661-a49; C39, §3661.063; C46, 50, 54, 58, 62, 66, 71, §237.8]

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, 66, 71, §237.9]

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, 66, 71, §237.10]

237.11 Rules and regulations. It shall be the duty of the state director 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, 66, 71, §237.11]

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, 66, 71, §237.12]

41GA, ch 78, §3, editorially divided

237.13 Revocation of license. The state director may revoke any such license under the conditions and by the procedure specified for the revocation of licenses of child-placing agencies. [C27, 31, 35,§3661-a54; C39,§3661.068; C46, 50, 54, 58, 62, 66, 71,§237.13]

Procedure, §§238.10-238.15

237.14 Records and inspection. The state director 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, 66, 71,§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, 66, 71,§237.15]

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 director 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, 66, 71,§237.16]

Punishment,§687.7

CHAPTER 238

CHILD-PLACING AGENCIES

Referred to in §§235.1, 422.9(2,c), 600.1

Child and family services, see ch 234

- 238.1 Definitions.
- 238.2 "Child-placing agency" defined.
- 238.3 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 record—preservation.
- 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 Interstate compact on placement of children.
- 238.34 Financial responsibility.
- 238.35 Department of social services as public authority.
- 238.36 Department as authority in receiving state.
- 238.37 Authority to enter agreements.
- 238.38 Visitation, inspection or supervision.
- 238.39 Court authority to place child in another state.
- 238.40 Executive head.
- 238.41 Statutes not affected.
- 238.42 Agreement in child placements.
- 238.43 Exceptions.
- 238.44 Burden of proof.
- 238.45 Penalty.

238.1 Definitions. 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 or control of any division of the department of social services or any director thereof.

For the purpose of this chapter the word "director" or "state director" means director of the division of child and family services of the department of social services. [C27, 31, 35, §3661-a58; C39, §3661.072; C46, 50, 54, 58, 62, 66, 71, §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, 66, 71, §238.2]

Referred to in §238.17

238.3 Power to license. The state director 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, 66, 71, §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, 66, 71, §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 director within the twelve months preceding to conduct such agency. [C27, 31, 35, §3661-a62; C39, §3661.076; C46, 50, 54, 58, 62, 66, 71, §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, 66, 71, §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, 66, 71, §238.7]

238.8 Record of license. A record of the licenses so issued shall be kept by the state director. [C27, 31, 35, §3661-a65; C39, §3661.079; C46, 50, 54, 58, 62, 66, 71, §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, §3661-a66; C39, §3661.080; C46, 50, 54, 58, 62, 66, 71, §238.9]

41GA, ch 80, §3, editorially divided

238.10 Revocation of license. The state director 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 director 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 director governing such agencies. [S13, §3260-k; C24, §3663; C27, 31, 35, §3661-a67; C39, §3661.081; C46, 50, 54, 58, 62, 66, 71, §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 director 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, 66, 71, §238.11]

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

238.12 Appeal. Any licensee feeling himself aggrieved by any decision of the state director revoking his license may appeal to the council of social services in the manner of form prescribed by such council. The council shall, upon receipt of such an appeal give the licensee reasonable notice and opportunity for a fair hearing before such council or its duly authorized representative or representatives. Following such hearing the council of social services shall take its final action and notify the licensee in writing.

A licensee after a review hearing hereinabove provided, within thirty days after notice of such action is given, may appeal from the decision of the council of social services to the district court by serving on the commissioner of the department of social services 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, 66, 71, §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, 66, 71, §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 council of social services should not be confirmed, amended, or set aside. [C27, 31, 35, §3661-a71; C39, §3661.085; C46, 50, 54, 58, 62, 66, 71, §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, 66, 71, §238.15]

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

238.16 Rules and regulations. It shall be the duty of the state director 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, 66, 71, §238.16]

238.17 Forms for registration and record—preservation. The state director 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 director 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 director, for preservation, to be kept by the said state director as a permanent record. [C27, 31, 35, §3661-a74; C39, §3661.088; C46, 50, 54, 58, 62, 66, 71, §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 director. [C27, 31, 35, §3661-a75; C39, §3661.089; C46, 50, 54, 58, 62, 66, 71, §238.18]

Referred to in §238.24

238.19 Inspection generally. Authorized officers and agents of the state director 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, 66, 71, §238.19]

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

238.20 Minimum inspection — record. Authorized officers and agents of the state director 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, 66, 71, §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 in whose jurisdiction a licensed child-placing agency is located may make inspection of the premises. [C27, 31, 35, §3661-a78; C39, §3661.092; C46, 50, 54, 58, 62, 66, 71, §238.21]

Referred to in §238.24

238.22 Licensee to aid inspection. The licensee 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, 66, 71, §238.22]

Referred to in §238.24

238.23 Annual report. Every such agency shall file with the state director, 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 director may require. [S13, §3260-j; C24, §3670; C27, 31, 35, §3661-a80; C39, §3661.094; C46, 50, 54, 58, 62, 66, 71, §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 director, state department of health, or the local board of health where such agency is located.

Nothing herein shall prohibit the state director 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, 66, 71, §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, 66, 71, §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 director. [S13, §3260-c; C24, §3665; C27, 31, 35, §3661-a83; C39, §3661.097; C46, 50, 54, 58, 62, 66, 71, §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, 66, 71, §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, 66, 71, §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, 66, 71, §238.29]

Neglected child defined, §232.2(15)

238.30 Reports as to placements. Every month every child-placing agency licensed by the state director shall report to the state director 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 director. [C27, 31, 35, §3661-a87; C39, §3661.101; C46, 50, 54, 58, 62, 66, 71, §238.30]

41GA, ch 80, §9, editorially divided

238.31 Inspection of foster homes. The state director shall satisfy himself that each licensed child-placing agency is maintaining

proper standards in its work, and said state director may at any time cause the child and home in which he has been placed to be visited by his 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, 66, 71, §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 nineteen years of age, under commitment from the juvenile court, and control and dispose of them as in this chapter provided.~~

2. 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, 66, 71, §238.32; 64GA, ch 1027, §23]

Referred to in §240.2

Commitment of females, §240.6

Juvenile commitments, §§232.33, 232.34, 240.1

238.33 Interstate compact on placement of children. The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE I—PURPOSE AND POLICY

It is the purpose and policy of the party states to co-operate with each other in the interstate placement of children to the end that:

a. Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

b. The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

c. The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

d. Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II—DEFINITIONS

As used in this compact:

a. "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

b. "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

c. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

d. "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution.

ARTICLE III—CONDITIONS FOR PLACEMENT

Referred to in §238.35

a. No sending state shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

b. Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

1. The name, date and place of birth of the child.

2. The identity and address or addresses of the parents or legal guardian.

3. The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring or place the child.

4. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

c. Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph "b" of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

d. The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV—PENALTY FOR ILLEGAL PLACEMENT

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting

the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V—RETENTION OF JURISDICTION
Referred to in §§238.34, 238.39

a. The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

Referred to in §238.36

b. When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

Referred to in §§238.37, 238.38

c. Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph "a" hereof.

ARTICLE VI—INSTITUTIONAL CARE
OF DELINQUENT CHILDREN
Referred to in §238.39

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

a. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

b. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII—COMPACT ADMINISTRATOR
Referred to in §238.40

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general co-ordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII—LIMITATIONS

This compact shall not apply to:

a. The sending or bringing of a child into a receiving state by his parent, relative, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

b. Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX—ENACTMENT AND WITHDRAWAL

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X—CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any

state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [S13,§3260-1; C24,§§3672, 3675; C27, 31, 35,§3661-a90,-a93,-a95,-a96; C39,§§3661.104, 3661.107, 3661.109, 3661.110; C46, 50, 54, 58, 62, 66,§§238.33, 238.36, 238.38, 238.39; C71,§238.33]

Referred to in §§238.34—238.41

238.34 Financial responsibility. Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children shall be determined in accordance with the provisions of article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of chapters 252 and 252A, fixing responsibility for the support of children also may be invoked. [C71, §238.34]

Referred to in §238.41

238.35 Department of social services as public authority. The "appropriate public authorities" as used in article III of the interstate compact on the placement of children shall, with reference to this state, mean the state department of social services and said department shall receive and act with reference to notices required by said article III. [C71,§238.35]

Referred to in §238.41

238.36 Department as authority in receiving state. As used in paragraph "a" of article V of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the state department of social services. [C71,§238.36]

Referred to in §238.41

238.37 Authority to enter agreements. The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph "b" of article V of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the director of family and children's services in the case of the state and the overseer of the poor in the case of a subdivision of the state. [C71,§238.37]

Referred to in §238.41

238.38 Visitation, inspection or supervision. Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under the provisions of this chapter shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph "b" of article V of the interstate compact on the placement of children. [C71, §238.38]

Referred to in §238.41

238.39 Court authority to place child in another state. Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to article VI of the interstate compact on the placement of children and shall retain jurisdiction as provided in article V thereof. [C71,§238.39]

Referred to in §238.41

238.40 Executive head. As used in article VII of the interstate compact on the placement of children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said article VII. [C71,§238.40]

Referred to in §238.41

238.41 Statutes not affected. Nothing contained in sections 238.33 through 238.40 shall be deemed to affect or modify the provisions of chapters 232 and 600. [C71,§238.41]

238.42 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 director, the best interests of the child shall require it. [C27, 31, 35,§3661-a97; C39,§3661.111; C46, 50, 54, 58, 62, 66,§238.40; C71,§238.42]

41GA, ch 80,§13, editorially divided

Referred to in §238.43

§§238.40-238.43, Code 1966, moved to §§238.42-238.45

238.43 Exceptions. The provisions of section 238.42 shall not apply to children who have been legally adopted. [C27, 31, 35,§3661-a98; C39,§3661.112; C46, 50, 54, 58, 62, 66,§238.41; C71,§238.43]

238.44 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, 66,§238.42; C71, §238.44]

238.45 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 director 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, 66,§238.43; C71,§238.45]

Punishment, §687.7

CHAPTER 239

AID TO DEPENDENT CHILDREN

Referred to in §§234.6(5), 241.25, 249.44, 249A.8, 249C.1, 249C.14

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| 239.1 | Definitions. | 239.11 | County appropriations. |
| 239.2 | Eligibility for aid to dependent children. | 239.12 | Fund for aid to dependent children—reimbursement to state. |
| 239.3 | Application for assistance. | 239.13 | Assistance not assignable. |
| 239.4 | Investigation of application. | 239.14 | Fraudulent acts. |
| 239.5 | Granting of assistance and amount of assistance—co-operation of parent. | 239.15 | Grant accepted without condition. |
| 239.6 | Periodic reconsideration, changes, and termination of grants. | 239.16 | Merit rating for employees. |
| 239.7 | Appeal. | 239.17 | Recovery of assistance obtained by fraudulent act. |
| 239.8 | Removal from county. | 239.18 | State control exclusive. |
| 239.9 | Funeral expenses. | 239.19 | Transfer aid funds to other work incentive programs. |
| 239.10 | Records—report of recipients. | | |

239.1 Definitions. As used in this chapter:

1. "Division" or "state division" means the division of child and family services of the department of social services; "director" or "state director" means the director of the division of child and family services of the department of social services.

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

3. A "Dependent child" means a needy child under the age of sixteen years, or under the age of twenty years who is a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or who is, in lieu of pursuing a course of study leading to a high school diploma or its equivalent, 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, physical or mental incapacity or unfitness of either parent, or partial or total unemployment of the father, and who is living with his father or mother or both, or with his 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 non-profit child-care agency by the state division or by the county department of social welfare in lieu of living with any relative designated in this subsection.

4. "Assistance" means money payments to, or in behalf of, a needy, dependent child or children.

5. "Recipient" is the person to whom the assistance grant is made. [C39. §§3661.002, 3661.016; C46, 50, 54, 58, 62, 66, 71, §239.1]

Referred to in §§239.2(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 section 239.1, subsection 3, or has been placed in a foster home or with a public non-profit agency referred to in such subsection under a plan of care including services designated to improve the conditions of the home from which the child was removed or to otherwise make possible his being placed in the suitable home of a relative referred to in section 239.1, subsection 3, if the placement resulted from judicial proceedings initiated during a month in or for which the child:

a. Was in fact receiving assistance under this chapter; or

b. Would have received assistance under this chapter if application had been made therefor; or

c. Had within six months prior to the month in which the proceedings were initiated been living with a relative referred to in section 239.1, subsection 3, and would have received assistance under this chapter in and for the month in which the proceedings were begun if he had continued to live with that relative and application had been made therefor.

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, 66, 71, §239.2; 64GA, ch 155, §1]

NEW SUBSECTION. Is not, with respect to assistance applied for by reason of partial or total unemployment of the father, the child of a father who:

a. Has been unemployed for less than thirty days prior to receipt of assistance under this chapter.

b. Is partially or totally unemployed due to work stoppage which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed.

c. At any time during the thirty-day period prior to receipt of assistance under this chapter or at any time thereafter while assistance is payable under this chapter, has not been available for employment, has not actively sought employment, or has without good cause refused any bona fide offer of employment or training for employment. The following reasons for refusing employment or training are not good cause: unauituable or unpleasant work or training, if the father is able to perform the work or training without unusual danger to his health; or the amount of wages or compensation, unless the wages for employment are below the federal minimum wage.

d. Has not registered for work with the state employment service established pursuant to section ninety-six point twelve (96.12) of the Code, or thereafter has failed to report at an employment office in accordance

with regulations prescribed to section ninety-six point four (96.4), subsection one (1) of the Code.

e. Has failed to participate in or to cooperate in any work or training program made available to him under chapter two hundred forty-nine C (249C) of the Code, or has without good cause withdrawn from such program before completion. The department of social services shall have a program under chapter two hundred forty-nine C (249C) of the Code for the partially or totally unemployed father under this subsection.

The division may prescribe requirements in addition to or in lieu of the foregoing, for eligibility for assistance under this chapter to children whose fathers are partially or totally unemployed, which are necessary to secure financial participation of the federal government in payment of such assistance.

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 director. Such application shall be made by an adult person or a person eighteen years of age or older 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, 66, 71, §239.3]

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, 66, 71, §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 3, 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, in accordance with rules and standards established by the state department of social services, shall fix the amount of assistance necessary for any dependent child. In determining the amount of assistance, the county board shall take into consideration the income and resources of any child or relative claiming assistance under this chapter. However, in fixing the amount of assistance for any child or family, the county board, in accordance with rules established by the state department of social services, may disregard a reasonable amount of the income of the child or the family, in order to encourage the family or any of its members to become self-supporting. The term "income" as used herein means income remaining after deduction of expenses reasonably attributable to the earning or securing of that income.

The county board, under the supervision of the state department of social services, shall establish services to help families and persons receiving assistance under this chapter to become self-supporting; shall participate in the work and training program established by chapter 249C; and shall co-operate with other public agencies and with private agencies to secure employment, education, and vocational training for members of such families. Assistance, when granted, shall be paid monthly to an adult person or a person eighteen years of age or older 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 division, except that the county board may order the assistance payments made to another individual who is interested in or concerned with the welfare of the child or the person with whom the child is living when it has been demonstrated that the person with whom the child is living is unable to manage the assistance payments in the best interest of the child. Such protective payments shall not be made beyond one year and shall otherwise conform to the regulations established under the provisions of Title IV of the Social Security Act as amended by Public Law 90-248.

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 co-operating 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, 66, 71, §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 director. 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, 66, 71, §239.6]

239.7 Appeal. If an application is not acted upon within a reasonable time, 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 department of social services. The department shall give the appellant reasonable notice and opportunity for a fair hearing before the commissioner or his designee. An applicant or recipient aggrieved by the result of such hearing may, within thirty days, appeal to the district court of the county in which he resides, by serving notice of such appeal upon the commissioner of social services or his designee, in the manner required for the service of original notice in a civil action. Upon receipt of such notice, the department shall furnish the appellant with a copy of any papers filed by him in support of his position, a transcript of any testimony taken, and a copy of the department's decision. The district court shall review the department's decision to determine its legality. [C46, 50, 54, 58, 62, 66, 71, §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 in which he resided at the time

he was granted assistance, it shall be the duty of the recipient to immediately notify the county board of the county of the fact of such removal and of the city or town (or nearest city or town) and of the county to which the child has removed. If the removal is out of the state, assistance shall be continued as long as the child remains otherwise eligible for assistance under this chapter or until he becomes eligible for assistance from the state to which he has moved, but in no case may assistance payments from this state be continued for more than one year beyond the date of the child's removal from this state; provided, further, that during the period in which such assistance may be paid, the county board shall, by regular contact with the proper state or local welfare agency in the state to which such child has been removed, review and determine such child's eligibility for assistance other than with respect to the residence eligibility requirement.

Periodic status reports shall be requested of the recipients to assist in determining eligibility for assistance payments.

239.12 AID TO DEPENDENT CHILDREN ACCOUNT--There is hereby established in the state treasury an account to be known as the Aid to Dependent Children Account" to which shall be credited all funds appropriated by the state for the payment of assistance and benefits under this chapter, and all

other moneys received at any time for such purposes. All assistance and benefits under this chapter shall be paid from said account.

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 division, provided such expenses do not exceed two hundred fifty 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 director shall prescribe. [C46, 50, 54, 58, 62, 66, 71, §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 240. 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, 66, 71, §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 division 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 division. 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, 66, 71, §239.11]~~

239.12. AID TO DEPENDENT CHILDREN ACCOUNT. There is hereby established in the state treasury an account to be known as the "Aid to Dependent Children Account" to which shall be credited all funds appropriated by the state for the payment of assistance and benefits under this chapter, and all other moneys received at any time for such purposes. All assistance and benefits under this chapter shall be paid from said account.

~~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, 66, 71, §239.12]~~

239.13 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. [C46, 50, 54, 58, 62, 66, 71, §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, 66, 71, §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, 66, 71, §239.15]

239.16 Merit rating for employees. The selection of all persons as employees of the state director in the administration of this chapter shall be governed by the provisions of section 234.8. [C46, 50, 54, 58, 62, 66, 71, §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, 66, 71,§239.17]

239.18 State control exclusive. Questions of policy and control respecting administration of this chapter shall vest and remain in the state division of child and family services of the department of social services of the state of Iowa and the state director of said division 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 director 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, 66, 71,§239.18]

Constitutionality, 50GA, ch 130,§19
Omnibus repeal, 50GA, ch 130,§22

239.19 Transfer aid funds to other work incentive programs. The department of social services shall be authorized to transfer such of the aid to dependent children funds in its control to any other department or agency of the state of Iowa for the purpose of providing funds to carry out the work incentive program created by Public Law 90-248, 81 Stat. 821, Title II, section 204, the Social Security Amendments of 1967 to the Social Security Act, and nothing in the laws of the state of Iowa shall be construed as limiting the authority granted by that Act. [C71,§239.19]

CHAPTER 240

PRIVATE INSTITUTIONS FOR NEGLECTED,
DEPENDENT AND DELINQUENT CHILDREN

Child and family services, see ch 234

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|-------|---|--------|------------------------------------|
| 240.1 | Definitions. | 240.7 | Commitment subsequent to sentence. |
| 240.2 | Children over eighteen years old—
school for younger children. | 240.8 | Surrender of female. |
| 240.3 | Revocation of commitment. | 240.9 | Release on bond. |
| 240.4 | Commitments prohibited. | 240.10 | Custody and control—labor. |
| 240.5 | Monthly allowance. | 240.11 | "Institution" defined. |
| 240.6 | Commitments in lieu of jail sentence. | 240.12 | Supervision. |

240.1 Definitions. For the purpose of this chapter the word "director" or "state director" shall mean the director of the division of child and family services of the department of social services. [C71,§240.1]

240.2 SCHOOL REQUIRED. A child committed to any institution named in section two hundred thirty-eight point thirty-two (238.32) of the Code, over seven years and under fourteen years of age, shall be enrolled in school during the school sessions of the district in which the child is kept, or in some parochial school for a like period.

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 revocations. [S13,§3260-k; C24, 27, 31, 35, 39, §3668; C46, 50, 54, 58, 62, 66, 71,§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 director 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, 66, 71,§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, 66, 71,§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, 66, 71,§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, 66, 71,§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, 66, 71,§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, 66, 71, §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, 66, 71,§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, 66, 71,§240.11]

240.12 Supervision. Any institution having any such female in its custody shall be subject to supervision and inspection by the state director 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, 66, 71,§240.12]

CHAPTER 241

AID FOR THE BLIND

Referred to in §§234.6(5), 239.10, 249.44, 249A.8

Commission for blind, see ch 601B. Child and family services, see ch 234

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|--------|---|--------|---|
| 241.1 | Definitions. | 241.14 | Expenses for treatment. |
| 241.2 | Eligibility for assistance to the needy blind. | 241.15 | Guardianship. |
| 241.3 | Amount of assistance. | 241.16 | Recovery from recipient. |
| 241.4 | Powers and duties of state director. | 241.17 | Funeral expenses. |
| 241.5 | Duties of the county boards. | 241.18 | Repealed by 63GA, ch 169,§1. |
| 241.6 | Application for assistance. | 241.19 | Misdemeanor. |
| 241.7 | Investigation of applications. | 241.20 | County appropriation. |
| 241.8 | Examination by ophthalmologist. | 241.21 | Fund for aid to the blind—reimbursement to state. |
| 241.9 | Granting of assistance. | 241.22 | Removal to another county. |
| 241.10 | Assistance not assignable. | 241.23 | Other dependents. |
| 241.11 | Appeal. | 241.24 | Short title. |
| 241.12 | Periodic reconsideration — changes in amount of assistance. | 241.25 | Records—report of recipients. |
| 241.13 | Re-examination as to eyesight. | 241.26 | Direct payment to health care facility —no deduction for service. |

AS OF JANUARY 1, 1974, THIS PROGRAM TO BE ASSUMED BY FEDERAL GOVERNMENT

241.1 Definitions. As used in this chapter: "Division" or "state division" means the division of child and family services of the department of social services; "director" or "state director" means the director of the division of child and family services of the department of social services; "county board" means the county board of social welfare; 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, 66, 71,§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. 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.
3. 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.

4. Is not soliciting alms in any part of the state.

5. Is not receiving old-age assistance.

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

7. 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, 66, 71,§241.2]

241.3 Amount of assistance. The minimum presumed need of each blind applicant for or recipient of assistance under this chapter shall be no less than one hundred forty dollars per month. The amount of assistance together with other nonexempt income and resources, except inconsequential income and resources, shall be no less than one hundred forty dollars per month. In determining the amount of assistance which shall be paid, personal property in the amount of one thousand five hundred dollars for a single person and two thousand dollars for a married couple shall be disregarded, and personal property shall not include foodstuffs, household furnishings, and a motor vehicle necessary for transportation.

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 director; provided, however, that in determining the eligibility of an individual claiming aid to the blind, or in determining the amount of such aid, five dollars per month of any income shall be disregarded and the first eighty-five dollars per month of earned income, plus one-half of earned income in excess of eighty-five dollars, of such individual 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 director shall be disregarded. [SS15,§2722-j; C24, 27, 31, 35, §5379; C39,§3684.03; C46, 50, 54, 58, 62, 66, 71, §241.3]

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

1. Be the responsible authority for the efficient and impartial administration of this chapter. To this end the state director 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 ophthalmologists 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, 66, 71,§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 director.

2. Report to the state director at such time and in such manner and form as the state director may from time to time direct.

3. Submit to the county board of supervisors, after approval by the state director, 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, 66, 71,§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 director. 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 director. [SS15, §2722-n; C24, 27, 31, 35,§5382; C39,§3684.06; C46, 50, 54, 58, 62, 66, 71,§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 director. [C39,§3684.07; C46, 50, 54, 58, 62, 66, 71,§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 director to make such examinations. The examining ophthalmologist shall certify to the county board in writing upon forms provided by the state director the findings of the examination, which findings shall be transmitted to the state director. [SS15,§§2722-l,m; C24, 27, 31, 35, §5380, 5381; C39,§3684.08; C46, 50, 54, 58, 62, 66, 71,§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 director 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 director. The state director 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 director shall notify the county board of his 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 director, 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, 66, 71,§241.9]

241.10 Assistance not assignable. Assist-

ance 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, 66, 71,§241.10]

241.11 Appeal. If an application is not acted upon within a reasonable time, 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 department of social services. The department shall give the appellant reasonable notice and opportunity for a fair hearing before the commissioner or his designee. An applicant or recipient aggrieved by the result of such hearing may, within thirty days, appeal to the district court of the county in which he resides, by serving notice of such appeal upon the commissioner of social services or his designee, in the manner required for the service of original notice in a civil action. Upon receipt of such notice, the department shall furnish the appellant with a copy of any papers filed by him in support of his position, a transcript of any testimony taken, and a copy of the department's decision. The district court shall review the department's decision to determine its legality. [C39,§3684.11; C46, 50, 54, 58, 62, 66, 71,§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 director. After such further investigation as the county board may deem necessary or the state director may require, the county board shall make further report to the state director and the amount of assistance may be changed or assistance may be entirely withdrawn if the state director finds that the recipient's circumstances have altered sufficiently to warrant such action. [C39,§3684.12; C46, 50, 54, 58, 62, 66, 71,§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 director. He shall also furnish any information required by the county board or the state director. [C39,§3684.13; C46, 50, 54, 58, 62, 66, 71,§241.13]

241.14 Expenses for treatment. On the basis of the finding of the ophthalmologist's examination as provided in section 241.8, remedial services may be provided by the state director 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 director. [C39,§3684.14; C46, 50, 54, 58, 62, 66, 71,§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, 66, 71, §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 director the immediate suspension of assistance payments and, after investigation, shall recommend to the state director 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, 66, 71,§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 director; provided, such expenses do not exceed two hundred fifty 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 director shall prescribe. [C39,§3684.17; C46, 50, 54, 58, 62, 66, 71,§241.17]

241.18 Repealed by 63GA, ch 169,§1.

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, 66, 71, §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 division 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 division. 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, §3684.20; C46, 50, 54, 58, 62, 66, 71, §241.20]~~

~~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 director 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 director, shall be paid from said fund. The state director 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 repre-~~

~~senting 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, 66, 71, §241.21]~~

~~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, 66, 71, §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, 66, 71, §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, 66, 71, §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, 66, 71, §241.25]

Punishment, §687.7

241.26 Direct payment to health care facility—no deduction for service. If the state department is making direct assistance payments to persons providing a recipient with services in a health care facility licensed under chapter 135C in amounts less than the usual and reasonable charge for such service, the state department shall permit the recipient or someone on his behalf to pay the person rendering the service the difference between the amount of assistance and the reasonable value of such service, without deducting such additional payment from the direct assistance payment to be made by the state department. [C71, §241.26]

CHAPTER 241A
AID TO DISABLED PERSONS

Referred to in §§234.6(5), 249C.1

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| <p>241A.1 Definitions.
241A.2 Conditions for aid.
241A.3 Amount of assistance.
241A.4 Powers.
241A.5 Applications.
241A.6 Payment.
241A.7 Assistance exempt.
241A.8 Appeal.
241A.9 Guardians.
241A.10 Termination of assistance—recovery.</p> | <p>241A.11 Funeral expense.
241A.12 Fraud.
241A.13 County appropriation — tax levy —
Indians.
241A.14 Disabled aid fund.
241A.15 Removal from county.
241A.16 Records confidential.
241A.17 Direct payment to health care facility
—no deduction for service.</p> |
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AS OF JANUARY 1, 1974, THIS PROGRAM TO BE ASSUMED BY FEDERAL GOVERNMENT

241A.1 Definitions. As used in this chapter:

1. The word "director" or "state director" means the director of the division of child and family services of the department of social services and the word "division" or "state division" means the division of child and family services of the department of social services.
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. [C62, 66, 71, §241A.1]

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 resources to provide a reasonable subsistence consistent with decency.
5. Has resided in the state one year immediately preceding the date of the grant of assistance, or whose disability resulted from an accident or condition occurring after he became a resident of the state. [C62, 66, 71, §241A.2]

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 director; and shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence.

In fixing the amount of assistance, the county board, in accordance with rules established

by the state department of social services, may disregard a reasonable amount of a person's earnings in order to encourage the person to become self-supporting.

The county board, under the supervision of the state department of social services, shall establish services to help persons receiving assistance under this chapter to become self-supporting; shall participate in the work and training program established by chapter 249C; and shall co-operate with other public agencies and with private agencies to secure employment, education, and vocational training for such persons and their families. [C62, 66, 71, §241A.3]

241A.4 Powers. The state director and county board shall, in the administration of this chapter, have the same powers and duties provided for by chapter 234. [C62, 66, 71, §241A.4]

241A.5 Applications. Application for assistance under this chapter shall be made to the county board of the county in which the individual 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 director. The state director may require an applicant to submit to a physical examination by a physician chosen by the state director. [C62, 66, 71, §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 director and recommend the amount of assistance to be certified for payment by the state director. 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 director. [C62, 66, 71, §241A.6]

241A.7 Assistance exempt. Assistance grant-

ed 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, 66, 71, §241A.7]

241A.8 Appeal. If an application is not acted upon within a reasonable time, 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 department of social services. The department shall give the appellant reasonable notice and opportunity for a fair hearing before the commissioner or his designee. An applicant or recipient aggrieved by the result of such hearing may, within thirty days, appeal to the district court of the county in which he resides, by serving notice of such appeal upon the commissioner of social services or his designee, in the manner required for the service of original notice in a civil action. Upon receipt of such notice, the department shall furnish the appellant with a copy of any papers filed by him in support of his position, a transcript of any testimony taken, and a copy of the department's decision. The district court shall review the department's decision to determine its legality. [C62, 66, 71, §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, 66, 71, §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, 66, 71, §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 two hundred fifty dollars, provided:

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

2. That the decedent does not leave an estate with sufficient proceeds to allow a funeral claim of at least five hundred 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 two hundred fifty dollars.

4. That in the event the total funeral expenses exceed the department's liability of two hundred fifty 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 one hundred dollars, to such person or persons as the county board directs, and such expense shall be allowed in addition to the two hundred fifty 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 tax-supported 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, 66, 71, §241A.11]

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, 66, 71, §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 division, and shall include in the tax levy for such county, the sum or sums so appropriated, for~~

§241A.13, AID TO DISABLED PERSONS

~~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, 66, 71, §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 director as provided by this chapter. All assistance, benefits and administration expense shall be paid from said fund by the state director. The state director 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 director 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, 66, 71, §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, 66, 71, §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, 66, 71, §241A.16]

241A.17 Direct payment to health care facility—no deduction for service. If the state department is making direct assistance payments to persons providing a recipient with services in a health care facility licensed under chapter 135C in amounts less than the usual and reasonable charge for such service, the state department shall permit the recipient or someone on his behalf to pay the person rendering the service the difference between the amount of assistance and the reasonable value of such service, without deducting such additional payment from the direct assistance payment to be made by the state department. [C71, §241A.17]

CHAPTER 242

TRAINING SCHOOLS

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| 242.1 Official designation. | 242.9 Resuming custody of child. |
| 242.2 Superintendent—powers and duties. | 242.10 Unlawful interference. |
| 242.3 Salary. | 242.11 County attorney to appear for child. |
| 242.4 Instruction and employment. | 242.12 Discharge or parole. |
| 242.5 Procedure to commit. | 242.13 Binding out or discharge. |
| 242.6 Conviction for crime. | 242.14 Transfers to other institutions. |
| 242.7 Placing in families. | 242.15 Transfers to work in parks. |
| 242.8 Articles of agreement. | |

242.1 Official designation. The state training school at Eldora shall be known as the "Iowa Training School for Boys". The state training school at Mitchellville shall be known as the "Iowa Training School for Girls". For the purpose of this chapter the word "director" or "state director" shall mean the director of the division of child and family services of the department of social services. [S13, §2701-a; C24, 27, 31, 35, 39, §3685; C46, 50, 54, 58, 62, 66, 71, §242.1]

Utility easements, 64GA, ch 1135, §1

242.2 Superintendent—powers and duties. The superintendent shall have charge and custody of the inmates of the school. He shall discipline, govern, instruct, employ, and use his best endeavors to reform the pupils in his care, so that, while preserving their health, he may promote, as far as possible, moral, religious, and industrious habits, and regular, thorough, and progressive improvement in their studies, trade, and employment. [C73, §§1651, 1652; C97, §2707; S13, §2707; C24, 27, 31, 35, 39, §3686; C46, 50, 54, 58, 62, 66, 71, §242.2]

242.3 Salary. The salaries of the superintendents of the training schools shall be determined by the state director. [S13, §2727-3a; C24, 27, 31, 35, 39, §3687; C46, 50, 54, 58, 62, 66, 71, §242.3]

242.4 Instruction and employment. The state director shall cause the boys and girls in said schools to be instructed in piety and morality, in such instruction on the Constitutions of the United States and of this state as is required in the common schools, and in such branches of useful knowledge as are adapted to their age and capacity, including the effect of alcoholic liquors, stimulants, and narcotics on the human system, and in some regular course of labor, either mechanical, agricultural, or manufactural, as is best suited to their age, strength, disposition, capacity, reformation, and well-being. [C73, §1648; C97, §2706; C24, 27, 31, 35, 39, §3688; C46, 50, 54, 58, 62, 66, 71, §242.4]

242.5 Procedure to commit. The procedure for the commitment of children to the state training school, except as otherwise provided, shall be the same as provided in chapter 232. [C73, §§1653-1659; C97, §§2708, 2709; S13, §§2708, 2709; C24, 27, 31, 35, 39, §3689; C46, 50, 54, 58, 62, 66, 71, §242.5]

242.6 CONVICTION FOR CRIME. When a boy or girl over twelve and under seventeen years of age, of sound mind, is found guilty in the district court of any crime except murder, the court may order the child sent to the state training school for boys, or for girls, as the case may be.

