REVISED STATUTES

OF THE

STATE OF MAINE

1954

1963 CUMULATIVE SUPPLEMENT

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THE MICHIE COMPANY
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Chapter 25.

Department of Health and Welfare.

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Departmental Organization. Powers and Duties.

Sec. 1. Organization; commissioner; powers; bureau chiefs and qualifications; compensation; employees.

The head of the department shall be the commissioner of health and welfare who shall be appointed by the governor with the advice and consent of the council to serve for 3 years, or during the pleasure of the said governor and council. Any vacancy shall be filled by appointment as above for a like term. He may employ such bureau chiefs, deputies, assistants and employees subject to the personnel law as may be necessary to carry out the work of the department; and they shall be under the immediate supervision, direction and control of the commissioner. The compensation of the commissioner shall be fixed by the governor and council.

(1961, c. 136.)

Cross references.—See c. 25-B, § 2, re designation of commissioner of health and welfare as administrator of the interstate compact on welfare services. See c. 27, § 7-A, re amendment of words "insane" and "insanity" to "mentally ill" and "mental illness", except when the word "insane" is in reference to the word "criminal". See c. 158-A, §§ 1-10, re Uniform Gifts to Minors Act.

Effect of amendment.—The 1961 amendment rewrote the second paragraph of this section, which formerly required the employment and compensation of bureau chiefs to be approved or fixed by the governor and council.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 3. Duties.

The department shall consult with and advise the authorities of municipalities and persons and corporations having, or about to have, systems of water supply, as to the most appropriate source of water supply and the best method of assuring its purity, and all such authorities and persons shall submit to the department for its advice, their plans and specifications for all new systems of water supply and all new purification plants, and for any replacement of a major portion of an existing system of water supply or purification plant, before installing or replacing such facilities, but they shall not be required to submit to the department for such advice any proposed repair, alteration, relocation or extension of their existing systems of water supply. (R. S. c. 22, § 2. 1945, c. 195, § 1. 1957, c. 269, § 1.)

Effect of amendment. — The 1957 amendment added the above paragraph as the last paragraph of this section. As the first paragraph was not changed by the amendment, it is not set out.

Sec. 5. Inspection and licensing of institutions, agencies and boardinghomes.—No person, firm, corporation or association shall operate an institution or agency for the care and treatment of defectives, dependents and delinquents or conduct and maintain a boardinghouse or home for the aged, blind or other persons 16 years of age or over without having in full force, subject to the rules and regulations of the department, a written license therefor from the department. The term of such license shall be for one year and the license may be suspended or revoked for just cause. The fee for such license for boarding homes having 4 or less boarders shall be $5 and for boarding homes having 5 or more boarders the fee shall be $10. When the department believes a license should be suspended or revoked it shall file a statement or complaint with the hearing officer designated in chapter 20-A. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with said hearing officer. No such license shall be issued until the applicant has furnished the department with a written statement signed by the insurance commissioner or the proper municipal official designated in chapter 97 to make fire safety inspections that the home and premises comply with said chapter 97 relating to fire safety. The department shall establish and pay reasonable fees to the municipal official or the insurance commissioner for each such inspection. Said written statement shall be furnished annually thereafter.

The term "boardinghouse or home", as used in this section, shall mean a house or other place, having more than 2 boarders not related by blood or marriage to the proprietor, maintained by any association, organization or individual partly or wholly for the purpose of boarding and caring for any of the persons enumerated in the first paragraph of this section.

(1957, c. 192. 1961, c. 394, § 2. 1963, c. 262.)

Effect of amendments. — The 1957 amendment inserted the clause "having more than two boarders not related by blood or marriage to the proprietor" in the second paragraph of this section.

The 1961 amendment rewrote the second sentence of the first paragraph, deleted the former third sentence, added the present fourth and fifth sentences and made other minor changes.

The 1963 amendment added the present third sentence of the first paragraph.

As the other paragraphs of the section were not affected by the amendments, they are not set out.

Welfare Laws.

Sec. 9. Transfer of paupers and public assistance recipients between states.—The department shall have authority to enter into reciprocal agreements with corresponding agencies of other states, and to arrange with their local or county boards for the acceptance, transfer and support of persons going from one state to another and becoming public charges and to continue payments of public assistance until eligibility to receive assistance under a similar program has been established in the other state and the first payment from the other state has been received by such recipient. Such reciprocal agreements shall in no way commit the state to support persons who are not, in the opinion of the department, entitled to support under the laws of this state. (R. S. c. 22, § 12. 1947, c. 351. 1957, c. 160.)

Effect of amendment. — The 1957 amendment substituted the words "public assistance" for "old age assistance, aid to the blind, aid to dependent children and world war assistance" and made a former proviso into a separate sentence.

Sec. 18. Appropriations for aid of public and private hospitals.— Such sums of money as may be appropriated by the legislature in aid of public

and private hospitals shall be expended under the direction of the department, and the expense of administration shall be charged to the appropriation of that department for general administration. The department is authorized to compensate hospitals located in the state of New Hampshire within 15 miles from the Maine-New Hampshire state line or hospitals located in the Provinces of Quebec or New Brunswick, Canada, within 5 miles of the international boundary, for cases where the hospital care is for persons resident in the state of Maine and, in the judgment of the commissioner, adequate local hospital facilities are not available. The department may compensate hospitals at such rates as it may establish for hospital care of persons whose resources or the resources of whose responsible relatives are insufficient therefor. Bills itemizing the expenses of hospital care under the provisions hereof, when approved by the department and audited by the state controller, shall be paid by the treasurer of state. (R. S. c. 22, § 16. 1951, c. 206. 1955, c. 86. 1957, c. 226.)

Effect of amendments. — The 1955 amendment inserted in the second sentence the provision for compensation of hospitals in Quebec or New Brunswick, and added at the end of the second sentence the words "and, in the judgment of the commissioner, adequate local hospital facilities are not available."

The 1957 amendment made the second sentence applicable to New Hampshire hospitals within 15 miles from the state line in lieu of "within 5 miles" which appeared formerly.

Sec. 19. Responsible relatives defined; duty of hospitals. — The spouse, parents and adult children of a person receiving hospital care shall, if of sufficient ability, be responsible for the hospital bill of such person. The hospital furnishing care to a person may recover the amount due for such care from a responsible relative in a civil action.

(1961, c. 317, § 34.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action on the case" in the first paragraph of this section.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 21. Penalties; certificate of commissioner as evidence.—Whoever hinders, obstructs or interferes with any officer, inspector or duly authorized agent of the department while in the performance of his duties shall be punished by a fine of not less than $5, nor more than $50, or by imprisonment for not less than 10 days, nor more than 30 days. Whoever violates any order, rule or regulation of the department made for the protection of life or health under the provisions of law shall be punished by a fine of not less than $10, nor more than $100, for each offense. Whoever violates any provision of this chapter or willfully fails, neglects or refuses to perform any of the duties imposed upon him by the provisions of this chapter shall be punished by a fine of not more than $500, or by imprisonment for not more than 6 months, unless specific penalties are elsewhere provided for. Any certificate of the commissioner in regard to the records of the department shall be admissible in evidence in all prosecutions under the provisions of this chapter. (R. S. c. 22, § 21. 1951, c. 33. 1963, c. 402, § 27.)

Effect of amendment.—The 1963 amendment deleted the former next-to-last sentence in the section.

Application of 1963 act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Private Mental Hospitals.

Sec. 22. Private hospitals to be licensed; subject to visitation.— The department may license any suitable person to establish and keep a private hospital or private house for the reception and treatment of patients who are mentally deranged. Such hospital or private house shall be subject to visitation

by the department or any member thereof. (R. S. c. 23, § 144. 1945, c. 355, §§ 3, 4. 1961, c. 394, § 3.)

Effect of amendment.—The 1961 amendment deleted "and may revoke such license at any time" at the end of the first sentence.

Sec. 23. Violation of section 22.—Whoever establishes or keeps such private hospital or private house without a license, or after revocation or during suspension of said license, shall be fined not more than $500. (R. S. c. 23, § 145. 1945, c. 355, §§ 3, 4. 1961, c. 394, § 4.)

Effect of amendment.—The 1961 amendment inserted "or during suspension" and substituted "be fined" for "forfeit" in this section.

Secs. 24-27. Repealed by Public Laws 1961, c. 303, § 3.

Sec. 29. License suspended or revoked after hearing.—When the department believes a license should be suspended or revoked it shall file a statement or complaint with the hearing officer designated in chapter 20-A. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with said hearing officer. (R. S. c. 23, § 151. 1945, c. 355, §§ 3, 4. 1961, c. 303, § 4; c. 394, § 5; c. 417, § 47.)

Effect of amendments. — Chapter 394, P. L. 1961, rewrote this section as amended by P. L. 1961, c. 303. Chapter 417, P. L. 1961, reenacted this section as amended by chapter 394, P. C. 1961, without a change.

Vocational Rehabilitation.

Sec. 30. Rehabilitation work.—The department, under the direction of the governor and council, may establish, conduct and maintain rehabilitation work as part of its program of aid and assistance. Such rehabilitation work shall be in cooperation with vocational education, as provided by chapter 41, sections 195-A to 195-Q, 196, 197, 198 and 203 to 207, in the department of education.

Funds provided for aid and assistance carried on by the department may be used in providing such vocational rehabilitation. (R. S. c. 22, § 22. 1959, c. 378, § 13.)

Effect of amendment.—Prior to the 1959 amendment, effective on its approval, January 29, 1960, the reference near the end of the first paragraph was to "sections 196 to 207, inclusive, of chapter 41".

Local Health Officers.

Sec. 61. Local health officer to assist persons placed in quarantine; expenses incurred charged to town.

Cited in Bethel v. Hanover, 151 Me. 318, 118 A. (2d) 787.

Sec. 62. Precautions against persons arriving from infected places; restrictions.

The local health officer may prohibit any such person from going to any part of his town where he thinks that the presence of such person would be unsafe for the inhabitants; and if he does not comply, the health officer may order him, unless disabled by sickness, forthwith to leave the state in the manner and by the road which he directs. If such person neglects or refuses to do so, any justice of the peace or judge of the district court in the county, on complaint of said local health officer, may issue his warrant to any proper officer or other person named therein, and cause him to be removed from the state; and if during the prevalence of such distemper in the place where such person resides, he returns to any town in the state without the license of its local health officer, he forfeits not more than $100. (R. S. c. 22, § 50. 1963, c. 402, § 28.)

Effect of amendment.—The 1963 amendment divided the last paragraph into two sentences and substituted "of the district court" for "or recorder" following "judge" near the beginning of the present second sentence.

As the rest of the section was not affected by the amendment, it is not set out.

Application of 1963 act.—See note to § 21.

Infectious Diseases. General Provisions.

Sec. 66. Free vaccination annually.—The local health officer of each municipality shall annually on a day or days specified by him during the month of March, or oftener if he deems it prudent, provide for the free vaccination with cowpox of all inhabitants within his jurisdiction; and shall provide for free inoculation with suitable material as defined by the department of health and welfare against diphtheria, whooping cough, tetanus and poliomyelitis of all children under 16 years of age at a time specified by him. Vaccinations and inoculations shall be done under the care of skilled, practicing physicians and under such circumstances and restrictions as the health officer may adopt therefor, not contrary to law or in violation of any regulations of the department of health and welfare.

The health officer is authorized and empowered to arrange with any available, skilled, practicing physician for the purpose of carrying out the provisions of this section, and when he deems it necessary for the proper discharge of his duties as outlined in section 48, anything in any city charter to the contrary notwithstanding.

The municipal officers of cities, towns and plantations shall approve, and the cities, towns and plantations shall pay any reasonable bills or charges incident to the foregoing when approved by the local health officer.

Nothing in this section is to be interpreted so as to relieve the local health officer or any selectman of the duty imposed by section 52. (R. S. c. 22, § 54. 1947, c. 173. 1959, c. 76.)

Effect of amendment.—The 1959 amendment rewrote the first sentence of this section.

Infectious Diseases, Persons, Places and Articles. Prevention.

Sec. 69. Notice to owner of any infected house, etc., requiring disinfecting.

If the person to whom notice is given fails to comply, he shall be punished by a fine of not less than $5 nor more than $10, for every day during which he continues to make default. The local health officer shall cause such house, building, car, vessel or vehicle, or any part thereof, and articles to be cleansed and disinfected at the expense of the town, and the town may recover the expenses so incurred from the owner, agent or occupier in default, by a civil action. (R. S. c. 22, § 62. 1961, c. 317, § 35.)

Effect of amendment.—The 1961 amendment divided the second paragraph of this section into two sentences, substituted "a civil action" for "an action of special assumpsit" at the end of the present second sentence and made other minor changes therein.

As the first paragraph was not affected by the amendment, it is not set out.

Sec. 77. Penalties.—Whoever willfully violates any provision of section 45, sections 48 to 51, sections 53 to 59, and sections 68 to 76, or of said regulations and by-laws, or neglects or refuses to obey any order or direction of any local health officer authorized by said provisions, the penalty for which is not specifically provided, or willfully interferes with any person or thing to prevent the execution of said sections or of said regulations and by-laws shall be punished by a fine of not more than $50 or by imprisonment for not more than 6 months, or by both. The district court shall have jurisdiction, original and concurrent with

the superior court, of all offenses under said sections. (R. S. c. 22, § 70. 1963, c. 402, § 29.)

Effect of amendment.—The 1963 amendment divided the section into two sentences, deleted "herein" preceding "specifically provided" near the middle of the present first sentence, deleted "the provisions of" preceding "said sections" in such sentence, deleted "such fine and imprisonment" at the end of that sentence and substituted "The district court" for "judges of municipal courts" at the beginning of the present second sentence.

Application of 1963 act.—See note to § 21.

Removal of Infected Persons and Goods.

Sec. 78. Removal or separate accommodations of infected persons.—Upon complaint made to any judge of the district court, such judge may issue a warrant, directed to a proper officer, requiring him to remove any person infected with contagious sickness, under the direction of the local health officer of the town where he is; or to impress and take convenient houses, lodgings, nurses, attendants and other necessaries for the accommodation, safety and relief of the sick, or for the protection of the public health. (R. S. c. 2, § 134. 1963, c. 402, § 30.)

Effect of amendment.—The 1963 amendment substituted "judge of the district court, such judge" for "trial justice or judge of a municipal court, such trial justice or judge of a municipal court" near the beginning of the section.

Application of 1963 act.—See note to § 21.

Sec. 79. Securing infected articles.—When on application of the local health officer of a town it appears to any judge of the district court that there is just cause to suspect that any baggage, clothing or goods therein are infected with any malignant, contagious distemper, he shall, by a warrant directed to a proper officer, require him to impress so many men as said judge thinks necessary, to secure such infected articles, and to post said men as a guard over the place where the articles are lodged, who shall prevent any persons from removing or approaching such articles, until due inquiry is made into the circumstances. (R. S. c. 22, § 135. 1963, c. 402, § 31.)

Effect of amendment.—The 1963 amendment substituted "judge of the district court" for "trial justice or judge of a municipal court" and deleted "trial justice or" formerly appearing between "said" and "judge."

Application of 1963 act.—See note to § 21.