242.7 Placing in families. All children committed to and received in the training schools may, with the written approval of the state director, be placed by the superintendent with any persons or in families of good standing and character where they will be properly cared for and educated. [C73, §1649; C97, §2704; S13, §2704; C24, 27, 31, 35, 39, §3691; C46, 50, 54, 58, 62, 66, 71, §242.7]

Referred to in §242.11

242.8 ARTICLES OF AGREEMENT. Such children shall be so placed under articles of agreement, approved by the state director and signed by the person or persons taking them and by the superintendent. Said articles shall provide for the custody, care, education, maintenance, and earnings of said children for a time to be fixed in said articles, which shall not extend beyond the time when the persons bound shall attain the age of eighteen years.

242.9 Resuming custody of child. In case a child so placed be not given the care, education, treatment, and maintenance required by such agreement, the state director may cause the child to be taken from the person with whom placed and returned to the institution, or may replace, release, or finally discharge him as may seem best. [C73, §1649; C97,

§2704; S13,§2704; C24, 27, 31, 35, 39,§3693; C46, 50, 54, 58, 62, 66, 71,§242.9]

Referred to in §242.11

242.10 Unlawful interference. It shall be unlawful for any parent or other person not a party to such placing of a child to interfere in any manner or assume or exercise any control over such child or his earnings. Said earnings shall be used, held, or otherwise applied for the exclusive benefit of such child. [S13, §2704; C24, 27, 31, 35, 39,§3694; C46, 50, 54, 58, 62, 66, 71,§242.10]

Referred to in §242.11

242.11 County attorney to appear for child. In case legal proceedings are necessary to enforce any right conferred on any child by sections 242.7 to 242.10, inclusive, the county attorney of the county in which such proceedings should be instituted shall, on request of the superintendent, approved by the state director, institute and carry on, in the name of the superintendent, the proceedings in behalf of the superintendent. [S13,§2704; C24, 27, 31, 35, 39,§3695; C46, 50, 54, 58, 62, 66, 71,§242.11]

242.12 Discharge or parole. The state director may at any time after one year's service order the discharge or parole of any inmate as a reward for good conduct, and may, in exceptional cases, discharge or parole inmates without regard to the length of their service or conduct, when satisfied that the reasons therefor are urgent and sufficient. If paroled upon satisfactory evidence of reformation, the order may remain in effect or terminate under such rules as the state director may prescribe. [C73,§§1660, 1661; C97,§2711; S13,§2711; C24, 27, 31, 35, 39,§3696; C46, 50, 54, 58, 62, 66, 71,§242.12]

242.13 BINDING OUT OR DISCHARGE. The binding out or the discharge of an inmate as reformed, or having arrived at the age of eighteen years, shall be complete release from all penalties incurred by the conviction for the offense upon which the child was committed to the school.

242.14 Transfers to other institutions. The state director may transfer to the schools minor wards of the state from any institution under his charge but no person shall be so transferred who is mentally ill or mentally retarded. Any child in the schools who is mentally ill or mentally retarded may be transferred by the director to the proper state institution. [C66, 71,§242.14]

242.15 Transfers to work in parks. The state director may detail boys, classed as trustworthy, from the Iowa training school for boys at Eldora, to perform services for the state conservation commission within the state parks, state game and forest areas and other lands under the jurisdiction of said commis-

sion. The conservation commission shall provide such permanent housing and work guidance supervision, but the care and custody of said boys shall remain under employees of the division of child and family services of the department of social services. All such programs shall have as their primary purpose and shall provide for inculcation or the activation of attitudes, skills and habit patterns which will be conducive to the habilitation of said youths.

The state director is hereby authorized to use state-owned mobile housing equipment and facilities in performing such services at temporary locations in the above areas. [C66, 71,§242.15]

CHAPTER 243

IOWA JUVENILE HOME

Repealed by 52GA, ch 139,§8. See chapter 244

CHAPTER 244

IOWA JUVENILE HOME AND THE IOWA ANNIE WITTENMYER HOME

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| 244.1 Definitions—objects. | 244.9 Adoption. |
| 244.2 Salaries. | 244.10 Placing child under contract. |
| 244.3 Admissions. | 244.11 Recovery of possession. |
| 244.4 Procedure. | 244.12 Recovery of child—duty of county attorney. |
| 244.5 Transfers. | 244.13 Interference with child. |
| 244.6 Profits and earnings. | 244.14 Counties liable. |
| 244.7 Regulations. | 244.15 Detention care program. |
| 244.8 Enumerations of soldiers' orphans. | |

244.1 Definitions—objects. For the purpose of this chapter the words "director" or "state director" shall mean the director of the division of child and family services of the department of social services.

The Iowa juvenile home and The Iowa Annie Wittenmyer Home shall be maintained for the purpose of providing care, custody and education of such children as are committed thereto. Such children shall be wards of the state. Their education shall embrace instruction in the common school branches and in such other higher branches as may be practical and will enable said children to gain useful and self-sustaining employment. The state director and the superintendents of the homes shall assist all discharged children in securing suitable homes and proper employment. [C97, §2689; C24, 27, 31, 35, 39, §§3698, 3706; C46, §§243.1, 244.1; C50, 54, 58, 62, 66, 71, §244.1]

244.2 Salaries. The salaries of the superintendents of said homes shall be determined by the state director. [S13, §2727-3a; C24, 27, 31, 35, 39, §3707; C46, 50, 54, 58, 62, 66, 71, §244.2]

244.3. ADMISSIONS.

Admission to said homes shall be granted to resident children of the state under seventeen years of age, as follows, giving preference to the order named:

1. Destitute children, and orphans unable to care for themselves, of soldiers, sailors, or marines.

2. Neglected, dependent or delinquent children committed thereto by the juvenile court.

3. Other destitute children. [C97, §2685; S13, §2685; C24, 27, 31, 35, 39, §§3699, 3708; C46, §§243.2, 244.3; C50, 54, 58, 62, 66, 71, §244.3]

Referred to in §232.53

244.4 Procedure. The procedure for commitment to said homes shall be the same as provided by chapter 232, but admission may be granted on voluntary applications signed by the legal custodian of the child and approved by a judge of a court of record, or by the board of supervisors, of the county of the child's residence. Such applications shall be subject to the approval of the state director and shall be in such form as he may prescribe. Any child not mentally normal, or who is incorrigible, or who has any vicious habits, or whose presence in the homes would be inimical to the moral or physical welfare of normal children therein, shall be denied voluntary admission to said homes. [C97, §2685; S13, §2685; C24, 27, 31, 35, 39, §3709; C46, 50, 54, 58, 62, 66, 71, §244.4]

244.5 Transfers. The state director may transfer to the homes minor wards of the state from any institution under his charge or under the charge of any other director of the department of social services; but no person shall be so transferred who is not mentally normal, or who is incorrigible, or has any vicious habits, or whose presence in the homes would be inimical to the moral or physical welfare of normal children therein, and any such child in the homes may be transferred to the proper state institution. [C24, 27, 31, 35, 39, §3710; C46, 50, 54, 58, 62, 66, 71, §244.5]

244.6 Profits and earnings. Any profits arising from labor at the homes shall be placed at interest in some state bank or national bank authorized to do business in this state, and each child paid, when discharged, in proportion as his labor contributed to the fund. The earnings of a child who is placed with others under contract shall be used, held, or otherwise applied for the exclusive benefit of said child. [C97, §2689; S13, §2690-d; C24, 27, 31, 35, 39, §3711; C46, 50, 54, 58, 62, 66, 71, §244.6]

244.7 Regulations. All children admitted or

committed to the home shall be wards of the state and subject to the rules of the home. Subject to the approval of the state director, any child received under voluntary application may be expelled by the superintendent for disobedience and refusal to submit to proper discipline. Children shall be discharged upon arriving at the age of eighteen years, or sooner if possessed of sufficient means to provide for themselves. [C73,§1634; C97,§§2685, 2688; S13, §§2685, 2688, 2690-b; C24, 27, 31, 35, 39,§3712; C46, 50, 54, 58, 62, 66, 71,§244.7]

244.8 Enumeration of soldiers' orphans. The assessor in each odd-numbered year shall take an enumeration of the children of deceased soldiers who were in the military service of the government, naming the company or organization to which the soldiers belonged, with the age and sex of the children. The lists so returned shall be revised from time to time, as may be necessary, by the board of supervisors, and a record made of such action. [C73,§§1635-1637; C97,§2686; C24, 27, 31, 35, 39,§3713; C46, 50, 54, 58, 62, 66, 71, §244.8]

244.9 Adoption. Children in said homes may be adopted as provided in chapter 600. [C73,§1634; C97,§2690; S13,§2690-a; C24, 27, 31, §§3714, 3715; C35,§3715-g1; C39,§3715.1; C46, 50, 54, 58, 62, 66, 71,§244.9]

244.10 Placing child under contract. Any child received in said homes, unless adopted, may, under written contract approved by the state director, be placed by the superintendent in the custody and care of any proper person or family. Such contract shall provide for the custody, care, education, maintenance, and earnings of the child for a fixed time which shall not extend beyond the age of majority, except that the time may extend beyond the child's eighteenth birthday until he is twenty-one years of age if he is regularly attending an approved school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs. Such contract shall be signed by the superintendent and by the person taking the child. [S13,§2690-b; C24, 27, 31, 35, 39,§3716; C46, 50, 54, 58, 62, 66, 71,§244.10; 64GA, ch 1027, §26]

244.11 Recovery of possession. In case of a violation of the terms of such contract, the state director may cause the child to be taken from the person or persons with whom placed, and may make such other disposition of him as shall seem to be for his best interests. [S13, §2690-c; C24, 27, 31, 35, 39,§3717; C46, 50, 54, 58, 62, 66, 71,§244.11]

244.12 Recovery of child—duty of county attorney. In case legal proceedings are necessary to recover the possession of such child, they may be instituted and carried on in the

name of the superintendent, and the county attorney of the county in which the child is placed shall, if requested by the superintendent, act as his attorney in the proceedings. [S13,§2690-c; C24, 27, 31, 35, 39,§3718; C46, 50, 54, 58, 62, 66, 71,§244.12]

244.13 Interference with child. It shall be unlawful for any parent or other person not a party to the placing of a child for a term of years, to interfere in any manner with or to assume or exercise any control over such child or his earnings while such contract is in force. [S13,§2690-d; C24, 27, 31, 35, 39,§3719; C46, 50, 54, 58, 62, 66, 71,§244.13]

244.14 Counties liable. Each county shall be liable for sums paid by the home in support of all its children to the extent of a sum equal to one-half of the net cost of the support and maintenance of its children. The superintendent of The Iowa Annie Wittenmyer Home and the Iowa juvenile home shall certify to the state comptroller on the first day of each fiscal quarter the amount chargeable to each county for such support. The sums for which each county is so liable shall be charged to the county and collected as a part of the taxes due the state, and paid by the county from the county mental health and institutions fund at the same time state taxes are paid.

Should any county fail to pay these bills within sixty days from the date of certificate from superintendent, the state comptroller shall charge the delinquent county the penalty of one percent per month on and after sixty days from date of certificate until paid. Such penalties shall be credited to the general fund of the state. [C97,§2692; SS15,§2692; C24, 27, 31, 35, 39,§3720; C46, 50, 54, 58, 62, 66, 71,§244.14; 64GA, ch 1108,§8]

Similar provisions, §§230.20, 230.21, 271.14

244.15 Detention care program. The commissioner of the department of social services is hereby authorized to establish a detention care program at The Annie Wittenmyer Home in the city of Davenport. Such detention care may be offered to any city or county served by The Annie Wittenmyer Home at the discretion of the commissioner of the department of social services. The commissioner shall establish operating rules and regulations to provide fair and equitable charges for such services by separating the costs of detention care from the normal costs of providing services for children committed to The Annie Wittenmyer Home. The total cost of detention care shall be charged on a per patient per diem to the city or county responsible for the admission of such patient. Such funds received from detention care shall be deposited in the general fund of the state and such funds are hereby appropriated back to The Annie Wittenmyer Home in the city of Davenport. In determining the charges for other children placed in The Annie Wittenmyer Home at Davenport, the amount received for detention care shall be deducted from the total operating costs before per diem for the other children is determined as provided in chapter 232. [C71,§244.15]

CHAPTER 245

WOMEN'S REFORMATORY

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| 245.1 Definitions—objects. | 245.9 Costs of commitment. |
| 245.2 Superintendent—salary. | 245.10 Transfer of inmates—costs. |
| 245.3 Service required. | 245.11 Effect of transfer. |
| 245.4 Commitments generally. | 245.12 Transfer of mentally ill. |
| 245.5 Optional commitments for life. | 245.13 Employment for discharged inmate. |
| 245.6 Commitment on appeal. | 245.14 Clothing, transportation, and money. |
| 245.7 Term of commitments. | 245.15 Escape—reward. |
| 245.8 Manner of committing females. | 245.16 Costs of returning inmate. |

245.1 Definitions—objects. For the purpose of this chapter "director" or "state director" shall mean the director of the division of corrections of the department of social services.

The women's reformatory shall be maintained for the purpose of preparing the inmates to lead orderly and virtuous lives and to become self-supporting and useful members of society, and to this end to instruct them in the common school and other branches of learning, in morality, physical culture, domestic science, mechanical arts, and such other branches of industry as may be practicable. [SS15, §§2713-n1, n11; C24, 27, 31, 35, 39, §3723; C46, 50, 54, 58, 62, 66, 71, §245.1]

Utility easements, 64GA, ch 1135, §3

245.2 Superintendent—salary. The superintendent of the women's reformatory shall be a female and shall receive a salary as determined by the state director. [SS15, §2713-n2; C24, 27, 31, 35, 39, §3724; C46, 50, 54, 58, 62, 66, 71, §245.2]

245.3 Service required. The superintendent may, with the approval of the state director, require any inmate to perform any service suited to her strength and attainments and which may be needed for the benefit of the reformatory or for the welfare of such inmate. [SS15, §2713-n11; C24, 27, 31, 35, 39, §3725; C46, 50, 54, 58, 62, 66, 71, §245.3]

245.4 COMMITMENTS GENERALLY. All females eighteen years of age and over, and married females under eighteen years of age, who are convicted in the district court of offenses punishable by imprisonment in excess of thirty days, shall, if imprisonment imposed, be committed to the women's reformatory.

245.5 Optional commitments for life. Any unmarried female over ten and under eighteen years of age convicted of an offense punishable by life imprisonment may be committed either to the Iowa training school for girls or to the women's reformatory. [SS15, §2713-n7; C24, 27, 31, 35, 39, §3727; C46, 50, 54, 58, 62, 66, 71, §245.5]

245.6 COMMITMENT ON APPEAL. A female eighteen years of age and over, convicted on appeal from a conviction of a nonindictable offense, may, if imprisonment is imposed, be committed to the women's reformatory for an indeterminate period not exceeding ninety days.

245.7 Term of commitments. A female convicted of a felony shall not be detained in said reformatory under one commitment for a period longer than the maximum term of imprisonment provided by law for said felony. A female convicted of a crime less than felony shall not be detained therein longer than five years under one commitment. [SS15, §2713-n12; C24, 27, 31, 35, 39, §3729; C46, 50, 54, 58, 62, 66, 71, §245.7]

245.8 Manner of committing females. Females committed to said reformatory shall be taken thereto by some woman, or by some peace officer accompanied by some woman, appointed by the court. [SS15, §2713-n9; C24, 27, 31, 35, 39, §3730; C46, 50, 54, 58, 62, 66, 71, §245.8]

245.9 Costs of commitment. The costs and expenses allowed for taking females to the reformatory shall be the same as those allowed by law for taking girls to the training school, and shall be audited and paid in like manner by the counties from which they are sent. [SS15, §2713-n9; C24, 27, 31, 35, 39, §3731; C46, 50, 54, 58, 62, 66, 71, §245.9]

Costs of commitment, §337.11(10, 14)

245.10 Transfer of inmates—costs. The state director in co-operation with the commissioner of the department of social services and the directors of the other divisions of the department of social services may transfer inmates from the said reformatory to the training school for girls, and from such training school to such reformatory, whenever such course will be conducive to the welfare of the institution or of the other inmates therein, or of the inmates so transferred. The costs of such transfer shall be paid from the funds of the institution from which the transfer is made. [SS15, §2713-n10; C24, 27, 31, 35, 39, §3732; C46, 50, 54, 58, 62, 66, 71, §245.10]

Referred to in §245.11

245.11 Effect of transfer. After a transfer to either institution is made, under section 245.10, the person transferred shall be subject to all the provisions of law and regulations of the institution to which she is transferred, and for the purposes of chapter 745, a person transferred from the training school for girls to the women's reformatory shall be regarded as having been committed thereto. [SS15,§2713-n10; C24, 27, 31, 35, 39,§3733; C46, 50, 54, 58, 62, 66, 71,§245.11]

245.12 Transfer of mentally ill. The said state director may cause any woman committed to said reformatory and suspected of being mentally ill to be examined by one of the superintendents or his qualified designee of a state hospital for the mentally ill or transferred to the Iowa security medical facility for examination. If the woman is found to be mentally ill, the department may order such woman transferred to or retained at a state hospital or the Iowa security medical facility where she shall thereafter be maintained and treated at the expense of the state until such time as she regains her good mental health when she shall be returned to said reformatory. The cost of such transfer and return shall be paid as heretofore provided for other transfers. [C27, 31, 35,§3733-b1; C39,§3733.1; C46, 50, 54, 58, 62, 66, 71,§245.12]

Examination, §246.16

245.13 Employment for discharged inmate. It shall be the duty of the superintendent, so far as is practicable, to obtain for each inmate before she is paroled or discharged a home and suitable employment if they are not otherwise provided. [SS15,§2713-n14; C24, 27, 31, 35, 39, §3736; C46, 50, 54, 58, 62, 66, 71,§245.13]

245.14 Clothing, transportation, and money. The superintendent may, with the consent of the state director, furnish a discharged or paroled inmate with proper clothing, and a receptacle therefor, and transportation to her place of employment, or home, or other place not more distant than the place of commitment, and a sum of money not exceeding fifty dollars. [SS15,§2713-n14; C24, 27, 31, 35, 39, §3737; C46, 50, 54, 58, 62, 66, 71,§245.14]

245.15 Escape—reward. Any inmate of said reformatory who shall escape therefrom may be arrested and returned to said reformatory, by an officer or employee thereof without any other authority than this chapter, and by any peace officer or other person on the request in writing of the superintendent or the state director. For the apprehension and delivery of any such inmate, the superintendent may offer a reward, not to exceed fifty dollars, to be paid by the state in the same manner as provided for the payment of rewards for escaped convicts. [SS15,§2713-n15; C24, 27, 31, 35, 39,§3738; C46, 50, 54, 58, 62, 66, 71,§245.15]

Manner of payment, see §246.35

245.16 Costs of returning inmate. The costs attending the return of escaped or paroled inmates shall be paid from the funds of the institution. [SS15,§2713-n15; C24, 27, 31, 35, 39, §3739; C46, 50, 54, 58, 62, 66, 71,§245.16]

CHAPTER 246

PENITENTIARY AND MEN'S REFORMATORY

- 246.1 Definitions.
 246.2 Duty of wardens.
 246.3 Salaries—uniforms.
 246.4 Eight-hour day.
 246.5 Repealed by 61GA, ch 223,§1.
 246.6 Household and domestic service.
 246.7 Dwellings.
 246.8 Punishment and records thereof.
 246.9 According prohibited privileges.
 246.10 Failure to perform duty.
 246.11 Federal prisoners.
 246.12 Transfers from penitentiary.
 246.13 Permissive transfers.
 246.14 Mandatory transfers.
 246.15 Repealed by 62GA, ch 199,§15.
 246.16 Transfer of mentally ill.
 246.17 Discharge of mentally ill.
 246.18 Employment of prisoners—institutions and parks.
 246.19 Erections or repairs at other institutions.
 246.20 Repealed by 52GA, ch 140,§1.
 246.21 Price lists to public officials.
 246.22 Repealed by 52GA, ch 140,§1.
 246.23 Purchase mandatory.
 246.24 Selling price.
 246.25 Limitation on contract.
 246.26 Industry revolving fund.
 246.27 Use of fund.
 246.28 Fund permanent.
 246.29 and 246.30 Repealed by 52GA, ch 140,§3.
 246.31 Hard labor and solitary imprisonment.
 246.32 Enforcing obedience to orders.
 246.33 Insurrection.
 246.34 Escape of prisoner.
 246.35 Payment of reward—appropriation.
 246.36 Classification of prisoners.
 246.37 Property of convict.
 246.38 Time to be served—credit.
 246.39 Reduction of sentence.
 246.40 Records of prisoners.
 246.41 Forfeiture of reduction.
 246.42 Separate sentences.
 246.43 Special reduction.
 246.44 Discharge—transportation, clothing, and money.
 246.45 Repealed by 59GA, ch 140,§3.
 246.46 Who may visit.
 246.47 Patients for medical research.

246.1 Definitions. For the purpose of this chapter "director" or "state director" shall mean the director of the division of corrections of the department of social services. [C71, §246.1]

246.2 Duty of wardens. The wardens of the penitentiary and of the men's reformatory shall live within the precincts of said institutions, respectively, and shall devote their entire time to the duties of their positions. [C51, §3128; R60,§5142; C73,§4748; C97,§5663; S13,§5663; C24, 27, 31, 35, 39,§3740; C46, 50, 54, 58, 62, 66, §246.1; C71,§246.2]

246.3 Salaries — uniforms. The warden, deputy warden, assistant deputy warden, chief clerk, chaplain, additional chaplain, physician, storekeeper, record clerk, and receiving officer of the penitentiary and men's reformatory shall receive such salaries as shall be determined by the state director.

Captains, inspectors, turnkeys, guards first class, guards second class, and guards third class shall receive such compensation as shall be determined by the state director and in addition shall receive a midshift meal when on duty.

The state director shall provide each newly employed custodial staff employee uniforms required by the state director to be worn when on duty. All uniforms required to be worn by new and presently employed uniformed custodial staff employees shall be maintained and replaced at no cost to the employees. All uniforms and uniform replacements provided by the state director shall remain the property of the state director.

[R60,§§5190, 5191, 5192, 5193; C73,§§4783, 4784; C97,§5716; SS15,§5716; C24, 27, 31, 35, 39, §§3741, 3742; C46, 50, 54, 58, 62, 66,§§246.2, 246.3; C71,§246.3]

246.4 Eight-hour day. Eight hours shall constitute a day's work for the receiving clerk, record clerk, all captains, turnkeys, and guards, and all necessary time in excess thereof shall be paid for at not less than pro rata pay. [C24, 27, 31, 35, 39,§3743; C46, 50, 54, 58, 62, 66, 71,§246.4]

246.5 Repealed by 61GA, ch 223,§1.

246.6 Household and domestic service. The wardens of the penitentiary and the men's reformatory shall be entitled to receive the labor of prisoners, not exceeding three at one time, for household and domestic service in their own families. [R60,§5168; C73,§4767; C97,§5717; SS15,§5717; C24, 27, 31, 35, 39,§3745; C46, 50, 54, 58, 62, 66, 71,§246.6]

246.7 Dwellings. Each deputy warden shall be furnished with a dwelling house by the state director, or house rent, and also furnished with water, heat, ice, and lights, and domestic service in his family by not more than one prisoner at one time. [SS15,§5717; C24, 27, 31, 35, 39,§3746; C46, 50, 54, 58, 62, 66, 71,§246.7]

246.8 Punishment and records thereof. Disobedience by the convicts of the disciplinary rules of the institution shall be punished by the infliction of such penalties as are provided by law and the rules which are prescribed for the government of said institution.

PENITENTIARY AND MEN'S REFORMATORY

The warden shall keep a register of all punishments inflicted on any convict, and the cause for which they were inflicted. [R60, §5179; C73, §4751; C97, §5666; C24, 27, 31, 35, 39, §3747; C46, 50, 54, 58, 62, 66, 71, §246.8]

246.9 According prohibited privileges. If any officer or other person employed in either of said institutions or its precincts, negligently suffer any convict confined therein to be at large without its precincts, or out of the cell or apartment assigned to him, or to be conversed with, relieved, or comforted contrary to law or the rules of the institution, he shall be punished by a fine not exceeding five hundred dollars. [C51, §3144; R60, §5157; C73, §4796; C97, §5694; C24, 27, 31, 35, 39, §3748; C46, 50, 54, 58, 62, 66, 71, §246.9]

246.10 Failure to perform duty. Any person required to perform any duty relative to either of said institutions who willfully fails to perform the same, shall be punished by a fine not exceeding one thousand dollars, and shall forfeit his office. Should such failure result in the escape of any of the convicts, or in loss of any of the funds appropriated to the use and benefit of the said institution, exceeding twenty dollars, he shall be punished by imprisonment in the penitentiary for a term not less than two nor more than ten years. [R60, §5196; C73, §4805; C97, §5701; C24, 27, 31, 35, 39, §3749; C46, 50, 54, 58, 62, 66, 71, §246.10]

246.11 Federal prisoners. Convicts sentenced for any term at hard labor by any court of the United States may be received by the warden into the penitentiary or the men's reformatory and there kept in pursuance of their sentences. [C51, §3119; R60, §5138; C73, §4771; C97, §5676; C24, 27, 31, 35, 39, §3750; C46, 50, 54, 58, 62, 66, 71, §246.11]

246.12 Transfers from penitentiary. The state director may transfer first term and promising prisoners from the penitentiary to unoccupied rooms in the men's reformatory whenever the number of inmates in the penitentiary exceeds the number of cells therein. He may also transfer to the men's reformatory other prisoners when satisfied that such transfer will be to the best interest of the institutions and of the prisoners. [S13, §5718-a10; C24, 27, 31, 35, 39, §3751; C46, 50, 54, 58, 62, 66, 71, §246.12]

246.13 Permissive transfers. The state director may transfer prisoners from the men's reformatory to the penitentiary:

1. When the prisoner has been guilty of insubordination or of repeated violations of the rules of the reformatory.

2. When the prisoner is not a hopeful subject for reformatory treatment. [S13, §5718-a7; C24, 27, 31, 35, 39, §3752; C46, 50, 54, 58, 62, 66, 71, §246.13]

246.14 Mandatory transfers. Said state director shall transfer a prisoner from the men's reformatory to the penitentiary when, after his commitment to the reformatory, it is dis-

covered that he is over thirty years of age, or that he has, prior to his last conviction, been convicted in any court of any felony; but such transfer shall not be made unless there are suitable accommodations at the penitentiary to care for such prisoner. [S13, §5718-a8; C24, 27, 31, 35, 39, §3753; C46, 50, 54, 58, 62, 66, 71, §246.14]

246.15 Repealed by 62GA, ch 199, §15.

246.16 Transfer of mentally ill. When the said state director has cause to believe that a prisoner in the penitentiary or reformatory is mentally ill, the department may cause such prisoner to be transferred to the Iowa security medical facility for examination, diagnosis, or treatment. The prisoner shall be confined at such institution or a state hospital for the mentally ill until the expiration of his sentence or until he is pronounced in good mental health. If the prisoner is pronounced in good mental health before the expiration of his sentence, he shall be returned to the penitentiary or reformatory until the expiration of his sentence. The provisions of the Code applicable to an inmate at the correctional institution from which transferred shall remain applicable during the inmate's stay at the Iowa security medical facility. However, sections 246.32 and 246.33 shall apply to the total inmate population, including both convicts and patients. [SS15, §§5709-b, e; C24, 27, 31, 35, 39, §3755; C46, 50, 54, 58, 62, 66, 71, §246.16; 64GA, ch 156, §1]

Analogous provision, §245.12

246.17 Discharge of mentally ill. When the state director has reason to believe that a prisoner in the penitentiary or said reformatory, whose sentence has expired, is mentally ill, it shall cause examination to be made of such prisoner by competent physicians who shall certify to the state director whether such prisoner is in good mental health or mentally ill. The state director may make further investigation and if satisfied that he is mentally ill, he may cause him to be transferred to one of the hospitals for the mentally ill, or may order him to be confined in the Iowa security medical facility. [C97, §5710; C24, 27, 31, 35, 39, §3756; C46, 50, 54, 58, 62, 66, 71, §246.17]

246.18 Employment of prisoners — Institutions and parks. Prisoners in the penitentiary or men's reformatory shall be employed only on state account in the maintenance of the institutions, in the erection, repair, or operation of buildings and works used in connection with said institutions, and in such industries as may be established and maintained in connection therewith by the state director. The state director may detail prisoners, classed as trustees, from the state penitentiary or reformatory to perform services for the conservation commission within the state parks. The conservation commission shall provide proper supervision, housing and maintenance for said prisoners but the surveillance of said prisoners shall remain under employees of the state director. All such employment, including but not limited to that provided in

PENITENTIARY AND MEN'S REFORMATORY

this section, shall have as its primary purpose, and shall provide for, inculcation or the reactivation of attitudes, skills, and habit patterns which will be conducive to prisoner rehabilitation. [S13,§5702-a; SS15,§5718-a11; C24, 27, 31, 35, 39,§3757; C46, 50, 54, 58, 62, 66, 71, §246.18]

246.19 Erections or repairs at other institutions. The state director may temporarily detail, under proper surveillance, trustworthy prisoners to perform services in the construction or repair of any work imposed on the state director at any institution under his control. [C24, 27, 31, 35, 39,§3758; C46, 50, 54, 58, 62, 66, 71,§246.19]

246.20 Repealed by 52GA, ch 140,§1.

246.21 Price lists to public officials. The state director shall, from time to time, prepare classified and itemized price lists of articles and things manufactured at the state institutions controlled by him, and furnish such lists to all boards of supervisors, boards of school directors, city and town councils and commissions, township trustees, and all other departments and officials of the state, county, cities, and towns empowered to make purchase of supplies for public purposes. [C24, 27, 31, 35, 39,§3760; C46, 50, 54, 58, 62, 66, 71, §246.21]

246.22 Repealed by 52GA, ch 140,§1.

246.23 Purchase mandatory. No articles or supplies so listed, except in case of emergency, shall be purchased for public use by the aforesaid public officials, bodies, and departments from any private source unless the state director is unable to promptly furnish such articles or supplies. Any public officer who willfully refuses or willfully neglects to comply with this section shall be punished by a fine of not more than one hundred dollars. [C24, 27, 31, 35, 39,§3762; C46, 50, 54, 58, 62, 66, 71,§246.23]

246.24 Selling price. Such supplies, material, and articles manufactured by convict labor within the state shall be furnished by the state director to the state, its institutions and political subdivisions, at a price not greater than that obtaining for similar products in the open market. [C24, 27, 31, 35, 39, §3763; C46, 50, 54, 58, 62, 66, 71,§246.24]

246.25 Limitation on contract. The state director or the warden of the state penitentiary or the warden of the reformatory shall not, nor shall any other person employed by the state, make any contract by which the labor or time of any prisoner or inmate in such penitentiary or reformatory shall be contracted, let, farmed out, given, or sold to any person, firm, association, or corporation. [S13,§§2727-a51, 5718-a28a; C24, 27, 31, 35, 39, §3764; C46, 50, 54, 58, 62, 66, 71,§246.25]

246.26 Industry revolving fund. There shall be created and established for the state penitentiary at Fort Madison and for the state reformatory at Anamosa an establishing and maintaining industries revolving

fund, which fund shall be permanent and composed of the receipts from the sales of articles and products manufactured and produced, from the sale of obsolete and discarded property belonging to the various industrial departments, and from the funds now in the establishing and maintaining industry funds for each of said institutions. [C27, 31, 35, §3764-b1; C39,§3764.1; C46, 50, 54, 58, 62, 66, 71, §246.26]

Referred to in §§246.27, 246.28

246.27 Use of fund. The fund created and described in section 246.26 shall be used only for establishing and maintaining industries for the employment of the inmates at the respective institutions named, except that such fund, if available, may, at the discretion of and with the approval of the state director, be used to provide vocational and educational facilities and services for such inmates at the institutions named, and payments from said fund shall be made in the same manner as are payments from the appropriations, salaries, support and maintenance of the institutions under the jurisdiction of the state director. This fund shall not be used for the operation of farms under the jurisdiction of the state director. [C27, 31, 35,§3764-b2; C39,§3764.2; C46, 50, 54, 58, 62, 66, 71,§246.27]

Referred to in §246.28

246.28 Fund permanent. The fund provided in sections 246.26 and 246.27 shall not revert to the general fund at the end of any annual or biennial period. [C27, 31, 35,§3764-b3; C39,§3764.3; C46, 50, 54, 58, 62, 66, 71,§246.28]

246.29 and 246.30 Repealed by 52GA, ch 140, §3.

246.31 Hard labor and solitary imprisonment. All commitments to either of said institutions must be at hard labor. Solitary imprisonment of prisoners shall not be employed except for the purpose of discipline. [C51, §3118; R60,§5137; C73,§4770; C97,§5675; C24, 27, 31, 35, 39,§3767; C46, 50, 54, 58, 62, 66, 71,§246.31]

246.32 Enforcing obedience to orders. Any officer of said institutions and his assistants shall, in case a prisoner resists his lawful authority, or refuses to obey his lawful command, enforce immediate obedience by the use of such weapons or other aids as may be effectual, and if, in so doing, such convict is wounded or killed, such officer and his assistants shall be justified. [C51,§3145; R60,§5158; C73,§4797; C97,§5695; C24, 27, 31, 35, 39,§3768; C46, 50, 54, 58, 62, 66, 71,§246.32]

Referred to in §246.16

246.33 Insurrection. Every officer and citizen of the state within reach shall, by every means within their power, suppress and aid in suppressing any insurrection among the convicts in said institutions, and prevent and aid in preventing the escape or rescue of any convict therefrom, or from any legal confinement, or from any person in whose custody a convict may be. If in the performance of this duty or in arresting or assisting to arrest a convict who has escaped or been rescued, such officer or person wound or kill the con-

vict, or a person aiding or assisting him, the same shall be held justifiable. [C51,§3146; R60, §5159; C73,§4798; C97,§5696; C24, 27, 31, 35, 39, §3769; C46, 50, 54, 58, 62, 66, 71,§246.33]

Referred to in §246.16

246.34 Escape of prisoner. If a convict escapes from the penitentiary or the men's reformatory, the warden shall take all proper measures for his apprehension; and for that purpose he may offer a reward, not exceeding fifty dollars, to be paid by the state, for the apprehension and delivery of such convict. [C51,§3147; R60,§5160; C73,§4776; C97,§5681; C24, 27, 31, 35, 39,§3770; C46, 50, 54, 58, 62, 66, 71, §246.34]

246.35 Payment of reward—appropriation. The state comptroller shall issue warrants in payment of such reward upon filing of vouchers. There is hereby appropriated out of any funds in the state treasury not otherwise appropriated, a sum sufficient for the payment of such claims. [C27, 31, 35,§3770-a1; C39,§3770.1; C46, 50, 54, 58, 62, 66, 71,§246.35]

246.36 Classification of prisoners. The wardens shall, so far as practicable, prevent prisoners under eighteen years of age from associating with other prisoners. [C97,§5693; C24, 27, 31, 35, 39,§3771; C46, 50, 54, 58, 62, 66, 71,§246.36]

246.37 Property of convict. The warden shall receive and care for any property any convict may have on his person upon entering, and, if convenient, place the same, if money, at interest for the owner's use, keeping an account thereof, and on the discharge of the convict, return, and if money, repay the same with the interest so earned, to him or his legal representatives, unless in the meantime it has been previously disposed of according to law. [C51,§3149; R60,§5162; C73,§4778; C97,§5683; C24, 27, 31, 35, 39,§3772; C46, 50, 54, 58, 62, 66, 71, §246.37]

246.38 Time to be served—credit. No convict shall be discharged from the penitentiary or the men's reformatory until he has served the full term for which he was sentenced, less good time earned and not forfeited, unless he be pardoned or otherwise legally released. He shall be deemed to be serving his sentence from the day on which he is received into the institution, but not while in solitary confinement for violation of the rules of the institution; provided, however, if a convict had been confined to a county jail or other correctional or mental institution at any time prior to sentencing, or after sentencing but prior to his case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, he shall be given credit for such days already served in jail upon the term of his sentence. The clerk of the district court of the county from which the convict was sentenced, shall certify to the warden the number of days so served. [C51,§3148; R60,§5161; C73,§4777; C97, §5682; C24, 27, 31, 35, 39,§3773; C46, 50, 54, 58, 62, 66, 71,§246.38]

246.39 Reduction of sentence. Each prisoner who shall have no infraction of the rules of discipline of the penitentiary or the men's or women's reformatory or laws of the state, recorded against him, and who performs in a faithful manner the duties assigned to him, shall be entitled to a reduction of sentence as follows, and if the sentence be for less than a year, then the pro rata part thereof:

1. On the first year, one month.
 2. On the second year, two months.
 3. On the third year, three months.
 4. On the fourth year, four months.
 5. On the fifth year, five months.
 6. On each year subsequent to the fifth year, six months.
- [C97,§5703; C24, 27, 31, 35, 39,§3774; C46, 50, 54, 58, 62, 66, 71,§246.39]

246.40 Records of prisoners. The state director shall cause to be kept at each of the institutions the following permanent records:

1. A record of each infraction, by a prisoner, of the published rules of discipline.
2. Such other records for the use of the board of parole as they may request. [C97, §5703; S13,§5718-a12; C24, 27, 31, 35, 39,§3775; C46, 50, 54, 58, 62, 66, 71,§246.40; 64GA, ch 84,§93]

246.41 Forfeiture of reduction. A prisoner who violates any of such rules shall forfeit the reduction of sentence earned by him, as follows:

1. For the first violation, two days.
2. For the second violation, four days.
3. For the third violation, eight days.
4. For the fourth violation, sixteen days and, in addition, whatever number of days more than one that he is in punishment.
5. For the fifth and each subsequent violation, or for an escape, or attempt to escape, the warden shall have the power, with the approval of the state director, to deprive the prisoner of any portion or all of the good time that the convict may have earned. [C97, §5704; C24, 27, 31, 35, 39,§3776; C46, 50, 54, 58, 62, 66, 71,§246.41]

246.42 Separate sentences. When a convict is committed under several convictions with separate sentences, they shall be construed as one continuous sentence in the granting or forfeiting of good time. [C97,§5705; C24, 27, 31, 35, 39,§3777; C46, 50, 54, 58, 62, 66, 71,§246.42]

246.43 Special reduction. Any prisoner in either of said institutions who may be employed in any service outside the walls of the institution, or who may be listed as a trusty, may, with the approval of the state director, be granted a special reduction of sentence, in addition to the reduction heretofore authorized, at the rate of ten days for each month so served. [SS15,§5718-a11b; C24, 27, 31, 35, 39, §3778; C46, 50, 54, 58, 62, 66, 71,§246.43]

246.44 Discharge — transportation, clothing, and money. When a prisoner is discharged the warden shall furnish him, at the expense of

the state, transportation to his place of employment, home or other place in Iowa, appropriate clothing, and not more than one hundred dollars, the exact amount to be based on individual need as determined by the warden and an account of which shall be kept by the warden. The warden may retain up to one half of the cash allowance so determined and remit it to the prisoner within twenty-one days after his discharge. [C51,§3150; R60,§5163; C73,§4779; C97,§5684; C24, 27, 31, 35, 39,§3779; C46, 50, 54, 58, 62, 66, 71,§246.44]

Analogous provision, §247.16

246.45 Repealed by 59GA, ch 140,§3.

246.46 Who may visit. The following persons are authorized to visit said institutions at pleasure: The governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, members of the general assembly, judges of the supreme and district courts, including district associate judges and judicial magistrates, county attorneys, and all regular officiating ministers of the gospel. No other person shall be granted admission except by permission of the warden. [C51,§3152; R60, §5165; C73,§4781; C97,§5686; C24, 27, 31, 35, 39, §3781; C46, 50, 54, 58, 62, 66, 71,§246.46; 64GA, ch 1124,§131]

246.47 Patients for medical research. The state director may send to the hospital of the medical college of the state university inmates of the Iowa state penitentiary and the men's reformatory for medical research at the hospital. Before any inmate is sent to the medical college, he must volunteer his services in writing. An inmate may withdraw his consent at any time. [C66, 71,§246.47]

§246A.1, CORRECTIONAL RELEASE CENTER

CHAPTER 246A
CORRECTIONAL RELEASE CENTER

(HALF-WAY HOUSE)

246A.1 Established by department of social services.

246A.2 Superintendent.

246A.3 Transfer of prisoners to center.

246A.4 Applicable statutes.

246A.1 Established by department of social services. The department of social services is hereby authorized to establish a facility for the preparation of all male inmates of the corrective institutions under the department's jurisdiction for discharge or parole. The facility shall be known as the correctional release center and shall be operated in conjunction with and utilize the facilities of the prison honor farm at Newton, Iowa. [C71, §246A.1]

246A.2 Superintendent. The director of division of corrections, subject to approval of the department, shall appoint a superintendent who shall serve as the chief executive of the correctional release center. The superintendent shall be a reputable and qualified person

experienced in the administration of programs for the rehabilitation and preparation of prisoners for their return to society. [C71, §246A.2]

246A.3 Transfer of prisoners to center. The department may transfer any male inmate of a corrective institution within ninety days of the inmate's approaching release from custody to the release center for intensive training to assist the inmate in the transition to civilian living. [C71, §246A.3]

246A.4 Applicable statutes. The statutes applicable to an inmate at the corrective institution from which transferred shall remain applicable during the inmate's stay at the release center. [C71, §246A.4]

CHAPTER 247

PAROLES

Referred to in §§247A.9, 248.1

247.1 Qualifications—term — vacancy—chairman.

247.2 Appointment—vacancies—expenses.

247.3 Secretary and staff.

247.4 Trips to other states.

247.5 Power to parole after commitment—detainers.

247.6 Rules.

247.7 Parole before commitment.

247.8 Employment for paroled prisoners.

247.9 Legal custody of paroled prisoners.

247.10 Reciprocal agreements with other states.

247.11 Order for recommitment—fees.

247.12 Parole time counted.

247.13 Investigations.

247.14 Duty of clerk of district court.

247.15 Duty of trial judge and prosecutor.

247.16 Clothing, transportation, and money.

247.17 Parole relief fund.

247.18 Disbursement and repayment.

247.19 Vouchers.

247.20 Probation by court.

247.21 Custody of court probationer—record to chief parole officer.

247.22 Powers of board and chief parole officer.

247.23 Expense.

247.24 Parole agent as peace officer.

247.25 Report by custodian.

247.26 Revocation of probation.

247.27 Violation of court probation.

247.28 Violation of board parole.

247.29 Criminal statistics.

247.30 Itemization of statistics.

247.31 Auditor to report statistics to clerk.

247.32 Biennial report.

247.33 Aiding and abetting parole violation.

247.1 Qualifications—term—vacancy—chairman. The board of parole shall consist of three electors of the state. Not more than two members shall belong to the same political party. One member shall be a practicing attorney at law at the time of his appointment. Each member shall serve for six years from July 1 of the year of his appointment, except appointees to fill vacancies who shall serve for the balance of the unexpired term. The chairman of the board shall be the member

whose term first expires. [S13, §5718-a14; C24, 27, 31, 35, 39, §3782; C46, 50, 54, 58, 62, 66, 71, §247.1]

247.2 Appointment — vacancies — expenses. The governor shall, during each regular session of the general assembly and within sixty days after the convening thereof, appoint, with the approval of two-thirds of the members of the senate, a successor to that member of the board whose term will expire on July 1 fol-

lowing. Appointments may be made when the general assembly is not in session, to fill vacancies, but such appointments shall be subject to the approval of two-thirds of the members of the senate when next in session. Vacancies occurring during a session of the general assembly shall be filled as regular appointments are made and before the end of said session, and for the unexpired portion of the regular term.

Each member of the board, the secretary, and all other employees shall, in addition to salary, be entitled to receive their necessary traveling expenses by the nearest traveled route while engaged in official business. [S13, §§5718-a14, a16; C24, 27, 31, 35, 39, §§3783, 3784; C46, 50, 54, 58, 62, 66, §§247.2, 247.3; C71, §247.2]

Confirmation, §2.32

247.3 Secretary and staff. The board of parole shall appoint an executive secretary and employ a clerical staff sufficient to carry on the necessary duties of the board. The board of parole shall employ not less than two persons who shall serve as liaison personnel between the board, inmates and staff at the state's penal and correctional facilities and who shall perform other duties designated by the board of parole. The board shall submit to the state comptroller an estimate of the funds needed for salaries, maintenance, and office supplies at the time and in the manner provided by section 8.23. [C71, §247.3; 64GA, ch 1054, §1]

247.4 Trips to other states. No traveling expenses to other states shall be allowed unless the trip is authorized by the board by a written resolution which shall state the purpose and declare the necessity for the trip prior to the actual making thereof, but emergency trips may be made on written order of the chairman which shall be reported to the board at its next meeting. [S13, §5718-a16; C24, 27, 31, 35, 39, §3785; C46, 50, 54, 58, 62, 66, 71, §247.4]

247.5 Power to parole after commitment—detainers. The board of parole shall determine which of the inmates of the state penal institutions qualify and thereafter shall be placed upon parole. Once an inmate is placed on parole he shall be under the supervision of the director of the division of corrections of the department of social services. There shall be a sufficient number of parole agents to insure proper supervision of all persons placed on parole. Parole agents shall not revoke the parole of any person but may recommend that the board of parole revoke such parole.

The board of parole shall, except as to prisoners serving life terms, or under sentence of death, or infected with venereal disease in communicable stage, have power to parole persons convicted of crime and committed to either the penitentiary or the men's or women's reformatory; provided, however, after any person has served fifteen years of a life term, the board of parole shall review the case and interview personally all such persons and

make such recommendations as they see fit to the governor, and shall make similar interviews in each such case at least every three years thereafter.

The parole may be to a place outside the state when the board of parole shall determine it to be to the best interest of the state and the prisoner, under such rules and regulations as the board of parole may impose.

Prisoners against whom detainers have been filed, may, after serving a portion of their sentence, be released by parole to the institution or authorities filing the detainer.

Any detainer filed against a prisoner must within six months be supported by a grand jury indictment or county attorney's information. In the event such indictment is returned or information is filed, the prisoner shall have the right to demand immediate trial at the next term of court where the charge is filed. The prosecuting agency shall pay all costs of transportation, necessary expenses incurred by the prisoner and such guards and other safety measures as the warden shall deem necessary for the prisoner to appear at his trial.

In the event a detainer is not supported within six months by a county attorney's information or grand jury indictment, or in the event the prosecuting agency refuses or fails to give the prisoner immediate trial, or refuses or fails to furnish transportation and pay all other necessary and related costs incident to the prisoner appearing at his trial, the detainer shall be held to be invalid and the parole board shall disregard such detainer in considering a prisoner for parole.

The board may also terminate or discharge a parole granted by it from the penitentiary or men's or women's reformatory or placed under its supervision by the district court at any time and at its sole discretion whenever it is satisfied that satisfactory evidence has been given that society will not suffer thereby. Said discharge shall relieve the parolee from further liability under his sentence. [S13, §5718-a18; C24, 27, 31, 35, 39, §3786; C46, 50, 54, 58, 62, 66, 71, §247.5]

247.6 Rules. Said board shall have power to establish rules and conditions under which paroles may be granted.

The director of the division of corrections of the department of social services shall also establish rules and conditions which shall be enforced by the chief parole officer and his staff regarding the supervision of parolees and probationers. [S13, §5718-a18; C24, 27, 31, 35, 39, §3787; C46, 50, 54, 58, 62, 66, 71, §247.6]

The rules and conditions of parole may require that restitution be made by the parolee of the victims who suffered pecuniary damages as a result of the parolee's criminal activities. Words

PAROLES, §247.7

defined in section eight (8) of this Act (see Senate File 26) shall have the same meaning in this paragraph.

247.7 Parole before commitment. Said board may, on the recommendation of the trial judge and prosecuting attorney, and when it appears that the good of society will not suffer thereby, parole, after sentence for less than life imprisonment and before commitment, prisoners who have not been previously convicted of a felony. [S13,§5718-a18; C24, 27, 31, 35, 39,§3788; C46, 50, 54, 58, 62, 66, 71,§247.7]

247.8 Employment for paroled prisoners. No person shall be released on parole until the board of parole shall have satisfactory evidence that arrangements have been made for his employment or maintenance. The chief parole officer may render assistance to prisoners about to be paroled in procuring employment and the necessary expense incident thereto shall be paid as other expenses of the chief parole officer are paid. [S13,§§5718-a18,-a26; C24, 27, 31, 35, 39,§3789; C46, 50, 54, 58, 62, 66, 71,§247.8]

247.9 Legal custody of paroled prisoners. All paroled prisoners shall remain, while on parole, in the legal custody of the warden or superintendent and under the control of the chief parole officer, and shall be subject, at any time, to be taken into custody and returned to the institution from which they were paroled.

During such time as the United States is at war the chief parole officer may relinquish the legal custody of a paroled prisoner to a military or naval authority for the period of service by the prisoner in the armed forces of the United States. [S13,§5718-a18; C24, 27, 31, 35, 39,§3790; C46, 50, 54, 58, 62, 66, 71,§247.9]

247.10 Reciprocal agreements with other states. The governor of the state of Iowa is hereby authorized and empowered to enter into compacts and agreements with other states, through their duly constituted authorities, in reference to reciprocal supervision of persons on parole or probation and for the reciprocal return of such persons to the contracting states for violation of the terms of their parole or probation. [C39,§3790.1; C46, 50, 54, 58, 62, 66, 71,§247.10]

247.11 Order for recommitment—fees. The written order of said board, certified to by the secretary of said board, that a prisoner on parole shall be taken into custody and returned to the institution from which paroled, shall be served by any peace officer or other person to whom it may be delivered for service, and such officer or person shall receive the same fees for serving such order as sheriffs receive for like service. [S13,§5718-a18; C24, 27, 31, 35, 39,§3791; C46, 50, 54, 58, 62, 66, 71,§247.11]

Fees, §337.11

247.12 Parole time counted. The time when a prisoner is on parole from the institution shall be held to apply upon the sentence against the parolee even if the parole is subsequently revoked, except that the time when the parolee is in violation of the terms of his parole agreement shall not apply upon the sentence.

The time when a prisoner is absent from the institution by reason of an escape shall not apply upon the sentence against the prisoner. [S13,§5718-a18; C24, 27, 31, 35, 39,§3792; C46, 50, 54, 58, 62, 66, 71,§247.12; 64GA, ch 1055, §1]

247.13 Investigations. Said board shall have power to direct the chief parole officer to make any investigation which such board may deem necessary in order to determine the facts relative to matters coming before it, but shall not receive, unsolicited by them, any petition or communication or argument in regard to application for parole, pardon, or discharge unless provided for in their adopted rules. Every public officer to whom inquiry may be addressed by the board of parole or the chief parole officer concerning any prisoner shall give said board or parole officer all information possessed by or accessible to him which may throw light upon the question of the fitness of a prisoner to receive the benefits of parole. [S13,§§5718-a19,-a26; C24, 27, 31, 35, 39,§3793; C46, 50, 54, 58, 62, 66, 71,§247.13]

247.14 Duty of clerk of district court. The clerk of the district court shall, as to each commitment to said institutions, furnish the board of parole and the chief parole officer with a copy of the indictment, the minutes of testimony attached thereto, the name and residence of the trial judge, of the prosecuting attorneys, and of the jurors and witnesses sworn at the trial. [S13,§5718-a25; C24, 27, 31, 35, 39,§3794; C46, 50, 54, 58, 62, 66, 71,§247.14]

247.15 Duty of trial judge and prosecutor. The trial judge and the prosecuting attorney shall, when requested by the board or chief parole officer, furnish them with a full statement of the facts and circumstances attending the commission of the offense so far as known or believed by them. [S13,§5718-a25; C24, 27, 31, 35, 39,§3795; C46, 50, 54, 58, 62, 66, 71,§247.15]

Referred to in §218.97

247.16 Clothing, transportation, and money. When a prisoner is paroled, he shall be furnished, by the warden, with such clothing, transportation, and money as is provided for prisoners when discharged at the termination of their sentence, but no further allowance shall be made if final discharge is granted while on parole. [S13,§5718-a22; C24, 27, 31, 35, 39,§3796; C46, 50, 54, 58, 62, 66, 71,§247.16]

Analogous provision, §246.44

247.17 Parole relief fund. There is hereby established, from any unappropriated funds in the state treasury, a fund of twelve hundred fifty dollars which shall be known as the pa-

role relief fund. The treasurer of state shall continue to maintain said fund in said amount. [C24, 27, 31, 35, 39, §3797; C46, 50, 54, 58, 62, 66, 71, §247.17]

247.18 Disbursement and repayment. Said fund may be used for the relief of paroled prisoners who are in distress because of illness, loss of employment, or conditions creating personal need. In no instance shall the total amount advanced to a prisoner exceed twenty-five dollars. The prisoner, at the time of receiving an advancement, shall execute and deliver to the chief parole officer his written obligation to repay the same during the period of the parole. When so paid, the amount shall be deposited with the treasurer of state and credited to the fund from which drawn. [C24, 27, 31, 35, 39, §3798; C46, 50, 54, 58, 62, 66, 71, §247.18]

247.19 Vouchers. Such fund shall be drawn on vouchers executed by the chief parole officer in favor of said needy person. Each voucher shall show that the advancement was ordered by the chief parole officer. [C24, 27, 31, 35, 39, §3799; C46, 50, 54, 58, 62, 66, 71, §247.19]

~~**247.20 Probation by court.** The trial court before which a person has been convicted of any crime, except for treason, murder, or violation of section 204.401, subsection 1 or 2, to which section 204.409, subsection 2, is not applicable and which is not proven to be an accommodation offense under section 204.410, may by record entry at time of or after sentence is pronounced but before imprisonment, suspend the sentence and grant probation to said person during good behavior. The said court shall have authority by record entry to withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to suspension of sentence and probation. The investigation shall be made by a probation officer, by the agency in charge of parole agents, or by another appropriate agency, as determined by the court~~

~~The length of the probation shall be for such term as the court may fix, unless the person is ordered placed under the supervision of the chief parole officer, in which case the term of probation shall be determined by the board of parole and the probation of the convicted party shall be supervised by the chief parole officer.~~

~~In cases where the court fixes the term of probation the court may grant a final discharge to such person at the expiration of said period and, in cases involving a conviction of a felony, the court shall forward to the governor of the state of Iowa a recommendation for or against restoration of citizenship rights to such person. [§13, §5447a; C24, 27, 31, 35, 39, §3800; C46, 50, 54, 58, 62, 66, 71, §247.20; 64GA, ch 149, §9]~~

~~Referred to in §§247.21, 247.21a~~

~~**247.21 Custody of court probationer record to chief parole officer.** When probation is granted under section 247.20, the court shall order said person committed to the custody, care, and supervision:~~

~~1. Of any suitable resident of this state; or~~

~~2. Of the chief parole officer. The chief parole officer may also accept the custody, care and supervision of any person granted probation or parole from a sentence to a term in a county jail. Jurisdiction of these persons shall remain with the sentencing court. The chief parole officer shall not, however, accept the custody, care and supervision of any person who in his judgment could not be properly supervised.~~

~~In each case wherein the court shall order said person committed to the custody, care, and supervision of the chief parole officer, the clerk of the district court shall at once furnish the chief parole officer with certified copies of the indictment or information, the minutes of testimony attached thereto, the judgment entry, the original mittimus. The county attorney shall at once advise the chief parole officer, by letter, that the defendant has been placed under the chief parole officer's supervision and give to the chief parole officer a detailed statement of the facts and circumstances surrounding the crime committed and the record and history of the defendant as may be known to him. If the defendant is confined in the county jail at the time of sentence, the court may order him so held until arrangements are made by the chief parole officer for his employment and he will have signed the necessary probation papers. If the defendant is not confined in the county jail at the time of sentence, the court may order him to remain in the county wherein he has been convicted and sentenced and report to the sheriff as to his whereabouts. [§13, §5447a; C24, 27, 31, 35, 39, §3801; C46, 50, 54, 58, 62, 66, 71, §247.21]~~

247.22 Powers of board and chief parole officer. The board of parole shall have and exercise over said probationer all the powers possessed by said board over prisoners paroled by it, and the chief parole officer shall supervise the probation of the convicted party in the same manner that he supervises prisoners paroled by the board of parole. [C24, 27, 31, 35, 39, §3802; C46, 50, 54, 58, 62, 66, 71, §247.22]

247.23 Expense. Any necessary expense contracted by the board in the care of a person committed to it under probation by the court shall be paid from the appropriation for the general expenditures of said board, except costs connected with the delivery of a person so granted probation to the institution to which sentenced upon revocation of the probation and the expenses of the chief parole officer shall be a part of and paid from the budget of the division of corrections of the department of social services. [C24, 27, 31, 35, 39, §3803; C46,

50, 54, 58, 62, 66, 71, §247.23]

247.24 Parole agent as peace officer. Any agent or investigator appointed or employed by the chief parole agent for the purpose of making investigations and of apprehending and returning persons granted a parole or probation under the jurisdiction of the chief parole agent to any institution, shall, while engaged in such duty or work, have all the powers of peace officers. [C31, 35, §3803-c1; C39, §3803.1; C46, 50, 54, 58, 62, 66, 71, §247.24]

247.25 Report by custodian. The person having the custody of such persons granted probation under order of court, shall, each thirty days, or oftener if required by the court, make written report to the judge as to the conduct of such persons granted probation. [S13, §5447-a; C24, 27, 31, 35, 39, §3804; C46, 50, 54, 58, 62, 66, 71, §247.25]

247.26 Revocation of probation. A suspension of a sentence by the court as herein provided may be revoked at any time, without notice, by the court or judge, and the defendant committed in obedience to such judgment. [S13, §5447-b; C24, 27, 31, 35, 39, §3805; C46, 50, 54, 58, 62, 66, 71, §247.26]

247.27 VIOLATION OF COURT PROBATION. If the suspended sentence be an order for commitment to the training school, the fact that the defendant first violated his or her probation after reaching the age of seven-teen years, shall not prevent the enforcement of such sentence.

247.28 Violation of board parole. Whoever, while on parole, shall violate any condition of his parole, or any rule or regulation of the board granting the parole, shall be deemed guilty of a felony, and shall be punished by imprisonment in the institution from which he had been paroled, for a term of not more than five years, his sentence under such conviction to take effect upon the completion of his previous sentence. [C24, 27, 31, 35, 39, §3807; C46, 50, 54, 58, 62, 66, 71, §247.28]

247.29 Criminal statistics. The clerk of the district court shall, on or before July 15 each year, report to the board of parole and the director of the division of corrections of the department of social services:

1. The number of convictions of all offenses in that court, in his county, for the year ending June 30 preceding, the character of each offense, the sentence imposed, occupation of the offender, and whether such offender can read or write.
2. Number of acquittals.
3. Number of dismissals by the court without trial, and the nature of the charges so dismissed.
4. The expenses of the county for criminal

prosecutions during said year. [C51, §148; R60, §349; C73, §203; C97, §293; S13, §293; C24, 27, 31, 35, 39, §3808; C46, 50, 54, 58, 62, 66, 71, §247.29]

Referred to in §247.30

247.30 Itemization of statistics. The fourth item required by section 247.29 shall be itemized as follows:

1. Jury fees in criminal cases.
2. Meals for jurors in criminal cases.
3. Bailiff's fee for service while attending criminal cases.
4. Expense of taking prisoners to prison.
5. Attorney fees under appointment to defend.
6. Grand jury fees.
7. Witness fees paid in criminal cases.
8. Reporters' fees for reporting and transcribing testimony in criminal cases at expense of county.
9. Grand jury witness fees paid.
10. Compensation to clerk of grand jury.
11. Compensation to bailiff of grand jury.
12. Fees and expenses paid sheriff and other officers by the county in connection with the grand jury.
13. Expense of jail, not including board of prisoners.
14. Board of prisoners.
15. Compensation and expense of county attorney and his assistants in criminal cases.
16. All jurors' fees, jurors' meals, and witness fees paid by the county in all criminal cases before a judicial magistrate. [C51, §148; R60, §349; C73, §203; C97, §293; S13, §293; C24, 27, 31, 35, 39, §3809; C46, 50, 54, 58, 62, 66, 71, §247.30; 64GA, ch 1124, §132]

247.31 Auditor to report statistics to clerk. The county auditor shall report to the clerk of the district court, on or before July 5 of each year, the expenses of the county in criminal prosecutions during the year ending June 30 preceding, including but distinguishing the compensation of the county attorney. Such report shall include all the items of criminal expenses which appear in the records of his office and which are required to be reported by the clerk of the district court to the board of parole and the director of the division of corrections of the department of social services. The clerk of the district court shall furnish to the auditor the blanks to be used in making such report. [C97, §475; S13, §475; C24, 27, 31, 35, 39, §3810; C46, 50, 54, 58, 62, 66, 71, §247.31]

247.32 Biennial report. The board of parole and the chief parole officer shall make such detailed reports to the director of the division of corrections of the department of social services as are requested by him and he shall forward such reports along with his personal recommendations to the commissioner of the department of social services. The commissioner in turn shall, biannually, at the time provided by law, report to the governor a summary of paroles granted and releases recommended, the names of all prisoners who

have violated their paroles, and such other information concerning this departmental operation as may be deemed advisable, including an abstract for each year of the returns relative to criminal matters. [C24, 27, 31, 35, 39, §3811; C46, 50, 54, 58, 62, 66, 71, §247.32]

Time of filing report, §17.3

247.33 Aiding and abetting parole violation. It shall be unlawful to knowingly encourage, aid, or abet any parolee or court probationer referred to in this chapter to violate any condition of his parole or probation, or any rule or regulation of the board or chief parole officer or court granting the parole or probation.