Sec. 80. Safekeeping of infected articles ordered by warrant.—Any judge of the district court may by the same warrant, if it appears to him necessary, require said officer, under the direction of the local health officer, to impress and take convenient houses or stores for the safekeeping of such infected articles, and cause them to be removed thereto, or otherwise detained, until the local health officer thinks that they are free from infection. (R. S. c. 22, § 136. 1963, c. 402, § 32.)

Effect of amendment.—The 1963 amendment substituted "judge of the district court" for "trial justice or judge of a municipal court."

Application of 1963 act.—See note to § 21.

Sec. 87. Depositing carcass of dead animal or fowl where it may cause nuisance.—Whoever personally or through the agency of another leaves or deposits the carcass of a dead horse, cow, sheep, hog or of any domestic animals or domestic fowl or parts thereof in any place where it may cause a nuisance shall, upon receiving a notice to that effect from the local health officer, promptly remove, bury or otherwise dispose of such carcass. If he fails to do so within such time as may be prescribed by the local health officer, and in such manner as may be satisfactory to such health officer, he shall be punished by a

fine of not less than $10 nor more than $100, or by imprisonment for not more than 3 months. (R. S. c. 22, § 143. 1957, c. 27.)

Effect of amendment. — The 1957 amendment omitted language which made the section applicable to "other of the larger" domestic animals, inserted the provision as to "domestic fowl or parts thereof", and increased the fine and imprisonment.

Tuberculosis.

Sec. 105. Control of tuberculosis. — The department or any full-time municipal health officer is empowered to make such investigations as may be necessary to ascertain the source of any infectious or communicable disease. Whenever said department or any full-time municipal health officer has cause to believe that any person is infected with tuberculosis so as to expose others to the dangers thereof, said department by its representative or full-time municipal health officer shall petition the superior court in the county where said person resides or is found, setting forth said facts and requesting an examination of such person. Said court may order such notice thereon as it may deem proper for such person to appear and answer thereto. Upon hearing, if said court finds cause to believe that such person is so infected, it may issue an order requiring said person to be examined by a board of 3 physicians licensed to practice in this state at the expense of said department. Said board shall be comprised of the superintendent of one of the state sanatoriums, a physician chosen by the person suspected of having tuberculosis and the third appointed by the court. The board shall make a report to the court within the time designated by it.

If the board finds and reports that the alleged tuberculosis infected person does not have active infectious tuberculosis and is not dangerous to the public health the court shall enter an order dismissing the petition. If the board finds and reports that the alleged tuberculosis infected person has active infectious tuberculosis and is dangerous to the public health, the court shall hold a hearing at the time fixed. If the court determines that such person has active infectious tuberculosis and is dangerous to the public health it may commit such person to a sanatorium for such period of time as shall in the opinion of the superintendent of the sanatorium be necessary to remove the danger of infection to the public health and improve the health of the person, so that he will not have active infectious tuberculosis. The court, in its order committing a person to a sanatorium, may direct the sheriff to take such person into his custody and forthwith deliver him to the sanatorium. (1949, c. 208, § 1. 1955, c. 371, §§ 1, 2. 1959, c. 180. 1961, c. 417, § 48.)

Effect of amendments. — The 1955 amendment repealed the former last sentence of the first paragraph. The amendment also repealed the former second and third paragraphs and inserted in place thereof the second paragraph above.

The 1959 amendment amended the first and second sentences of this section by adding the phrase "or any full-time municipal health officer".

The 1961 amendment deleted "a justice of" before "the superior court" near the end of the first sentence and substituted "court" for "justice" and "it" for "he" throughout the section.

Sec. 105-A. Return of person to sanatorium.—Any person committed under section 105 who leaves the sanatorium to which he has been committed without having been discharged by the superintendent shall be recommitted to the sanatorium by the superior court in the county from which the person was originally committed upon an affidavit being filed before such court by the superintendent of the sanatorium from which the person left. Said affidavit shall state that such person has left the sanatorium and has not been discharged by the superintendent of said sanatorium. The order of recommitment shall direct the sheriff

to forthwith deliver such person to the superintendent of the sanatorium named in the recommitment order. (1955, c. 371, § 3. 1961, c. 417, § 49.)

Effect of amendment.—The 1961 amendment deleted "a justice of" before "the superior court" in the first sentence and split the first sentence into the present first and second sentence.

Sec. 105-B. Appeal.—Any person who shall feel aggrieved by the order of commitment shall have the right to appeal such order to the supreme judicial court; however, the filing of notice of appeal shall not operate to supersede the effect of the order from which the appeal is taken. Every order shall be executed forthwith unless the court entering the order or the supreme judicial court, in its discretion, enters a supersedeas order and fixes the terms and conditions thereof. In all respects, except the entry of a supersedeas order the existing statutes and rules pertaining to appeals of civil causes shall apply to such appeals. (1955, c. 371, § 4. 1961, c. 417, § 50.)

Effect of amendment.—The 1961 amendment substituted "court" for "justice" in the second sentence.

State Sanatoriums.

Sec. 105-C. Establishment and maintenance of one or more sanatoriums.—The state shall maintain by building, lease or by purchase one or more sanatoriums in such districts of the State as shall seem best to serve the needs of the people for the care and treatment of persons affected with tuberculosis. Where lease or purchase is made, the state shall have the right to enlarge or otherwise adapt the property to meet the needs of the situation; and such additions or improvements shall be considered permanent. At the expiration of the original lease of any property for use as a tuberculosis sanatorium, the State shall have the right of renewal or of purchase. (1955, c. 437, § 1.)

Transfer of duties.—Section 3 of the act which inserted this section and § 105-D provides: "The duties imposed upon the department of institutional service under the provisions of sections 157 and 158 of chapter 27 of the revised statutes are hereby transferred and imposed upon the department of health and welfare."

Sec. 105-D. Admittance of patients; charges for treatment. — Patients may be admitted to these sanatoriums upon application to the department of health and welfare, if found to be suffering from tuberculosis or if suspected of having tuberculosis. All patients in said sanatoriums, the parents of minor children or the spouse, shall pay to the state for treatment, including board, supplies and incidentals necessary to the prescribed medical and surgical treatment both for in-patient and out-patient services, the amount determined by the department. The department may, if it finds that such patient or relatives liable by law are unable to pay the amount determined, in whole or in part, waive payment or so much thereof as the circumstances appear to warrant.

All funds collected from this source shall be credited to the general fund. No pauper disabilities shall be created by reason of any aid or assistance given under the provisions of this section.

The provisions of this section shall not apply to persons who may be committed under the provisions of section 105. (1955, c. 437, § 1. 1957, c. 346.)

Effect of amendment. — The 1957 amendment rewrote the first paragraph of this section.

Infectious and Communicable Diseases.

Sec. 111. Examination requested.—The bureau of health is empowered to make such investigations as may be necessary to ascertain the source of any infectious or communicable disease. Whenever said bureau has cause to believe that any person is infected with any of the diseases mentioned in section 110 so

as to expose others to the dangers thereof, said bureau by its representative shall petition the district court in the division where said person resides or is found or the superior court in the county where said person resides or is found, setting forth said facts and requesting an examination of such person. Said court may order such notice thereon as it may deem proper for such person to appear and answer thereto. Upon hearing, if said court finds cause to believe that such person is so infected, it may issue an order requiring said person to be examined by a licensed physician, at the expense of the bureau; and use all necessary legal processes to carry its decrees into effect. (R. S. c. 22, § 91. 1963, c. 402, § 33.)

Effect of amendment.—The 1963 amendment substituted "diseases mentioned in section 110" for "above diseases" in the second sentence, substituted "the district court in the division where said person resides or is found or the superior court" for "a judge of the municipal court or a justice of the superior court" in that sentence, substituted "court" for "judge or justice" following "Said" at the beginning of the third sentence and substituted "it" for "he" in that sentence and in the last sentence in the section.

Application of 1963 act.—See note to § 21.

Tattooing.

Sec. 126-A. A license to tatto required.—No person shall place a tattoo upon the body of another human being without first obtaining a license from the department of health and welfare. (1961, c. 374, § 1.)

Effective date.—P. L. 1961, c. 374, adding §§ 126-A to 126-G, provided in section 2 thereof that the act should become effective October 1, 1961.

Sec. 126-B. Department to license.—The department is empowered to license persons to practice the art of tattooing. Such licenses shall be issued annually by the department upon the payment of a fee of $50. Licenses shall expire on September 30th of each year. (1961, c. 374, § 1.)

Sec. 126-C. Rules and regulations.—The department is authorized and empowered to make necessary rules and regulations governing the application of tattoos upon the body of human beings. (1961, c. 374, § 1.)

Sec. 126-D. Tattoos restricted.—No person shall place a tattoo mark or figure upon the body of a female person; or upon a male person under the age of 21 years. (1961, c. 374, § 1.)

Sec. 126-E. Exemption.—Sections 126-A to 126-G are not intended to apply to any act of a practitioner of the healing arts licensed in the state and performed in the course of his practice. (1961, c. 374, § 1.)

Sec. 126-F. Definition.—Tattoo means to insert pigment under the skin of a human being by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin. (1961, c. 374, § 1.)

Sec. 126-G. Penalty.—Whoever violates sections 126-A to 126-F shall be punished by a fine of not less than $50 nor more than $500, or by imprisonment for not more than 6 months. (1961, c. 374, § 1.)

Premarital Medical Examinations.

Sec. 127. Premarital medical examinations.—Except as otherwise provided in sections 128 to 135, no municipal clerk shall issue a license for the marriage of parties until each applicant has caused to be filed with such clerk a statement signed by a duly licensed physician that such applicant has been given a physical examination, including a standard blood test, as required by the bureau of health for the discovery of syphilis, made on a day specified in the statement,

which shall not be more than the 30th day prior to that on which the license is applied for, said blood test to be made by the state laboratory or by a hospital laboratory approved by the bureau of health, and that in the opinion of the physician the person therein named is not infected with syphilis, or, if so infected, is not in a stage of that disease whereby it may become communicable. Provided, however, that if it appears from said first test that the applicant is infected with syphilis, every such applicant shall have the right to have a minimum of 3 tests in connection with said application, of which not less than two shall establish the opinion of the physician that such applicant is infected with such venereal disease. Provided further, that in case an application for a marriage license is finally denied, the person making such application may again apply for a marriage license when he or she has reason to believe that the cause for denial no longer exists. (R. S. c. 22, § 107. 1963, c. 45.)

Effect of amendment.—The 1963 amendment rewrote that portion of the first sentence relating to a statement signed by a physician.

Disposition of Eyes After Death.

Sec. 140-A. Right to dispose of eyes after death.—A person has the right to direct the manner in which his eyes or any part thereof shall be disposed of after his death.

I. Manner of making disposition. A person may, if he is of legal age and sound mind, by written instrument, prescribe for the disposition to be made, after death, of his eyes or any part thereof, provided such person shall receive no remuneration or other thing of value for such disposition and provided further that same is for the purpose of advancing medical science or for the replacement or rehabilitation of diseased eyes, worn out or injured parts, of the eyes of living human beings.

II. Donee provisions. Any such donation, authorization or consent made under this section shall be by written instrument signed by the person making or giving the same and shall be witnessed by 2 persons of legal age. Each instrument may designate the donee, but such designation shall not be necessary to its validity. A donee may be an individual, hospital, institution, an agency engaged in sight restoration or a bank maintained for the storage, preservation and use of human eyes or parts thereof. If no specific donee is named in such instrument, then the hospital in which the donor dies shall be considered to be the donee and if such donor does not die in a hospital, then the attending physician shall be considered to be the donee; and such hospital or physician shall have full authority to take and remove said eyes or parts thereof which such donor has designated and to make the same available to any person or institution in need thereof. Where a donee is named in such instrument, any hospital or physician acquiring possession or custody of the body shall have the authority to remove from the body the eyes or parts thereof which the donor has designated and to deliver the same to the named donee; provided that no such licensed physician or hospital shall receive any remuneration or other thing of value whatsoever, except the established fees, for such services rendered, for any eyes, or parts thereof, donated under this section, but such claim for services in removing the eyes or parts thereof shall not be a claim against the estate of deceased, and the hospital, donee or physician shall not be liable civilly or criminally for removing said eyes or parts thereof from the body, providing the donor has, prior to death, executed a valid written agreement as provided herein. No appointment of administrator, executor or court order shall be necessary before the removal of said eyes or parts thereof. No particular form or words shall be necessary or required for such donation or authorization provided that the instrument conveys the clear intention of the purpose of the person making the same. Any such disposition

of his own eyes or parts thereof may be revoked by the donor at any time prior to his death by the execution of a written instrument in the same manner as the original grant. (1961, c. 79.)

Water Sold for Domestic Purposes or Used in Schools.

Sec. 141. Samples for examination of water sold for domestic purposes; if polluted; cost; inspection.—The department may require any person, firm, corporation, municipality or water district selling water for domestic purposes to furnish samples thereof for chemical and bacteriological examination, and if said water is found to be contaminated, polluted and unfit for domestic use, the department may issue an order prohibiting the transporting, sale, distribution or supplying of such water as long as such contamination, pollution and unfitness remains, and may issue an order directing the installation and operation of such purification equipment as may be reasonable and proper, and may make reasonable rules and regulations for the adequate operation of all water purification equipment.

Representatives of the department may enter upon the premises and inspect any water purification equipment to determine compliance with the law, department orders and department rules and regulations. Any person, firm, corporation, municipality or water district required under the provisions of this section to furnish samples of the water sold or to be sold by it for domestic purposes shall pay the shipping charges thereon, and the department shall charge the average cost of the analysis for such examination to the person, firm, corporation, municipality or water district required to have such test made. (R. S. c. 22, § 121. 1949, c. 52. 1957, c. 269, § 2.)

Effect of amendment. — The 1957 amendment made this section applicable also to firms, corporations, municipalities and water districts, inserted all of the provisions relative to water purification equipment, and inserted the provision as to shipping charges on samples.

Sec. 141-A. Reallocated by Public Laws 1961, c. 417, § 51.

Editor's note.—P. L. 1961, c. 120, enacted § 141-A which was reallocated, by P. L. 1961, c. 417, § 51, as § 145-A of this chapter.

Sec. 145. Fluoride in public waters; authorization.—No such public utility or agency shall add any fluoride to any such water supply without first having been authorized to do so by the municipality or municipalities served by it. Any public utility or agency duly authorized to add fluoride to any water supply shall do so within 9 months after being notified in accordance with the provisions of this section. The town or city clerk shall, within 10 days after the vote, notify the public utility or agency of the vote favoring the addition of fluoride to the public water supply. In the case of a city, such authorization shall be by a majority vote of the legal voters voting at a regular or special city election. In the case of a town or plantation, such authorization shall be by a majority vote of the inhabitants present at an annual town or plantation meeting. In the case of a public utility or agency serving more than one municipality, such authorization shall be by a majority vote of the voters voting at such city election and a majority vote of the inhabitants present at an annual town or plantation meeting of each town or plantation served by such public utility or agency. Authorization by municipalities representing 80% of the customers served by such public utility or agency shall be sufficient. Whenever a municipality shall have approved fluoridation it may not again vote on the matter for a minimum period of 2 years from the date of installation of fluoride. The public utilities commission, upon application, shall determine and allocate the cost of such fluoridation among the customers of such public utility or agency and shall from time to time review such determination and allocation as required. In the event that a mu-

nicipality which shall have approved fluoridation shall vote to discontinue such fluoridation and the public utility or agency serving such municipality has constructed or installed fluoridation facilities, such public utility or agency shall be entitled to amortize the remaining cost of its investment in such facilities, and to allocate the cost of such amortization among its customers, over such period of time as shall be approved by the public utilities commission. (1953, c. 324, § 2. 1957, c. 303.)