A violation of this section shall be punishable by a fine of not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment. [C66, 71, §247.33]

CHAPTER 247A

WORK RELEASE FOR INMATES OF INSTITUTIONS

247A.1 Title.
 247A.2 Program.
 247A.3 Committee.
 247A.4 Application by inmate.
 247A.5 Housing facilities.

247A.6 Willful escape.
 247A.7 Surrender of earnings.
 247A.8 Status of inmates on work release.
 247A.9 Parole not affected.

247A.1 Title. This chapter may be referred to as the "Work Release Law". [C71,§247A.1]

247A.2 Program. The department of social services shall establish a work release program under which inmates sentenced to an institution under the jurisdiction of the department may be granted the privilege of leaving actual confinement during necessary and reasonable hours for the purpose of working at gainful employment in this state. Under appropriate conditions the program may also include release for the purpose of seeking employment and attendance at an educational institution. In the case of female inmates the program may include housekeeping in her domicile. [C71,§247A.2]

247A.3 Committee. A committee shall be designated by the department consisting of one member of the parole board or its designee, one representative of the division of corrections and one representative of the institution in which the inmate is confined at the time of application. [C71,§247A.3; 64GA, ch 1054,§2]

247A.4 Application by inmate. An inmate eligible to participate in the work release program may make application to the superintendent or executive officer of the institution in which confined for permission to participate in the program. The application shall include a statement that the inmate agrees to abide by all terms and conditions of the particular plan adopted for him by the committee if the application is approved, shall state the name and address of the proposed employer, if any, and shall contain such other information as the committee may require. The superintendent or executive officer may, at his discretion, recommend such application to the committee. The committee may approve, disapprove, or defer action on the recommendation. If the recommendation is approved, the committee shall adopt a work release plan for the applicant which shall contain such terms and conditions as may be necessary and proper. The plan shall be signed by the inmate prior to participation in the program. Approval may be revoked for any reason by the superintendent or executive officer or by the committee at any time after being granted. [C71,§247A.4]

247A.5 HOUSING FACILITIES. The department shall designate and adopt facilities in the institutions and camps un-

der its jurisdiction for the housing of inmates granted work release privileges. In areas where facilities are not within reasonable proximity of the place of employment of an inmate so released, the department may contract with the proper authorities of political subdivisions of the state or suitable public or private agencies for the quartering of the inmate in local housing facilities. The committee shall include as a specific term or condition in the work release plan of any inmate the place where the inmate is to be housed when not on the work assignment. The committee shall not place an inmate on work release for longer than six months in any twelve-month period. Inmates may be temporarily released to the supervision of a responsible person to participate in family and selected community, religious, educational, social, civic and recreational activities when it is determined that the participation will directly facilitate the release transition from institution to community.

247A.6 WILLFUL ESCAPE. Any inmate released from actual confinement under a work release plan who willfully fails to return to the

designated place for housing at the time specified in the plan shall be guilty of a felony and upon conviction be subject to the penalty provided in section 745.1.

247A.7 Surrender of earnings. An inmate employed in the community under a work release plan shall surrender to the institution from which released his total earnings less payroll deductions required by law. The institution shall deduct from such earnings in the following order of priority:

1. An amount determined to be the cost to the state for providing food, lodging and clothing for the inmate while under the program.

2. The actual and necessary food, travel and other expenses of the inmate when released from actual confinement under the program.

3. An amount the inmate may be legally obligated to pay for the support of his dependents, the amount of which shall be paid to the dependents through the local department of social services in the county or city in which the dependents reside.

4. Court costs.

Any balance remaining after deductions and payments shall be credited to the inmate's personal account at the institution and shall be paid to him upon release. Any inmate so employed shall be paid a fair and reasonable wage in accordance with the prevailing wage scale for such work and shall work at fair and reasonable hours per day and per week. [C71,§247A.7]

247A.8 Status of inmates on work release. No inmate employed in the community under the provisions of this chapter shall be deemed to be an agent, employee, or involuntary servant of the department of social services while released from confinement under the terms of any work release plan. Should any inmate suffer an injury arising out of or in the course of the inmate's employment under this chapter, the inmate's recovery shall be from the insurance carrier of the employer of the project and no proceedings for compensation shall be maintained against the insurance carrier of the state institution or the state, and it is understood that there is no employer-employee relationship between the inmate and the state institution. [C71,§247A.8]

247A.9 Parole not affected. Nothing in this chapter shall be construed to affect eligibility for parole under chapter 247 or diminution of confinement of any inmate released under a work release plan. [C71,§247A.9]

CHAPTER 248

PARDONS, COMMUTATIONS, REMISSION OF FINES
AND FORFEITURES, AND RESTORATION TO CITIZENSHIP

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| <p>248.1 Reprieves and pardons.
248.2 Pardon.
248.3 Recommendation of restoration of rights of citizenship.
248.4 Soldiers, sailors, and marines.
248.5 Record.
248.6 Conditions prerequisite to a pardon.
248.7 Publication.
248.8 Investigation.
248.9 Information relative to applications.</p> | <p>248.10 Governor may take testimony.
248.11 Files in matters of pardon.
248.12 Restoration to rights of citizenship.
248.13 Fines and forfeitures.
248.14 Copies of pardons, reprieves, and other papers.
248.15 Copies when accused in custody.
248.16 Copies when accused not in custody.
248.17 Duty of clerk.</p> |
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248.1 Reprieves and pardons. Nothing in chapter 247 shall be construed as impairing the power of the governor under the Constitution, to grant a reprieve, pardon, or commutation of sentence in any case. [S13,§5718-a21; C24, 27, 31, 35, 39,§3812; C46, 50, 54, 58, 62, 66, 71,§248.1]

248.2 Pardon. A person whose sentence has been suspended may be pardoned by the governor at any time after such suspension on such conditions as he may think proper. [S13, §5447-a; C24, 27, 31, 35, 39,§3813; C46, 50, 54, 58, 62, 66, 71,§248.2]

248.3 Recommendation of restoration of rights of citizenship. The board of parole shall recommend to the governor the restoration of citizenship of such persons as have been discharged from parole and who have, by their conduct given satisfactory evidence that they will continue to be law-abiding citizens. [S13, §5718-a20; C24, 27, 31, 35, 39,§3814; C46, 50, 54, 58, 62, 66, 71,§248.3]

248.4 Soldiers, sailors, and marines. Said board shall also recommend to the governor the pardon of a paroled prisoner who, during parole, and during any war, entered the military, naval, or nursing service of the United States or of any of the countries with which the United States may have been allied or associated in such war, and who has been honorably discharged from such service or who has died in such service. [C24, 27, 31, 35, 39,§3815; C46, 50, 54, 58, 62, 66, 71,§248.4]

248.5 Record. All recommendations of the board shall be entered in the proper records of the board. [S13,§5718-a20; C24, 27, 31, 35, 39, §3816; C46, 50, 54, 58, 62, 66, 71,§248.5]

248.6 Conditions prerequisite to a pardon. After conviction for a felony, no pardon or commutation of sentence shall be granted by the governor until he shall have presented the matter to, and obtained the advice of, the board of parole. [C51,§§3278, 3281; R60,§5116; C73,§4712; C97,§5626; S13,§5626; C24, 27, 31, 35, 39,§3817; C46, 50, 54, 58, 62, 66, 71,§248.6; 64GA, ch 1013,§13]

248.7 Publication. Before presenting an application for pardon to the board for its action, where the sentence is death* or imprisonment for life, the governor shall cause a notice containing the reasons assigned for granting the

pardon to be published in two newspapers of general circulation, one of which shall be published at the capital and the other in the county where the conviction was had, once each week for four successive weeks, the last publication to be at least twenty days prior to the time of presenting such application to such board. [C73,§4712; C97,§5626; S13,§5626; C24, 27, 31, 35, 39,§3818; C46, 50, 54, 58, 62, 66, 71,§248.7]

*Death penalty abolished by 61GA, ch 435

248.8 Investigation. The board shall, under the direction of the governor, take charge of all correspondence in reference to the pardon of persons convicted of crimes and carefully investigate each application, and file its recommendation with the governor with its reasons for the same. [S13,§5718-a23; C24, 27, 31, 35, 39,§3819; C46, 50, 54, 58, 62, 66, 71,§248.8]

248.9 Information relative to applications. When an application is made to the governor for a pardon, reprieve, or commutation, or for the remission of a fine or forfeiture, he may require the judge of the court, or the county attorney or attorney general by whom the action was prosecuted, or the clerk of such court, to furnish him without delay a copy of the minutes of the evidence taken on the trial, and of any other facts having reference to the propriety of his exercise of his powers in the premises. [R60,§5120; C73,§4713; C97,§5627; C24, 27, 31, 35, 39,§3820; C46, 50, 54, 58, 62, 66, 71,§248.9]

248.10 Governor may take testimony. The governor may also take such testimony, bearing upon applications, as he may deem advisable. Any person who, in giving such testimony, swears falsely, and any person who shall knowingly and corruptly make any false statements in an affidavit intended to be used in connection with an application for pardon, or for remission of fine or forfeiture, shall be guilty of perjury, and be punished accordingly. [R60,§5120; C73,§4713; C97,§5627; C24, 27, 31, 35, 39,§3821; C46, 50, 54, 58, 62, 66, 71,§248.10]

Perjury, §721.1

248.11 Files in matters of pardon. All papers and documents relating to the pardon of any person shall, upon the granting of such pardon, become a part of the files of the governor's office. [S13,§5718-a20; C24, 27, 31, 35, 39, §3822; C46, 50, 54, 58, 62, 66, 71,§248.11]

248.12 Restoration to rights of citizenship.

The governor shall have the right to grant any convict, whom he shall think worthy thereof, a certificate of restoration to all his rights of citizenship. The warden or superintendent, upon request of the governor, shall, in case of application for such restoration, furnish him with a statement of the convict's deportment during his imprisonment, and may at all times make such recommendations to the governor as he shall think proper respecting such restoration. [C97,§5706; C24, 27, 31, 35, 39,§3823; C46, 50, 54, 58, 62, 66, 71,§248.12]

248.13 Fines and forfeitures. The governor shall have power to remit fines and forfeitures upon such conditions as he may think proper [C51,§3280; R60,§5116; C73,§4712; C97,§5626; S13, §5626; C24, 27, 31, 35, 39,§3824;C46, 50, 54, 58, 62, 66, 71,§248.13]

248.14 Copies of pardons, reprieves, and other papers. Pardons, commutations of sentences, remissions of fines and forfeitures, and restorations of rights of citizenship shall, when issued, be in duplicate. Reprieves shall be in triplicate. [C24, 27, 31, 35, 39,§3825; C46, 50, 54, 58, 62, 66, 71,§248.14]

248.15 Copies when accused in custody. Pardons, reprieves, and commutations of sentences shall be forwarded to the officer having custody of the party in question. Said officer shall retain one copy and make record in the books of his office, and act in accordance therewith. On one copy, said officer shall make such written return as the governor may require, and forward said copy and return to the clerk of the court wherein the judgment is of record. In case of reprieves, the third copy shall, in all cases, be delivered to the person whose sentence is reprieved. [C51,§3279; R60,§5121; C73, §4714; C97,§5628; S13,§5718-a20; C24, 27, 31, 35, 39,§3826; C46, 50, 54, 58, 62, 66, 71,§248.15]

248.16 Copies when accused not in custody. In case the party in question is not in custody, and in case of remissions of fines and forfeitures and restorations of rights of citizenship, one copy shall be delivered to said party and one copy to the clerk aforesaid. [C51,§3279; R60,§5121; C73,§4714; C97,§5628; S13,§5718-a20; C24, 27, 31, 35, 39,§3827; C46, 50, 54, 58, 62, 66, 71,§248.16]

248.17 Duty of clerk. Said clerk shall, upon receipt of any of said executive instruments, immediately file and preserve the same in his office and note such filing on the judgment docket of the case in question, except that remissions of fines and forfeitures shall be spread at length on the record books of the court, and indexed in the same manner as the original case. [C51,§3279; R60,§5121; C73,§4714; C97,§5628; C24, 27, 31, 35, 39,§3828; C46, 50, 54, 58, 62, 66, 71,§248.17]

AN ACT

RELATING TO DISCLOSURE OF CRIMINAL HISTORY AND INTELLIGENCE DATA AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION.
DEFINITIONS OF WORDS AND PHRASES. As used in this Act, unless the context otherwise requires:

1. "Department" means the department of public safety.
2. "Bureau" means the department of public safety, division of criminal investigation and bureau of identification.
3. "Criminal history data" means any or all of the following information maintained by the department or bureau in a manual or automated data storage system and individually identified:
 - a. Arrest data.
 - b. Conviction data.
 - c. Disposition data.
 - d. Correctional data.
4. "Arrest data" means information pertaining to an arrest for a public offense and includes the charge, date, time, and place. Arrest data includes arrest warrants for all public offenses outstanding and not served and includes the filing of charges, by preliminary information when filed by a peace officer or law enforcement officer or indictment, the date and place of alleged commission and county of jurisdiction.
5. "Conviction data" means information that a person was convicted of or entered a plea of guilty to a public offense and includes

the date and location of commission and place and court of conviction.

6. "Disposition data" means information pertaining to a recorded court proceeding subsequent and incidental to a public offense arrest and includes dismissal of the charge, suspension or deferral of sentence.

7. "Correctional data" means information pertaining to the status, location and activities of persons under the supervision of the county sheriff, the division of corrections of the department of social services, board of parole or any other state or local agency performing the same or similar function, but does not include investigative, sociological, psychological, economic or other subjective information maintained by the division of corrections of the department of social services or board of parole.

8. "Public offense" as used in subsections four (4), five (5), and six (6) of this section does not include nonindictable offenses under either chapter three hundred twenty-one (321) of the Code or local traffic ordinances.

9. "Individually identified" means criminal history data which relates to a specific person by one or more of the following means of identification:

- a. Name and alias, if any.

- b. Social Security number.
- c. Fingerprints.
- d. Other index cross-referenced to paragraphs a, b, or c.

e. Other individually identifying characteristics.

10. "Criminal justice agency" means any agency or department of any level of government which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders.

11. "Intelligence data" means information collected where there are reasonable grounds to suspect involvement or participation in criminal activity by any person.

12. "Surveillance data" means information on individuals, pertaining to participation in organizations, groups, meetings or assemblies, where there are no reasonable grounds to suspect involvement or participation in criminal activity by any person.

Section 2. NEW SECTION.
DISSEMINATION OF CRIMINAL HISTORY DATA. The department and bureau may provide copies or communicate information from criminal history data only to criminal justice agencies, or such other public agencies as are authorized by the confidential records council. The bureau shall maintain a list showing the individual or agency to whom the data is disseminated and the date of dissemination.

Authorized agencies and criminal justice agencies shall request and may receive criminal history data only when:

- 1. The data is for official purposes in connection with prescribed duties,

and

- 2. The request for data is based upon name, fingerprints, or other individual identifying characteristics.

The provisions of this section and section three (3) of this Act which relate to the requiring of an individually identified request prior to the dissemination or redissemination of criminal history data shall not apply to the furnishing of criminal history data to the federal bureau of investigation or to the dissemination or redissemination of information that an arrest warrant has been or will be issued, and other relevant information including but not limited to, the offense and the date and place of alleged commission, individually identifying characteristics of the person to be arrested, and the court or jurisdiction issuing the warrant.

Section 3. NEW SECTION.
REDISSEMINATION. A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate criminal history data, within or without the agency, received from the department or bureau, unless:

- 1. The data is for official purposes in connection with prescribed duties of a criminal justice agency, and
- 2. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination, and
- 3. The request for data is based upon name, fingerprints, or other individual identification characteristics.

A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate intel-

ligence data, within or without the agency, received from the department or bureau or from any other source, except as provided in subsections one (1) and two (2) of this section.

Section 4. NEW SECTION. STATISTICS. The department, bureau, or a criminal justice agency may compile and disseminate criminal history data in the form of statistical reports derived from such information or as the basis of further study provided individual identities are not ascertainable.

The bureau may with the approval of the commissioner of public safety disseminate criminal history data to persons conducting bona fide research, provided the data is not individually identified.

Section 5. NEW SECTION. RIGHT OF NOTICE, ACCESS AND CHALLENGE. Any person or his attorney with written authorization and fingerprint identification shall have the right to examine criminal history data filed with the bureau that refers to the person. The bureau may prescribe reasonable hours and places of examination.

Any person who files with the bureau a written statement to the effect that a statement contained in the criminal history data that refers to him is non-factual, or information not authorized by law to be kept, and requests a correction or elimination of that information that refers to him shall be notified within twenty days by the bureau, in writing, of the bureau's decision or order regarding the correction or elimination. The bureau's decision or order or failure to allow examina-

tion may be appealed to the district court of Polk county by the person requesting said examination, correction or elimination. Immediately upon such appeal the court shall order the bureau to file with the court a certified copy of the criminal history data and in no other situation shall the bureau furnish an individual or his attorney with a certified copy, except as provided by this Act.

Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access thereto shall be refused unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. No person, other than the appellant shall permit a copy of any of the testimony or pleadings or the substance thereof to be made available to any person other than a party to the action or his attorney. Violation of the provisions of this section shall be a public offense, punishable under section seven (7) of this Act.

Whenever the bureau corrects or eliminates data as requested or as ordered by the court, the bureau shall advise all agencies or individuals who have received the incorrect information to correct their files. Upon application to the district court and service of notice on the commissioner of public safety, an individual may request and obtain a list of all persons and agencies who received criminal history data referring to him, unless good cause be shown why the individual should not receive said list.

Section 6. NEW SECTION. CIVIL REMEDY. Any person may institute a civil action for damages under chapters twenty-

five A (25A) or six hundred thirteen A (613A) of the Code or to restrain the dissemination of his criminal history data or intelligence data in violation of this Act, and any person, agency or governmental body proven to have disseminated or to have requested and received criminal history data or intelligence data in violation of this Act shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorneys' fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

Section 7. NEW SECTION.
CRIMINAL PENALTIES.

1. Any person who willfully requests, obtains, or seeks to obtain criminal history data under false pretenses, or who willfully communicates or seeks to communicate criminal history data to any agency or person except in accordance with this Act, or any person connected with any research program authorized pursuant to this Act who willfully falsifies criminal history data or any records relating thereto, shall, upon conviction, for each such offense be punished by a fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than two years, or by both fine and imprisonment. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate criminal history data except in accordance with this Act shall for each such offense be fined not more than one hundred dollars or be im-

prisoned not more than ten days.

2. Any person who willfully requests, obtains, or seeks to obtain intelligence data under false pretenses, or who willfully communicates or seeks to communicate intelligence data to any agency or person except in accordance with this Act, shall for each such offense be punished by a fine of not more than five thousand dollars or by imprisonment in the state penitentiary for not more than three years, or by both fine and imprisonment. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate intelligence data except in accordance with this Act shall for each such offense be fined not more than five hundred dollars or be imprisoned not more than six months, or both.

3. If the person convicted under this section is a peace officer, the conviction shall be grounds for discharge or suspension from duty without pay and if the person convicted is a public official or public employee, the conviction shall be grounds for removal from office.

4. Any reasonable grounds for belief that a public employee has violated any provision of this Act shall be grounds for immediate removal from all access to criminal history data and intelligence data.

Section 8. NEW SECTION.
INTELLIGENCE DATA. Intelligence data contained in the files of the department of public safety or a criminal justice agency shall not be placed within a computer data storage system.

Intelligence data in the files of the department may be disseminated only to a peace officer, criminal justice agency, or state or federal regula-

tory agency, and only if the department is satisfied that the need to know and the intended use are reasonable. Whenever intelligence data relating to a defendant for the purpose of sentencing has been provided a court, the court shall inform the defendant or his attorney that it is in possession of such data and shall, upon request of the defendant or his attorney, permit examination of such data.

If the defendant disputes the accuracy of the intelligence data, he shall do so by filing an affidavit stating the substance of the disputed data and wherein it is inaccurate. If the court finds reasonable doubt as to the accuracy of such information, it may require a hearing and the examination of witnesses relating thereto on or before the time set for sentencing.

Section 9. NEW SECTION. No surveillance data shall be placed in files or manual or automated data storage systems by the department or bureau or by any peace officer or criminal justice agency. Violation of the provisions of this section shall be a public offense punishable under section seven (7) of this Act.

Section 10. NEW SECTION. RULES. The department shall adopt rules and regulations designed to assure the security and confidentiality of all criminal history data and intelligence data systems.

Section 11. NEW SECTION. EDUCATION PROGRAM. The department shall require an educational program for its employees and the employees of criminal justice agencies on the proper use and control of criminal history

data and intelligence data.

Section 12. NEW SECTION. DATA PROCESSING. Nothing in this Act shall preclude the use of the equipment and hardware of the data processing service center provided for in section nineteen B point three (19B.3), subsection five (5), of the Code for the storage and retrieval of criminal history data. Files shall be stored on the computer in such a manner as the files cannot be modified, destroyed, accessed, changed or overlaid in any fashion by noncriminal justice agency terminals or personnel. That portion of any computer, electronic switch or manual terminal having access to criminal history data stored in the state computer must be under the management control of a criminal justice agency.

Section 13. NEW SECTION. REVIEW. The department shall initiate periodic review procedures designed to determine compliance with the provisions of this Act within the department and by criminal justice agencies and to determine that data furnished to them is factual and accurate.

Section 14. NEW SECTION. SYSTEMS FOR THE EXCHANGE OF CRIMINAL HISTORY DATA. The department shall regulate the participation by all state and local agencies in any system for the exchange of criminal history data, and shall be responsible for assuring the consistency of such participation with the terms and purposes of this Act.

Direct access to such systems shall be limited to such criminal justice agencies as are expressly designated for that purpose by the department. The department shall, with respect to telecommunications terminals employed in the dissemination of criminal his-

tory data, insure that security is provided over an entire terminal or that portion actually authorized access to criminal history data.

Section 15. NEW SECTION. REPORTS TO DEPARTMENT. When it comes to the attention of a sheriff, police department, or other law enforcement agency that a public offense has been committed in its jurisdiction, it shall be the duty of the law enforcement agency to report information concerning such crimes to the bureau on a form to be furnished by the bureau not more than thirty-five days from the time the crime first comes to the attention of such law enforcement agency. These reports shall be used to generate crime statistics. The bureau shall submit statistics to the governor, legislature and crime commission on a quarterly and yearly basis.

When a sheriff, police department or other law enforcement agency makes an arrest which is reported to the bureau, the arresting law enforcement agency and any other law enforcement agency which obtains custody of the arrested person shall furnish a disposition report to the bureau whenever the arrested person is transferred to the custody of another law enforcement agency or is released without having a complaint or information filed with any court.

Whenever a criminal complaint or information is filed in any court, the clerk shall furnish a disposition report of such case.

The disposition report, whether by a law enforcement agency or court, shall be sent to the bureau within thirty days after disposition

on a form provided by the bureau.

Section 16. NEW SECTION. REVIEW AND REMOVAL. At least every year the bureau shall review and determine current status of all Iowa arrests reported after the effective date of this Act which are at least one year old with no disposition data. Any Iowa arrest recorded within a computer data storage system which has no disposition data after five years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

Section 17. NEW SECTION. EXCLUSIONS. Criminal history data in a computer data storage system does not include:

1. Arrest or disposition data after the person has been acquitted or the charges dismissed.

Section 18. NEW SECTION. PUBLIC RECORDS. Nothing in this Act shall prohibit the public from examining and copying the public records of any public body or agency as authorized by chapter sixty-eight A (68A) of the Code.

Section 19. NEW SECTION. There is hereby created a confidential records council consisting of nine regular members. Two members shall be appointed from the house of representatives by the speaker of the house, no more than one of whom shall be from the same party. Two members shall be appointed from the senate by the lieutenant governor, no more than one of whom shall be from the same party. The other members of the council shall be: a judge of the district court appointed by the chief justice of the supreme court, one local law enforcement official, appointed by the governor; the commissioner of public safety or his designee; and two private citizens not connected with enforcement, appointed by the governor. The council shall

select its own chairman. The members shall serve at the pleasure of those by whom their appointments are made.

The council shall meet at least annually and at any other time upon the call of the governor, the chairman of the council, or any three of its members. Each council member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties from funds appropriated to the department of public safety.

The council shall have the following responsibilities and duties:

1. Shall periodically monitor the operation of governmental information systems which deal with the collection, storage, use and dissemination of criminal history or intelligence data.

2. Shall review the implementation and effectiveness of legislation and administrative rules and regulations concerning such systems.

3. May recommend changes in said rules and regulations and legislation to the legislature and the appropriate administrative officials.

4. May require such reports from state agencies as may be necessary to perform its duties.

5. May receive and review complaints from the public concerning the operation of such systems.

6. May conduct such inquiries and investigations as it finds appropriate to achieve the purposes of this Act. Each criminal justice agency in this state and each state and local a-

gency otherwise authorized access to criminal history data is authorized and directed to furnish to the council, upon its request, such statistical data, reports, and other information in its possession as the council deems necessary to carry out its functions under this Act. However, the council and its members, in such capacity, shall not have access to criminal history data or intelligence data unless it is data from which individual identities are not ascertainable or data which has been masked so that individual identities are not ascertainable. However, the council may examine data from which the identity of an individual is ascertainable if requested in writing by that individual or his attorney with written authorization and fingerprint identification.

7. Shall annually approve rules and regulations adopted in accordance with section ten (10) of this Act and rules and regulations to assure the accuracy, completeness and proper purging of criminal history data.

8. Shall approve all agreements, arrangements and systems for the interstate transmission and exchange of criminal history data.

Section 20. NEW SECTION. The provisions of sections two (2) and three (3) of this Act shall not apply to the certifying of an individual's operating record pursuant to section three hundred twenty-one A point three (321A.3) of the Code.

AN ACT

RELATING TO SENTENCING IN CRIMINAL CASES; RELATING TO PROBATION AND THE CONDITIONS THEREOF; PROVIDING A PROCEDURE FOR RESTITUTION AS A CONDITION OF PROBATION; PROVIDING A PROCEDURE FOR DEFERRING JUDGMENT IN PARTICULAR CASES; RELATING TO THE CONDITIONS OF PAROLE; AND PROVIDING PROCEDURES NECESSARY THERETO.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION.
DEFERRED JUDGMENT OR SUSPENDED SENTENCE--PROBATION. The trial court may, upon a plea of guilty, verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise either of the options contained in subsections one (1) and two (2) of this section. However, this section shall not apply to the crimes of treason, murder, or violation of section two hundred four point four hundred one (204.401), subsection one (1) or two (2) of the Code, to which section two hundred four point four hundred nine (204.409), subsection two (2) of the Code is not applicable and which is not provided to be an accommodation of offense under section two hundred four point four hundred ten (204.410) of the Code.

1. With the consent of the defendant, the court may defer judgment and place the defendant on probation upon such terms and conditions as it may require. Upon fulfillment of the terms of probation the defendant shall be discharged without entry of judgment. Upon violation of the terms, the court may enter an adjudication of guilt and proceed as otherwise provided.

However, this subsection shall not be available if any of the following is true:

a. The defendant attempted to kill anyone during the commission of the offense.

b. The defendant purposefully inflicted or attempted to inflict a serious injury upon anyone during the commission of the offense. "Serious injury" means death, permanent disability or disfigurement, protracted loss or impairment of the function of any body member or organ, an injury requiring extended treatment or a prolonged healing period, a disabling mental illness requiring extended treatment or prolonged care, or an injury which at the time of deferment of judgment appears likely to result in any of the foregoing.

c. The defendant used, threatened to use or displayed in a threatening manner a dangerous weapon during the commission of the offense. "Dangerous weapon" means any instrument or device designed primarily for use in inflicting death or injury upon a human being or other living creature, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. "Dangerous weapon" also includes any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the defendant intends to inflict death or serious injury upon anyone and which, when

so used, is capable of inflicting death upon a human being.

d. The defendant kidnapped any person for ransom during the commission of the offense.

e. During the commission of the offense the defendant committed rape or sodomy by force or threat of force, committed or attempted to commit rape of or sodomy with a child twelve years of age or under, or committed a violation of section seven hundred twenty-five point two (725.2) of the Code with respect to a child twelve years of age or under and which included any of the following: force or threat of force, fondling or touching the child in a lewd manner, or soliciting a sexual act with the child.

f. The defendant has been previously convicted of a felony. "Felony" means a conviction in a court of this or any other state or of the United State, of an offense classified as a felony by the law under which he was convicted at the time of his conviction.

g. Prior to the commission of the offense the defendant had been granted a deferred judgment or similar relief, two or more times anywhere in the United States.

h. Prior to the commission of the offense the defendant had been granted a deferred judgment or similar relief in a felony prosecution anywhere in the United States within the preceding five years, measured from the date of granting of deferment of judgment to the date of commission of the offense.

Any deferment of judgment under this subsection shall

be promptly reported to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment against the defendant. The permanent record provided for in this subsection shall constitute a confidential record exempted from public access under section sixty-eight A point seven (68A.7) of the Code and shall be available only to justices of the supreme court, district judges, district associate judges, and judicial magistrates requesting information pursuant to this subsection.

2. By record entry at time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require.

Before exercising either of the options contained in subsections one (1) and two (2) of this section, the court shall first determine which of them will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making this determination the court shall consider the age of the defendant, his prior record of convictions, if any, his employment circumstances, his family circumstances, the nature of the offense committed, whether a dangerous wea-

pon or force was used in the commission of such offense, and such other factors as shall be appropriate. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment or to suspend sentence and its decision on the length of probation.

Section 2. NEW SECTION.
LENGTH OF PROBATION. The length of the probation shall be for such term as the court may fix but not to exceed five years if the offense is a felony or not to exceed two years if the offense is a misdemeanor, unless the person is ordered placed under the supervision of the chief parole officer, in which case the term of probation shall be determined by the board of parole and the probation of the defendant shall be supervised by the chief parole officer.

The length of the probation shall not be less than one year and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled, as provided in section six (6) of this Act.

In determining the length of the probation, the court shall first determine what period is most likely to provide maximum opportunity for the rehabilitation of the defendant, to allow enough time to determine whether or not rehabilitation has been successful, and to protect the community from further offenses by the defendant and others.

Section 3. NEW SECTION.
PRESENTENCE INVESTIGATION.

Upon a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction of any public offense may be rendered, the court shall receive from the state and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources, and may, if the offense is a felony, order a presentence investigation to be made.

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment or suspension of sentence and probation. The investigation shall be made by a probation officer, by the agency in charge of parole agents, or by another appropriate agency, as determined by the court.

Section 4. NEW SECTION.
PRESENTENCE INVESTIGATION AND REPORT. Whenever a presentence investigation is ordered by the court, the investigator shall promptly inquire into the defendant's characteristics, family and financial circumstances, needs, and potentialities; his criminal record and social history; the circumstances of the offense; the time the defendant has been in detention; and the harm to the victim, his immediate family, and the community. All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. With the approval of the court, a physical examination of the defendant may be ordered, or the defendant may be committed to a psychiatric facility for an evaluation of

his personality and mental health. The results of any such examination shall be included in the report of the investigator.

Section 5. NEW SECTION.
REPORT CONFIDENTIAL. The court may, in its discretion, make the presentence investigation report or parts of it available to the defendant, or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of any medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. Such reports shall be part of the record but shall be sealed and opened only on order of the court. In any case where the defendant is committed to the custody of the department of social services, a copy of the presentence investigation report shall be sent to the department at the time of commitment.

Section 6. NEW SECTION.
DISCHARGE FROM PROBATION. At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of any person on probation. At the expiration of the period of probation, in cases where the court fixes the term of probation, the court shall order the discharge of such person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to such person. A person who has been discharged from probation shall no longer be held to answer for his of-

fense. Upon discharge from probation, if judgment has been deferred under section one (1) of this Act, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the supreme court administrator required by section one (1) of this Act shall not be expunged. The court's record shall never be expunged in any other circumstances except as provided in section six hundred two point fifteen (602.15) of the Code.

Section 7. NEW SECTION.
CUSTODY OF COURT PROBATIONER--
RECORD TO CHIEF PAROLE OFFICER. When probation is granted under section one (1) of this Act, the court shall order said person committed to the custody, care, and supervision:

1. Of any suitable resident of this state; or

2. Of the chief parole officer. The chief parole officer shall not, however, accept the custody, care and supervision of any person granted probation from a sentence to a term in a county jail or any other person who in the judgment of the chief parole officer could not be properly supervised.

In each case wherein the court shall order said person committed to the custody, care, and supervision of the chief parole officer, the clerk of the district court shall at once furnish the chief parole officer with certified copies of the indictment or information, the minutes of testimony attached thereto, the judgment entry if judgment is not deferred, and the original mittimus. The county attorney shall at once advise the chief parole officer, by letter, that the defendant has been placed under the chief parole officer's supervision and give

to the chief parole officer a detailed statement of the facts and circumstances surrounding the crime committed and the record and history of the defendant as may be known to him. If the defendant is confined in the county jail at the time of sentence, the court may order him held until arrangements are made by the chief parole officer for his employment and he has signed the necessary probation papers. If the defendant is not confined in the county jail at the time of sentence, the court may order him to remain in the county wherein he has been convicted and sentenced and report to the sheriff as to his whereabouts.

Section 8. NEW SECTION.
RESTITUTION.

1. As used in this section, unless the context otherwise requires:

a. "Victim" means any person who has suffered pecuniary damages as a result of the defendant's criminal activities. However, with respect to any part of a victim's pecuniary damages paid by an insurer, the insurer shall be regarded as the victim only if the insurer has no right of subrogation and the insured has no duty to pay the proceeds of restitution to the insurer.

b. "Pecuniary damages" means all damages which a victim could recover against the defendant in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, "pecuniary damages" includes damages for wrongful death.

c. "Criminal activities"

includes any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered and any other crime committed after July 1, 1972 which is admitted or not contested by the defendant, whether or not prosecuted. However, "criminal activities" does not include misdemeanors under chapter three hundred twenty-one (321) of the Code.

d. "Restitution" means full or partial payment of pecuniary damages to a victim.

2. It is the policy of this state that restitution be made by each violator of the criminal laws to the victims of his criminal activities to the extent that the violator is reasonably able to do so. This section shall be interpreted and administered to effectuate this policy.

3. If the trial court exercises either of the sentencing options under section one (1) of this Act, the court shall require as a condition of probation that the defendant, in cooperation with the probation officer assigned to the defendant, promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is presently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during his probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that he will not be able to make any restitution, he shall so state and shall specify the reasons. If the defendant believes that no

person suffered pecuniary damages as a result of the defendant's criminal activities, he shall so state.

4. The defendant's plan of restitution and the comments of his probation officer shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it and providing for restitution payments to the extent that the defendant is or may become reasonably able to make restitution, taking into account the factors enumerated in subsection five (5) of this section. Compliance with the plan of restitution as approved or modified by the court shall be a condition of the defendant's probation. Restitution payments shall be made to the clerk unless otherwise directed by the court. The court thereafter may modify the plan at any time upon the defendant's request or upon the court's own motion. If the plan as approved or modified does not require full payment of pecuniary damages to all victims, or if the court determines that the defendant is not able and will not be able to make any restitution at any time during his probation period or that no person suffered pecuniary damages as a result of the defendant's criminal activities, the court shall file a specific written statement of its reasons for and the facts supporting its action or determination.

5. The probation officer when assisting the defendant in preparing the plan of restitution, and the court before approving or modifying the plan of restitution, shall consider the physical and mental health and condition of the defendant, his age, his education, his employment circumstances, his potential for employment and vocational training, his fam-

ily circumstances, his financial condition, the number of victims, the pecuniary damages of each victim, what plan of restitution will most effectively aid the rehabilitation of the defendant, and such other factors as shall be appropriate. The probation officer shall attempt to determine the name and address of each victim and the amount of his pecuniary damages.

6. The clerk shall mail to each known victim a copy of the court's order approving or modifying the plan of restitution, including the court's statement, if any, under subsection four (4) of this section.

7. At any time during the probation period the defendant may request and the court shall grant a hearing on any matter related to the plan of restitution.

8. Failure of the defendant to comply with subsection three (3) of this section or to comply with the plan of restitution as approved or modified by the court shall constitute a violation of the conditions of probation. Without limitation, the court may modify the plan of restitution or extend the period of time for restitution, but not beyond the maximum probation period specified in section two (2) of this Act.

9. This section and proceedings under this section shall not limit or impair the rights of victims to sue and recover damages from the defendant in a civil action. However, any restitution payment by the defendant to a victim shall be set off against any judgment in favor of the victim in a civil action arising out of the same facts or event. The fact that restitution was required or made shall not be admissible as evidence in a civil action unless offered by such defendant.

Section 9. This section amends section 247.6.

Section 10. Section three hundred twenty-one point two hundred eighteen (321.218), Code 1973, is amended to read as follows:

321.218 DRIVING WHILE LICENSE DENIED, SUSPENDED, OR REVOKED. Any person whose operator's or chauffeur's license, or driving privilege, has been denied, canceled, suspended or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while such license or privilege is denied, canceled, suspended, or revoked, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than two days or more than thirty days. The sentence imposed under this section shall not be suspended by the court, notwithstanding the provisions of section ~~247-20~~ one (1) of this Act or any other provision of statute. The department, upon receiving the record of the conviction of any person under this section upon a charge of driving a motor vehicle while the license of such person was suspended or revoked, shall extend the period or suspension or revocation for an additional like period, and the department shall not issue a new license during such additional period.

Section 11. Section six hundred two point fifteen (602.15), Code 1973, is amended to read as follows:

602.15 AMENDING OR EXPUNGING ENTRY. The record of any court proceedings is under the control of the court and, except as provided in section six (6) of this Act, may be amended or any entry therein expunged before it has been signed by the judge or within sixty days thereafter.

Section 12. Section seven hundred eighty-nine point two (789.2), Code 1973, is amended to read as follows:

789.2 JUDGMENT OF CONVICTION--TIME FOR. Upon a plea of guilty, verdict of guilty, or a special verdict upon which a judgment of conviction must may be rendered, the court must fix a time for pronouncing judgment, which must be ~~at least~~ three-days-after-the-verdict-is-rendered,-if-the-court-remains-in-session-so-long,-or,-if-not,as-remote-a-time-as-can-reasonably-be-allowed,-but-in-no-case-can-it-be-pronounced-in-less-than-six-hours-after-the-verdict-is-rendered,-unless-defendant-consent-thereto within a reasonable time but not less than eight days after the plea is entered or the verdict is rendered, unless the defendant consents thereto.

Section 13. Section seven hundred eighty-nine point eleven (789.11), Code 1973, is amended to read as follows:

789.11 JUDGMENT ENTERED. If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced, and none appears to the court upon the record, judgment shall be rendered. In every case in which judgment is entered, the court shall include in the judgment entry the number of the particular section of the Code under which the defendant is sentenced.

Section 14. PROSECUTIONS PROHIBITED. The action of any court in deferring judgment or conviction in a criminal case prior to the effective date of this Act is valid. No person previously prosecuted shall be tried, sentenced, or convicted based on the same facts as in a prior prosecution on the grounds that a sentence, conviction, or judgment as a result of that prosecution was deferred, and the deferment was later declared by the supreme court of this state to be

unauthorized by law. This section shall not apply to any case in which an appeal was pending on June 1, 1973.

Section 15. This section shall take effect July 1, 1974. Section three (3) of this Act is amended to read as follows:

PRESENTENCE INVESTIGATION.

Upon a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction of any public offense may be rendered, the court shall receive from the state and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources, and ~~may~~ shall, if the offense is a felony, order a presentence investigation to be made.

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment or suspension of sentence and probation. The investigation shall be made by a probation officer, by the agency in charge of parole agents, or by another appropriate agency, as determined by the court.

Section 16. Sections two hundred forty-seven point twenty (247.20) and two hundred forty-seven point twenty-one (247.21), Code 1973, are repealed.

CHAPTER 249

OLD-AGE ASSISTANCE

Referred to in §§78.2(6), 110.17, 142.1, 234.6(5), 239.10, 241.25, 249C.1, 425.2

Child and family services, see ch 234

As of January 1, 1974, Chapter 249 will no longer be in effect. At that time the following Code material will be in effect.

NEW SECTION. DEFINITIONS.

As used in this Act:

1. "Federal supplemental security income" means cash payments made to individuals by the United States government under Title sixteen (XVI) of the Social Security Act as amended by United States public law ninety-two dash six hundred three (92-603), or any other amendments thereto.

2. "State supplementary assistance" means cash payments made to individuals:

a. By the United States government on behalf of the state of Iowa pursuant to section three (3) of this Act.

b. By the state of Iowa directly pursuant to sections four (4) through six (6) of this Act.

3. "Previous categorical assistance programs" means the aid to the blind program authorized by chapter two hundred forty-one (241), Code 1973, the aid to the disabled program authorized by chapter two hundred forty-one A (241A), Code 1973, and the old-age assistance program authorized by chapter two hundred forty-nine (249), Code 1973.

4. "Commissioner" means the commissioner of social services.

5. "Department" means the department of social services.

The commissioner may enter into an agreement with the United States secretary of health, education and welfare for federal administration of a program of state supplementary assistance to prescribed categories of persons who are, or would be except for the amount of income they receive from other sources, receiving federal supplemental security income. The agreement may authorize the secretary to make such rules, in addition to and not in conflict with state laws and regulations, respecting eligibility for or the amount of state supplementary assistance paid under this section as he finds necessary to achieve efficient and effective administration of both the basic federal supplemental security income program and the state supplementary assistance program administered by the secretary under the agreement. The agreement shall provide for the state of Iowa to reimburse the federal government, from funds appropriated for that purpose, for state supplementary assistance paid by the federal government pursuant to the agreement.

NEW SECTION. ELIGIBILITY.

The persons eligible to receive state supplementary assistance under section two

(2), subsection two (2), paragraph b, of this Act are:

1. Any person whose needs were taken into account in computing the grant of a recipient, who was eligible for and was receiving assistance under a previous categorical assistance program during the month of December, 1973, because the person was deemed essential to the well-being of the recipient in maintaining a living arrangement in his own home, so long as the person continues to act in the capacity of essential person to the former recipient and to be in financial need according to standards established by the department.

2. Any person who during the month of December, 1973, was receiving assistance under a previous categorical assistance program and who during that month:

a. Received care in a licensed adult foster home, boarding home or custodial home, as defined by section one hundred thirty-five C point one (135C.1) of the Code, or in another type of protective living arrangement, and who continues to be in financial need according to standards established by the department; or

b. Received an allowance in his assistance grant to cover the cost of nursing care in his own home, and who continues to be in financial need according to standards established by the department and to require nursing care as certified by a physician, so long as the cost of the nursing care does not exceed standards established by the department.

NEW SECTION. APPLICATION--
AMOUNT OF GRANT. Applications for state supplementary assistance shall be made in the form and manner prescribed by the commissioner or his designee, with the approval of the council on social services, pursuant to chapter seventeen A (17A) of the Code. Each person who so applies and is found eligible under section four (4) of this Act shall, so long as his eligibility continues, receive state supplementary assistance on a monthly basis, from funds appropriated to the department for the purpose.

NEW SECTION. APPEAL PRO-
CEDURE. If an application is not acted upon within a reasonable time, 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 Act, the applicant or recipient may appeal to the department, which shall give the appellant reasonable notice and opportunity for a fair hearing before the commissioner or his designee. An applicant or recipient aggrieved by the result of such hearing may, within thirty days, appeal to the district court of the county in which he resides, by serving notice of such appeal upon the commissioner or his designee, in the manner required for the service of original notice in a civil action. Upon receipt of such notice, the department shall furnish the appellant with a copy of any papers filed by him in support of his position, a transcript of any testimony taken, and a copy of the department's decision. The

district court shall review the department's decision to determine its legality.

NEW SECTION. CHARGE FOR CASHING WARRANT UNLAWFUL. It shall be unlawful for any person to charge a fee, service charge or exchange for the cashing of a warrant issued in payment of state supplementary assistance, or to discount or pay less than the face value of any warrant drawn in payment of such assistance, when cashing such a warrant or accepting it in payment of the purchase price of goods, services, rent, taxes or indebtedness.

NEW SECTION. ASSISTANCE INALIENABLE. All rights to state supplementary assistance shall be absolutely inalienable by any assignment, sale, execution or otherwise and, in case of bankruptcy, the assistance shall not pass to or through any trustees or other persons acting on behalf of creditors.

NEW SECTION. CANCELLATION OF WARRANTS. The state comptroller, as of January, April, July and October first of each year, shall stop payment on and issue duplicates of all state supplementary assistance warrants which have been outstanding and unredeemed by the treasurer of state 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. If the original warrants are subsequently presented for payment, warrants in lieu thereof shall be issued by the state comptroller at

the discretion of and upon certification by the commissioner or his designee.

NEW SECTION. FUNERAL EXPENSES. The department may pay, from funds appropriated to it for the purpose, a maximum of four hundred dollars toward funeral expenses on the death of any person receiving state supplementary assistance or who received assistance under previous categorical assistance program prior to January 1, 1974, provided:

1. The total expense of the person's funeral does not exceed six hundred fifty dollars.

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

3. That any payment which is due the decedent's estate or beneficiary by reason of the liability of any life insurance or death or funeral benefit company, association or society, or in the form of United States social security, railroad retirement, or veterans' benefits, upon the death of the decedent shall be deducted from the department's liability under this section.

NEW SECTION. PRIOR LIENS, CLAIMS AND ASSIGNMENTS. Any lien existing on the effective date of this Act, which lien was perfected under the provisions of sections two hundred forty-nine point nineteen (249.19) two hundred forty-nine point twenty (249.20) as they appeared in the Code of 1973 and prior Codes, and which liens have not been satisfied, are void. Any assignment of personal property which was

made under the provisions of chapter two hundred forty-nine (249) as it appeared in the Code of 1973 and prior Codes, is void. The commissioner may in furtherance of this section release any lien or claim created or existing under that chapter. Each release made pursuant to this section shall be executed and acknowledged by the commissioner or his authorized designee, and when recorded shall be conclusive in favor of any third person dealing with or concerning the property affected by the release in reliance upon such record.

CHAPTER 249A

MEDICAL ASSISTANCE

Referred to in §§249A.6, 509.1(7), 514.1

249A.1 Title.
 249A.2 Definitions.
 249A.3 Eligibility.
 249A.4 Duties of commissioner.
 249A.5 Recovery of payment.

249A.6 Claims against estate.
 249A.7 Penalty.
 249A.8 Records—report of recipients.
 249A.9 Direct payment to health care facility—
 no deduction for service.

249A.1 Title. This chapter may be cited as the "Medical Assistance Act." [C62, 66, 71, §249A.1]

249A.2 Definitions. When used herein:

1. The terms "department" or "state department" shall mean the state department of social services.

2. The term "commissioner" shall mean the commissioner of the department of social services.

3. The term "county board" shall mean the county board of social welfare created by chapter 234.1.

4. "Recipient" shall mean a person who receives medical assistance under this chapter.

5. "Medical assistance" shall mean payment of all or part of the costs of the care and services enumerated in Title XIX, United States Social Security Act, section 1905(a), paragraphs (1) through (5), inclusive (Title XLII, United States Code, Section 1396d(a), paragraphs (1) through (5), inclusive), as amended to January 1, 1973.

6. "Additional medical assistance" shall mean payment of all or part of the costs of any or all of the care and services enumerated in Title XIX, United States Social Security Act, section 1905(a), paragraphs (6), (7), and (9) through (17), inclusive (Title XLII, United States Code, section 1396d(a), paragraphs (6), (7), and (9) through (17), inclusive), as amended to January 1, 1973.

249A.3 ELIGIBILITY. The extent of and the limitations upon eligibility for assistance under this chapter shall be as prescribed by this section, and by laws appropriating funds therefor.

1. Medical assistance shall be provided to, or on behalf of, any individual or family residing in the state of Iowa, including those residents who are temporarily absent from the state, who is a recipient of federal supplementary security income or who would be eligible for federal supplemental security income if living in their own home, as defined in section two (2) of this Act, or is a recipient of aid to dependent children payments under chapter two hundred thirty-nine (239) of the Code, and having no spouse or parent responsible under law of this state and found by the county board to be able to provide him or them with needed medical care and services.

2. Medical assistance may also, within the limits of available funds and in accordance with section 249A.4, subsection 1 and 2 be provided to, or on behalf of, other individuals and families who are not excluded under subsection 4 of this section and whose

incomes and resources are insufficient to meet the cost of necessary medical care and services, and who have no spouse or parent responsible under the law of this state and found by the county board to be able to provide him or them with such necessary medical care and services, in accordance with the following order of priorities:

a. Individuals who are receiving care in a hospital or in a basic nursing home, intermediate nursing home, skilled nursing home or extended care facility, as defined by section one hundred thirty-five C point one (135C.1) of the Code, and who meet all eligibility requirements for federal supplementary security income except that their income exceeds the allowable maximum, but whose income is insufficient to meet the full cost of their care in the hospital or health care facility on the basis of standards established by the department, and who were receiving assistance under a previous categorical assistance program during the month of December, 1973.

b. Individuals under twenty-one years of age living in a licensed foster home, or in a private home pursuant to a subsidized adoption arrangement, for whom the department accepts financial responsibility in whole or in part and who are not eligible under subsection one (1) of this section.

c. Individuals and families whose incomes and resources are such that they are elig-

ible for federal supplementary security income or aid to dependent children, but who are not actually receiving such public assistance.

d. Individuals who are receiving state supplementary assistance as defined by section two (2) of this Act.

e. Individuals and families who are ineligible under paragraph c of this subsection solely because of their incomes and resources, but who would otherwise be eligible under paragraph c of this subsection.

f. Persons under twenty-one years of age who qualify on a financial basis for, but who are otherwise ineligible to receive aid to dependent children.

g. Individuals who have attained the age of twenty-one but have not yet attained the age of sixty-five who qualify on a financial basis for, but who are otherwise ineligible to receive, federal supplementary security income or aid to dependent children.

3. Additional medical assistance may, within the limits of available funds and in accordance with section 249A.4, subsections 1 and 2, be provided to, or on behalf of, either:

a. Only those individuals and families described in subsection 1 of this section; or

b. Those individuals and families described in both subsection 1 and subsection 2 of this section.

4. No assistance shall be granted under this chapter to:

a. Any individual whose

income, after deduction of health care expenses incurred by the applicant, exceeds one thousand eight hundred dollars annually, or any family living together whose combined income, after deduction of health care expenses incurred by the family, exceeds on thousand eight hundred dollars for the first adult member plus nine hundred dollars for the second member and six hundred seventy-five dollars for each additional member of the family. Income shall not include the value of gifts or services contributed in kind to the individual or family.

b. Any individual whose resources, after deduction of health care expenses incurred by the applicant, exceeds two thousand dollars, or any family living together whose combined resources exceed two thousand dollars for the first member, one thousand dollars for the second member, plus two hundred dollars for each additional member. 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 effect and tools necessary for the pursuit of a trade, occupation or profession of a market value not to exceed six thousand dollars and the cash surrender value of life insurance not to exceed one thousand dollars, it shall be excluded without necessity for determining its cash surrender value.

249A.4 Duties of commissioner.

The commissioner shall be responsible for the effective and impartial administration of this chapter and shall, in accordance with the standards and priorities established by this chapter, by applicable federal law, particularly Title XIX of the United State Social Security Act (Title XLII, United State Code, section 1396 through 1396g), as amended to January 1, 1973, by the regulations and directives issued pursuant thereto, and by the state plan approved in accordance therewith, make rules and regulations, establish policies, and prescribe procedures to implement this chapter. Without limiting the generality of the foregoing delegation of authority, the commissioner is hereby specifically empowered and directed to:

1. Determine the greatest amount, duration, and scope of assistance which may be provided, and the broadest range of eligible individuals to whom assistance may effectively be provided, under this chapter within the limitations of available funds. In so doing, he shall at least every six months evaluate the scope of the program currently being provided under this chapter, project the probable cost of continuing a like program, compare such probable cost with the remaining balance of the state appropriation made for payment of assistance under this chapter during the current appropriation period, and expand or curtail the program accordingly; provided that in no event shall the scope of the program be less than payment of all costs of the care and services to which reference is made in section 249A.2, subsection 5, which are provided to the individuals and families described in section 249A.3, subsection 1. After each evaluation of the scope of the program, the commissioner shall report his conclusions and his action thereon to the general assembly through the legislative council or in such other manner as the general assembly may by resolution direct.

Referred to in §249A.3

2. Have authority to determine, when available funds permit expansion of the program provided under this chapter beyond the minimum scope required by subsection 1 of this section, whether priority shall be given to providing additional medical assistance to the individuals and families described in section 249A.3, subsection 1, or to providing medical assistance to some or all of the individuals

and families described in section 249A.3, subsection 2, unless the general assembly has by law made such determination.

Referred to in §249A.3

3. Have authority to provide for payment under this chapter of assistance rendered to any applicant prior to the date his application is filed.

4. Have authority to contract with any corporation authorized to engage in this state in insuring groups or individuals for all or part of the cost of medical, hospital, or other health care or with any corporation maintaining and operating a medical, hospital, or health service prepayment plan under the provisions of chapter 514 or with any health maintenance organization authorized to operate in this state, for any or all of the benefits to which any recipients are entitled under this chapter to be provided by such corporation or health maintenance organization on a prepaid individual or group basis.

5. May, to the extent possible, contract with a private organization or organizations whereby such organization will 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 such department. The state department may give due consideration to the advantages of contracting with any organization which may be serving in Iowa as "intermediary" or "carrier" under Title XVIII of the federal Social Security Act, as amended.

6. Shall co-operate with any agency of the state of federal government in any manner as may be necessary to qualify for federal aid and assistance for medical assistance in conformity with the provisions of this chapter and Titles sixteen (XVI) and XIX of the federal Social Security Act, as amended.

7. Shall provide for the professional freedom of those licensed practitioners who determine the need for or provide medical care and services, freedom of choice to recipients to select the provider of such care and services, and for medical direction and supervision as needed.

8. Shall advise and consult at least semi-annually 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 Medical Society, 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 Society, the Iowa Optometric Association, the Iowa Hospital Association, the Iowa Osteopathic Hospital Association, Iowa Ophthalmic Dispensers, Inc. (opticians) and the Iowa Nursing Home Association, together with one person designated by the Iowa state board of chiropractic examiners; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the lieutenant governor, each for a term of two years; four public representatives, two of whom shall be appointed each year by the governor for terms of two years each and none of whom shall be members of, or practitioners of or have a pecuniary interest in any of the professions or businesses represented by, any of the several professional groups and associations specifically represented on the council under this subsection; the commissioner of public health, or representative designated by him, and the dean of the college of medicine, University of Iowa, or a representative designated by him.

For each council meeting, other than those held during the time the general assembly is in session, each legislative member of the council shall be reimbursed for actual traveling and other necessary expenses and shall receive a per diem of forty dollars for each day in attendance, as shall the public representatives, regardless of whether the general assembly is in session.

9. Shall take such action as may be necessary to assure that licensed practitioners of the healing arts who provide professional services under this chapter shall be paid their reasonable, usual and customary charges. Payment for other medical assistance under this chapter shall be the usual and customary fees, charges and rates, provided, however, that if such payments are otherwise limited by federal law, such payment shall be as near the usual and customary fees, charges or rates as may be permitted by federal law.

10. Shall provide for granting an opportunity for a fair hearing before the commissioner of the department of social services or his authorized representative to any individual whose claim for medical assistance under this chapter is denied or is not acted upon with reasonable promptness.

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 commissioner to the district court of the

county in which the applicant or recipient resides, by serving ten days' notice of such appeal upon the commissioner of the department of social services or his authorized representative in the manner required by the service of original notice in any civil action. Upon the service of such notice, the commissioner or his authorized representative 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 commissioner to determine whether or not he has therein committed fraud or abused his discretion. The cost may be taxed to the appellant or may be remitted where the appeal is affirmed. [C62, 66, §§249A.5, 249A.10; C71, §249A.4]

249A.5 Recovery of payment. Medical assistance paid to, or on behalf of, any recipient cannot be recovered from such beneficiary unless such benefit had been incorrectly paid. 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 to so 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 shall constitute benefits incorrectly paid. Any benefits incorrectly paid shall be recoverable from the recipient, while living, as a debt due the state and, upon his death, as a claim classified with taxes having preference under the laws of this state. [C62, 66, §249A.13; C71, §249A.5]

249A.6 CLAIMS 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 and during which time such recipient was sixty-five years of age or older, the total amount paid as assistance to either shall be allowed as a claim of the sixth class against the estate of such decedent or the surviving spouse. Neither the home-

stead nor the proceeds therefrom of such decedent, or the survivor, shall be exempt from the payment of such claim, any Act or statute notwithstanding. 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 the married couple, either or both of whom have received assistance under the provisions of this chapter. No such claim shall be allowed, however, until the death of the surviving spouse nor shall such claim be allowed if a child under eighteen years of age, or a child who is blind or is permanently and totally disabled, survives a surviving spouse or a recipient who has no surviving spouse. The right to a claim existing on July 1, 1969, against the estate of any person who had, prior to said date, received medical assistance pursuant to chapter 249A, shall be preserved and continued under this chapter.

249A.7 Penalty. Any person who shall obtain assistance or payments for medical assistance 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, 66, §249A.15; C71, §249A.7]

~~**249A.8 Records report of recipients.** The general assembly finds and determines that the use and disclosure of information as provided in this section are for purposes directly connected with the administration of the plan established by this chapter and are essential for the proper administration of said plan.~~

~~All applications, investigation reports, information, and records concerning any applicant or recipient of medical assistance under this chapter shall be held confidential except as~~

~~otherwise provided in this section.~~

~~The use thereof by, and the disclosure thereof to, persons authorized by law in connection with their official duties relating to financial audits, legislative investigations, and other purposes directly connected with the administration of said plan, shall be permitted.~~

~~Release and the use of information of a general nature which does not identify a particular individual or individuals shall be provided as needed for adequate interpretation or development of the program. Such information includes but is not limited to: Total medical assistance expenditures; number of recipients; statistical and social data used in connection with studies; and reports or surveys on health and welfare problems.~~

~~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 last known addresses of all recipients receiving assistance under this chapter, together with the amount paid to or on behalf of each recipient 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 religious, 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 religious, commercial or political purposes.~~

~~Violations of this section shall be punishable as a misdemeanor.~~

~~If it is definitely established that any provision of this section would cause said plan to be ineligible for federal financial participation, such provision shall be limited or restricted to the extent which is essential to make said plan eligible for federal financial participation. The state department shall establish any rules and regulations which are necessary to carry out the intent of this paragraph. [C62, 66; §249A.18; C71, §249A.8]~~

~~Punishment: §687.7~~

249A.9 Direct payment to health care facility—no deduction for service. If the state department is making direct assistance payments to persons providing a recipient with services in a health care facility licensed under chapter 135C in amounts less than the usual and reasonable charge for such service, the state department shall permit the recipient or someone on his behalf to pay the person rendering the service the difference between the amount of assistance and the reasonable value of such service, without deducting such additional payment from the direct assistance payment to be made by the state department. [C71, §249A.9]

CHAPTER 249B

COMMISSION ON THE AGING

249B.1 Commission created.
 249B.2 Terms.
 249B.3 Meetings—officers.
 249B.4 Duties.

249B.5 Executive secretary.
 249B.6 Expenses.
 249B.7 Grants and gifts received.

249B.1 Commission created. There is hereby created the commission on the aging of the state of Iowa which shall consist of thirteen members. Three members shall be appointed by the president of the senate from the members of the senate with no more than two members being appointed from the same political party. Three members shall be appointed by the speaker of the house of representatives from the members of the house with no more than two members being appointed from the same political party. Seven members shall be appointed by the governor. [C66, 71, §249B.1]

249B.2 Terms. All members of the commission shall be appointed for terms of four years except the terms of the thirteen initial appointees shall be as follows:

1. One member appointed from the senate shall serve from the date of appointment to June 30, 1967, and two members appointed from the senate shall serve from the date of appointment to June 30, 1969.

2. Two members appointed from the house of representatives shall serve from the date of appointment to June 30, 1967, and one member appointed from the house of representatives shall serve from the date of appointment to June 30, 1969.

3. Three members appointed by the governor shall serve from the date of appointment to June 30, 1967, and four members appointed by the governor shall serve from the date of appointment to June 30, 1969.

The terms of office of all members shall thereafter commence on the first day of July following the convening of the general assembly. Any vacancy on the commission shall be filled for the unexpired term of the vacancy in the same manner as the original appointment. A vacancy shall exist on the commission whenever a legislative member ceases to be a member of the general assembly. [C66, 71, §249B.2]

249B.3 Meetings—officers. Members of the commission shall meet within thirty days after their appointment to select from the commission's membership a chairman, and such other officers as commission members deem necessary, who shall serve for a period of two years. The commission shall elect a new chairman every two years thereafter. The commission shall meet at regular intervals at least four times each year and may hold special meetings at the call of the chairman or at the request of a majority of the commission membership. The commission shall meet

at the seat of government or such other place as the commission members may so designate. [C66, 71, §249B.3]

249B.4 Duties. It shall be the duty of the commission to:

1. Collect facts and statistics and make special studies of conditions and problems pertaining to the employment, health, financial status, recreation, social adjustment or other conditions and problems pertaining to the general welfare of the aging of the state.

2. To make recommendations to state and local agencies serving the aging for purposes of co-ordinating such agencies activities, and to request and receive reports from the various state agencies and institutions on matters within the jurisdiction of the commission.

3. Keep informed of the latest developments of research, studies, and programs being conducted throughout the nation on the problems and needs of the aging.

4. Serve as a central agency or advisory board, or both, for the mutual exchange of ideas and information on the aging between federal, state and local governmental agencies, private organizations, and individuals.

5. Co-operate with agencies, federal, state and local, or private organizations, in administering and supervising demonstration programs of services for aging designed to foster continued participation of older people in family and community life and to prevent insofar as possible the onset of dependency and the need for long-term institutional care.

6. Report and make recommendations to the general assembly on the activities of the commission and improvements and additional resources needed to promote the general welfare of the aging in Iowa.