Effect of amendment. — The 1957 amendment inserted the present second, third and eighth sentences, added the last sentence, and made other minor changes.

Sec. 145-A. Protection of source of public water supply.—Any water utility, or municipality supplying water to the public is authorized to take reasonable methods to protect its source of public water supply from pollution when such source is a lake or pond. It may enter upon the land bordering such source of public water supply and inspect the system of drainage and sewage of any building or structure thereon. It may order the owner of any building thereon having a system of drainage and sewage flowing, seeping or suspected of seeping into said source of public water supply to remedy the situation. Such order shall be in writing and state a time within which the order must be complied with.

Before any new building or structure is constructed upon land bordering on the source of a public water supply or any existing building or structure thereon is repaired or remodeled the water utility or municipality supplying water to the public shall approve the plans as to drainage and sewage.

Either party may call upon the department for technical advice.

Any person aggrieved by any order of such water utility or municipality supplying water to the public may appeal to the superior court within 30 days after receiving such order.

The water utility or municipality supplying water to the public may petition the superior court upon failure of the owner of a building or structure to comply with any order made by it. The court, after hearing, may make such order as may be appropriate. (1961, c. 120; c. 417, § 51.)

Editor's note. — This section was enacted by P. L. 1961, c. 120, as § 141-A of this chapter but was reallocated by P. L. 1961, c. 417, § 51, as § 145-A.

Recreational Camps and Roadside Places.

Cross reference. — See c. 91-A, §§ 123-132, re excise tax on house trailers.

Sec. 160. Eating and lodging places, recreational and overnight camps licensed.—No person, corporation, firm or copartnership shall conduct, control, manage or operate, for compensation, directly or indirectly, any catering establishment, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, or any eating or lodging place, recreational or overnight camp, unless the same shall be licensed by the department. (R. S. c. 22, § 152. 1963, c. 295, § 1.)

Effect of amendment.—The 1963 amendment added "for compensation" following "manage or operate" and added "any catering establishment, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, or" following "directly or indirectly."

Sec. 162. License; terms and fees.—The department is empowered to license catering establishments, establishments preparing foods for vending machines dispensing foods other than in original sealed packages, eating and lodging places, recreational and overnight camps. Such licenses shall be issued by the department under such terms and conditions as it deems advisable, and fees for licenses not exceeding $15 may be charged. The fees thus received shall consti-

tute a permanent fund to carry out sections 160 to 166. (R. S. c. 22, § 154. 1947, c. 331. 1953, c. 315. 1963, c. 295, § 2.)

Effect of amendment.—The 1963 amendment added "catering establishments, establishments preparing foods for vending machines dispensing foods other than in original sealed packages," following "license" in the first sentence, raised the license fee from $10 to $15 in the second sentence and deleted "the provisions of" before "sections" in the last sentence.

Sec. 165. Suspension or revocation of licenses.—When the department believes a license should be suspended or revoked it shall file a statement or complaint with the hearing officer designated in chapter 20-A. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with the hearing officer. (R. S. c. 22, § 157. 1961, c. 317, § 36; c. 394, § 6; c. 417, § 52.)

Effect of amendments. — Chapter 394, P. L. 1961, rewrote this section as amended by P. L. 1961, c. 317. Chapter 417, P. L. 1961, re-enacted this section as amended without change.

Persons Suffering from Opiates and Alcoholics.

Sec. 167. Persons suffering from use of opiates or alcohol committed to a hospital.—A person alleged to be suffering from the effects of the use of an opiate, cocaine, chloral hydrate, or other narcotic, barbiturate or the excessive use of alcohol may be committed to the care of any hospital, including any state hospital for the mentally ill or any legally qualified physician of not less than 5 years' actual practice for treatment. The medical authorities of said hospital or said physician to whom said patient is committed may restrain said patient, so committed, in such manner as may be necessary for his protection, for a period of not more than 90 days. (R. S. c. 22, § 159. 1961, c. 212, § 1.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, made it applicable to users of barbiturates and alcoholics and added "including any state hospital for the mentally ill".

Sec. 168. Agreement for personal restraint.—Before any restraint shall be imposed under the authority of section 167, a voluntary agreement shall be made in writing by the person suffering from the effects of the use of an opiate, cocaine, chloral hydrate, other narcotic, barbiturate or the excessive use of alcohol, to the imposition of restraint upon his actions, if necessary, and such agreement must be witnessed by the husband, wife or parent of the person aforesaid, or one of the municipal officers of the city or town in which the person, so suffering, is a resident, and approved, after reasonable notice, by a justice of the superior court or the judge of probate in the county where the patient resides. (R. S. c. 22, § 160. 1961, c. 212, § 2.)

Effect of amendment.—The 1961 amendment substituted "section 167" for "the preceding section" and also substituted "the use of an opiate, cocaine, chloral hydrate, other narcotic, barbiturate or the excessive use of alcohol" for "any drug mentioned in said section".

Inspection of Plumbing; Plumbers.

Sec. 174. Permits, fees; distribution of fees; hearings on regulations.—The permit required by section 173 shall be issued on the payment of a fee of not less than 50¢ for each such permit but not more than $2 per fixture, up to a total of 5 fixtures; for over 5 fixtures not less than 20¢ and not more than 60¢ shall be charged for each additional fixture, and shall be determined by such ordinance or by-law; ⅓ of the amount of such fees shall be paid through the department to the treasurer of state to be maintained as a permanent fund and used by the department for the carrying out of the pro-

visions of sections 173 to 175. The remainder shall be paid to the treasury of the city or town and used exclusively for carrying out the plumbing laws in such cities or towns. Fixtures for the purposes of sections 173 to 175, inclusive, shall be defined as: receptacles intended to receive and discharge water, liquid or water carried wastes into a drainage system with which they are connected.

The department shall hold hearings on the 1st Tuesdays of February and August of each year or oftener if deemed advisable for the purpose of considering changes in the rules and regulations pertaining to plumbing. (R. S. c. 22, § 166. 1959, c. 200.)

Effect of amendment. — The 1959 amendment rewrote the first sentence of this section by changing the amount of the fees.

Sec. 177. Penalty. — Whoever violates any provision of the 7 preceding sections and of section 179, or any ordinance, by-law or regulation made thereunder, shall be punished by a fine of not less than $10, nor more than $50, for each offense. (R. S. c. 22, § 169. 1963, c. 402, § 34.)

Effect of amendment.—The 1963 amendment deleted the former last sentence in the section.

Application of 1963 act.—See note to § 21.

Sec. 179. Definitions.

V. Plumbing. "Plumbing" is the art of installing in buildings the pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried wastes, and shall include the necessary water piping and water connections to all types of heating apparatus using water. (R. S. c. 22, § 171. 1961, c. 229.)

Effect of amendment.—The 1961 amendment added all of subsection V following "wastes".

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 190. Investigation of complaints; revocation of licenses.— The board shall investigate all complaints made to it and all cases of noncompliance with or violation of sections 178 to 193 and shall bring all such cases to the notice of the proper prosecuting officers. The board, after a conviction for crime in the course of plumbing business of any person, firm or corporation to whom a license has been issued by them or for any just cause may by vote of majority of the board file a statement or complaint with the hearing officer designated in chapter 20-A asking to have the license or registration suspended or revoked. (R. S. c. 22, § 182. 1961, c. 394, § 7.)

Effect of amendment.—The 1961 amendment rewrote the second sentence, deleted the former last sentence and made other minor changes in this section.

Sec. 192. Exceptions.—Sections 178 to 193 shall not apply to regular employees of public utilities as defined in chapter 44, section 16, when working as such, nor to regular employees of owners or lessees of real property when working as such, nor to any oil burnerman duly licensed under chapter 82-A, insofar as work covered by said license is involved, nor to persons whose occupation is the doing of miscellaneous jobs of manual labor in the course of which some incidental plumbing repairs or alterations are made by them. (R. S. c. 22, § 184. 1953, c. 322. 1961, c. 231.)

Effect of amendment.—The 1961 amendment added the provisions as to oil burnermen and made other minor changes.

Funeral Directors and Embalmers.

Sec. 195. Business of funeral director and practice of embalming; qualifications.

Any person wishing to become a funeral director and to engage in the business or profession of funeral directing, and of preparing, other than by embalming, or disposing of dead human bodies by any means whatever in this state shall be at least 21 years of age, a citizen of the United States, be of good moral character, with not less than a high school education or its equivalent, shall have practiced funeral directing for at least 2 years under the direction and supervision of a licensed funeral director, and graduated from a 12 months' course of study in a school or college of mortuary science, the requirements and standards of which school or college shall have the approval of the state board of examiners of funeral directors and embalmers, and shall have an intelligent comprehension of the dangers from contagious and infectious diseases and of the actions and uses of disinfectant agencies as the bureau of health may prescribe as necessary for the protection of the living, and shall pass an examination before a board of examiners as appointed under the provisions of the following section. (R. S. c. 22, § 187. 1949, c. 333, § 1. 1955, c. 213, § 1.)

Effect of amendment.—The 1955 amendment deleted from the second paragraph the words "and graduated from a 12 months' course in an approved school" and inserted in place thereof the words "and graduated from a 12 months' course of study in a school or college of mortuary science, the requirements and standards of which school or college shall have the approval of the state board of examiners of funeral directors and embalmers." As the first paragraph was not changed, it is not set out.

Sec. 196. State board of examiners of funeral directors and embalmers; rules and regulations; compensation; expenses; reciprocal agreements.—The board of examiners of funeral directors and embalmers, as heretofore established, shall consist of 5 members, one of whom shall be the director of health, who shall be secretary of said board, and the other members shall be licensed funeral directors and embalmers, who shall be appointed by the governor, with the advice and consent of the council, and they shall hold office for the term of 4 years. In case of a vacancy due to death, resignation or other cause, the vacancy shall be filled by an appointment for the unexpired term, as is provided for original appointments.

The board may adopt rules and regulations consistent with law governing the care, preparation, transportation, cremation, burial or disposition of dead human bodies, and governing embalming and funeral directing, including licensing and registration of apprentices and mortuary assistants. No such rule or regulation shall require that an embalmer be permanently employed by a funeral director. Such rules and regulations shall not become effective until approved by the department of health and welfare.

The members of the board shall each receive $15 a day and expenses while engaged in the business of said board. The secretary shall receive actual expenses while engaged in the business of the board.

The secretary of the board shall be the treasurer thereof and shall receive all fees, charges and assessments payable to the board, and account for and pay over the same according to law.

The secretary of said board shall keep a record of all proceedings, issue all notices, certificates of registration and licenses, attest all such papers and orders as said board shall direct, cause inspections to be made at least once every 3 years of all establishments or places of business of any person carrying on the business of funeral director or embalmer in the state and perform such other duties as shall be designated by the board. Such inspection shall be for the purpose of determining that such establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained

therein and that the laws and the regulations of the board and of the department of health and welfare relating to the conduct of such establishments are observed. The board may employ one or more inspectors to carry out the duties of inspection imposed by this section, and such inspection may also be made by members of the board upon authorization by the board.

The board of examiners of funeral directors and embalmers may enter into reciprocal agreements with corresponding boards of other states for the purpose of allowing licensed funeral directors or embalmers to perform their licensed functions in this or other states under such terms and conditions as the boards may prescribe. (R. S. c. 22, § 188. 1949, c. 333, § 2. 1951, c. 202, § 1. 1953, c. 292, §§ 1, 2. 1961, c. 28. 1963, c. 218, § 1.)

Effect of amendments.—The 1961 amendment added the last paragraph of the section.

The 1963 amendment substituted "including licensing and registration of apprentices and mortuary assistants" for "provided that" in the first sentence of the second paragraph and made the language following the proviso in the first sentence into the present second sentence of the second paragraph.

Sec. 197. Examinations for licenses.—Examinations for licenses shall be given by the board at least twice a year at such times and places as it may determine. Applicants for embalmers' licenses shall pass an examination upon their knowledge of embalming, sanitation, preservation of the dead, disinfection of a deceased person and the apartments, bedding, clothing or anything likely to be affected in the case of death from infectious or contagious diseases, in accordance with the rules and regulations of the department. They shall also be conversant with the law and rules governing the transportation of dead human bodies, and such other subjects as the board may, from time to time, see fit to name, and if found qualified, a certificate of a licensed embalmer shall be issued to the applicant under which he shall have legal authority to perform all acts relating to preparing, embalming, shipping or burying dead human bodies, and to do work coming within the province of said vocation.

Applicants for funeral directors' licenses shall pass an examination upon their knowledge of sanitation, bacteriology, disinfection of the apartments, bedding, clothing or anything likely to be affected in the case of death from infectious or contagious diseases in accordance with the rules and regulations of the department. They shall also be conversant with the law and rules governing the transportation of dead human bodies, and such other subjects as the board may, from time to time, see fit to name, and if found qualified, a certificate of a licensed funeral director shall be issued to the applicant under which he shall have legal authority to engage in the business or profession of funeral directing and of preparing, other than by embalming, or disposing of dead human bodies by any means whatever, and to do any work coming within the province of said vocation.

Applicants for the combination license of funeral director and embalmer may be given a single examination

All funeral establishments must be operated by a person or persons holding a funeral director's license and said license shall be conspicuously displayed at or in such establishments.

All branch establishments must be operated by a person or persons holding a funeral director's license and the license must be displayed in all such branch establishments.

A funeral establishment must contain a preparation room equipped with tile, cement or composition floor, necessary drainage or proper disposal of waste satisfactory to the local health officer, and ventilation, and containing necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other disposition.

The board may adopt such rules, regulations and classifications as may be reasonable, sufficient and proper to define what shall be deemed the proper

drainage and ventilation and what instruments are necessary and suitable in a funeral establishment.

The board may adopt rules and regulations governing its own procedure. It may also adopt rules and regulations consistent with the law governing the time, place, method and grading of examinations. Written examinations shall be retained for a period of 5 years but need not be retained for a longer period. (R. S. c. 22, § 189. 1949, c. 333, § 3. 1953, c. 292, § 3. 1955, c. 213, §§ 2, 3. 1961, c. 394, § 8.)

Effect of amendments. — The 1955 amendment inserted the word "bacteriology" in the first sentence of the second paragraph and added the third paragraph.

The 1961 amendment deleted the former fourth paragraph (counting the paragraph added by the 1955 amendment), relating to revocation of licenses.