The commission shall have the power to create subcommittees to undertake such special studies as commission members shall authorize and may include noncommission members who are qualified in any field of activity related to the general welfare of the aging in the membership of such subcommittees. [C66, 71, §249B.4]

249B.5 Executive secretary. The commission shall appoint an executive secretary subject to the state merit system and shall prescribe the duties, powers, and authority of the appointee. The executive secretary shall serve as an executive officer and shall be a full-time employee of the commission. [C66, 71, §249B.5]

249B.6 Expenses. The members of the commission, and noncommission members serving on commission subcommittees, shall receive no compensation for their services other than reimbursement for traveling and other expenses actually incurred in the performance of their official duties. Commission expenses including the salary of the executive secretary and any office expenses shall be paid from funds made available to the commission by the general assembly. [C66, 71, §249B.6]

249B.7 Grants and gifts received. The commission may receive federal funds or any grants and gifts on behalf of the state for such purposes as are within the jurisdiction of the commission. All federal funds, grants and gifts shall be deposited with the state treasurer and shall be used only for such purposes agreed upon as conditions for receiving the funds, grants and gifts. [C66, 71, §249B.7]

CHAPTER 249C
WORK AND TRAINING PROGRAM

Referred to in §§239.5, 241A.3, 249.7

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| <p>249C.1 Definitions.
249C.2 Programs of rehabilitation.
249C.3 Work and training program.
249C.4 Co-operation.
249C.5 Bases for program.
249C.6 Participation required.
249C.7 Public or private training.
249C.8 Health and safety.
249C.9 Workmen's compensation law applicable.</p> | <p>249C.10 Earnings applied to aid.
249C.11 Needs related to work.
249C.12 Care of children.
249C.13 Other social services.
249C.14 Transfer of funds.
249C.15 Rules adopted.
249C.16 Eligible persons not state employees.
249C.17 Chapter not to interfere with federal assistance.</p> |
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249C.1 Definitions. For the purposes of this chapter:

1. "Commissioner" means the commissioner of social services, or his designee.
2. "Department" means the department of social services.
3. "Training" includes appropriate education.
4. "Public assistance" means aid or assistance under chapter 239, 241A, or 249.
5. "Eligible person" includes each person who is receiving public assistance or who lives in the same household as a recipient of public assistance and whose needs are taken into account in determining the assistance payment. However, the following are not "eligible persons" unless they voluntarily request to be included:
 - a. A person who is under the age of sixteen years.
 - b. A person who has attained the age of sixty-five years.
 - c. A person whose health or disability does not permit any kind of work or training.
 - d. A person who is already engaged in an adequate full-time program of work, training, or school.
 - e. A person who is required to be present and is actually present in the home on a substantially continuous basis because of the illness or incapacity of another member of the household.
 - f. A person who is required to be present and is actually present in the home on a substantially continuous basis for the purpose of child care. [C71,§249C.1]

249C.2 Programs of rehabilitation. It is the policy of this state that public assistance programs shall, to the maximum possible extent, be programs of rehabilitation rather than mere support. Persons and members of families receiving public assistance shall be helped to become self-supporting, and shall be required to engage in work and training to the extent provided in this chapter. This chapter shall be interpreted and administered to carry out this policy. [C71,§249C.2]

249C.3 Work and training program. The commissioner shall establish a work and training program for persons and members of families receiving public assistance. The employment security commission, the Iowa state employment service, all county boards and departments of social welfare, and all state, county, and public educational agencies and institutions providing vocational rehabilitation, adult education, or vocational or technical training shall assist and co-operate in the program. They shall make agreements and arrangements for maximum co-operation and use of all available resources in the program. By mutual agreement the commissioner may delegate any of his powers and duties under this chapter to the employment security commission or the Iowa state employment service. [C71,§249C.3]

249C.4 Co-operation. The program shall provide for maximum co-operation with and participation in federal programs having similar purposes, but the state work and training program shall continue whether or not federal programs and federal funds are available. [C71,§249C.4]

249C.5 Bases for program. The program shall include, but not be limited to:

1. Placing eligible persons in employment and on-the-job training.
2. Institutional and work experience training for eligible persons for whom such training is likely to lead to regular employment.
3. Special work projects for eligible persons for whom a job in the regular economy cannot be found.
4. Incentives, opportunities, and services to aid eligible persons. [C71,§249C.5]

249C.6 Participation required. Each eligible person shall be required to participate in the work and training program, to co-operate fully in the program, and to accept any reasonably suitable employment, training, or education offered to him in connection with the program, as a condition of receiving public assistance. If he fails or refuses to do so, he shall not receive

public assistance. His disqualification shall not disqualify other members of his family who are entitled to public assistance, but their public assistance shall not be paid to the disqualified person and shall be paid in a manner which will not permit the disqualified person to have access to the assistance funds. A person shall not be disqualified for public assistance if it is impossible to arrange suitable work or training for him. [C71,§249C.6]

249C.7 Public or private training. Work or training may be furnished by public or private agencies, organizations, or companies, under rules adopted by the commissioner. [C71, §249C.7]

249C.8 Health and safety. The commissioner shall establish and maintain reasonable standards for health, safety, and other conditions under the work and training program. [C71,§249C.8]

249C.9 Workmen's compensation law applicable. Each eligible person, with respect to work performed under this chapter, shall be covered by the workmen's compensation law or shall otherwise be provided with comparable protection. [C71,§249C.9]

249C.10 Earnings applied to aid. If earnings are received by an eligible person for work under the program, all or part of the earnings may be applied to reduce the cost of public assistance to the person or his family, under rules adopted by the commissioner. However, the commissioner may permit the eligible person to retain a reasonable part of his earnings as an incentive payment, without reduction of public assistance. [C71,§249C.10]

249C.11 Needs related to work. In determining needs for public assistance, expenses and needs reasonably related to work or training under the program shall be taken into account. [C71,§249C.11]

249C.12 Care of children. When needed, arrangements shall be made for the care of children during the absence from the home of a person participating in work or training under the program. [C71,§249C.12]

249C.13 Other social services. Eligible persons and their families shall be offered other social services which the commissioner deems advisable. [C71,§249C.13]

249C.14 Transfer of funds. For the purposes of the work and training program, the commissioner may use or transfer to any other agency any of the funds appropriated for public assistance and any other funds lawfully available. State and federal funds allocated to the program by the commissioner and the employment security commission shall be at least equal to five percent of the total state and federal funds available to the department for assistance under chapter 239, unless the commissioner determines that a lesser amount is sufficient to provide an ade-

quate work and training program for all eligible persons. [C71,§249C.14]

249C.15 Rules adopted. The commissioner shall adopt rules to implement this chapter and achieve its purposes. [C71,§249C.15]

249C.16 Eligible persons not state employees. No eligible person shall be deemed to be an employee of the state or any of its subdivisions by reason of his participation in the work and training program. However, this section shall not prevent him from having the status of an employee for the purposes of workmen's compensation. [C71,§249C.16]

249C.17 Chapter not to interfere with federal assistance. If it is finally determined that any provision of this chapter would cause the work and training program to be ineligible for federal financial assistance which the state would otherwise receive, such provision may be suspended or modified to the extent which is essential to obtain such assistance. [C71, §249C.17]

Mandatory county participation in food stamp program, §234.11

CHAPTER 250

COMMISSION OF VETERAN AFFAIRS

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| 250.1 Tax. | 250.12 Relief information confidential. |
| 250.2 Control of fund. | 250.13 Burial—expenses. |
| 250.3 Commission of veteran affairs. | 250.14 Headstone. |
| 250.4 Appointment—vacancies. | 250.15 Expenses and audit thereof. |
| 250.5 Compensation. | 250.16 Markers for graves. |
| 250.6 Qualification—organization. | 250.17 Maintenance of graves. |
| 250.7 Meetings—report—budget. | 250.18 Payment—how made. |
| 250.8 Accounting system. | 250.19 Burial records. |
| 250.9 Names certified—relief changed. | 250.20 Repealed by 58 GA, ch 180, §2. |
| 250.10 Disbursements—inspection of records. | 250.21 World War II dates. |
| 250.11 Data furnished bonus board. | |

250.1 Tax. A tax not exceeding one mill on the dollar may be levied by the board of supervisors upon all taxable property within the county, to be collected at the same time and in the same manner as other taxes, to create a fund for the relief of, and to pay the funeral expenses of honorably discharged, indigent men and women of the United States who served in the military or naval forces of the United States in any war including the Korean Conflict at any time between June 27, 1950, and July 27, 1953, both dates inclusive, and including the Vietnam Conflict at any time between August 5, 1964 and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities, both dates inclusive, and their indigent wives, widows and minor children not over eighteen years of age, having a legal residence in the county. [C97, §430; SS15, §430; C24, 27, 31, 35, §5385; C39, §3828.051; C46, 50, 54, 58, 62, 66, 71, §250.1]

Referred to in §250.5

250.2 Control of fund. Said fund shall be expended for the purposes aforesaid by the joint action and control of the board of supervisors and the commission of veteran affairs hereinafter provided for. [SS15, §430; C24, 27, 31, 35, §5386; C39, §3828.052; C46, 50, 54, 58, 62, 66, 71, §250.2; 64GA, ch 1056, §1]

250.3 Commission of veteran affairs. The commission of veteran affairs shall consist of three persons, all of whom shall be honorably discharged men or women of the United States who served in the military or naval forces of the United States in any war, including the Korean Conflict at any time between June 27, 1950, and July 27, 1953, both dates inclusive, and including the Vietnam Conflict at any time between August 5, 1964 and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities, both dates inclusive. Said membership shall at all times, as near as possible, be equally divided among the men and women who served in the Spanish American War, World War I and World War II. [C97, §431; C24, 27, 31, 35, §5387; C39, §3828.053; C46, 50, 54, 58, 62, 66, 71, §250.3; 64GA, ch 1056, §2]

250.4 Appointment—vacancies. Members of said commission shall be appointed by said

board at the regular meeting in June, and the first appointees shall hold their office for one, two, and three years, respectively, and until their successors shall be appointed and qualify, and thereafter one shall be appointed each year for a term of three years. Any appointee may be removed at any time by said board for neglect of duty or maladministration. Vacancies shall be filled by appointment by the board. [C97, §431; C24, 27, 31, 35, §5388; C39, §3828.054; C46, 50, 54, 58, 62, 66, 71, §250.4]

250.5 Compensation. The members of said commission shall be paid for their services the sum of five dollars per day for each day actually employed in the work of said commission, and also the same mileage that is paid to the members of the board of supervisors. Said per diem and mileage shall be paid out of the taxes raised under the provisions of section 250.1. In the event the commission has employed administrative or clerical help, the members of the commission shall receive compensation for attendance at the annual and monthly meetings only. [C27, 31, 35, §5388-b1; C39, §3828.055; C46, 50, 54, 58, 62, 66, 71, §250.5]

Mileage, §331.22

250.6 Qualification — organization. They shall qualify by taking the usual oath of office, and give bond in the sum of five hundred dollars each, conditioned for the faithful discharge of their duties with sureties to be approved by the county auditor. The commission shall organize by the selection of one of their number as chairman, and one as secretary. The commission, subject to the approval of the board of supervisors, shall have power to employ necessary administrative or clerical assistants when needed, the compensation of such employees to be fixed by the board of supervisors, but no member of the commission shall be so employed. The commission with the approval of the board of supervisors shall appoint one of the deputies of the county auditor to serve as administrative assistant to the commission, to serve without additional compensation, unless for good reasons shown, this arrangement is not feasible. [C97, §431; C24, 27, 31, 35, §5389; C39, §3828.056; C46, 50, 54, 58, 62, 66, 71, §250.6]

Oath, §63.10

250.7 Meetings—report—budget. The commission shall meet monthly on the first Mon-

day and at such other times as may be necessary. At the monthly meeting it shall determine who are entitled to relief and the probable amount required to be expended therefor. The commission shall meet annually on the second Monday in June. At such annual meeting it shall prepare an estimated budget for all expenditures to be made in the next fiscal year and certify said budget to the board of supervisors, who shall have the power and authority to approve or reduce said budget for valid reasons shown and entered of record and such decision shall be final. [C97,§432; S13,§432; C24, 27, 31, 35,§5390; C39,§3828.057; C46, 50, 54, 58, 62, 66, 71,§250.7]

250.8 Accounting system. The state auditor shall prepare sample copies of a system of accounting and case records for the use of all county commissions of veteran affairs and this uniform system of accounting and case records shall be used by the several counties. [C46, 50, 54, 58, 62, 66, 71,§250.8; 64GA, ch 1056,§3]

250.9 Names certified—relief changed. At each regular meeting the commission shall submit to the board of supervisors a certified list of those persons to whom relief has been authorized and the amounts so awarded. The amount awarded to any person may be increased, decreased, or discontinued by the commission at any meeting. New names may be added and certified thereat. [C97,§432; S13, §432; C24, 27, 31, 35,§5391; C39,§3828.058; C46, 50, 54, 58, 62, 66, 71,§250.9]

250.10 Disbursements—inspection of records. On the first Monday in each month, all claims certified shall be reviewed by the board of supervisors and the county auditor shall issue his warrants in payment of same drawn upon the soldiers relief fund. 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 commission of veteran affairs shall prepare and file in the office of the county auditor 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.

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 county auditor. 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. [C97,§432; S13,§432; C24, 27, 31, 35,§5392; C39,§3828.059; C46, 50, 54, 58, 62, 66, 71,§250.10; 64GA, ch 1056,§4]

250.11 Data furnished bonus board. The commission of veteran affairs of each county shall obtain for and transmit to the state bonus board, created by chapter 35, at such time and in such manner as the board shall specify, such information as said board may request concerning any person having or claiming to have any right to award from the additional bonus and disability fund created by said chapter. [C27, 31, 35,§5392-b1; C39,§3828.060; C46, 50, 54, 58, 62, 66, 71,§250.11; 64GA, ch 1056, §5]

250.12 Relief information confidential. It shall be unlawful for the board of supervisors of any county or the commission of veteran affairs of any county to place the administration of the duties of the commission of veteran affairs under any other relief agency of any county, or to publish the names of the veterans or their families who receive relief under the provisions of this chapter. [C46, 50, 54, 58, 62, 66, 71,§250.12; 64GA, ch 1056,§6]

250.13 Burial—expenses. The board shall designate some suitable person in each township to cause to be decently interred in a suitable cemetery and not in any cemetery or part thereof used exclusively for the burial of the pauper dead, the body of any honorably discharged man or woman of the United States, who served in the military or naval forces of the United States during any war, including the Korean Conflict at any time between June 27, 1950, and July 27, 1953, both dates inclusive, and including the Vietnam Conflict at any time between August 5, 1964, and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities, both dates inclusive, or his wife, widow, or child, if any such person has died without leaving sufficient means to defray the funeral expenses. The commission shall pay such expenses in a sum not exceeding two hundred dollars in any case. [C97, §433; S13,§433; C24, 27, 31, 35,§5393; C39, §3828.061; C46, 50, 54, 58, 62, 66, 71,§250.13]

250.14 Headstone. The grave of each soldier, sailor, marine, or nurse shall be marked by a headstone, showing his name and the organization to which he belonged or in which he served. The headstone shall be of such design and material as may be approved by the board of supervisors, and shall cost not more than fifteen dollars. If, however, a headstone of the above general description shall be

COMMISSION OF VETERAN AFFAIRS

provided by the national government or if a tombstone shall be furnished by private persons for such grave, the headstone herein provided for need not be provided at county expense. [C97,§434; C24, 27, 31, 35,§5394; C39, §3828.062; C46, 50, 54, 58, 62, 66, 71,§250.14]

250.15 Expenses and audit thereof. The expenses of such burial and headstone shall be paid by the county in which such person died. If such person is a resident of a different county at the time of death, the latter county shall reimburse the county wherein he died for the cost of such burial and headstone. In either case, the board of supervisors of such respective counties shall audit the account and pay the same from the funds provided for in this chapter in such manner as other claims are audited and paid. [C97,§434; C24, 27, 31, 35, §5395; C39,§3828.063; C46, 50, 54, 58, 62, 66, 71, §250.15]

250.16 Markers for graves. The commission of veteran affairs in any county shall, upon the petition of five reputable freeholders of any township or municipality in their county, procure for and furnish to said petitioners some suitable and appropriate metal marker, at a cost not exceeding three and one-half dollars each, for the grave of each honorably discharged man or woman of the United States, who served in the military or naval forces of the United States during any war, including the Korean Conflict at any time between June 27, 1950, and July 27, 1953, both dates inclusive, and including the Vietnam Conflict at any time between August 5, 1964, and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities, both dates inclusive, who is buried within the limits of said township or municipality, to be placed at his grave to permanently mark and designate said grave for memorial purposes. The expenses thereof shall be paid from any funds raised as provided in this chapter. [SS15,§434-a; C24, 27, 31, 35,§5396; C39, §3828.064; C46, 50, 54, 58, 62, 66, 71,§250.16; 64GA, ch 1056,§7]

250.17 Maintenance of graves. The board of supervisors of the several counties in this state shall each year, out of the general fund of their respective counties, appropriate and pay to the owners of, or to the public board or officers having control of cemeteries within the state in which any such deceased service man or woman of the United States is buried, a sum sufficient to pay for the care and maintenance of the lots on which they are so buried, in any and all cases in which provision for such care is not otherwise made. [C27, 31, 35, §5396-a1; C39,§3828.065; C46, 50, 54, 58, 62, 66, 71,§250.17]

41GA, ch 94,§1, editorially divided

250.18 Payment—how made. Such payment shall be made at the rate charged for like care and maintenance of other lots of similar size in the same cemetery, upon the affidavit of the superintendent or other person in charge of

such cemetery, that the same has not been otherwise paid or provided for. [C27, 31, 35, §5396-a2; C39,§3828.066; C46, 50, 54, 58, 62, 66, 71,§250.18]

250.19 Burial records. The commission of veteran affairs of each county shall be charged with securing the information requested by the adjutant general's office of every person having a service record buried in that county. Such information shall be secured from the undertaker in charge of the burial and shall be transmitted by him to the commission of veteran affairs of the county where burial is made and shall be recorded alphabetically and by description of location in the cemetery where buried, in a book as prescribed by the adjutant general and kept for that purpose in the office of the commission. [C46, 50, 54, 58, 62, 66, 71,§250.19; 64GA, ch 1056,§8]

250.20 Repealed by 58GA, ch 180,§2.

250.21 World War II dates. For the purposes of this chapter, World War II shall be from December 7, 1941, to September 2, 1945, both dates inclusive. [C58, 62, 66, 71,§250.21]

CHAPTER 251

EMERGENCY RELIEF ADMINISTRATION

Child and family services, see ch 234

- 251.1 Definitions.
 251.2 Administration of emergency relief.
 251.3 Powers and duties.
 251.4 Grants from state funds to counties.
 251.5 Duties of the county board of social welfare.
 251.6 County supervisors to determine relief and work projects.
 251.7 County directors to act as executive officers.

251.1 Definitions. As used in this chapter: "Division" or "state division" means the division of child and family services of the department of social services; "director" or "state director" means the director of the division of child and family services of the department of social services. [C71,§251.1]

251.2 Administration of emergency relief. The state division, 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, 66, §251.1; C71,§251.2]

251.3 Powers and duties. The state director 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 director 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, 66,§251.2; C71,§251.3]

Report to governor, §17:3

251.4 Grants from state funds to counties. The state division 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 division 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 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, 66,§251.3; C71,§251.4]

251.5 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 director and the county board of supervisors. [C39,§3828.070; C46, 50, 54, 58, 62, 66,§251.4; C71,§251.5]

251.6 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

§251.6, EMERGENCY RELIEF ADMINISTRATION

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 community-wide 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, 66, §251.5; C71,§251.6]

251.7 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, 66,§251.6; C71,§251.7]

CHAPTER 252

SUPPORT OF THE POOR

Referred to in §238.34

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| 252.1 "Poor person" defined. | 252.23 Trial. |
| 252.2 Parents and children liable. | 252.24 County of settlement liable. |
| 252.3 Putative father. | 252.25 Relief by trustees. |
| 252.4 Who deemed trustee. | 252.26 Overseer of poor. |
| 252.5 Remote relatives. | 252.27 Form of relief—condition. |
| 252.6 Enforcement of liability. | 252.28 Medical services. |
| 252.7 Notice—hearing. | 252.29 Interest prohibited. |
| 252.8 Scope of order. | 252.30 Special privileges to soldiers and others. |
| 252.9 Judgment—appeal. | 252.31 County expense. |
| 252.10 Abandonment—order as to property. | 252.32 Township trustees—duty. |
| 252.11 Preservation and release of lien. | 252.33 Application for relief. |
| 252.12 Trial by jury. | 252.34 Allowance by board. |
| 252.13 Recovery by county. | 252.35 Payment of claims. |
| 252.14 Homestead—when liable. | 252.36 Annual allowance. |
| 252.15 Recovery by relative. | 252.37 Appeal to supervisors. |
| 252.16 Settlement—how acquired. | 252.38 Contracts for support. |
| 252.17 Settlement continues. | 252.39 Medical and dental service. |
| 252.18 Foreign paupers. | 252.40 Supervision. |
| 252.19 Importation prohibited. | 252.41 Employment. |
| 252.20 and 252.21 Repealed by 58GA, ch 181,§2. | 252.42 Co-operation on work-relief projects. |
| 252.22 Contest between counties. | 252.43 Poor tax. |

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 forbid 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, 66, 71, §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, 66, 71, §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, 66, 71,§252.3]

Obligation of parent, ch 676

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, 66, 71,§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, 66, 71,§252.5]

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 child and family services of the department of social services 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, 66, 71,§252.6]

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, 66, 71, §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, 66, 71, §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, 66, 71, §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 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 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, 66, 71, §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, 66, 71, §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, §3828.034; C46, 50, 54, 58, 62, 66, 71, §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, 66, 71, §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 child, as defined in section 234.1. [C31, 35, §5309-c1; C39, §3828.086; C46, 50, 54, 58, 62, 66, 71, §252.14; 64GA, ch 1027, §29]

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, 53, 62, 66, 71,§252.15]

252.16 Settlement—how acquired. A legal settlement in this state may be acquired as follows:

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. A person who is an inmate of or is supported by an institution whether organized for pecuniary profit or not or an institution supported by charitable or public funds in a county in this state shall not acquire a settlement in the county unless the person before becoming an inmate in the institution or being supported by an institution has a settlement in the county. A minor child residing in an institution assumes the settlement of his parent as prescribed in subsections five (5) and six (6) of this section. Settlement of the minor child changes with the settlement of his parent, except that the child retains the settlement that his parent has on the child's eighteenth birthday until he is discharged from the institution, at which time he acquires his own settlement, as provided in this section.

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 state.

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, 66, 71,§252.16]

Referred to in §§222.60(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, 66, 71, §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, 66, 71, §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, 66, 71,§252.19]

252.20 and 252.21 Repealed by 58GA, ch 181, §2.

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, 66, 71,§252.22]

Referred to in §232.53

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, 66, 71,§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, 66, 71,§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, 66, 71,§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, 66, 71,§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, civil legal aid, or in money. Legal aid authorized herein shall be provided only through a legal aid program approved by the county board of supervisors. 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. Subject to the provisions of section 142.1, such relief may also consist of the burial of nonresident indigent transients and the payment of the reasonable cost of such burial, provided such expenses do not exceed two hundred fifty dollars. [C73,§1361; C97, §2230; S13,§2230; C24, 27, 31, 35,§5322; C39, §3828.099; C46, 50, 54, 58, 62, 66, 71,§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

§252.29, SUPPORT OF THE POOR

where such services are rendered. [C73,§1361; C97,§2230; S13,§2230; C24, 27, 31, 35,§5323; C39, §3828.100; C46, 50, 54, 58, 62, 66, 71,§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, 66, 71,§252.29]

Referred to in §252.31
Similar provisions, §§19B.5, 68B.3, 86.7, 262.10, 314.2, 347.15, 368A.22, 372.16, 403.16, 403A.22, 553.23, 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, 66, 71, §252.30]

Referred to in §252.31

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, 66, 71,§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, §819; R60,§1387; C73,§1364; C97,§2233; S13,§2233; C24, 27, 31, 35,§5327; C39,§3828.104; C46, 50, 54, 58, 62, 66, 71,§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, 66, 71, §252.33]

Referred to in §252.34

252.34 Allowance by board. The board of supervisors may examine into all claims, in-

cluding 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 necessities 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, 66, 71,§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, 66, 71,§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, 66, 71,§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, 66, 71,§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, 66, 71,§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, 66, 71, §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, 66, 71, §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, §827; R60, §1395; C73, §1371; C97, §2240; C24, 27, 31, 35, §5336; C39, §3828.113; C46, 50, 54, 58, 62, 66, 71, §252.41]

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, 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 per month 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, 66, 71, §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 county tax.

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 division of child and family services of the department of social services. To administer such support for Indians residing on a reservation, such state division shall have the powers and duties assigned to county officials by this chapter, or the state division or director of same may designate the director of social welfare in the county where such Indians reside to administer such relief. [C51, §844; R60, §1412; C73, §1381; C97, §2247; S13, §2247; C24, 27, 31, 35, §5337; C39, §3828.114; C46, 50, 54, 58, 62, 66, 71, §252.43]

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

For the extended fiscal year beginning January 1, 1974 and ending June 30, 1975, and for that period only, the maximum levy for support of the poor in each county, expressed in mills, shall be computed by the state comptroller as prescribed by this section. This computation shall be in lieu of any other statutory limitation for the period January 1, 1974 through June 30, 1975.

1. The tentative maximum poor fund millage levy for each county shall be equal to one hundred fifty percent of the total millage levy which that county made for the poor fund under all applicable statutes for the budget year beginning January 1, 1972 and ending December 31, 1972.

2. The reduction in the levy for the poor fund in each county, due to elimination of county responsibility for aid to dependent children, aid to the blind, aid to the disabled and for certain foster care expenditures, shall be established as follows:

a. The amount charged the county by the department of social services during the calendar year 1972 as the county's share of payments made by the state for aid to dependent children, aid to

the blind, aid to the disabled, and foster care for children who were under the custody, care or supervision of the state department of social services or of a county department of social services, shall be determined.

b. The assessed valuation of property against which the county made its poor fund millage levy in 1971, payable in 1972, shall be determined.

c. The millage rate required to produce the amount determined pursuant to paragraph a of this subsection, levied upon the assessed valuation determined pursuant to paragraph b of this subsection, shall be computed. One hundred fifty percent of this millage rate shall be the millage reduction in the poor fund levy of the county.

3. The maximum poor fund millage levy for the extended fiscal year in each county shall be established as follows:

a. From the county's tentative maximum poor fund levy determined pursuant to subsection one (1) of this section, subtract the millage reduction in the poor fund levy of the county determined pursuant to subsection two (2) of this section.

b. The maximum poor fund millage levy for the extended fiscal year shall be the millage levy determined pursuant to paragraph a of this subsection increased by seven and one-half percent. However, the state appeal board established by chapter twenty-four (24) of the Code may permit a higher levy to the extent required in order to prevent severe hardship due to unusual circumstances beyond the control of the

county government, or in order to adjust for an abnormally low levy for the 1972 budget year.

NEW SECTION. For each fiscal year following the extended fiscal year the maximum levy for the support of the poor in each county shall be two-thirds of the maximum poor fund millage levy for the extended fiscal year beginning January 1, 1974 and ending June 30, 1975, determined pursuant to section four (4) of this Act. However, the state appeal board may permit a higher levy for any year to the extent required in order to prevent severe hardship due to unusual circumstances beyond the control of the county government.

During the period beginning January 1, 1974 and ending July 1, 1975, when the board of supervisors of any county determines by resolution that the poor fund levy is not sufficient, it may levy an additional tax which shall not exceed three-quarters of one mill on all property in the county. Warrants may be issued to provide the funds as needed until the levy and collection of taxes is accomplished. The board of supervisors shall not levy such additional taxes or issue warrants until the action is approved by the state appeal board.

CHAPTER 252A

UNIFORM SUPPORT OF DEPENDENTS LAW

Referred to in §§238.34, 598.34

- 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, 66, 71, §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 any 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 but shall not be limited to a stepchild, foster child or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over 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 attor-

ney 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, 66, 71, §252A.2; 64GA, ch 1027, §30, ch 1124, §133]

252A.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 eighteen years of age and any other dependent residing or found in the same state or in another state having substantially 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.

2. A mother in one state is hereby declared to be liable for the support of her child or children under eighteen 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 dependent child eighteen 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 under the 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, 66, 71, §252A.3; 64GA, ch 1027, §31]

NEW SUBSECTION. The natural parents of a child born out of wedlock shall be severally liable for the support of the child, but the liability of the father shall not be enforceable unless he has been adjudicated to be the child's father by a court of competent jurisdiction, or he has acknowledged paternity of the child in open court or by written statement.

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

1. The court shall have jurisdiction 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, 66, 71, §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, 66, 71, §252A.5]

§252A.6, UNIFORM SUPPORT OF DEPENDENTS LAW

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 re-

sponding 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. However, if the court of the responding state is unable to obtain jurisdiction because the respondent resides in or is domiciled or found in another county of the responding state, the papers received from the court of the initiating state may be forwarded by the court of the responding state which received the papers to the court of the county in the responding state in which the respondent resides or is domiciled or found, and the court of the initiating shall be notified of the transfer. The court of the county where the respondent resides or is domiciled or found shall acknowledge receipt of the papers to both the court of the initiating state and the court of the responding state which forwarded them, and shall take full jurisdiction of the proceedings with the same powers as if it had received the papers directly from the court of 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 respondent 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.

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, 66, 71, §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, 66, 71, §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, 66, 71, §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, 66, 71, §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, 66, 71, §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, 66, 71, §252A.11]

252A.12 Exchange lists of courts. The state division of child and family services of the department of social services 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, 66, 71, §252A.12]

CHAPTER 253

COUNTY HOMES

Referred to in §135B.18

Exemption from hospital licenses, §135B.18

- 253.1 Establishment—submission to vote.
 253.2 Management.
 253.3 Annual published report.
 253.4 Steward.
 253.5 Admission—labor required.
 253.6 Order for admission.

- 253.7 Discharge.
 253.8 Visitation and inspection.
 253.9 Education of children.
 253.10 Letting out.
 253.11 Joint care by two counties.

253.1 Establishment—submission to vote. The board of supervisors of each county may order the establishment of a county home in such county whenever it is deemed advisable, and may make the requisite contracts and carry such order into effect, provided the cost of said county home, if in excess of fifteen thousand dollars, shall be first estimated by said board and approved by vote of the people. [C51,§828; R60,§1396; C73,§1372; C97,§2241; SS15,§2241; C24, 27, 31, 35,§5338; C39,§3828.115; C46, 50, 54, 58, 62, 66, 71,§253.1]

Submission of question, §345.1

253.2 Management. The board of supervisors, or any committee appointed by it for that purpose, may make all contracts and purchases requisite for the county farm and home and may prescribe rules or regulations for the management and government of the same, and for the sobriety, morality, and industry of its occupants. [C51,§833; R60,§1401; C73,§1373; C97,§2242; S13,§2242; C24, 27, 31, 35,§5339; C39,§3828.116; C46, 50, 54, 58, 62, 66, 71,§253.2]

253.3 Annual published report. The board of supervisors shall, during the month of January of each year, publish in the official papers of the county as part of its proceedings, a financial statement of the receipts of the county home, or county farm, itemizing the same and stating the source thereof, which report shall also set forth the total expenditures thereof and the value of the property on hand on January 1 of the year for which the report is made and a comparison with the inventory of the previous year. [C24, 27, 31, 35,§5340; C39,§3828.117; C46, 50, 54, 58, 62, 66, 71,§253.3]

253.4 Steward. The board may appoint a steward of the county home, who shall be governed in all respects by the rules and regulations of the board and its committees, and may be removed by the board at pleasure, and who shall receive such compensation, perform such duties, and give such security for his faithful performance as the board may direct. [C51,§834; R60,§1402; C73,§1374; C97,§2243; S13,§2243; C24, 27, 31, 35,§5341; C39,§3828.118; C46, 50, 54, 58, 62, 66, 71,§253.4]

Removal under preference law, §70.6

253.5 Admission—labor required. The steward shall receive into the county home any person producing an order as hereafter provided, and enter in a book to be kept for that purpose, the name, age, and date of his reception, and may require of persons so admitted such reasonable and moderate labor as may be suited to their ages and bodily strength, the proceeds of which, together with the receipts of the poor farm, shall be appropriated to the use of the county home in such manner as the board may determine. [C51,§§835, 836; R60,§§1403, 1404; C73,§§1375, 1376; C97,§2244; S13,§2244; C24, 27, 31, 35,§5342; C39,§3828.119; C46, 50, 54, 58, 62, 66, 71,§253.5]

253.6 Order for admission. No person shall be admitted to the county home except upon the written order of a township trustee or member of the board of supervisors, and relief shall be furnished in the county home only, when the person is able to be taken there, except as hereinbefore otherwise provided. [C51,§837; R60,§1405; C73,§1377; C97,§2244; S13,§2244; C24, 27, 31, 35,§5343; C39,§3828.120; C46, 50, 54, 58, 62, 66, 71,§253.6]

253.7 Discharge. When any inmate of the county home becomes able to support himself, the board must order his discharge. [C51,§840; R60,§1408; C73,§1379; C97,§2245; S13,§2245; C24, 27, 31, 35,§5344; C39,§3828.121; C46, 50, 54, 58, 62, 66, 71,§253.7]

253.8 Visitation and inspection. The board shall cause the county home to be visited at least once a month by one of its body, who shall carefully examine the condition of the inmates and the manner in which they are fed and clothed and otherwise provided for and treated, ascertain what labor they are required to perform, inspect the books and accounts of the steward, and look into all matters pertaining to the county home and its inmates, and report to the board. [C51,§842; R60,§1410; C73,§1380; C97,§2246; S13,§2246; C24, 27, 31, 35,§5345; C39,§3828.122; C46, 50, 54, 58, 62, 66, 71,§253.8]

253.9 Education of children. Poor children, when cared for at the county home, shall attend the district school for the district in which such home is situated, and a ratable proportion of the cost of the school, based upon

the attendance of such poor children to the total number of days attendance thereat, shall be paid by the county into the treasury of such school district, and charged as part of the expense of supporting the county home. [C51, §844; R60, §1412; C73, §1381; C97, §2249; S13, §2249; C24, 27, 31, 35, §5346; C39, §3828.123; C46, 50, 54, 58, 62, 66, 71, §253.9]

253.10 Letting out. The board is invested with authority to let out the support of the poor, with the use and occupancy of the county home and farm, for a period not exceeding three years. [C51, §847; R60, §1415; C73, §1382; C97, §2248; S13, §2248; C24, 27, 31, 35, §5347; C39, §3828.124; C46, 50, 54, 58, 62, 66, 71, §253.10]

253.11 Joint care by two counties. The board may, at its discretion and in the interests of efficiency and economy in the care of its poor, enter into an agreement with the board of any adjoining county for the transfer of the inmates of the county home of one of said counties to that of the other and for the mutual support and maintenance of said inmates by said counties. The cost of maintaining and supporting said inmates shall be divided between the two counties upon an equitable basis to be mutually agreed upon by the joint boards of the contracting counties. [C46, 50, 54, 58, 62, 66, 71, §253.11]

CHAPTER 254

TUBERCULOUS PATIENTS

Referred to in §§135B.31, 271.10, 271.15, 347.16, 347.17, 444.12

- 254.1 Care and treatment.
- 254.2 Separate buildings.
- 254.3 Appropriation for construction.
- 254.4 Allowance for support.
- 254.5 Inspection by department of health.

- 254.6 Refractory tuberculous patients.
- 254.7 Segregation and forcible detention.
- 254.8 Free treatment to any resident.
- 254.9 Failure or refusal to continue.
- 254.10 Donations and insurance payments.

254.1 Care and treatment. The board of supervisors of each county shall provide suitable care and treatment for persons suffering from tuberculosis, and where no other suitable provision has been made, they may contract for such care and treatment with the board of trustees of any hospital, not maintained for pecuniary profit. [S13,§409-s; SS15, §409-t2; C24, 27, 31, 35,§5369; C39,§3828.125; C46, 50, 54, 58, 62, 66, 71,§254.1]

Referred to in §347.16

254.2 Separate buildings. Said board of supervisors may construct, or otherwise provide, and equip suitable buildings in connection with any hospital in the county for the segregation, care, and treatment of patients afflicted with tuberculosis.

No institution, hospital, or building for the care and treatment of persons afflicted with tuberculosis shall be established at any county home. [SS15,§409-t3; C24, 27, 31, 35,§5370; C39, §3828.126; C46, 50, 54, 58, 62, 66, 71,§254.2]

254.3 Appropriation for construction. The board may, in counties having a population of over fifteen thousand and under sixty-seven thousand, appropriate a sum not exceeding five thousand dollars, and in counties of less than fifteen thousand, a sum not to exceed two thousand dollars for acquiring, constructing, and equipping sites and buildings, without submitting the question to a vote. [SS15,§409-t4; C24, 27, 31, 35,§5371; C39,§3828.127; C46, 50, 54, 58, 62, 66, 71,§254.3]

254.4 Allowance for support. The board of supervisors may allow, from the county mental health and institutions fund of the county, for the care and support of each tuberculous patient cared for in any such institution, a sum not exceeding the average per patient per day cost of treatment in any such institution. [SS15,§409-t4; C24, 27, 31, 35,§5372; C39, §3828.128; C46, 50, 54, 58, 62, 66, 71,§254.4; 64GA, ch 1108,§9]

254.5 Inspection by department of health. Any such department shall be inspected and approved by the state department of health, which department shall have the power to require alterations in buildings and equipment, and such changes in treatment as may be necessary in order to make the institution and treatment conform to modern and accepted methods for the treatment of tuberculosis. [SS15,§409-t3; C24, 27, 31, 35,§5373; C39,§3828.129; C46, 50, 54, 58, 62, 66, 71,§254.5]

254.6 Refractory tuberculous patients. Any person suffering from tuberculosis, who shall persistently refuse to obey or comply with the rules of any institution for the care of tuberculous patients, may, by order of the district court of the county in which such institution is located, be committed to the state sanatorium, subject to the rules of admission at said institution, or to any county sanatorium or other institution where tuberculous patients are treated. [C24, 27, 31, 35,§5374; C39,§3828.130; C46, 50, 54, 58, 62, 66, 71,§254.6]

254.7 Segregation and forcible detention. If any patient being treated for tuberculosis at the state sanatorium, or any county sanatorium or other institution where tuberculosis is cared for, shall refuse to comply with the laws of the state or rules for the government of the institutions named herein, and shall persistently, or carelessly, or maliciously violate such laws or rules so as to menace the welfare of said institution or to interfere with the administration, order, or peace of said institution, then upon complaint of the superintendent of any institution herein designated, such person may, by order of the district court, be segregated and forcibly detained in a ward or room, for such purpose, and for such period of time as may be deemed advisable by the court, to the end that such person may be properly treated, and the population of such institution may be protected and the decorum maintained. [S13,§409-q; C24, 27, 31, 35,§5375; C39,§3828.131; C46, 50, 54, 58, 62, 66, 71,§254.7]

254.8 Free treatment to any resident. Treatments shall be supplied free to any legal resident of Iowa suffering from tuberculosis upon the signed certificate of his county director of social welfare, or the overseer of the poor, as the board of supervisors may direct, or in case of a county maintaining a separate public tuberculosis hospital, his board of hospital trustees, that such person has applied for such treatment and agreed to remain under treatment until discharged by the sanatorium, as no longer having tuberculosis in a communicable stage and is not possessed of sufficient income or estate to enable him to make payment of the costs of such treatment in whole or in part without affecting his reasonable economic security or support, in light of his resources, obligations and responsibilities to dependents; and expenditures of public funds for treatment of tuberculosis shall be considered expenditures for the protection of the public health and not as moneys advanced in the

nature of welfare or relief. The state department of health shall promulgate rules and regulations for the uniform administration of the provisions of this section, which shall govern the county directors of social welfare, overseers of the poor, and boards of hospital trustees in the issuance of such certificates. Any applicant who is denied a certificate by the county director of social welfare, overseer of the poor or the board of hospital trustees, may apply to a judge of the district court of his county of residence, either in term or on vacation, for a review thereof and hearing thereon which shall be de novo. The district judge shall promptly hear such application and shall render final decision thereon and enter an order accordingly. The director, overseer and board of hospital trustees shall file a copy of such certificates issued by them and the clerk of the court shall file a copy of any order entered by the district judge with the county auditor of the county of legal settlement of the applicant. [C50, 54, 58, 62, 66, 71, §254.8]

Referred to in §347.16

254.9 Failure or refusal to continue. Any person receiving free treatment under the provisions of this chapter who shall fail or refuse to continue the same until the disease is no longer in a communicable stage, may be ordered rehospitalized, by the district court of any county in which such person is found, in the same or any other sanatorium until such person no longer has tuberculosis in a communicable stage. Said order shall be issued only after complaint by any local or state health officer to such court and after hearing pursuant to notice to said person as prescribed by said court. Process shall issue to any peace officer for the enforcement of any such order of court. [C50, 54, 58, 62, 66, 71, §254.9]

254.10 Donations and insurance payments. The county through the board of supervisors, or in case of a county maintaining a separate public tuberculosis hospital, through the board of hospital trustees, may receive any contributions or donations of money or property from patients or other persons. Money payable under the terms of an insurance contract covering costs of hospitalization of tuberculous patients shall be paid to the board of supervisors, or in case of a county maintaining a separate public tuberculosis hospital, to the board of hospital trustees, of the county of the patient's residence, if the insured is receiving free care under the provisions of this chapter. [C50, 54, 58, 62, 66, 71, §254.10]

CHAPTER 255

MEDICAL AND SURGICAL TREATMENT OF INDIGENT PERSONS

Referred to in §135B.31

- 255.1 Complaint.
- 255.2 Duty of public officers and others.
- 255.3 "Patient" defined.
- 255.4 Examination by physician.
- 255.5 Report by physician.
- 255.6 Investigation and report.
- 255.7 Notice of hearing—duty of county attorney.
- 255.8 Hearing—order—emergency cases—cancellation of commitments.
- 255.9 Treatment for infant.
- 255.10 Religious belief—denial of order.
- 255.11 Order in case of emergency.
- 255.12 Certified copy of order.
- 255.13 Attendant—physician—compensation.
- 255.14 Expenses—how paid.
- 255.15 Duty of admitting physician at hospital.
- 255.16 County quotas.
- 255.17 Report of physician in charge of clinic.
- 255.18 Reports.
- 255.19 Treatment of other patients — use of earnings for new facilities.
- 255.20 Hospital treatment.
- 255.21 Treatment outside hospital—attendant.
- 255.22 Treatment authorized.
- 255.23 Treatment gratuitous—exception.
- 255.24 Record and report of expenses.
- 255.25 Audit of accounts of hospital.
- 255.26 Expenses—how paid—action to reimburse county.
- 255.27 Faculty to prepare blanks—printing.
- 255.28 Transfer of patients from state institutions.
- 255.29 Medical care for parolees.
- 255.30 Collecting and settling claims for care.

255.1 Complaint. Any adult resident of the state may file a complaint in the office of the clerk of any juvenile court, charging that any legal resident of Iowa residing in the county where the complaint is filed is pregnant or is suffering from some malady or deformity that can probably be improved or cured or advantageously treated by medical or surgical treatment or hospital care, and that neither such person nor persons legally chargeable with his support are able to pay therefor. [SS15,§254-b; C24, 27, 31, 35,§4005; C39,§3828.132; C46, 50, 54, 58, 62, 66, 71,§255.1]

255.2 Duty of public officers and others. It shall be the duty of physicians, public health nurses, members of boards of supervisors and township trustees, overseers of the poor, sheriffs, policemen, and public school teachers, having knowledge of persons suffering from any such malady or deformity, to file or cause such complaint to be filed. [SS15,§254-b; C24, 27, 31, 35,§4006; C39,§3828.133; C46, 50, 54, 58, 62, 66, 71,§255.2]

255.3 "Patient" defined. The word "patient" as used in this chapter means the person against whom the complaint is filed. [C24, 27, 31, 35,§4007; C39,§3828.134; C46, 50, 54, 58, 62, 66, 71,§255.3]

255.4 Examination by physician. Upon the filing of such complaint, the clerk shall number and index the same and shall appoint a competent physician and surgeon, living in the vicinity of the patient, who shall personally examine the patient with respect to said pregnancy, malady, or deformity. The clerk may, after the expiration of five years from the filing of a complaint, destroy it and all papers or records in connection therewith. [SS15,§254-b; C24, 27, 31, 35,§4008; C39,§3828.135; C46, 50, 54, 58, 62, 66, 71,§255.4]

255.5 Report by physician. Such physician shall make a report in duplicate on blanks furnished as hereinafter provided, answering the questions contained therein and setting

forth the information required thereby, giving such history of the case as will be likely to aid the medical or surgical treatment or hospital care of such patient, describing the pregnancy, deformity, or malady in detail, and stating whether or not in his opinion the same can probably be improved or cured or advantageously treated, which report shall be filed in the office of the clerk within such time as the clerk may fix. [SS15,§§254-b,j; C24, 27, 31, 35, §4009; C39,§3828.136; C46, 50, 54, 58, 62, 66, 71, §255.5]

255.6 Investigation and report. When such complaint is filed, the clerk shall furnish the county attorney and board of supervisors with a copy thereof and said board shall, by the overseer of the poor or such other agent as it may select, make a thorough investigation of facts as to the legal residence of the patient, and the ability of the patient or others chargeable with his support to pay the expense of such treatment and care; and shall file a report of such investigation in the office of the clerk, at or before the time of hearing. [SS15,§254-b; C24, 27, 31, 35,§4010; C39,§3828.137; C46, 50, 54, 58, 62, 66, 71,§255.6]

255.7 Notice of hearing—duty of county attorney. When the physician's report has been filed, the clerk shall, with the consent of the court or judge, fix a time and place for hearing of the matter by the court, and the county attorney shall cause such patient and the parent or parents, guardian, or person having the legal custody of said patient, if under legal disability, to be served with such notice of the time and place of the hearing as the judge or clerk may prescribe. [SS15,§254-c; C24, 27, 31, 35,§4011; C39,§3828.138; C46, 50, 54, 58, 62, 66, 71,§255.7]

255.8 Hearing — order — emergency cases — cancellation of commitments. The county attorney and the overseer of the poor, or other agent of the board of supervisors of the county where the hearing is held, shall appear thereat. The complainant, the county attorney,

the overseer of the poor or other agent of the board of supervisors, and the patient, or any person representing him, or her, may introduce evidence and be heard. If the court finds that said patient is a legal resident of Iowa and is pregnant or is suffering from a malady or deformity which can probably be improved or cured or advantageously treated by medical or surgical treatment or hospital care, and that neither the patient nor any person legally chargeable with his or her support is able to pay the expenses thereof, then the clerk of court, except in obstetrical cases and cases of crippled children, shall immediately ascertain from the admitting physician at the university hospital whether such person can be received as a patient within a period of thirty days, and if the patient can be so received, the court, or in the event of no actual contest, the clerk of the court, shall then enter an order directing that said patient be sent to the university hospital for proper medical and surgical treatment and hospital care. If the court ascertain, excepting in obstetrical cases and orthopedic cases, that a person of the age or sex of the patient, or afflicted by the complaint, disease or deformity with which such person is affected cannot be received as a patient at the said university hospital within the period of thirty days, then he or the clerk shall enter an order directing the board of supervisors of the county to provide adequate treatment at county expense for said patient at home or in a hospital. Obstetrical cases and orthopedic cases may be committed to the university hospital without regard to the limiting period of thirty days hereinbefore stated.

In any case of emergency the court or the clerk without previous inquiry may at its discretion order the patient to be immediately taken to and accepted by the university hospital for the necessary care as provided in section 255.11, but if such a patient cannot be immediately accepted at the university hospital as ascertained by telephone if necessary, the court or the clerk may enter an order as in certain cases above set forth directing the board of supervisors to provide adequate treatment at county expense for the said patient at home or in a hospital. [SS15,§254-c; C24, 27, 31, 35,§4012; C39,§3828.139; C46, 50, 54, 58, 62, 66, 71,§255.8; 64GA, ch 1124,§134]

Referred to in §§255.9, 255.14

255.9 Treatment for infant. Whenever a woman who is pregnant is committed to the hospital under the provisions of section 255.8, the said commitment shall authorize the hospital to provide proper medical or surgical treatment and hospital care for the infant. [C31, 35,§4012-d1; C39,§3828.140; C46, 50, 54, 58, 62, 66, 71,§255.9]

255.10 Religious belief — denial of order. The court in its discretion may refuse to make such order in any case where the court finds the patient or his parent, parents, or guardian are members of a religious denomination whose tenets preclude dependence on the practice of medicine or surgery and desire in good faith to rely upon the practice of their religion

for relief from disease or disorder. [C24, 27, 31, 35,§4013; C39,§3828.141; C46, 50, 54, 58, 62, 66, 71,§255.10]

255.11 Order in case of emergency. In cases of great emergency, when the court or judge is satisfied that delay would be seriously injurious to the patient, he may make such order with the consent of the patient, if adult, or of the parent or parents, guardian, or person having the legal custody of said patient, if a minor or incompetent, without examination, report, notice, or hearing. [SS15,§254-c; C24, 27, 31, 35, §4014; C39,§3828.142; C46, 50, 54, 58, 62, 66, 71, §255.11]

Referred to in §255.8

255.12 Certified copy of order. The clerk shall prepare a certified copy of said order, which, together with a copy of the physician's report, shall be delivered to the admitting physician of said hospital at or before the time of the reception of the patient into the hospital. [SS15,§254-j; C24, 27, 31, 35,§4015; C39,§3828.143; C46, 50, 54, 58, 62, 66, 71,§255.12]

255.13 Attendant — physician — compensation. If the physician appointed to examine the patient shall certify that an attendant to accompany the patient to the said hospital is necessary, and the university hospital attendant and ambulance service is not available, then the court or judge or clerk of the court may appoint an attendant who shall receive not exceeding two dollars per day for the time thus necessarily employed and actual necessary traveling expenses by the most feasible route to said hospital whether by ambulance, train or automobile; but if such appointee is a relative of the patient or a member of his immediate family, or receives a salary or other compensation from the public for his services, no such per diem compensation shall be paid him. The physician appointed by the court or clerk to make the examination and report shall receive therefor three dollars for each examination and report so made and his actual necessary expenses incurred in making such examination, but if said physician receives a salary or other compensation from the public for his full-time services, then no such examination fee shall be paid. The actual, necessary expenses of transporting and caring for the patient shall be paid as hereinafter provided. [SS15,§254-h; C24, 27, 31, 35,§4016; C39,§3828.144; C46, 50, 54, 58, 62, 66, 71,§255.13; 64GA, ch 1124,§135]

Referred to in §255.14

255.14 Expenses—how paid. An itemized, verified statement of all charges provided for in sections 255.8 and 255.13, in cases where the patient is admitted or accepted for treatment at the university hospital shall be filed with the superintendent of the university hospital, and upon his recommendation when approved by the judge or clerk of the court under whose order the same were incurred, they shall be charged on the regular bill for the maintenance, transportation and treatment of the patient, and be audited and paid in the manner

MEDICAL TREATMENT OF INDIGENT PERSONS,

as hereinafter provided. [SS15,§254-h; C24, 27, 31, 35,§4017; C39,§3828.145; C46, 50, 54, 58, 62, 66, 71,§255.14; 64GA, ch 1124,§136]

255.15 Duty of admitting physician at hospital. The authorities in control of the medical college shall designate some physician to pass upon the admission of such patient, and it shall be his duty to receive such patient into the hospital and to provide for him, if available, a cot, bed, or room in said hospital, and to assign him to the appropriate clinic and for treatment by the proper physician, unless, in his judgment, the presence of the patient in the hospital would be dangerous to other patients, or there is no reasonable probability that he may be benefited by the proposed treatment or hospital care. If the admitting physician shall deny admission to the patient, he shall make a report in duplicate of his reasons therefor. [SS15,§254-d; C24, 27, 31, 35,§4018; C39,§3828.146; C46, 50, 54, 58, 62, 66, 71,§255.15]

Referred to in §255.18

255.16 County quotas. Subject to subsequent qualifications in this section, there shall be treated at the university hospital during each fiscal year a number of committed indigent patients from each county which shall bear the same relation to the total number of committed indigent patients admitted during the year as the population of such county shall bear to the total population of the state according to the last preceding official census. This standard shall apply to indigent patients, the expenses of whose commitment, transportation, care and treatment shall be borne by appropriated funds and shall not govern the admission of either obstetrical or orthopedic patients. If the number of patients admitted from any county shall exceed by more than ten percent the county quota as fixed and ascertained under the first sentence of this section, the charges and expenses of the care and treatment of such patients in excess of ten percent of the quota shall be paid from the funds of such county at actual cost; but if the number of excess patients from any county shall not exceed ten percent, all costs, expenses, and charges incurred in their behalf shall be paid from the appropriation for the support of the hospital. [C35,§4018-f1; C39, §3828.147; C46, 50, 54, 58, 62, 66, 71,§255.16]

Referred to in §271.17(1)

255.17 Report of physician in charge of clinic. If the physician or surgeon in charge of said clinic, or to whom such patient has been assigned for treatment, declines to treat such patient, he shall make a report in duplicate of his examination of such patient, and state therein his reasons for declining such treatment. [SS15,§254-d; C24, 27, 31, 35,§4019; C39, §3828.148; C46, 50, 54, 58, 62, 66, 71,§255.17]

Referred to in §255.18

255.18 Reports. One duplicate of each of the reports named in sections 255.15 and 255.17 shall be preserved in the records of said hospital, and the other transmitted to the clerk of the court where said order committing the patient to said hospital was entered, and by

the clerk filed and preserved among the records in the cause. [SS15,§254-d; C24, 27, 31, 35, §4020; C39,§3828.149; C46, 50, 54, 58, 62, 66, 71, §255.18]

255.19 Treatment of other patients—use of earnings for new facilities. The university hospital authorities may at their discretion receive into the hospital for medical, obstetrical or surgical treatment or hospital care, patients not committed thereto under the provisions of this chapter; but the treatment or care of such patients shall not in any way interfere with the proper medical or surgical treatment or hospital care of committed patients. The university hospital ambulances and ambulance personnel may be used for the transportation of such patients at a reasonable charge if specialized equipment is required and is not otherwise available and if such use does not interfere with the ambulance transportation of patients committed to the hospital.

All of the provisions of this chapter except as to commitment of patients shall apply to such patients. The university hospital authorities shall collect from the person or persons liable for the support of such patients reasonable charges for hospital care and service and deposit the same with the treasurer of the university for the use and benefit of the university hospital. Earnings of the hospital whether from private patients, cost patients, or indigents shall be administered so as to increase as much as possible, the service available for indigents, including the acquisition, construction, reconstruction, completion, equipment, improvement, repair, and remodeling of medical buildings and facilities and additions thereto and the payment of principal and interest on bonds issued to finance the cost thereof as authorized by the provisions of chapter 263A. The physicians and surgeons on the hospital staff who care for patients provided for in this section may charge for their medical services under such rules, regulations and plan therefor as approved by the state board of regents. [C24, 27, 31, 35,§4021; C39, §3828.150; C46, 50, 54, 58, 62, 66, 71,§255.19; 64GA, ch 1057,§1]

255.20 Hospital treatment. When any patient has been admitted to the hospital for treatment, the physician or surgeon in charge of the case shall proceed with due care and diligence to perform such operation or bestow such treatment upon such patient as in his judgment shall be necessary and proper. Adequate nursing and hospital care shall be provided for said patient during such treatment. [SS15,§254-d; C24, 27, 31, 35,§4022; C39,§3828.151; C46, 50, 54, 58, 62, 66, 71,§255.20]

Referred to in §271.17(1)

255.21 Treatment outside hospital—attendant. If, in the judgment of the physician or surgeon to whom the patient has been assigned for treatment, continuous residence of the patient in the hospital is unnecessary, such patient may, by the hospital authorities, be sent to his home or other appropriate place, and be required to return to the hospital when and for such length of time as may be for his

§255.26, MEDICAL TREATMENT OF INDIGENT PERSONS

benefit. The hospital authorities may, if necessary, appoint an attendant to accompany such patient and discharged patients, and the compensation of such attendant shall be fixed by the state board of regents and charged by the hospital as part of the costs of transporting patients. The compensation paid to and the expenses of the attendant shall be audited and paid in the same manner as is provided by law for the compensation of an attendant appointed by the court. [SS15,§254-h,i; C24, 27, 31, 35,§4023; C39,§3828.152; C46, 50, 54, 58, 62, 66, 71,§255.21]

Referred to in §271.17(1)

255.22 Treatment authorized. No minor or incompetent person shall be treated for any malady or deformity except such as is reasonably well described in the order of court or the report of the examining physician, unless permission for such treatment is provided for in the order of court, or is granted by his parents or guardian; but the physician in charge may administer such treatment or perform such surgical operations as are usually required in cases of emergency. [SS15,§254-l; C24, 27, 31, 35,§4024; C39,§3828.153; C46, 50, 54, 58, 62, 66, 71,§255.22]

Referred to in §271.17(1)

255.23 Treatment gratuitous—exception. No physician, surgeon, or nurse who shall treat or care for such patient shall charge or receive any compensation therefor except the salary or compensation fixed by the state board of regents to be paid from the hospital funds. If the physician, surgeon, or nurse is not in the regular employ of the state board of regents, his or her compensation shall be paid by the county upon approval of the board of supervisors. [SS15,§254-e; C24, 27, 31, 35,§4025; C39, §3828.154; C46, 50, 54, 58, 62, 66, 71,§255.23]

255.24 Record and report of expenses. The superintendent of said hospital shall keep a correct account of all medicine, care, and maintenance furnished to said patients, and shall make and file with the state comptroller an itemized, sworn statement of all expenses thereof incurred in said hospital. But he shall render separate bills showing the actual cost of all appliances, instruments, X-ray and other special services used in connection with such treatment, commitments, and transportation to and from the said university hospital, including the expenses of attendants and escorts.

All purchases of materials, appliances, instruments and supplies by said university hospital, in cases where more than one hundred dollars is to be expended, and where the prices of the commodity or commodities to be purchased are subject to competition, shall be upon open competitive quotations, and all contracts therefor shall be subject to the provisions of chapter 72. [SS15,§254-f; C24, 27, 31, 35, §4026; C39,§3828.155; C46, 50, 54, 58, 62, 66, 71, §255.24]

Referred to in §271.17(1)

255.25 Audit of accounts of hospital. To arrive at a proper basis for the payment of

said bills for treatment, care, and maintenance, the state board of regents shall cause to be made annually an audit of the accounts of the university hospital, and determine the average cost per day for the care and maintenance of each patient therein, exclusive of the salaries of the members of the faculty of said university college of medicine, and said bills shall be allowed at such average cost. All accounts shall be so adjusted and paid as to reimburse the funds of the hospital used for the purposes of this chapter. [C24, 27, 31, 35,§4027; C39, §3828.156; C46, 50, 54, 58, 62, 66, 71,§255.25]

Referred to in §§255.26, 271.17(1)

255.26 Expenses—how paid—action to reimburse county. Warrants issued under section 255.25 shall be promptly drawn on the treasurer of state and forwarded by the state comptroller to the treasurer of the state university, and the same shall be by him placed to the credit of the funds which are set aside for the support of said hospital. The superintendent of the said university hospital shall certify to the auditor of state on the first day of January, April, July and October of each year, the amount as herein provided not previously certified by him due the state from the several counties having patients chargeable thereto, and the auditor of state shall thereupon charge the same to the county so owing. A duplicate certificate shall also be mailed to the auditor of each county having patients chargeable thereto.

The county auditor, upon receipt of such certificate, shall thereupon enter the same to the credit of the state in his ledger of state accounts, and at once issue a notice to his county treasurer authorizing him to transfer the amount from the poor or county fund to the general state revenue, which notice shall be filed by the treasurer as his authority for making such transfer; and he shall include the amount so transferred in his next remittance of state taxes to the treasurer of state, to accrue to the credit of the university hospital fund.

The state auditor shall certify the total cost of commitment, transportation and caring for each indigent patient under the terms of this statute to the county auditor of such patient's legal residence, and such certificate shall be preserved by the county auditor and shall be a debt due from the patient or the persons legally responsible for his or her care, maintenance or support; and whenever in the judgment of the board of supervisors the same or any part thereof shall be collectible, the said board may in its own name collect the same and is hereby authorized to institute suits for such purpose; and after deducting the county's share of such cost shall cause the balance to be paid into the state treasury to reimburse the university hospital fund.

Should any county fail to pay these bills within sixty days from the date of certificate from superintendent, the state comptroller shall charge the delinquent county the penalty of one percent per month on and after sixty days from date of certificate until paid. Such

penalties shall be credited to the general fund of the state. [SS15,§254-g; C24, 27, 31, 35,§4028; C39,§3828.157; C46, 50, 54, 58, 62, 66, 71,§255.26]

Referred to in §271.17(1)

255.27 Faculty to prepare blanks—printing. The medical faculty of the state university hospital shall from time to time prepare blanks containing such questions and requiring such information as may, in its judgment, be necessary and proper to be obtained by the physician who examines such patient under order of court. Such blanks shall be printed by the state, and a sufficient supply thereof shall be furnished by the state board of printing to the clerk of each juvenile court in the state. The cost of printing said blanks shall be audited, allowed, and paid in the same manner as other bills for public printing. [SS15, §254-j; C24, 27, 31, 35,§4029; C39,§3828.158; C46, 50, 54, 58, 62, 66, 71,§255.27]

255.28 Transfer of patients from state institutions. The commissioner of the department of social services and the director of any of the divisions of such department, may, respectively, send any inmate of any of said institutions, or any person committed or applying for admission thereto, to the hospital of the medical college of the state university for treatment and care as provided in this chapter, without securing the order of court required in other cases. Said state department of social services shall respectively pay the traveling expenses of any patient thus committed, and when necessary the traveling expenses of an attendant for such patient, out of funds appropriated for the use of the institution from which he is sent. [SS15,§254-k; C24, 27, 31, 35,§4030; C39,§3828.159; C46, 50, 54, 58, 62, 66, 71,§255.28]

255.29 Medical care for parolees. The director of the division of corrections of the department of social services may send former inmates of the Iowa state penitentiary and men's or women's reformatory, while on parole, to the hospital of the college of medicine of the state University of Iowa for treatment and care as provided in this chapter, without securing the order of the court required in other cases. Said director may pay the traveling expenses of any patient thus committed and, when necessary, the traveling expenses of an attendant of such patient out of funds appropriated for the use of such division. [C62, 66, 71,§255.29]

255.30 Collecting and settling claims for care. Whenever a patient or person legally liable for his care at the hospital has insurance, an estate, rights of action against others, or other assets, any of which can be subjected thereto, the university hospital, by its superintendent or his assistants through the facilities of the attorney general's office, is hereby authorized to file claims, institute or defend suits in courts, and use such other legal means as may be available to collect accounts incurred for the care of indigent or private patients, and may compromise, settle and release the same,

all under such rules and procedures therefor as may be prescribed by the president of the university and the attorney general. If a county has paid any part of such patient's care a pro rata part of the amount collected, after deduction for cost of collection, shall be remitted to said county and the balance shall go into the hospital fund. [C66, 71,§255.30]

403A.23 ELIGIBILITY OF PERSONS RECEIVING PUBLIC ASSISTANCE. Any statute to the contrary notwithstanding no person otherwise eligible to be a tenant in a municipal housing project, shall be declared ineligible therefor or denied occupancy therein merely because he is receiving in some form public assistance such as federal supplemental security income or state supplementary payments, as defined by section two (2) of this Act, or welfare assistance, unemployment compensation, social security payments, etc.