Sec. 200. Fees; expiration and renewal of licenses.—The fee for examinations under the provisions of section 197 shall be $10, and all licenses and certificates of registration which have been or may be issued to funeral directors and embalmers by the board shall expire on the 31st day of December, annually. Any person holding an embalmer's license or certificate of registration or funeral director's license issued under this or any other law, may have the same renewed by making and filing with the secretary of said board an application therefor within 30 days preceding the expiration of his or her license or certificate of registration, upon blanks prescribed by said board, and upon the payment of a renewal fee of $4 for an embalmer's license, $4 for a funeral director's license, $6 for a combination embalmer's and funeral director's license, $2 for an apprentice's license and $2 for a mortuary assistant's license. Any person neglecting or failing to have his or her license or certificate of registration renewed may have the same renewed by making application therefor within 30 days after the date of such expiration and upon the payment of the regular renewal fee plus a revival fee of $2. Provided, however, that any person who held an embalmer's license or certificate of registration or funeral director's license issued in accordance with the laws of this state, but who failed to have such license renewed and who, solely because of such failure to renew said license, is not now entitled to engage in the business of embalming dead bodies, shall be allowed to take an examination for a license to engage in said business, and upon successfully passing such examination and paying the required fees shall be granted a license as an embalmer, and the said board of examiners is authorized and directed to give such examination and grant such license to any applicant complying with the above provisions. (R. S. c. 22, § 192. 1955, c. 213, § 4. 1957, c. 23. 1963, c. 218, § 2.)

Effect of amendments. — The 1955 amendment changed the former second sentence (now third) by substituting at the end thereof "and upon the payment of the regular renewal fee plus a revival fee of $1" for "and upon the payment of $4, revival and renewal fee.

The 1957 amendment substituted three sentences for the former first two sentences of this section, increased the fees in such sentences and struck out the words "of examiners" where they formerly appeared in such sentences.

The 1963 amendment deleted "the provisions of" following "issued under" near the beginning of the present second sentence, substituted a comma for "and" following "funeral director's license" in such sentence and added "and $2 for a mortuary assistant's license" at the end of such sentence.

Sec. 204. Violent or sudden deaths, embalming fluids not injected until cause of death legally determined.—No person shall inject into any cavity or artery of the body of any person who has died from violence, by the action of chemical, thermal or electrical agents, or following abortion, or suddenly when not disabled by recognizable disease, any fluid or substance, until a legal certificate as to the cause of death from the medical examiner has been obtained, or until legal investigation has determined the cause of death, or written permission to embalm such body has been given by the medical examiner. If a criminal cause

of death is alleged or suspected, no fluid or other substance shall be injected into a body until the cause of death is legally established or until an autopsy has been performed. (R. S. c. 22, § 196. 1955, c. 326, § 4.)

Effect of amendment.—The 1955 amendment rewrote this section.

Sec. 204-A. Solicitation of prearranged funerals and of funeral business prohibited.—No funeral home, funeral establishment or person holding a license under sections 195 to 205 shall as, or through, an agent or principal solicit a prearranged funeral service or plan for any person or persons. "Prearranged funeral service or plan" shall mean any funeral service or plan which is arranged, planned or determined prior to the demise of a person or persons for whom the funeral service is to be performed. Funeral homes, funeral establishments and licensees under sections 195 to 205 may enter into contracts or agreements for prearranged funeral services or plans provided that they do not in any manner either as, or through, principals or agents solicit such contract or agreement.

No funeral home, funeral establishment or person licensed under sections 195 to 205 shall pay or cause to be paid, directly or indirectly, any money or other thing of value to a person not responsible for payment for the funeral as a commission or gratuity for the securing of business for such funeral home, establishment or licensee.

Any person who violates this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $50 and not more than $500, or by imprisonment for not more than 3 months. (1963, c. 109.)

Sec. 204-B. Employment of funeral directors, etc., by cemeteries prohibited.—No funeral home, funeral establishment or person holding a license under sections 195 to 205 shall be employed as a funeral home, funeral establishment, or as an embalmer or funeral director by a cemetery, cemetery association or cemetery corporation, nor shall such person be so employed by a funeral home, funeral establishment or mortuary establishment which owns or controls or is owned or controlled by a cemetery, cemetery association or cemetery corporation. Control shall not be considered to exist because the owners, officers or employees of a funeral home, funeral establishment or mortuary establishment serve without pay or for a fee not exceeding $500 per year per person as officers or as the minority of the directors or trustees of a cemetery association or cemetery corporation in which they have no financial investment. This section shall not prevent employment of persons licensed under sections 195 to 205 by cemeteries, cemetery associations or cemetery corporations in other capacities than that of funeral director or embalmer. This section shall not apply to disinterments or transfers of disinterred bodies.

Any person who violates this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $50 and not more than $500, or by imprisonment for not more than 3 months. (1963, c. 245.)

Sec. 205. Investigations; refusal of license or renewal. — Whenever the board shall have reason to believe that any person to whom a license has been issued has become unfitted to practice funeral directing, embalming and disinfecting, as the case may be, or has violated any of the provisions of sections 195 to 205, or any rule or regulation prescribed, or whenever written complaint, charging the holder of a funeral director's or an embalmer's license with the violation of any provision of sections 195 to 205 is filed with the board, it shall be the duty of said board to conduct an investigation, and if from such investigation it shall appear to the board that there is reasonable ground for belief that the accused may have been guilty of the violation or violations charged,

the board shall file a statement or complaint with the hearing officer designated in chapter 20-A.

Any person who has been refused a license or renewal of his license may file a statement or complaint with said hearing officer.

The board may refuse to issue or to renew any license, when it believes the applicant for or the holder of such license to be guilty of any of the following acts or ommissions:

I. Conviction of a crime involving moral turpitude.

II. Conviction of a felony.

III. Unprofessional conduct which is defined to include:

A. Misrepresentation or fraud in obtaining a license or in the conduct of the business or the profession of a funeral director or embalmer;

B. False or misleading advertising as a funeral director or embalmer; advertising or using the name of an unlicensed person in connection with that of any funeral establishment;

C. Solicitation of dead human bodies by the licensee, his agents, assistants or employees, whether such solicitation occurs after death or while death is impending; provided that this shall not be deemed to prohibit general advertising;

D. Employment by the licensee of persons known as "cappers," "steerers" or "solicitors," or other such persons to obtain funeral directing or embalming;

E. Employment directly or indirectly of an apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

F. The direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business;

G. Gross immorality;

H. Aiding or abetting an unlicensed person to practice funeral directing or embalming;

I. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any cemetery, mausoleum or cemetery;

J. Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof.

K. Negligent, careless or willful noncompliance with the laws relating to filing death certificates and obtaining burial permits. (1951, c. 202, § 2.)

L. Gross incompetency, negligence or misconduct in carrying on the business or profession of embalming or funeral directing. (1953, c. 292, § 4.)

M. Abuse or disrespect in the handling of a dead human body, violation of any law or ordinance affecting the handling, custody, care or transportation of dead human bodies. (1953, c. 292, § 4.)

In addition to the foregoing provisions of this section, it is further provided that whoever violates any provision of this and the 10 preceding sections, or any rule or regulation prescribed by said board for the preparation, embalming, transportation or burial of any dead human body may be punished by a fine of not more than $100, or by imprisonment for not more than 60 days, or by both such fine and imprisonment, and the county attorney of the county in which such violation occurs shall prosecute all such persons. The district court shall have original and concurrent jurisdiction with the superior court in all prosecutions under sections 195 to 205, inclusive. (R. S. c. 22, § 197. 1949, c. 33, § 4. 1951, c. 202, § 2. 1953, c. 292, §§ 4, 5. 1961, c. 317, § 37; c. 394, § 9; c. 417, § 53. 1963, c. 402, § 35.)

Effect of amendments.—Chapter 394, P. L. 1961, substituted "sections 195 to 205" for "this or the preceding 10 sections" in the first paragraph, rewrote all of the first

sentence following "violations charged," deleted the former last sentence of the first paragraph, deleted the former second paragraph and rewrote the present second paragraph, which had been amended by P. L. 1961, c. 317, and the introductory portion of the present third paragraph. P. L. 1961, c. 417, § 53, reenacted the third paragraph as amended without change.

The 1963 amendment substituted "The district court" for "Trial justices and municipal courts within their counties" at the beginning of the last sentence in the section and deleted "the provisions of" preceding the word "sections" near the end of that sentence.

Application of 1963 act.—See note to § 21.

Sec. 205-A. Pre-arranged funerals or burial plans.—After the effective date of this act, all moneys paid during a person's lifetime to any individual, firm, association, partnership or corporation, by such person or by someone in his behalf under an agreement that services be performed or personal property be delivered in connection with the disposition of such person's body after his death shall be deposited by the payee within 30 days after receipt thereof in a separate account in a bank, trust company or savings institution in this state in the name of the payee as a mortuary trustee for the person for whose benefit the payment was made and shall be held in such account together with interest if any thereon. Nothing in this section shall be construed to prevent transfer of such funds to another such bank, trust company or savings institution by merger or consolidation or by operation of law.

Such funds may be withdrawn, if otherwise lawful, by the payee on written instructions of the person who originally paid the money or his legal representative or on the death of the person for whose benefit such funds were paid, in which latter event they shall be used in accordance with the agreement.

Such bank, trust company or savings institution shall be discharged from liability for payment of the funds in any such account upon presentation of a written consent to withdrawal signed by the party who paid the funds or his legal representative and by the payee, or upon presentation of proof of death of such person for whose benefit such funds were paid. This section shall not apply to the sale of cemetery lots, crypts, niches, cemetery burial privileges, cemetery space or perpetual care.

Any person who violates this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $50 and not more than $500, or by imprisonment for not more than 3 months. (1959, c. 151.)

Cosmetics.

Sec. 206. Certificate of registration.

From the refusal of the department to issue a certificate of registration for any cosmetic preparation, the person so aggrieved may file a statement or complaint with the hearing officer designated in chapter 20-A. (R. S. c. 22, § 198. 1953, c. 321, § 1. 1961, c. 394, § 10.)

Effect of amendment.—The 1961 amendment rewrote the last paragraph.

As the rest of the section was not affected by the amendment, it is not set out.

Hairdressing and Beauty Culture.

Editor's note. — Sections 213 to 230 formerly applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see §§ 230-A to 230-P of this chapter.

Sec. 213. State board of hairdressers; executive secretary; compensation.—The state board of hairdressers, as heretofore established and hereinafter in sections 213 to 230 designated as the "board," shall consist of 4 members who shall be citizens of this state, 3 of whom shall have been engaged in the practice of hairdressing for at least 5 years immediately prior to their appointment. The tenure of each board member shall be for 2 years.

The 3 members of the board who are hairdressers shall be appointed by the governor with the advice and consent of the council. The director of the bureau of health shall be a member of the board but shall have no vote. The board members who are hairdressers shall be actively engaged in the practice of hairdressing during their membership on said board. The senior hairdresser board member shall serve as chairman.

The present hairdressing members of the board shall serve until the expiration of their present term of office and shall be eligible for reappointment.

The board shall employ, subject to the personnel law, a full-time executive secretary. The salary of said executive secretary shall be determined by the personnel board and shall be paid from funds received under sections 213 to 230. The executive secretary of said board shall keep a record of all proceedings, issue all notices, except those required to be issued by the hearing officer under chapter 20-A, certificates of registration and licenses, attest all such papers and orders as said board shall direct, make sanitary inspections at least twice a year of shops and other establishments subject to a license under sections 213 to 230 as directed by said board, and shall report annually to the governor and council giving a full statement of all receipts and expenditures and a statement of the work performed by the board of hairdressers during the year, together with such recommendations as deemed necessary. The board shall employ, subject to the personnel law, inspectors who shall make inspections of shops and other establishments subject to license under direction of the executive secretary. The salary of such inspectors shall be determined by the personnel board and shall be paid from funds received under sections 213 to 230. The board shall have the right to dismiss, with cause, the executive secretary or the inspectors provided for in this section. No person operating or employed by a school of hairdressing and beauty culture shall be appointed as a member of the board; and if any member of the board after appointment shall affiliate himself in any way with any such school of hairdressing and beauty culture, his membership on the board shall immediately terminate and the vacancy shall be filled by the governor and council in the manner provided for the appointment of new members for the remaining unexpired term of their predecessor.

Members shall be appointed in the same manner to fill vacancies caused by death, resignation or removal, who shall serve during the unexpired term of their predecessors.

Each member of the board shall be allowed the sum of $20 per day and their necessary expenses for actual attendance upon any examination of candidates for registration and for any necessary hearings and board meetings. (R. S. c. 22, § 205. 1955, c. 193. 1961, c. 359, § 1; c. 417, § 54. 1963, c. 158, § 1; c. 414, § 4.)

Effect of amendments.—Prior to c. 359, P. L. 1961, sections 213 to 218 and 220 to 230 of this chapter applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see sections 230-A to 230-P of this chapter. P. L. 1961, c. 417, § 54, added the exception as to notices issued by the hearing officer to the third sentence of the fourth paragraph.

The 1955 amendment to this section had increased the per diem of the members of the former board and had increased the number of sanitary inspections by the executive secretary from one to two a year.

P. L. 1963, c. 158, § 1, rewrote the fourth paragraph. P. L. 1963, c. 414, § 4, substituted "registration" for "regulation" in the third sentence of the fourth paragraph, which substitution had previously been made by the earlier 1963 amendment.

Sec. 214. Definitions.—The following words and phrases, when used in sections 213 to 230, shall be construed as follows:

I. Practice of hairdressing and beauty culture. The practice of, teaching of or demonstration of hairdressing and beauty culture shall mean the engaging by any person for hire or reward or in any one or more of the following prac-

tices: The application of the hands or of mechanical or electrical apparatus with or without cosmetic preparations, tonics, lotions, creams, antiseptics or clays to massage, cleanse, stimulate, manipulate, exercise or otherwise to improve or to beautify the scalp, face, neck, shoulders, arms, hands or to manicure the fingernails of any person; or to arrange, dress, curl, wave, cleanse, cut, singe, bleach, color or similarly treat the hair of any person.

II. Student or apprentice. "Student or apprentice" shall mean any person who is engaged in learning and acquiring a knowledge of the practice of hairdressing and beauty culture under the direction and supervision of a person duly authorized under sections 213 to 230 to teach hairdressing and beauty culture and under the rules and regulations of the board relating to students and apprentices.

III. Demonstrator. "Demonstrator" shall mean any person who engages in behalf of a manufacturer, wholesaler, retailer or distributor in demonstrating the use of any machine or other article pertaining to hairdressing without charge to the person who is subject to such demonstration. (R. S. c. 22, § 206. 1961, c. 359, § 1. 1963, c. 158, § 2.)

Cross reference. — See note to § 213 of this chapter.

Effect of amendment.—The 1963 amendment rewrote subsections I and II and added subsection III.

Sec. 215. Rules and regulations; insanitary conditions; contagious diseases.—The board shall make rules and regulations not contrary to law, subject to chapter 20-A and the approval of the department of health and welfare, concerning the proper use of appliances, apparatus and electrical machines used in any establishment for or in connection with any of the practices defined in section 214, and prescribing the sanitary requirements to be observed by proprietors of shops and other establishments where hairdressing or beauty culture are [is] practiced and by persons engaged in such practice and shall make rules and regulations not contrary to law relative to the applications for licenses and certificates of registration. The board shall cause such rules and regulations to be printed in suitable form and a copy thereof to be sent to the proprietors of such shops and establishments, which shall be kept posted in a conspicuous place in such shops so as to be easily read by customers.

The board shall make rules and regulations not contrary to law, subject to chapter 20-A and the approval of the department of health and welfare, prescribing the requirements for the construction, operation, maintenance and sanitary requirements of any school of hairdressing and beauty culture, subject to a license under sections 213 to 230.

Any member of the board shall have power to enter and make reasonable examination of any such shop or establishment during business hours for the purpose of ascertaining whether or not the rules and regulations are being observed.

No person shall give service in any establishment licensed under sections 213 to 230 who has a disease in a communicable stage.

The failure of any person to observe the requirements of any rule or regulation made by said board shall be cause for the suspension or revocation of such license. When the board believes a license should be suspended or revoked it shall file a statement or complaint with the hearing officer designated in chapter 20-A. Any such license suspended or revoked shall be delivered to any agent of the board upon demand.

Any such shop or establishment in which tools, appliances and furnishings in use therein are kept in an unclean and insanitary condition so as to endanger health is declared to be a common nuisance, and the proprietor thereof shall be subject to prosecution and punishment by a fine of not less than $200 nor more than $1,000, and in addition thereto by imprisonment for not less than 60 days

nor more than 11 months, and in default of payment of said fine shall be imprisoned for an additional term of not less than 60 days nor more than 11 months.

The board shall have the right to require the physical examination of any person employed in any beauty parlor suspected of having any contagious or infectious disease. Failure to submit to such an examination shall be grounds for suspension of said person, his license or certificate. (R. S. c. 22, § 207. 1961, c. 359, § 1; c. 394, § 11; c. 417, §§ 55, 56.)

Effect of amendments.—Prior to c. 359, P. L. 1961, §§ 213 to 218 and 220 to 230 of this chapter applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see sections 230-A to 230-P of this chapter. P. L. 1961, c. 394, made a deletion from the first sentence of the fifth paragraph and an insertion in the second sentence of such paragraph. P. L. 1961, c. 417, § 55, substituted "subject to chapter 20-A and the approval of the department of health and welfare" for the former provision requiring submission to the bureau of health for approval at the beginning of the first and second paragraphs. P. L. 1961, c. 417, § 56, reenacted the fifth paragraph as amended by chapter 394, P. L. 1961, without change.

Sec. 216. Electrolysis.—The use of electrolysis for the removal of hair is not a part of the practice of hairdressing and beauty culture and is prohibited, except under the direction of a licensed physician. (R. S. c. 22, § 208. 1949, c. 340. 1953, c. 321, § 3. 1961, c. 359, § 1.)

Cross reference.—See note to § 213 of this chapter.

Sec. 217. Registration and licenses.—No person shall practice hairdressing and beauty culture in this state unless he shall first have obtained a certificate of registration as provided in sections 213 to 230 or unless he shall be acting within the scope of his employment as an apprentice.

No apprentice hairdresser may independently practice hairdressing but he may, as an apprentice, do any or all acts constituting the practice of hairdressing under the immediate personal supervision of a registered hairdresser, and only one such apprentice shall be employed in any licensed hairdressing shop.

No person, firm or corporation shall operate or cause to be operated a shop or establishment where hairdressing and beauty culture are practiced unless such shop or establishment has been duly licensed. The fee for a license to operate a beauty shop shall be $25 for a new shop or change in location or ownership and $5 but not exceeding $10 for each yearly renewal thereof. The license shall run from the first day of July in each year for one year and the fee shall be payable to the secretary of said board.

Booths, attached to or within a beauty shop that are operated independently thereof, shall be subject to license fees in the same manner as an independent shop. (R. S. c. 22, § 209. 1953, c. 133. 1955, c. 48. 1961, c. 259, § 1. 1963, c 158, § 3.)

Effect of amendments. — Prior to the 1961 amendment, §§ 213 to 218 and 220 to 230 of this chapter applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see sections 230-A to 230-P of this chapter.

The 1955 amendment had inserted "but not exceeding $5" in what is now the second sentence of the third paragraph.

The 1963 amendment rewrote the second sentence of the third paragraph by changing and increasing the fees.

Sec. 218. Persons exempted; interstate commerce.—The prohibitions and penalties of sections 213 to 230 shall not apply to the following persons when acting within the scope of their profession or occupation:

I. Practitioners of medicine and surgery. Persons authorized by the laws of this state to practice medicine and surgery;

II. United States medical officers. Commissioned medical officers of the United States army, navy or marine hospital service;

III. Registered nurses. Registered nurses.

Sections 213 to 230 apply only to those cosmetic preparations and apparatus sold or offered for sale in intrastate commerce. (R. S. c. 22, § 210. 1953, c. 306, § 1. 1961, c. 359, § 1.)

Cross reference. — See note to § 213 of this chapter.

Sec. 219. Repealed by Public Laws 1961, c. 359, § 2.

Cross reference.—For present provisions as to registration for barbers, see § 230-F of this chapter.

Sec. 220. Registration of hairdressing and beauty culture. — Any person shall be eligible to obtain a certificate of registration under sections 213 to 230 for the practice of hairdressing and beauty culture:

I. Age. Who is at least 17 years of age;

II. Character. Who is of good respectable character;

III. Training. Who has satisfactorily completed a course of instruction in a school of hairdressing and beauty culture approved by said board, or in lieu thereof has had a total experience in the practice of hairdressing and beauty culture or as an apprentice of 2,500 hours distributed over a period of at least 18 months;

IV. Examination. Who has satisfactorily passed an examination conducted by said board to determine his fitness to receive such certificate.

Each applicant for such examination shall make written application therefor on a form prescribed and supplied by said board, which application shall contain satisfactory evidence of the qualifications required of the applicant under sections 213 to 230, and shall be sworn to by the applicant. Said applications shall be filed with the secretary of said board and shall be accompanied by an examination fee of $15 which shall include registration, if examination is satisfactory. If not successful, applicant shall have the privilege of taking a 2nd examination by payment of a fee of $10 at any subsequent examination held by the board within a period of one year. (R. S. c. 22, § 212. 1951, c. 262, § 2. 1953, c. 138. 1961, c. 359, § 3. 1963, c. 158, § 4.)

Cross reference. — See note to § 213 of this chapter.

Effect of amendment.—The 1963 amendment substituted "$15" for "$5" in the second sentence of the last paragraph, substituted "by payment of a fee of $10" for "without fee" in the third sentence of the last paragraph and deleted the former fourth sentence of the last paragraph.

Sec. 221. Registration without examination.—Any person licensed to practice hairdressing and beauty culture in another state whose requirements are equal to those specified in sections 213 to 230 may upon the payment of a fee of $25, be entitled to a certificate of registration without examination, providing that each such state accepts without examination applicants registered in this state for registration or licenses, as the case may be, in a similar manner. (R. S. c. 22, § 213. 1961, c. 359, § 3.)

Cross reference.—See note to § 213 of this chapter.

Sec. 222. Schools of hairdressing and beauty culture; fees.—No school of hairdressing and beauty culture shall be approved by said board until it shall attach to its staff a physician duly licensed to practice medicine in the state where the school is located, and familiar with the installation and use of electrical appliances adapted to hairdressing and beauty culture, nor unless it

has a minimum requirement of a continuous course of study of 1,500 hours distributed over a term of not less than 9 months, including practical demonstrations, written or oral tests and theoretical and practical instruction in sanitation, sterilization and the use of antiseptics, cosmetics and electrical appliances, which course of study and instruction shall be subject to the approval of said board. Time spent in any out-of-state school of hairdressing and beauty culture may be credited in full or in part against said 1,500 hours, subject to the decision and approval of the board. No school of hairdressing and beauty culture shall be an approved school until approval shall be recorded in the records of said board and until it shall receive a certificate of approval issued by said board. The fee for such certificate shall be $200 and it shall be good for one year from the date when issued, unless sooner suspended. Said certificate may, so long as such school continues to meet the approval of said board, be renewed from year to year upon payment of a fee of $35 but not exceeding $50 for each renewal. When the board believes a license should be suspended or revoked it shall file a statement or complaint with the hearing officer designated in chapter 20-A. No person shall be engaged to instruct in any of the branches of hairdressing and beauty culture as defined in section 214 unless said instructor has a certificate to practice hairdressing and beauty culture under sections 213 to 230, excepting physicians as specified.

The board shall make rules and regulations for the examination of applicants for certificates of registration as instructors of hairdressing and beauty culture. Examination applications shall be furnished by the board. Said application shall be filed with the secretary of said board and shall be accompanied by an examination fee of $15 which shall include registration, if examination is satisfactory. All certificates of registration as instructors shall expire June 30th each year. Certificates of registration as a Maine hairdresser shall be renewed to renew instructor's certificate of registration. Renewal fee for instructors shall be $5.

The instructors on record with the board that are actively engaged in teaching in approved beauty schools in Maine as of January 1, 1963, shall be granted certificates as instructors without examination on filing application and payment of a fee of $15 on or before January 1, 1964.

Students to be accepted shall have reached at least the age of 16 and have completed the 10th grade in a secondary school. An enrollment record of each new student admitted to a school shall be sent to the secretary of the board on the first day of each month, accompanied by a registration fee of $3 for each new student. The board shall furnish each student registered a certificate of registration as a student. Said certificate of registration shall expire 12 months from date of issue. (R. S. c. 22, § 214. 1951, c. 262, § 3. 1955, cc. 148, 390. 1957, c. 397, § 23. 1961, c. 359, § 3; c 394, §§ 12, 13; c. 417, § 57. 1963, c. 158, §§ 5, 6.)

Effect of amendments.—Prior to c. 359, P. L. 1961, §§ 213 to 218 and 220 to 230 of this chapter applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see sections 230-A to 230-P of this Chapter. Chapter 394, P. L. 1961, substituted what is now the sixth sentence of the first paragraph for two sentences which authorized the board to revoke a certificate after notice to the school. P. L. 1961, c. 417, § 57, re-enacted this section as amended without change.

Chapter 148, P. L. 1955, had inserted what is now the second sentence of the first paragraph. The other 1955 amendment and the 1957 amendment affected the former first paragraph, which related to schools of barbering.

The 1963 amendment substituted "$200" for "$25" in the fourth sentence and substituted "$35 but not exceeding $50" for "$25" in the fifth sentence of the first paragraph and added the second, third and fourth paragraphs.

Former first paragraph also amended in 1961.—See Editor's note to § 230-H of this chapter.

Sec. 223. Apprentices.—The board shall furnish to each registered apprentice a certificate of registration of said apprenticeship.

Every apprentice in order to avail himself of sections 213 to 230 to practice hairdressing and beauty culture shall, within 10 days after entering upon his apprenticeship, file with the secretary of the board the name and place of business of his employer, the date of commencement of such apprenticeship and the full name and age of said apprentice, which age shall not be less than 16 years. Said applicant shall have completed the 10th grade in a secondary school. Any such apprentice who shall change his place of employment shall promptly notify the board and furnish it with the name and place of business of his new employer and the date of such change.

Each apprentice shall make application on blanks supplied by the board for certificates of registration. Said application shall be filed with the secretary of said board and shall be accompanied by a registration fee of $10. Said certificate of registration shall expire 18 months from date of issue.

Every apprentice, after serving an apprenticeship of 18 months, shall file application for examination at the next examination held by the board in accordance with the requirements of section 220. (R. S. c. 22, § 215. 1951, c. 262, § 2. 1955, c. 164. 1961, c. 359, § 3. 1963, c. 158, §§ 7, 8.)

Effect of amendments.—Prior to c. 359, P. L. 1961, §§ 213 to 218 and 220 to 230 of this chapter applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see sections 230-A to 230-P of this chapter.

The 1955 amendment had substituted "16 years" for "17 years" at the end of what is now the first sentence of the second paragraph.

The 1963 amendment added "business of" before "his employer" in the first sentence of the second paragraph, added the present second sentence in the second paragraph and added the present third paragraph.

Sec. 224. Examinations; temporary permit.—The board shall hold at least 2 public examinations each year, and at such times and places as it shall designate. Additional examinations may be held at the discretion of the board. Notice of all examinations shall be given by publication at least 10 days before the holding of any such examination in at least 2 daily newspapers printed and published in the county in which such examinations shall be held.

If any applicant to practice hairdressing and beauty culture, who has been a resident of the state of Maine for a period of at least 6 months, qualifies for examination, the board may issue to such applicant, until the results of the applicant's examination have been given, a permit to practice hairdressing and beauty culture under the supervision of a person registered to practice hairdressing and beauty culture. The permit shall terminate with the examination following applicant's qualification. If applicant fails first examination following qualification, said applicant may renew permit to practice hairdressing and beauty culture under supervision of a person registered to practice hairdressing and beauty culture, until the results of the next consecutive examination have been given, at which time said permit expires and shall not be renewable. Such applicant shall not be considered an apprentice. The applicant shall pay to the board a fee of $3. (R. S. c. 22, § 216. 1961, c. 29, § 1; c. 359, § 3; c. 417, § 58.)

Effect of amendments.—Prior to c. 359, P. L. 1961, §§ 213 to 218 and 220 to 230 of this chapter applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see sections 230-A to 230-P of this chapter.

P. L. 1961, c. 417, § 58, reenacted the section as amended without change. Prior to the passage of P. L. 1961, c. 359, this section had been amended by P. L. 1961, c. 29, P. L. 1959, c. 232, P. L. 1957, c. 63, P. L. 1955, c. 104, P. L. 1955, c. 79.

Sec. 225. Certificate of registration; limited certificate for manicuring; renewal; fees.—Said board shall furnish to each registered operator in the practice of hairdressing and beauty culture a certificate of registration bearing the seal of the board and the names of all of its members, certifying that the

holder thereof is entitled to practice hairdressing and beauty culture in this state, and it shall be the duty of the holder of such certificate of registration to post the same in a conspicuous place where it may be readily seen by all persons whom he may serve. Said certificate of registration shall be renewed on or before the first day of July in each year, and the holder of said certificate of registration shall pay to the secretary of said board the sum of $5 but not exceeding $10 for said renewal. Certificate of registration limited to manicuring only may be issued upon complying with such examination requirements as may be determined by the board and upon payment of the fees as provided by sections 213 to 230.

Any person registered to practice hairdressing or beauty culture who fails to renew his certificate of registration during any license year, in subsequent years may renew his certificate of registration only after payment of all unpaid renewal fees.

Any person registered or licensed to practice hairdressing and beauty culture may apply to the secretary of said board for application as a demonstrator. Certificate of registration limited to demonstrations only may be issued upon complying with such requirements as may be determined by the board and upon payment of the fee of $25. Certificates shall be renewed on or before July 1st each year by paying a renewal fee of $15 for each renewal. (R. S. c. 22, § 217. 1961, c. 356, § 2; c. 359, § 3; c. 417, § 59. 1963, c. 158, §§ 9, 10.)

Effect of amendment.—Prior to c. 359, P. L. 1961, §§ 213 to 218 and 220 to 230 of this chapter applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see sections 230-A to 230-P of this chapter.

P. L. 1961, c. 356, § 2, increased the fee in the present second sentence from $3 to $5. P. L. 1961, c. 417, § 59, reenacted this section and included the fee increase in the second sentence which had not been included in P. L. 1961, c. 359.

The 1963 amendment added "but not exceeding $10" after "$5" in the second sentence and added "the third paragraph."

Sec. 226. Board to keep register.—The board shall keep a register in which shall be entered the names of all persons to whom certificates are issued under sections 213 to 230 and said register shall be at all times open to public inspection. (R. S. c. 22, § 218. 1961, c. 359, § 3.)