427.9 SUSPENSION OF TAXES. Whenever a person is a recipient of federal supplementary security income or state supplementary assistance, as defined in section two (2) of this Act, or is a resident of a health care facility, as defined by section one hundred thirty-five C point one (135C.1) of the Code, which is receiving payment from the department of social services for his care, such person shall be deemed to be unable to contribute to the public revenue. The commissioner of social services shall thereupon notify the board of supervisors, of the county in which such assisted person owns property, of the aforesaid fact, giving a statement of property, real and personal, owned, possessed, or upon which said person is paying taxes as a purchaser under contract. It shall then be the duty of the board of supervisors so notified, without the filing of a petition and statement as specified in section 427.8, to order the county treasurer to suspend the collection of all the taxes assessed against said property and remaining unpaid by such person or contractually payable by him, for such time as such person shall remain the owner or contractually prospective owner of such property, and during the period such person receives assistance as described in this section.

CHAPTER 444

TAX LEVIES

Referred to in §§111.25, 137.20

CERTIFICATION OF TAXES

- 444.1 Basis for amount of tax.
- 444.2 Amounts certified in dollars.
- 444.3 Computation of rate—moneys and credits tax replacement fund.
- 444.4 Fractional rates disregarded.
- 444.5 Interpretative clause.
- 444.6 Record of rates.
- 444.7 Excessive tax prohibited.
- 444.8 Mandatory provisions.

COUNTY LEVIES

- 444.9 Annual levies.
- 444.10 Court expense.
- 444.11 County orphan fund.
- 444.12 County mental health and institutions fund.

PEDDLERS

- 444.13 Peddlers.
- 444.14 Payment—license.
- 444.15 "Peddlers" defined.
- 444.16 Exceptions.
- 444.17 Peddling without license.

PUBLIC SHOWS AND CIRCUSES

- 444.18 Public shows—license.
- 444.19 Violations.

LEVIES BY DEPARTMENT OF REVENUE

- 444.20 Levy to pay municipal bonds.
- 444.21 General fund of the state.
- 444.22 Annual levy.
- 444.23 Rate certified to county auditor.

444.12 County mental health and institutions fund. The board of supervisors of each county shall establish a county mental health and institutions fund, from which shall be paid:

1. All charges which the county is obligated by statute to pay for:

a. Care and treatment of patients by any state mental health institute.

b. Care and treatment of patients by either of the state hospital-schools or by any other facility established under chapter 222.

c. Care and treatment of patients by the psychopathic hospital at Iowa City.

d. Care and treatment of tuberculosis patients admitted or committed to the state sanatorium at Oakdale or any similar institution established or maintained by any county under chapter 254, and the cost of outpatient care of tuberculosis patients by a tuberculosis sanatorium may be paid from such fund.

e. Care and treatment of persons admitted or committed to the alcoholic treatment center at Oakdale or any facilities as provided in chapter 123B, provided, however, that any such admission shall be reported to the county board of supervisors within five days by the center or facility offering such treatment.

f. Care of children admitted or committed to the Iowa juvenile home at Toledo or The Iowa Annie Wittenmyer home, or placed in a foster home from either of such institutions if the cost of foster home care does not exceed the average cost of care of a child in the institution from which the placement was made.

g. Clothing, transportation, and medical or other services provided persons attending the Iowa braille and sight-saving school, the Iowa school for the deaf, or the state hospital-school for severely handicapped children at Iowa City, for which the county becomes obligated to pay pursuant to sections 263.12, 269.2, and 270.4 through 270.7.

2. Any portion which the board of supervisors may deem advisable of the cost of psychiatric examination and treatment of persons in need thereof or of professional evaluation, treatment, training, habilitation, and care of mentally retarded persons, at any suitable public or private facility providing inpatient or outpatient care in such county.

The board of supervisors may require any public or private facility as a condition of payment from county funds to furnish the board with a statement of the income, assets, and township or municipality and the county of legal residence of each person receiving services under this section, provided, however, the facility shall not disclose to anyone without the permission of the person receiving services for which commitment is not required such person's name or street or route address.

3. The cost of care and treatment of persons placed in the county hospital, county home, a health care facility as defined in section 135C.1, subsection 8, or any other public or private facility:

a. In lieu of admission or commitment to a state mental health institute, hospital-school, or other facility established pursuant to chapter 222.

b. Upon discharge, removal, or transfer from a state mental health institute or state hospital-school or other institution established pursuant to chapter 222.

4. Any contribution which the board of supervisors may make to the establishment and initial operation of a community mental health center in the manner and subject to the limitations provided by law.

The board of supervisors shall, at the time of levying other taxes, estimate the amount necessary to meet the foregoing expenses which it is anticipated that the county will incur in the coming year, and levy a tax sufficient to raise the amount needed. The pro-

ceeds of the tax shall be credited to the county mental health and institutions fund, and used only for the purposes prescribed by this section. Should any county fail to levy a tax sufficient to meet the expenses which the county is required to pay, or which the board of supervisors chooses to pay, from the county mental health and institutions fund pursuant to this section, the deficiency shall be met by transfer of funds from the county general fund to the county mental health and institutions fund.

Nothing in this section or any other statute shall be construed to prohibit parents or other persons from voluntarily reimbursing the county or state for the reasonable cost of caring for an individual while he was a patient or inmate in the county hospital, county home, mental health institute, hospital-school, training school, or home for children. [C46, 50, 54, 58, 62, 66, 71, §444.12; 64GA, ch 1108, §1]

Referred to in §§123B.5, 218.99, 227.18, 230.24

CHAPTER 598
DISSOLUTION OF MARRIAGE

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| <p>598.1 Definitions.
598.2 Jurisdiction.
598.3 Kind of action—joinder.
598.4 Caption of petition for dissolution.
598.5 Contents of petition.
598.6 Additional contents.
598.7 Verification—evidence.
598.8 Hearings.
598.9 Residence—failure of proof.
598.10 Corroboration of petitioner.
598.11 Temporary orders.
598.12 Attorney for minor child.
598.13 Financial statements filed.
598.14 How temporary order made—changes.
598.15 Attachment.
598.16 Conciliation.</p> <p>598.26 Record—impounding—violation indictable.
598.27 Remarriage.
598.28 Separate maintenance and annulment.
598.29 Annuling illegal marriage—causes.</p> | <p>598.17 Dissolution of marriage—evidence.
598.18 Recrimination not a bar to dissolution of marriage.
598.19 Waiting period before decree.
598.20 Forfeiture of marital rights.
598.21 Alimony — custody of children — changes.
598.22 Support payments— clerk of court — defaults.
598.23 Contempt proceedings — alternative to jail sentence.
598.24 Contempt proceedings initiated by interested party—costs taxable to party in default.
598.25 Termination of jurisdiction of court granting marriage dissolution decree.</p> <p>598.30 Validity determined.
598.31 Children—legitimacy.
598.32 Alimony.
598.33 Actions pending—agreement to proceed.
598.34 Welfare recipients—agreements ratified.</p> |
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598.1 Definitions. As used in this chapter:

1. "Dissolution of marriage" means a termination of the marriage relationship and shall be synonymous with the term "divorce".

2. "Support" or "support payments" means any amount which the court may require either of the parties to pay under a temporary order or a final judgment or decree, and may include alimony, child support, maintenance, and any other term used to describe such obligations. Such obligations may include support for a child who is between the ages of eighteen and twenty-two years who is regularly attending an approved school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or area school; or has been accepted for admission to a college, university, or area school and the next regular term has not yet begun; or a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.

3. "Minor child" means any person under legal age. [C71,§598.1; 64GA, ch 1027,§48]

598.2 Jurisdiction. The district court in the county where either party resides has jurisdiction of the subject matter of this chapter. [C51,§1480; R60,§2532; C73,§2220; C97,§3171; C24, 27, 31, 35, 39,§10468; C46, 50, 54, 58, 62, 66,§598.1; C71,§598.2]

598.3 Kind of action—joinder. An action for dissolution of marriage shall be by equitable proceedings, and no cause of action, save

for alimony, shall be joined therewith. [R60, §4184; C73,§2511; C97,§3430; C24, 27, 31, 35, 39, §10469; C46, 50, 54, 58, 62, 66,§598.2; C71,§598.3]

598.4 Caption of petition for dissolution. The petition for dissolution of marriage shall be captioned substantially as follows:

In the District Court of the State of Iowa
In and For County
In Re the Marriage of and
Upon the Petition of Petition for Dissolution
..... of Marriage
(Petitioner) Equity No.
and Concerning
.....
(Respondent)
[C71,§598.4]

598.5 Contents of petition. The petition for dissolution of marriage shall:

1. State the name and address of the petitioner and his attorney.

2. State the place and date of marriage of the parties.

3. State the name and address, if known, of the respondent.

4. State the name and age of each minor child by date of birth whose welfare may be affected by the controversy.

5. State whether or not a separate action for dissolution of marriage has been commenced by the respondent and whether such action is pending in any court in this state or elsewhere.

6. Allege that the petition has been filed in good faith and for the purposes set forth therein.

7. Allege that there has been a breakdown of the marriage relationship to the extent that

the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

8. Set forth any application for temporary support of the petitioner and any children without enumerating the amounts thereof.

9. Set forth any application for permanent alimony or support, child custody, or disposition of property, as well as attorneys' fees and suit money, without enumerating the amounts thereof. [C71,§598.5]

Referred to in §598.6

598.6 Additional contents. Except where the respondent is a resident of this state and is served by personal service, the petition for dissolution of marriage, in addition to setting forth the information required by section 598.5, must state that the petitioner has been for the last year a resident of the state, specifying the county in which the petitioner has resided, and the length of such residence therein after deducting all absences from the state; and that the maintenance of the residence has been in good faith and not for the purpose of obtaining a marriage dissolution only. [C51, §1481; R60,§2533; C73,§2221; C97,§3172; C24, 27, 31, 35, 39,§10470; C46, 50, 54, 58, 62, 66,§598.3; C71,§598.6]

598.7 Verification—evidence. The petition must be verified by the petitioner, and its allegations established by competent evidence. [C51,§1481; R60,§2533; C73,§2222; C97,§3173; C24, 27, 31, 35, 39,§10471; C46, 50, 54, 58, 62, 66,§598.4; C71,§598.7]

598.8 Hearings. Hearings for dissolution of marriage shall be held in open court upon the oral testimony of witnesses, or upon the depositions of such witnesses taken as in other equitable actions or taken by a commissioner appointed by the court. However, the court may in its discretion close the hearing. Hearings held for the purpose of determining child custody may be limited in attendance by the court. [C73,§2222; C97,§3173; C24, 27, 31, 35, 39, §10472; C46, 50, 54, 58, 62, 66,§598.5; C71,§598.8]

598.9 Residence—failure of proof. If the averments as to residence are not fully proved, the hearing shall proceed no further, and the action be dismissed by the court. [C73,§2222; C97,§3173; C24, 27, 31, 35, 39,§10473; C46, 50, 54, 58, 62, 66,§598.6; C71,§598.9]

598.10 Corroboration of petitioner. No dissolution of marriage shall be decreed on the testimony of the petitioner alone. [C73,§2222; C97,§3173; C24, 27, 31, 35, 39,§10474; C46, 50, 54, 58, 62, 66,§598.7; C71,§598.10]

598.11 Temporary orders. The court may order either party to pay the clerk a sum of money for the separate support and maintenance of the other party and the children and to enable such party to prosecute or defend the action.

The court may make such an order when a claim for temporary support is made by the petitioner in the petition, or upon application of either party, after service of the original notice and when no application is made in the petition; however, no such order shall be en-

tered until at least five days' notice of hearing, and opportunity to be heard, is given the other party. Appearance by an attorney or the respondent for such hearing shall be deemed a special appearance for the purpose of such hearing only and not a general appearance. [C73,§2226; C97,§3177; C24, 27, 31, 35, 39,§10478; C46, 50, 54, 58, 62, 66, 71,§598.11]

Referred to in §598.22

598.12 Attorney for minor child. The court may appoint an attorney to represent the interests of the minor child or children of the parties. Such attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify before the court on matters pertinent to the interests of the children. The court shall enter an order in favor of such attorney for fees and disbursements, which amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for costs is indigent in which event the fees shall be borne by the county. [C71,§598.12]

Referred to in §598.16

598.13 Financial statements filed. All applications for temporary or permanent support of a party or minor children shall be accompanied by the financial statement of the applicant. The respondent shall file a financial statement whenever the respondent desires to resist any application for support by the petitioner, or when the court so orders.

Financial statements shall be set forth by affidavit and shall be contained in two divisions. Division one shall contain the affiant's income from salary, wages or other source, personal expenses, and necessary payments on debts, and also the best estimates of such income, personal expenses, and necessary payments on debts of the other party, as well as all family living expenses. Such financial information shall be calculated on either a weekly or monthly basis, and shall not contain debts to be paid subsequent to the anticipated pendency of the action. Division two shall contain all other joint or separate assets and liabilities of the parties, including ownership of realty and tangible or intangible personalty and all debts to be paid subsequent to the anticipated pendency of the action. [C71,§598.13]

598.14 How temporary order made — changes. In making temporary orders, the court shall take into consideration the age and sex of the applicant, the physical and pecuniary condition of the parties, and such other matters as are pertinent, which may be shown by affidavits, as the court may direct; however, the hearing on the application shall be limited to matters set forth in such application, the affidavits of the parties, and the required statements of income. The court shall not hear any other matter relating to the petition, respondent's answer, or any pleadings connected therewith.

After notice and hearing subsequent changes in temporary orders may be made by the court on application of either party demonstrating a substantial change in the circumstances occurring subsequent to the issuance of such order. If the order is not so modified

DISSOLUTION OF MARRIAGE, §598.16

it shall continue in force and effect until the action is dismissed or a decree is entered dissolving the marriage. [C73,§2228; C97,§3179; C24, 27, 31, 35, 39,§10480; C46, 50, 54, 58, 62, 66, §598.13; C71,§598.14]

598.15 Attachment. The petition may be presented to the court for the allowance of an order of attachment, which, by endorsement thereon, may direct such attachment and fix the amount for which it may issue, and the amount of the bond, if any, that shall be given. Any property taken by virtue thereof shall be held to satisfy the judgment or decree of the court, but may be discharged or released as in other cases. [C73,§2227; C97,§3178; C24, 27, 31, 35, 39,§10479; C46, 50, 54, 58, 62, 66,§598.12; C71,§598.15]

598.16 Conciliation. A majority of the judges in any judicial district, with the cooperation of any county board of social welfare in such district, may establish a domestic relations division of the district court of the county where such board is located. Said division shall offer counseling and related services to persons before such court.

The court shall require such parties to undergo conciliation for a period of at least ninety days from the issuance of an order setting forth the conciliation procedure and the conciliator. Such conciliation procedures may include, but shall not be limited to, referrals to the domestic relations division of the court, if established, public or private marriage counselors, family service agencies, community mental health centers, physicians and clergymen. Conciliation may be waived by the court upon a showing of good cause; provided, however, that it shall not be waived if either party or the attorney appointed pursuant to section 598.12 objects.

The costs of any such conciliation procedures shall be paid by the parties; however, if the court determines that such parties will be unable to pay the costs without prejudicing their financial ability to provide themselves and any minor children with economic necessities, such costs may be paid from the court expense fund. [C71,§598.16]

598.17 Dissolution of marriage—evidence. A decree dissolving the marriage may be entered when the court is satisfied from the evidence presented that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

The court shall, based upon competent and relevant evidence, in such decree provide for the division of the assets of the parties and reasonable support or maintenance of any dependent children or either spouse.

No marriage dissolution granted due to the mental illness of one of the spouses shall relieve the other spouse of any obligation im-

posed by law as a result of the marriage for the support of the mentally ill spouse, and the court may make an order for such support. [C71,§598.17]

598.18 Recrimination not a bar to dissolution of marriage. If, upon the trial of an action for dissolution of marriage, both of the parties are found to have committed an act or acts which would support or justify a decree of dissolution of marriage, such dissolution may be decreed, and the acts of one party shall not negate the acts of the other, nor serve to bar the dissolution decree in any way. [C71,§598.18]

598.19 Waiting period before decree. No decree dissolving a marriage shall be granted in any proceeding before ninety days shall have elapsed from the day the original notice is served, or from the last day of publication of notice, or from the date that waiver or acceptance of original notice is filed or until after conciliation is completed, whichever period shall be longer. However, the court may in its discretion, on written motion supported by affidavit setting forth grounds of emergency or necessity and facts which satisfy the court that immediate action is warranted or required to protect the substantive rights or interests of any party or person who might be affected by the decree, hold a hearing and grant a decree dissolving the marriage prior to the expiration of the applicable period, provided that requirements of notice have been complied with. In such case the grounds of emergency or necessity and the facts with respect thereto shall be recited in the decree unless otherwise ordered by the court. [C58, 62, 66,§598.25; C71,§598.19]

598.20 Forfeiture of marital rights. When a dissolution of marriage is decreed the parties shall forfeit all rights acquired by marriage which are not specifically preserved in the decree. This provision shall not obviate any of the provisions of section 598.21. [C51,§1486; C73,§2230; C97,§3181; C24, 27, 31, 35, 39,§10483; C46, 50, 54, 58, 62, 66,§598.16; C71,§598.20]

598.21 Alimony — custody of children — changes. When a dissolution of marriage is decreed, the court may make such order in relation to the children, property, parties, and the maintenance of the parties as shall be justified.

Subsequent changes may be made by the court in these respects when circumstances render them expedient. [C51,§1485; R60,§2537; C73,§2229; C97,§3180; C24, 27, 31, 35, 39,§10481; C46, 50, 54, 58, 62, 66,§598.14; C71,§598.21]

Referred to in §§598.20, 598.22

598.22 Support payments—clerk of court—defaults. All orders or judgments providing for temporary or permanent support payments shall direct the payment of such sums to the clerk of the court for the use of the person for whom the same have been awarded. An

order or judgment entered by the court for temporary or permanent support shall be filed with the court clerk. Such orders shall have the same force and effect as judgments when entered in the judgment docket and lien index and shall be a record open to the public. The clerk shall disburse the payments received pursuant to such orders or judgments. All moneys received or disbursed under this section shall be entered in a record book kept by the clerk, which shall be open to inspection by the parties to the action and their attorneys.

If the sums ordered to be paid are not paid to the clerk at the time provided in said order or judgment, the clerk shall certify a default to the court which may, on its own motion, proceed as provided in section 598.23.

Prompt payment of sums required to be paid under sections 598.11 and 598.21 shall be the essence of such orders or judgments and the court may act pursuant to section 598.23 regardless of whether the amounts in default are paid prior to the contempt hearing. [C71, §598.22]

Referred to in §598.34

598.23 Contempt proceedings — alternative to jail sentence. If any party against whom any temporary order or final decree has been entered shall willfully disobey the same, or secrete his property, he may be cited and punished by the court for contempt and be committed to the county jail for a period of time not to exceed thirty days for each offense.

The court may, as an alternative to punishment for contempt, make an order directing the defaulting party to assign a sufficient amount in salary or wages due, or to become due in the future, from an employer or successor employers, to the clerk of the court where the order or judgment was granted for the purpose of paying the sums in default as well as those to be made in the future. The assignment order shall not be binding upon the employer, but the court shall send a copy of the order, signed by the employee, to the employer and request his co-operation in deducting support payments. For each payment deducted in compliance with such request, the employer shall receive one dollar to cover the expense created by the deduction, which amount shall be deducted from the money due the employee. Compliance by an employer with the court's request shall operate as a discharge of his liability to the employee as to the affected portion of the employee's wages.

Any employer who dismisses an employee due to the entry of an assignment order commits a public offense and upon conviction shall be fined not more than one hundred dollars. [C24, 27, 31, 35, 39, §10482; C46, 50, 54, 58, 62, 66, §598.15; C71, §598.23]

Referred to in §598.22

598.24 Contempt proceedings initiated by interested party — costs taxable to party in default. Nothing in this chapter shall prohibit the party entitled to support payments, or an interested party from initiating contempt proceedings on his own motion. If the defaulting

party is found to be in contempt, the costs of such proceedings, including attorney's fees for the party initiating the proceedings in an amount deemed reasonable by the court, shall be taxed against such party. [C71, §598.24]

Referred to in §598.34

598.25 Termination of jurisdiction of court granting marriage dissolution decree. Whenever a proceeding is initiated in a court for adoption involving the children of parents or guardians whose marriage has been dissolved, or for modification of a judgment of alimony, child support, or custody granted in an action for dissolution of marriage, the following requirements must be met if such proceedings are initiated in a court other than the court which granted the dissolution decree.

1. The party initiating such proceedings must present to the court the names and addresses of the parties to the dissolution decree if known, as well as the name and place of the court which granted the dissolution decree.

2. The court in which the proceedings are initiated shall, if possible, cause notice of such proceedings to be served upon the parties to the original action.

Such court, or either of the parties to the dissolution decree, may request that a copy of the transcript of the proceedings of the court which granted the dissolution decree be made available for consideration in the new proceedings. [C71, §598.25]

598.26 Record — impounding — violation indictable. The record and evidence in all cases where a marriage dissolution is sought shall be closed to all but the court and its officers, and access thereto shall be refused until a decree of dissolution has been entered. If the action is dismissed judgment for costs shall be entered in the judgment docket and lien index. The clerk shall maintain a separate docket for dissolution of marriage actions. No officer or other person shall permit a copy of any of the testimony, or pleading, or the substance thereof, to be made available to any person other than a party or attorney to the action. Nothing in this section shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure. Violation of the provisions of this section shall be a public offense, punishable by a fine of not more than one hundred dollars, or imprisonment in the county jail not more than thirty days, or by both such fine and imprisonment. [C71, §598.26]

598.27 Remarriage. In every case in which a marriage dissolution is decreed, neither party shall marry again within a year from the date of the filing of said decree unless permission to do so is granted by the court. Nothing herein contained shall prevent the persons whose marriage has been dissolved from remarrying each other. Any person marrying contrary to the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished accordingly. [S13, §3181; C24, 27, 31, 35, 39, §10484, 10485; C46, 50, 54, 58, 62, 66, §598.17, 598.18; C71, §598.27]

Punishment 687.7

598.28 Separate maintenance and annulment. A petition shall be filed in separate maintenance and annulment actions as in actions for dissolution of marriage, and all applicable provisions of this chapter in relation thereto shall apply to separate maintenance and annulment actions. [C73,§2232; C97,§3183; C24, 27, 31, 35, 39,§10487; C46, 50, 54, 58, 62, 66, §598.20; C71,§598.28]

598.29 Annuling illegal marriage — causes. Marriage may be annulled for the following causes:

1. Where the marriage between the parties is prohibited by law.

2. Where either party was impotent at the time of marriage.

3. Where either party had a husband or wife living at the time of the marriage, provided they have not, with a knowledge of such fact, lived and cohabited together after the death or marriage dissolution of the former spouse of such party.

4. Where either party was mentally ill or a mental retardate at the time of the marriage. [C73,§2231; C97,§3182; C24, 27, 31, 35, 39,§10486; C46, 50, 54, 58, 62, 66,§598.19; C71,§598.29]

598.30 Validity determined. When the validity of a marriage is doubted, either party may file a petition, and the court shall decree it annulled or affirmed according to the proof. [C73,§2233; C97,§3184; C24, 27, 31, 35, 39,§10488; C46, 50, 54, 58, 62, 66,§598.21; C71,§598.30]

598.31 Children—legitimacy. Children born to the parties, or to the wife, in a marriage relationship which may be terminated or annulled pursuant to the provisions of this chapter shall be legitimate as to both parties, unless the court shall decree otherwise according to the proof. [C73,§§2234, 2235; C97,§§3185, 3186; C24, 27, 31, 35, 39,§§10489, 10490; C46, 50, 54, 58, 62, 66,§§598.22, 598.23; C71,§598.31]

598.32 Alimony. In case either party entered into the contract of marriage in good faith, supposing the other to be capable of contracting, and the marriage is declared a nullity, such fact shall be entered in the decree, and the court may decree such innocent party compensation as in case of dissolution of marriage. [C73,§2236; C97,§3187; C24, 27, 31, 35, 39,§10491; C46, 50, 54, 58, 62, 66,§598.24; C71, §598.32]

598.33 Actions pending — agreement to proceed. Any cause of action pending upon July 1, 1970, which may be affected by this chapter, may be decided pursuant to the provisions of this chapter if both parties to the action so agree. [C71,§598.33]

598.34 Welfare recipients—agreements ratified. The county board of social welfare in any county is authorized to enter into the following agreement with the court, which may ratify such agreement by a majority vote of the district judges assigned to the judicial district where such board is located.

Any person entitled to periodic support pay-

ments pursuant to an order or judgment entered in an action for dissolution of marriage, who is also a welfare recipient, shall assign his rights to such payments to the county board of social welfare granting such assistance. The clerk of court shall forward support payments received pursuant to section 598.22 to such board. Such sums may serve to reduce the amount of the welfare payments granted such recipient. The board of social welfare shall have the right to secure support payments in default through proceedings provided for in chapter 252A or section 598.24.

The clerk shall furnish such welfare agency with copies of all orders or decrees awarding support to parties having custody of minor children when such parties are receiving welfare assistance. [C71,§598.34]

CHAPTER 600

ADOPTION

Referred to in §§238.41, 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.
- 600.11 Financial assistance.
- 600.12 Determination of assistance.
- 600.13 Amount of assistance.
- 600.14 Availability of assistance.
- 600.15 Termination of assistance.
- 600.16 Rules.

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 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 and the information required pursuant to section 144.20 or a statement that such information is not available after diligent inquiry. The clerk of the court shall forthwith transmit two copies of said petition to the director of the division of child and family services of the department of social services, or the designated qualified person or agency as directed by the court except in cases of children under the jurisdiction and control of a director of a division of the department of social services, and excepting adult adoptions and cases where the investigation is waived by the court as authorized by this chapter. Provided that where the director of the division of child and family services does not otherwise receive the petition, the clerk shall immediately forward one copy thereof to such director. [R60,§2600; C73,§2307; C97,§3250; C24,§10496; C27, 31, 35, §10501-b1; C39,§10501.1; C46, 50, 54, 58, 62, 66, 71,§600.1; 64GA, ch 1124,§176]

Relinquishment of custody, §238.26 et seq.

600.2 Investigation—minimum residence. The state department of social services, 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 services 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, 66, 71,§600.2]

Referred to in §600.14

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. If the relationship between a parent and a child has been ter-

ADOPTION

minated as provided in chapter 232 or terminated under a law or court decision of another state, by final court order which is not then appealable, the consent of such parent shall not be necessary; and in lieu of the consent of such parent, consent to such adoption may be given by the person, department, agency, or institution to which guardianship of the child has been transferred or by the court terminating such parent-child relationship if the court has not transferred such guardianship. 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 director of a division of the department of social services in control of such institution 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. 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, 66, 71,§600.3]

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, 66, 71,§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 order-

ing 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, 66, 71,§600.5]

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, 66, 71,§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, 66, 71,§600.7]

600.3 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 director of the division of child and family services of the department of social services and also to the appropriate director of the division of the department of social services in control of the institution from which such child was obtained if 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, 66, 71,§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, 66, 71,§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, 66, 71, §600.10]

600.11 Financial assistance. The department of social services shall, within the limits of funds appropriated to the department of social services and any gifts or grants received by the department for this purpose, provide financial assistance to any person who adopts a physically or mentally handicapped, older, or otherwise hard-to-place child, if the adoptive parent has the capability of providing a suitable home for the child but the need for special services or the costs of maintenance are beyond the economic resources of the adoptive parent.

1. Financial assistance shall not be provided when the special services are available free of cost to the adoptive parent or are covered by an insurance policy of the adoptive parent.

2. "Special services" means any medical, dental, therapeutic, educational, or other similar service or appliance required by an adopted child by reason of a mental or physical handicap. [64GA, ch 259, §2]

Referred to in §§600.12, 600.16, 627.19

600.12 Determination of assistance. Any prospective adoptive parent desiring to avail himself of financial assistance shall state this fact in his petition for adoption. The department of social services shall investigate the person petitioning for adoption and the child and shall file with the court a statement of whether the department will provide assistance as provided in sections 600.11 to 600.16, the estimated amount, extent, and duration of assistance, and any other information the court may order.

If the department of social services is unable to determine that an insurance policy will cover the costs of special services, it shall proceed as if no policy existed, for the purpose of determining eligibility to receive assistance. The department shall, to the amount of financial assistance given, be subrogated to the rights of the adoptive parent in the insurance contract. [64GA, ch 259, §3]

Referred to in §§600.16, 627.19

600.13 Amount of assistance. The amount of financial assistance for maintenance shall not exceed the amount the department would normally spend for foster care of the child. The amount of financial assistance for special services shall not exceed the amount the department would normally spend if it were to provide these services. [64GA, ch 259, §4]

Referred to in §§600.12, 600.16, 627.19

600.14 Availability of assistance. Financial assistance shall be available only if the child to be adopted was under the guardianship of the state, county, or a licensed child-placing agency immediately prior to his adoption. The twelve months' period of residence in the proposed home required in section 600.2 shall not apply to this section. [64GA, ch 259, §5]

Referred to in §§600.12, 600.16, 627.19

600.15 Termination of assistance. Financial assistance shall terminate when the need for assistance no longer exists. Financial assistance shall not extend beyond the adopted child's twenty-first birthday. [64GA, ch 259, §6]

Referred to in §§600.12, 600.16, 627.19

600.16 Rules. The department of social services shall adopt rules in accordance with the provisions of chapter 17A, which are necessary for the administration of sections 600.11 to 600.15. [64GA, ch 259, §7]

Referred to in §§600.12, 627.19

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, 66, 71, §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, 66, 71,§731.2]

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, 66, 71, §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, 66, 71,§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, 66, 71,§731.5]

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, 66, 71,§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, 66, 71,§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, 66, 71, §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 cir-

cumstances 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, 66, 71, §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, 66, 71, §731A.3]

731A.4 Jurisdiction and appeal. Juvenile courts shall have jurisdiction in the prosecution 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 before a district judge. [C50, 54, 58, 62, 66, 71, §731A.4; 64GA, ch 1124, §230]

CHAPTER 735
INFRINGEMENT OF CIVIL RIGHTS

See also 601A

735.1 and 735.2 Repealed by 61GA, ch 121, §14.
735.3 Religious test.
735.4 Evidence.

735.5 Penalty.
735.6 Fair employment practices.

735.1 and 735.2 Repealed by 61GA, ch 121, §14.

735.3 Religious test. Any violation of section 4, Article I of the Constitution of Iowa is hereby declared to be a misdemeanor. [C35, §13252-f1; C39, §13252.1; C46, 50, 54, 58, 62, 66, 71, §735.3]

Referred to in §§735.4, 735.5

735.4 Evidence. If any person, agency, bureau, corporation, or association employed or maintained to obtain, or aid in obtaining, positions for others in the public schools, or positions in any other public institutions in the state, or any individual or official connected with any public school or public institution shall ask, indicate, or transmit orally or in writing the religion or religious affiliations

of any person seeking employment in the public schools or any other public institutions, it shall constitute evidence of a violation of section 735.3. [C35, §13252-f2; C39, §13252.2; C46, 50, 54, 58, 62, 66, 71, §735.4]

Referred to in §735.5

735.5 Penalty. Any person, agency, bureau, corporation, or association that violates provisions of sections 735.3 and 735.4 shall be guilty of a misdemeanor and upon conviction be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment. [C35, §13252-f3; C39, §13252.3; C46, 50, 54, 58, 62, 66, 71, §735.5]

735.6 Fair employment practices.

1. Every person in this state is entitled to the opportunity for employment on equal terms with every other person. It shall be unlawful for any person or employer to discriminate in the employment of individuals because of race, religion, color, national origin or ancestry. However, as to employment such individual must be qualified to perform the services or work required.

2. It shall be unlawful for any labor union or organization or an officer thereof to discriminate against any person as to membership therein because of race, religion, color, national origin or ancestry.

3. Any person, employer, labor union or organization or officer of a labor union or organization convicted of a violation of subsections 1 or 2 shall be punished by a fine not to exceed one hundred dollars or imprisonment in the county jail not to exceed thirty days. [C66, 71, §735.6]

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