Cross reference.—See note to § 213 of this chapter.

Sec. 227. Suspension or revocation of certificates of registration; appeal.—The board may either refuse to issue or renew or may file a statement or complaint with the hearing officer requesting the suspension or revocation of any certificate of registration granted by it under sections 213 to 230 for:

I. Felony. Conviction of a felony shown by a certified copy of the record of the court of conviction;

II. Malpractice or incompetency. Gross malpractice or gross incompetency;

III. Disease. Continued practice by a person knowingly having an infectious or contagious disease;

IV. Drunkenness or drug addiction. Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit forming drugs;

V. Conduct. Immoral or unprofessional conduct;

VI. Unclean shop. The keeping of a shop or other establishment, or the tools, appliances or furnishings thereof in an unclean or insanitary condition;

VII. Requirements of law. Failure to comply with any of the prescribed requirements of sections 213 to 230;

VIII. Misrepresentation of qualifications. For misrepresentation of qualifications.

Any person whose certificate has been suspended or revoked may apply to the hearing officer to have the same reissued, and the same shall be reissued upon satisfactory evidence that the disqualifications have ceased.

Any such certificate of registration suspended or revoked shall be delivered to any agent of the board upon demand. (R. S. c. 22, § 219. 1961, c. 359, § 3; c. 417, § 60.)

Effect of amendment.—Prior to c. 359, P. L. 1961, §§ 213 to 218 and 220 to 230 of this chapter applied to barbers and barbershops as well as hairdressing and beauty culture. For present provisions as to barbers and barbershops, see sections 230-A to 230-P of this chapter.

P. L. 1961, c. 394, § 14, rewrote the introductory paragraph, subsection VIII and the last two paragraphs. P. L. 1961, c. 417, § 60, reenacted this section as amended without change.

Sec. 228. Repealed by Public Laws 1961, c. 394, § 15; c. 417, § 61.

Cross reference.—For present provisions as to administrative hearings, see chapter 20-A, §§ 8 to 12.

Editor's note. — The repealed section, which related to hearings, was amended in 1961 by P. L. 1961, c. 359 and P. L. 1961, c. 394.

Sec. 229. Disposition of fees.—The fees received by the board under sections 213 to 230 shall be paid to the treasurer of state. Fees received under said sections shall be used for carrying out the purposes of sections 213 to 230. (R. S. c. 22, § 221. 1961, c. 359, § 3. 1963, c. 158, § 11.)

Cross reference.—See note to § 213 of this chapter.

Effect of amendment.—The 1963 amendment deleted "and sections 230-A to 230-P" at the end of the section.

Sec. 230. Penalties.—Any person engaged in the practice of hairdressing and beauty culture in this state without having obtained a certificate of registration as provided by sections 213 to 230 or employing a person to practice hairdressing and beauty culture who has not such a certificate, unless he be an apprentice within the meaning of said sections, or falsely pretending to be qualified to practice hairdressing and beauty culture under sections 213 to 230 or violating any of the provisions of said sections shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $20 nor more than $100 or by imprisonment for not more than 3 months. Every such person shall be deemed guilty of a separate and distinct offense for each month or part thereof during which such practice or employment shall be repeated or continued after prosecution has been begun against any such person for the violation of any of the provisions of sections 213 to 230. In any case where a specific penalty is not provided for in this chapter, a violation of any section shall constitute a misdemeanor. (R. S. c. 22, § 222. 1961, c. 359, § 3.)

Cross reference.—See note to § 213 of this chapter.

Barbers and Barber Shops.

Sec. 230-A. State board of barbers; executive secretary; compensation.—The state board of barbers, as heretofore established and hereinafter in sections 230-A to 230-P designated as the "board," shall consist of 4 members who shall be citizens of this state, 3 of whom shall have been engaged in the practice of barbering for at least 5 years immediately prior to their appointment. The 4th member of the board shall be the director of health who shall have no board vote. The tenure of each barber member of the board shall be for 3 years, initially appointed as follows: The present senior barber board member, as appointed under section 213 prior to September 16, 1961, shall serve for a term of 3 years, the junior barber board member, similarly elected, shall serve for a term of 2 years and its 3rd barber member, created by this section, shall serve for a term of one year, and shall be appointed by the governor with the advice and consent of the council. Thereafter, each of the barber members of the board shall be appointed by the governor, with the advice and consent of the council, for a term of 3 years and until his successor is appointed and quali-

fied. Barber members of the board shall be actively engaged in the practice of barbering during membership on said board. The senior barber member of the board shall serve as chairman.

The board shall employ, subject to the terms of the personnel law, a full-time executive secretary, who may act as executive secretary for the barbers and hairdressers. The salary of said executive secretary shall be determined by the board of barbers if such executive secretary acts solely for the barbers, and by the board of barbers and board of hairdressers if the executive secretary acts for both boards, and to be paid from funds received under sections 213 to 230 and sections 230-A to 230-P. The executive secretary of said board shall keep a record of all proceedings, issue all notices except those required to be issued by the hearing officer under chapter 20-A, certificates of registration and licenses, attest all such papers and orders as said board shall direct, make sanitary inspections at least twice a year of shops and other establishments subject to license under sections 230-A to 230-P as directed by said board, and shall report annually to the governor and council giving a full statement of all receipts and expenditures and a statement of the work performed by the board of barbers during the year, together with such recommendations as deemed necessary. The board shall employ, subject to the terms of the personnel law, inspectors who shall make inspections of shops and other establishments subject to license under sections 230-A to 230-P under the direction of the executive secretary, the salary of such inspectors to be determined by the board, and to be paid from funds received under sections 213 to 230 and sections 230-A to 230-P. The board shall have the right to dismiss, with cause, the executive secretary or the inspectors provided for in this section.

No person operating or employed by a school of barbering shall be appointed as a member of the board, and if any member of the board, after appointment, shall affiliate himself in any way with any such school of barbering, his membership on the board shall immediately terminate and the unexpired term of such member shall be filled by the governor and council.

Members shall be appointed in the same manner to fill vacancies caused by death, resignation or removal, who shall serve during the unexpired term of their predecessors.

Each member of the board shall be allowed the sum of $20 per day and their necessary expenses for actual attendance upon any examination of candidates for registration, and for any necessary hearings and board meetings. (1961, c. 359, § 4; c. 417, § 62.)

Effect of amendment.—P. L. 1961, c. 417, § 62, added the exception as to notices issued by the hearing officer near the beginning of the third sentence of the second paragraph.

Sec. 230-B. Definitions.—The following words and phrases, when used in sections 230-A to 230-P shall be construed as follows:

I. The practice of barbering. "The practice of barbering" shall mean any one or any combination of the following practices, when done upon the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments;

A. Shaving or trimming the beard or cutting the hair;

B. Giving facial and scalp massage or treatments with cosmetic preparations, either by hand or mechanical or electrical appliances;

C. Singeing, dyeing, tinting, bleaching or shampooing the hair or applying cosmetic preparations to the hair, scalp, face, neck or upper part of the body; such dyeing, tinting or bleaching shall not be practiced unless the barber or apprentice barber has taken a course with a minimum of 75 hours in such practices, approved by the board;

D. Removing superfluous hair from the face, neck or upper part of body.

II. "Apprentice barber" shall mean any person who is engaged in learning

and acquiring a knowledge of the practice of barbering under the direction and supervision of a person duly authorized under sections 230-A to 230-P to practice barbering. (1961, c. 359, § 4.)

III. Exceptions. Cutting of hair, barbering and the practice of barbering shall be done only in a licensed barbershop by persons duly registered to practice barbering in this state, except in the following situations:

A. When done upon patients in hospitals or nursing homes;

B. When done upon residents of summer camps;

C. When done upon inmates of institutions;

D. When done by a member of a household cutting the hair of immediate members of their family;

E. When done upon invalids in their place of residence;

F. When done upon the occupant in his hotel or motel room. (1961, c. 359, § 4. 1963, c. 129, §§ 1, 2.)

Effect of amendment.—The 1963 amendment deleted "and when done for payment either directly or indirectly" at the end of the first sentence of subsection I, added the provisions relating to dyeing, tinting and bleaching of hair to paragraph C of subsection I and added subsection III.

Sec. 230-C. Rules and regulations; insanitary conditions; contagious diseases.—The board shall make rules and regulations not contrary to law, subject to chapter 20-A and the approval of the department of health and welfare, concerning the proper use of appliances, apparatus and electrical machines used in any establishment for or in connection with any of the practices defined in section 230-B, and prescribing the sanitary requirements to be observed by proprietors of shops and other establishments where barbering is practiced and by persons engaged in such practice and shall make rules and regulations not contrary to law relative to the applications for licenses and certificates of registration. The board shall cause such rules and regulations to be printed in suitable form and a copy thereof to be sent to the proprietors of such shops and establishments, which will be kept posted in a conspicuous place in such shops so as to be easily read by customers.

The board shall make rules and regulations not contrary to law, subject to chapter 20-A and the approval of the department of health and welfare, prescribing the requirements for the construction, operation, maintenance and sanitary requirements of any school of barbering subject to a license under sections 230-A to 230-P.

Any member of the board shall have power to enter and make reasonable examination of any such shop or establishment during business hours for the purpose of ascertaining whether or not the rules and regulations are being observed.

No person shall give service to any establishment licensed under sections 230-A to 230-P who has a disease in a communicable stage.

The failure of any person to observe the requirements of any rule or regulation made by said board shall be cause for the suspension or revocation of such license by the hearing officer under chapter 20-A. Any such license suspended or revoked shall be delivered to any agent of the board upon demand.

Any such shop or establishment in which tools, appliances and furnishings in use therein are kept in an unclean and insanitary condition so as to endanger health is declared to be a common nuisance, and the proprietor thereof shall be subject to prosecution and punishment by a fine of not less than $200 nor more than $1,000, and in addition thereto by imprisonment for not less than 60 days nor more than 11 months, and in default of payment of said fine shall be imprisoned for an additional term of not less than 60 days nor more than 11 months.

The board shall have the right to require the physical examination of any person employed in any barbershop suspected of having any contagious or infectious disease. Failure to take a physical examination, as herein required, will

subject such person to a suspension of his or her license at the pleasure of the board. (1961, c. 359, § 4; c. 417, § 63.)

Effect of amendment.—The 1961 amendment substituted "subject to chapter 20-A and the approval of the department of health and welfare" for "same to be submitted to the bureau of health for approval" near the beginning of the first and second paragraphs and deleted everything appearing after "such license" at the end of the first sentence of the fifth paragraph and substituted therefor "by the hearing officer under chapter 20-A."

Sec. 230-D. Registration and licenses.—No person shall practice barbering in this state unless he shall first have obtained a certificate of registration as provided in sections 230-A to 230-P or unless he shall be acting within the scope of his employment as an apprentice.

No apprentice barber may independently practice barbering but he may, as an apprentice, do any or all acts constituting the practice of barbering under the immediate personal supervision of a registered barber, and only one such apprentice shall be employed in any licensed barbershop.

No person, firm or corporation shall operate or cause to be operated a shop or establishment where barbering is practiced unless such shop or establishment has been duly licensed. The fee for a license to operate a barbershop and the yearly renewal thereof shall be $7 yearly. Shop licenses that require a special inspection, such as new barbershops, change of barbershop location and change of barbershop ownership, shall be $25 in the first instance including the license, and $7 for each yearly renewal thereof. The license shall run from the first day of January in each year for one year and the fee shall be payable to the secretary of the board. (1961, c. 359, § 4. 1963, c. 139, § 1.)

Effect of amendment.—The 1963 amendment changed the yearly renewal fee to $7 in the second sentence of the third paragraph and added the present third sentence in such paragraph.

Sec. 230-E. Persons exempted; interstate commerce. — The prohibitions and penalties of sections 230-A to 230-P shall not apply to the following persons when acting within the scope of their profession or occupation:

I. Practitioners of medicine and surgery. Persons authorized by law of this state to practice medicine and surgery;

II. United States medical officers. Commissioned medical officers of the United States army, navy or marine hospital service;

III. Registered nurses. Registered nurses.

Sections 230-A to 230-P apply only to those cosmetic preparations and apparatus sold or offered for sale in intrastate commerce. (1961, c. 359, § 4.)

Sec. 230-F. Registration for barbers.—Any persons shall be eligible to obtain a certificate of registration under sections 230-A to 230-P as a barber:

I. Age. Who is at least 17 years of age;

II. Character. Who is of good respectable character and temperate habits;

III. Training. Who has satisfactorily completed a course of instruction of 1,000 hours in not less than 6 months in a school of barbering approved by said board and a total experience as an apprentice of a period of at least 6 months under a licensed barber; or in lieu thereof has satisfactorily completed a course of instruction of 1,500 hours in not less than 9 months in a school of barbering approved by said board; or in lieu thereof has had a total experience in the practice of barbering or as an apprentice of 2,500 hours distributed over a period of at least 18 months.

IV. Examination. Who has satisfactorily passed an examination conducted by said board to determine his fitness to receive such certificate.

Each applicant for such examination shall make written application therefor on a form prescribed and supplied by said board, which application shall contain satisfactory evidence of the qualifications required of the applicant under

sections 230-A to 230-P and shall be sworn to by the applicant. Said applications shall be filed with the secretary of the said board and shall be accompanied by an examination fee of $5 which shall not include registration, if examination is satisfactory. If not successful, applicant shall have the privilege of taking a 2nd examination on payment of a fee of $5 at any subsequent examination held by said board within a period of one year. (1961, c. 359, § 4. 1963, c. 139, § 2.)

Effect of amendment.—The 1963 amendment added "not" before "include registration" in the second sentence of the last paragraph, substituted "on payment of a" for "without" and added "of $5" after "fee" in the third sentence of the last paragraph.

Sec. 230-G. Registration without examination.—Any person licensed to practice barbering in another state whose requirements are equal to those specified in sections 230-A to 230-P may, upon payment of a fee of $25, be entitled to a certificate of registration without examination, providing that each such state accepts without examination applicants registered in this state for registration or licenses, as the case may be, in a similar manner. (1961, c. 359, § 4.)

Sec. 230-H. Schools of barbering; fees.—No school of barbering shall be approved by the board until it shall attach to its staff a physician duly licensed to practice medicine in the state where the school is located, who shall instruct the students by lectures or demonstrations at least twice but not more than 4 times during the course on subjects of sanitation, sterilization, general anatomy and diseases, nor unless it has a minimum requirement of a continuous course of study of 1,000 hours distributed over a term of not less than 6 months, including practical demonstrations, written or oral tests and theoretical and practical instruction in sanitation, fundamentals for barbering, hygiene, histology of the hair, skin, face and neck, diseases of the skin, hair, glands and nails, massaging and manipulating the muscles of the upper body, hair cutting, shaving and arranging, dressing, coloring, bleaching, tinting the hair, sterilization and the use of antiseptics, cosmetics and electrical appliances customarily used in the practice of barbering, which course of study and instruction shall be subject to the approval of said board. No school of barbering shall be an approved school until approval shall be recorded in the records of said board and until it shall receive a certificate of approval issued by said board. The fee for such certificate shall be $50 and it shall be good for one year from date when issued, unless sooner suspended. Said certificate may, so long as such school continues to meet the approval of said board, be renewed from year to year upon payment of a fee of $50 for each renewal. When the board believes a license should be suspended or revoked it shall file a statement or complaint with the hearing officer designated in chapter 20-A.

No person shall be engaged to instruct in any practice of barbering as defined in section 230-B unless said instructor has a certificate to practice barbering under sections 230-A to 230-P, excepting physicians as specified. (1961, c. 359, § 4; c. 417, § 64. 1963, c. 139, § 3.)

Effect of amendments. — The 1961 amendment deleted "or in lieu thereof as satisfactorily completed a course of instruction of 1,500 hours in not less than 9 months in a school of barbering approved by said board" following "6 months" in the first sentence of the first paragraph and substituted the present fifth sentence for the former fifth and sixth sentences.

The 1963 amendment increased the fee from $25 to $50 in the third sentence of the first paragraph.

Editor's note.—Section 12, c. 394, P. L. 1961, amended the fifth sentence of the former first paragraph of § 222, relating to schools of barbering. Section 222 had previously been amended by P. L. 1961, c. 359, which eliminated the former first paragraph. Chapter 359 also enacted § 230-H, which contains provisions very similar to those of the former first paragraph of § 222. Section 12, c. 394, eliminated from the former first paragraph of § 222 a sentence containing the provisions now appearing in the last two sentences of

the first paragraph of § 230-H and substituted therefor the following: "When the board believes a license should be suspended or revoked it shall file a statement or complaint with the hearing officer designated in chapter 20-A."

Sec. 230-I. Apprentices.—Every apprentice barber, in order to avail himself of sections 230-A to 230-P shall, within 10 days after entering upon his apprenticeship, file with the secretary of the board, on blanks which shall be provided by said board, the name and place of business of his employer, the date of commencement of such apprenticeship and full name and age of said apprentice, which age shall not be less than 17 years, and said blanks shall be accompanied by a registration fee of $5. Any such apprentice who shall change his place of employment shall promptly notify the board and furnish it with the name and place of business of his new employer and the date of such change.

Every apprentice barber, after serving an apprenticeship of 18 months, shall file application for examination at the next examination held by the board in accordance with requirements of section 230-F.

The board shall furnish to each registered apprentice a certificate of registration of said apprenticeship. The certificate shall expire at completion of 18 months' apprenticeship and shall not be renewable. (1961, c. 359, § 4. 1963, c 139, § 4.)

Effect of amendment.—The 1963 amendment increased the fee from $3 to $5 in the first sentence of the first paragraph and added the second sentence in the third paragraph.

Sec. 230-J. Examinations; temporary permit.—The board shall hold at least 2 public examinations each year, at such times and places as it shall designate. Additional examinations may be held at the discretion of the board. Notice of all examinations shall be given by publication at least 10 days before the holding of any such examination in at least 2 daily newspapers printed and published in the county in which such examinations shall be held.

If any applicant to practice barbering, who has been a resident of the state of Maine for a period of at least 6 months, qualifies for examination, the board may issue to such applicant, until the results of the applicant's examination have been given, a permit to practice barbering under the supervision of a person registered to practice barbering. The permit shall terminate with the examination following applicant's qualification. If applicant fails first examination following qualification, said applicant may renew permit to practice barbering under supervision of a person registered to practice barbering, until the results of the next consecutive examination have been given, at which time said permit expires and shall not be renewable. Such applicant shall be considered an apprentice. The applicant shall pay to the board a fee of $5. (1961, c. 359, § 4. 1963, c. 139, § 5.)

Effect of amendment.—The 1963 amendment increased the fee from $3 to $5 in the last sentence.

Sec. 230-K. Certificate of registration; renewal; fees.—The board shall furnish to each registered barber a certificate of registration in form prescribed by the board, bearing the seal of the board, certifying that the holder thereof is entitled to practice barbering in this state, and it shall be the duty of the holder of such certificate of registration to post the same in a conspicuous place where it may be readily seen by all persons on or before the first day of January in each year, and the holder of said certificate of registration shall pay to the secretary of the board the sum of $10 in the first instance and $10, for each yearly renewal thereof.

Any registered barber who fails in any year to renew certificate to practice barbering shall successfully pass a regular examination conducted by the board of barbers before a new certificate may be issued.

Any person licensed to practice barbering in another state which has no reciprocal agreement with this state may, upon payment of a $15 examination fee and after establishing 6 months residence in this state, be entitled to apply for examination. (1961, c. 359, § 4. 1963, c. 102; c. 139, § 6.)

Effect of amendments.—P. L. 1963, c. 102, rewrote the present second paragraph. P. L. 1963, c. 139, § 6, substituted "$10" for "$5" and "$10" for "$3 but not exceeding $5" near the end of the first paragraph and added the present third paragraph.

Sec. 230-L. Board to keep register.—The board shall keep a register in which shall be entered the names of all persons to whom certificates and licenses are issued under sections 230-A to 230-P and said register shall be at all times open to the public inspection. (1961, c. 359, § 4.)

Sec. 230-M. Suspension or revocation of certificates of registration; appeal.—The board may either refuse to issue or renew or may file a statement or complaint with the hearing officer requesting the suspension or revocation of any certificate of registration granted by it under sections 230-A to 230-P for:

I. Felony. Conviction of a felony shown by a certified copy of the record of the court of conviction;

II. Malpractice or incompetency. Gross malpractice or gross incompetency;

III. Disease. Continued practice by a person knowingly having an infectious or contagious disease;

IV. Drunkenness or drug addiction. Habitual drunkenness or habitual addiction to use of morphine, cocaine or other habit forming drugs;

V. Conduct. Immoral or unprofessional conduct;

VI. Unclean shop. The keeping of a shop or other establishment, or the tools, appliances or furnishings thereof in an unclean or insanitary condition;

VII. Requirements of law. Failure to comply with any of the prescribed requirements of sections 230-A to 230-P.

VIII. Misrepresentation of qualifications. For misrepresentation of qualifications.

Any person whose certificate has been suspended or revoked may apply to the hearing officer to have the same reissued, and the same shall be reissued upon satisfactory evidence that the disqualifications have ceased.

Any such certificate of registration suspended or revoked shall be delivered to any agent of the board upon demand. (1961, c. 359, § 4; c. 417, § 65.)

Effect of amendments.—P. L. 1961, c. 394, § 14, rewrote the introductory paragraph and subsection VIII and the former proviso of subsection VIII the next to last paragraph. P. L. 1961, c. 417, § 65, re-enacted the introductory paragraph, and subsection VIII and the next to last paragraph as amended without change.

Sec. 230-N. Repealed by Public Laws 1961, c. 417, § 66.

Editor's note. — The repealed section, which related to hearings, derived from P. L. 1961, c. 359, § 4. For present provisions as to administrative hearings, see chapter 20-A, §§ 8 to 12.

Sec. 230-O. Disposition of fees. — The fees received by the barbers board and hairdressers board under sections 213 to 230 and 230-A to 230-P shall be paid to the treasurer of the state. Fees received under said sections shall be used for carrying out the purposes of sections 213 to 230 and sections 230-A to 230-P. (1961, c. 359, § 4.)

Sec. 230-P. Penalties.—Any person engaged in the practice of barbering in this state without having obtained a certificate of registration as provided by sections 230-A to 230-P or employing a person to practice barbering who has not such a certificate of registration or who has not a certificate of registration as an apprentice barber, or falsely pretending to be qualified to practice

barbering under sections 230-A to 230-P or violating any of the provisions of said sections, wherein a specific penalty is not provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $20 nor more than $100, or by imprisonment for not more than 3 months. Every such person shall be deemed guilty of a separate and distinct offense for each month or part thereof during which such practice or employment shall be repeated or continued after prosecution has been begun against any such person for the violation of any of the provisions of sections 230-A to 230-P. (1961, c. 359, § 4.)

Aid to Dependent Children.

Sec. 234. Definitions.—

I. The term "dependent child," wherever used in sections 234 to 246, inclusive, shall be construed to mean a needy child under the age of 18, who has been deprived of parental support or care by reason of the death, continued absence from home or the physical or mental incapacity of a parent and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece in a place of residence maintained by one or more of such relatives as his or their own home. (1953, c. 308, § 24. 1957, c. 98.)

III. Aid to dependent children. The term "aid to dependent children" means money payments with respect to, or medical care in behalf of or any type of remedial care in behalf of, a dependent child or dependent children, and includes money payments or medical care or any type of remedial care for any month to meet the needs of the relative with whom any dependent child is living if money payments have been made with respect to such child for such month, and if the relative with whom such dependent child is living is the parent of said child, the needs of the spouse of such parent may be included in accordance with Title IV of the Social Security Act, as amended, except as said title applies to unemployment. [1951, c. 270, § 1. 1963, c. 350]. (R. S. c. 22, § 226. 1951, c. 270, § 1. 1953, c. 308, § 24. 1957, c. 98. 1963, c. 350.)

Effect of amendment. — The 1957 amendment, which became effective on its approval, April 2, 1957, changed the age of a dependent child from "under the age of 16, or under the age of 18 if found by a state agency to be regularly attending school" to "under the age of 18" and inserted the words "first cousin, nephew or niece" in subsection I.

The 1963 amendment added all that portion of subsection III appearing after "to such child for such month."

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 239. Need for and amount of aid.—The department shall send a written notice by mail to the chairman of the overseers of the poor or to the department of public welfare of the municipality of residence immediately upon receipt of an application. The notice shall contain the name and address of the applicant and the number of children for whom the grant is requested. Before granting aid under sections 234 to 246, the department shall, upon request, consult with the overseers of the poor or the department of public welfare of the municipality of residence or settlement, as appropriate, as to the applicant's need for aid for the dependent child for whom the grant is requested. The amount of aid which shall be granted for any dependent child shall be determined with due regard to the resources and necessary expenditures of the family and the conditions existing in each case on a budgetary basis in accordance with the rules and regulations of the department and shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health. (R. S. c. 22, § 230. 1947, c. 370, § 2. 1949, c. 367, § 1. 1951, c. 278. 1963, c. 410.)

Effect of amendment.—The 1963 amendment added the third sentence.

Sec. 240. Department to administer all funds.—The department shall administer all funds appropriated for the purposes of sections 234 to 246, inclusive. It shall make such rules and regulations with respect to the administration of said sections as it deems advisable. It may grant prompt and suitable temporary aid to any dependent child when in its opinion such aid is immediately necessary. Any moneys heretofore or hereafter appropriated or allocated for aid to dependent children are made available for the purposes of sections 234 to 246, inclusive. Nothing in said sections shall be construed as authorizing any public official, agent or representative, in carrying out any provision of this chapter, to take charge of any child over the objection of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order. (R. S. c. 22, § 231. 1953, c. 308, § 24. 1957, c. 397, § 24.)

Effect of amendment. — The 1957 amendment deleted the words "mothers' aid or" which formerly preceded the word "aid" in the fourth sentence.

Sec. 243. Towns to be assessed.—The state shall recover from the municipality in which the child so aided has legal settlement 18% of the amount expended for aid to each dependent child, which shall be credited to the regular legislative appropriation for aid to dependent children. Settlement shall be determined by the department within 2 years from the date the money payment is made and a bill shall be submitted to the municipality within 6 months thereafter. Whenever it appears that a municipality is delinquent in making reimbursements to the state, the amounts shall be collected by the state in the same manner and subject to the same penalties as state taxes, except that the state shall be barred from collecting any claim under this section unless the bill is submitted to the municipality within 6 months after determination of the settlement as above provided. Any balance due shall be assessed in the succeeding year in the same manner as other state taxes. (R. S. c. 22, § 234. 1949, c. 416. 1951, c. 266, § 23. 1963, c. 342.)

Effect of amendment.—The 1963 amendment substituted "municipality" for "city, town or plantation" in two instances in this section, added the present second sentence and added the exception to the present third sentence.

Sec. 245. Aid may be paid to a guardian or conservator.—When a relative with whom a child is living is found by the department to be incapable of taking care of his money, payment shall be made only to a legally appointed guardian or conservator and, notwithstanding the provisions of section 9 of chapter 158 in the matter of infirmities of age or physical disability to manage his estate with prudence and understanding, the probate court may appoint any suitable person as a conservator. (1951, c. 270, § 4. 1955, c. 273.)

Effect of amendment.—The 1955 amendment deleted the words "of such relative" formerly after the word "conservator" in line four, and added the part of the section appearing after such word.

Neglect of Children. Custody.

Sec. 247. Repealed by Public Laws 1959, c. 307, § 1.

Sec. 248. Investigations and prosecutions. — The department and its agents, so far as funds are available, shall investigate all cases of cruel or injurious treatment of children coming to their knowledge, and shall cause offenders against any law for the protection of children or prevention of cruelty to the same to be prosecuted. The costs of court proceedings under this section shall be taxed and paid in the same manner as in any criminal process. All fines imposed for the punishment of offenses under sections 249 to 258 shall be paid over to the county treasurer of the county in which the offenses may have been committed. (R. S. c. 22, § 237. 1949, c. 349, § 37. 1951, c. 266, § 25. 1959, c. 307, § 2.)

Effect of amendment.—The 1959 amendment deleted at the beginning of the section the words "all municipal boards, their agents and employees, all county probation officers and associate probation officers and" and substituted "sections 249 to 258" for "any of the 10 following sections" in the last sentence.

Sec. 249. Neglect to children; warrants; hearings; custody.—When complaint in writing signed by an agent of the department, sheriff, police officer, or by 3 or more citizens of any town or city is made under oath to the probate court of the county or the district court having jurisdiction in said city or town, alleging that such child in such city or town is cruelly treated or willfully or grossly neglected by its parents or parent or other person having custody or control of such child or by the failure of such parents or parent or other person having custody or control of such child is not provided with suitable food, clothing or privileges of education, or is kept at or allowed to frequent any disorderly house, house of ill fame, gambling place or place where intoxicating liquors are sold, or other places injurious to the health or morals, or that such child is an orphan, or is a child whose mother is an inmate of a state institution, without means of support or kindred of sufficient ability who will furnish such support, and praying that suitable and proper provision be made for the care, custody, support and education of the child named in such complaint, the court in term time or vacation, may fix a time for hearing upon said complaint to be held in term time or vacation, and may issue a warrant causing the parents or parent or other persons having custody or control of such child and the child, if necessary, to be brought before said court forthwith in term time or vacation, or may order notice to be given to said parents or parent or said other persons in such manner or in such length of time as the court deems proper. The court shall order notice in writing to be given by mail or otherwise to the department and to the county attorney of the county where the child is residing at least 10 days before the date set for hearing. The department and the county attorney may waive such notice. It shall be the duty of the county attorney to represent the interests of the department at the hearing. If, after hearing, it appears that any material allegations of said complaint are true, the court may order said child committed into the custody of the department itself or into the custody of any suitable person or duly incorporated children's institution or child welfare organization, whose standards of care and maintenance are approved by the department, and who consent to receive said child, at their own expense, unless the payment of such expense by the state shall be approved by the department which approval and payment may at any time be withdrawn. The court shall cause a copy of the order of commitment and of any subsequent modifications thereof to be sent forthwith to the department. The court, in term time or vacation, may order said child, pending hearing upon said complaint, committed into the custody of the department or into the custody of any suitable person approved by the court, without regard to the provisions of section 251 as to bond, or into the custody of a duly incorporated children's institution or child welfare organization approved and direct the department, person or organization to make such provision for its care as may be necessary pending hearing. The expense, if any, of such care shall be paid by the department, person or organization to whom the child is committed. When any child has been committed to the custody of the department, or into the custody of any suitable person or duly incorporated children's institution or child welfare organization under the provisions of this section, the court may order the parent of such child to contribute to the support of his minor child or children such sums payable weekly, monthly or quarterly as deemed reasonable and just, and may enforce obedience by appropriate decrees. Execution may issue for said sums, when payable, and for costs as in actions of tort. Whoever, being a parent of any child committed under the provisions of this section, shall be found guilty of having without just and sufficient cause failed or neglected to support said child, shall

be punished by a fine of not more than $1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. It shall be the duty of the county attorneys in their respective counties to prosecute all violations of this section that are brought to their attention. (R. S. c. 22, § 238. 1945, c. 286. 1947, c. 135. 1957, c. 82. 1959, c. 307, § 3. 1963, c. 171, §§ 1, 2; c. 402, § 36.)

Effect of amendments. — Prior to the 1957 amendment the direction was to the municipal board where the child was residing and the expenses were paid by the town or city where the child was residing.

The 1959 amendment struck out the words "county probation officer", formerly appearing after the word "sheriff" and before the words "police officer" and the words "member of a municipal board", formerly appearing after the words "police officer" and before the word "or" near the beginning of this section.

P. L. 1963, c. 171, substituted "district court" for "municipal court" near the beginning of the first sentence, added "or grossly" after "willfully" near the beginning of the first sentence and deleted "willful" before "failure of such parents" in the first sentence, deleted "to the municipal board of the town" after "the department" near the beginning of the present second sentence, split the former second sentence into the present second and third sentences and deleted "and the municipal board" following "department" in the present third sentence. P. L. 1963, c. 402, § 36, substituted "district court" for "municipal court" near the beginning of the section, thereby giving effect to the earlier 1963 amendment.

Application of 1963 act.—See note to § 21.

Rule as to findings of fact in cases heard on appeal by single justice. — The rule "that in cases heard by a judge without the intervention of a jury, findings of fact are conclusive if supported by credible evidence" is applicable to appeals in child neglect cases heard by a single justice under this and the following section. State v. Harnden, 154 Me. 76, 143 A. (2d) 750.

Sec. 250. Parent divested of legal rights by court order; responsibility for support; decree altered; guardianship.—Orders and decrees provided for in the 3 preceding sections shall have the same effect to divest the parent or parents of all legal rights in respect to said child as specified in section 40 of chapter 158, but shall not relieve the parent or parents of liability for the support of such child or from the penalties for failure to support which are provided in sections 1 to 4, inclusive, of chapter 138. Such original orders shall not extend beyond the time when the child shall reach the age of 18 years; but upon application by the department the court, for sufficient cause, may extend such orders to the time when the child shall reach the age of 21 years. The children's institution or organization or suitable person or department to which said child is committed shall have full custody and control over said child thereafter for said time and, if no other guardian is appointed, the department shall have all the powers as to the person, property, earnings and education of every child committed to its custody during the term of commitment which a guardian has as to a ward, and shall have authority to give the consent required in section 37 of chapter 158. An appeal may be taken to the superior court from the order or decree of any probate court or the district court determining the custody of the child under sections 248 to 258. The proceedings under such appeal shall follow the form prescribed for appeal from probate courts or from the district court, as the case may be, but pending action upon any such appeal the court may order the custody of the child to be retained by said suitable person, children's institution, child welfare organization or the department. Upon application by the department, by a municipal board, by the parent or parents or guardian of any such child, or by the children's institution or child welfare organization or suitable person to which such child may have been committed, to the court making the commitment said court shall examine into the conditions and welfare of the said child and may at any time make such further order in relation to his care, custody, support and education as justice may demand and may discharge any child from custody or restore its custody to its parents, or either of them, if satisfied that the objects of commitment have been accomplished; this latter provision shall not apply, however, to a

child who was legally adopted subsequent to the date of commitment. (R. S. c. 22, § 239. 1945, c. 378, § 20. 1959, c. 317, § 9. 1963, c. 402, § 37.)

Effect of amendment.—The 1959 amendment rewrote the fourth and fifth sentences of this section.

The 1963 amendment deleted "or municipal" following "probate" in the fourth sentence, added "or the district court" in such sentence, substituted "248" for "247" in that sentence and substituted "the district court" for "a municipal court" in the fifth sentence.

Application of 1963 act.—See note to § 21.

Effective date and applicability of Public Laws 1959, c. 317.—Section 420, Chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Rule as to findings of fact in cases heard on appeal by single justice.—See notes to § 249.

Sec. 251. Bond when child in custody of individual; maintenance and education; children or parents not paupers. — Whenever the court deems it suitable and conducive to the public welfare that any such child be placed under the control of an individual, the court shall first take a bond from such person running to the state in such sum and with such sureties as the court approves, conditioned that such person shall humanely treat and properly support, clothe and educate the child, and in case of nonperformance of the conditions of said bond, a civil action may be commenced thereon and the sum so recovered shall be paid into the treasury of the state for the joint benefit of the state and town of settlement, if any, of said child in proportion to the amount of expenses incurred by the state and said town because of the failure of said person so to treat, support, clothe and educate said child. The department shall provide for the maintenance and education in or by duly incorporated children's institutions and child welfare organizations, or in family homes, of any children committed to its custody under the provisions of the preceding sections. Bills itemizing the expense of maintenance and education of children committed under the provisions of sections 247 to 258, inclusive, when approved by the department, shall be paid by the state as provided by law. At the request of the parents or next friend of any dependent child under 18 years of age who is without parent or grandparent of sufficient ability, or without other relatives able and willing to provide for its care, the department may make provision, without intervention of court, for the care of such child. No such child, nor the parents or grandparents of such child who are unable to provide for its care, shall be deemed paupers by reason of any care furnished to the child under the provisions of sections 247 to 258, inclusive. The settlement of a child committed to custody other than that of a parent under the provisions of sections 247 to 258, inclusive, shall not change during the period of such custody. (R. S. c. 22, § 240. 1947, c. 398. 1961, c. 417, § 67.)

Effect of amendment.—The 1961 amendment substituted "civil action" for "suit" near the middle of the first sentence.

Sec. 253. No child under 16 placed in almshouse.—No child under 16 years of age shall be placed in any almshouse in this state or be suffered by the overseers of the poor to remain in such almshouse except in cases of emergency, and then for a period not exceeding 60 days. Children under 2 years of age may be kept in almshouses when their mother is an inmate. With the consent of the department children when in need of medical or surgical treatment may be kept in hospitals or infirmaries connected with such almshouses for such length of time as they are in need of such treatment. When, upon a certificate of 2 licensed physicians, it shall be made to appear that any child is a proper subject for the

Pineland Hospital and Training Center, such child may, with the consent of and under such regulations as the department may determine, be kept in the almshouse until such time as it can, under chapter 27, section 144-B, be admitted to said school. Whenever any child or children under 16 years of age are placed or allowed by the overseers of the poor to remain in an almshouse, or in hospitals or infirmaries connected therewith, notice of that fact giving the name, parentage and such other facts as the department may require shall be sent by the overseers of the poor to said department within 48 hours of the entrance of such child into the almshouse, infirmary or hospital. A similar notice within the same time shall be sent by the overseers of the poor to the said department when the child is discharged from said almshouse, hospital or infirmary. (R. S. c. 22, § 242. 1963, c. 351, § 8.)

Effect of amendment.—The 1963 amendment split the former first sentence into the present first four sentences, substituted "2 licensed physicians" for "physicians who are graduates of some legally organized medical college and have practiced 3 years in this state" in the present fourth sentence, changed the reference from § 145 of chapter 27 to § 144-B of such chapter in the present fourth sentence and made other minor changes.

Sec. 254. Children's homes licensed.—No person, firm, corporation or association shall conduct or maintain a boardinghouse or home for one or more children under 16 years of age, unattended by parents or guardian, excepting children related to such persons by blood or marriage, or who have been legally adopted by such persons, or engage in, or assist in conducting a business of placing out or finding homes or otherwise disposing of children under 16 years of age, without having in full force, subject to the rules and regulations of the department, a written license therefor from the department. No such license shall be issued until the applicant has furnished the department with a written statement signed by one of the officials designated in section 19 of chapter 97 that the home and premises comply with said section 19; or a written statement signed by one of the officials designated in section 22 of chapter 97 that the home and premises comply with said section 22, or the insurance commissioner shall, if requested, direct such inspection to be made in accordance with section 21 of chapter 97. Said written statement shall be furnished annually thereafter, in those cases where the home is licensed to board more than 2 children. The department shall establish and pay reasonable fees to the municipal official or the insurance commissioner for each such inspection. The term of such license shall be for one year and the license may be suspended or revoked for failure to comply with this section or the rules and regulations pertaining thereto. When the department believes a license should be suspended or revoked it shall file a statement or complaint with the hearing officer designated in chapter 20-A. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with said hearing officer. Whoever violates this section shall be punished by a fine of not more than $500 or by imprisonment for not more than 11 months, or by both. (R. S. c. 22, § 243. 1945, c. 99. 1947, c. 177. 1951, c. 122. 1953, c. 281, § 2. 1961, c. 394, § 16.)

Effect of amendment.—The 1961 amendment rewrote the fifth, sixth and seventh sentences, deleted "the provisions of" near the beginning of the last sentence and deleted "such fine and imprisonment" at the end of that sentence.

Sec. 256. Parents or guardians may petition for restoration of custody.—Whenever a child is in the custody of any children's institution, or child's welfare organization, or suitable person or of the department, the parents or either of them may make application in writing to the superior court to have its custody restored to him or them, such notice on the application and the time and place of the hearing thereon as the court orders shall be given to such person, institution or organization, or to the department and to the municipal board of the town where the proceedings therein were commenced. If, upon such hear-

ing, it appears that the applicant is of sufficient ability and inclination suitably to provide for maintenance and education of said child, and that justice requires that its custody be restored to said applicant, the court shall so order, and the custody and control of said child shall thereafter be given to said applicant until the further order of the court. (R. S. c. 22, § 245. 1961, c. 417, § 68.)

Effect of amendment.—The 1961 amendment split the section into two sentences, deleted "any justice of" before "the superior court" in the present first sentence and substituted "court" for "judge" in the present second sentence.

Sec. 257. State or town may recover from parents.—The state or any town or county incurring expenses under sections 248 to 251 and section 256, through the fault of parents who are able to support and educate their children but wrongfully neglect and refuse to do so, may recover of them or either of them, in a civil action, the amount so expended. (R. S. c. 22, § 246. 1961, c. 317, § 38.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" and substituted "sections 248 to 251 and section 256" for "sections 248, 249, 250, 251 and 256" in this section.

Licensing of Hospitals and Related Institutions.

Sec. 265. Hospitals licensed; definitions.—No person, partnership, association or corporation, nor any county or local governmental units, shall establish, conduct or maintain in the state any hospital, including any maternity home or hospital, sanatorium, convalescent home, rest home, nursing home or other institution for the hospitalization or nursing care of human beings without first obtaining a license therefor. Hospital, sanatorium, convalescent home, rest home, nursing home and other related institution, within the meaning of sections 265 to 273-A shall mean any institution, place, building or agency in which any accommodation is maintained, furnished or offered for the hospitalization of the sick or injured or care of any aged or infirm persons requiring or receiving chronic or convalescent care. Nothing in sections 265 to 273-A shall apply to hotels or other similar places that furnish only board and room, or either, to their guests or to such homes for the aged or blind as may be subject to licensing under any other law. (1945, c. 355, § 1. 1959, c. 378, § 14.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, substituted "273-A" for "274, inclusive" in the second and third sentences and made other minor changes.

Sec. 268. Application.—Any person, partnership, association or corporation, including county or local governmental units, desiring a license hereunder shall file with the department a verified application containing the name of the applicant desiring said license; whether such persons so applying are 21 years of age; the type of institution to be operated; the location thereof; the name of the person in charge thereof. Application on behalf of a corporation or association or governmental units shall be made by any 2 officers thereof or by its managing agents. All applicants shall submit satisfactory evidence of their ability to comply with the minimum standards of sections 265 to 273-A, and all regulations adopted thereunder. (1945, c. 355, § 1. 1959, c. 378, § 15.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, substituted "273-A" for "274, inclusive," in the last sentence.

Sec. 269. Fees.—Each application for a license to operate a hospital, maternity home or hospital, sanatorium, convalescent home, rest home, nursing home or related institution, within the meaning of sections 265 to 273-A shall be accompanied by a fee of $15. No such fee shall be refunded. All licenses issued shall be renewed annually upon payment of a like fee. All fees received by the department under sections 265 to 273-A shall be paid into the state

treasury to the credit of the department for the purpose of carrying out sections 265 to 273-A. No license granted shall be assignable or transferable. (1945, c. 355, § 1. 1959, c. 378, § 16.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, substituted "273-A" for "274, inclusive" throughout the section and made other minor changes.

Sec. 270. Inspections.—Every building, institution or establishment for which a license has been issued shall be periodically inspected by duly appointed representatives of the bureau of health under the rules and regulations to be established by said department. No institution of any kind licensed pursuant to sections 265 to 273-A shall be required to be licensed or inspected under the laws of this state relating to hotels, restaurants, lodging houses, boardinghouses and places of refreshments. No such license shall be issued until the applicant has furnished the department with a written statement signed by the insurance commissioner or the proper municipal official designated in chapter 97 to make fire safety inspections that the home and premises comply with the provisions of said chapter 97 relating to fire safety. The department shall establish and pay reasonable fees to the municipal official or the insurance commissioner for each such inspection. Said written statement shall be furnished annually thereafter. (1945, c. 355, § 1. 1953, c. 281, § 3. 1959, c. 378, § 17.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, eliminated "the provisions of" preceding "sections" and substituted "273-A" for "274, inclusive," in the second sentence.

Sec. 271. Licenses issued.—The department is authorized to issue licenses to operate hospitals, maternity homes or hospitals, sanatoriums, convalescent homes, rest homes, nursing homes or other related institutions, which, after inspection, are found to comply with sections 265 to 273-A and any reasonable regulations adopted by said department. The department may file a statement or complaint with the hearing officer designated in chapter 20-A requesting suspension or revocation of any license on any of the following grounds: Violation of any of sections 265 to 273-A or the rules or regulations issued pursuant thereto; permitting, aiding or abetting the commission of any illegal act in such institution; conduct of practices detrimental to the welfare of the patient. If a license is revoked or suspended, a new application for license may be considered by the department if, when and after the conditions upon which revocation was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made and sections 265 to 273-A and rules and regulations thereunder have been complied with and recommendation has been made therefor by the hospital inspector as an agent of the department. (1945, c. 355, § 1. 1959, c. 378, § 18. 1961, c. 394, § 17.)

Effect of amendments. — The 1959 amendment, effective on its approval, January 29, 1960, substituted "273-A" for "274, inclusive," throughout the section and made other minor changes.

The 1961 amendment substituted "may file a statement or complaint with the hearing officer designated in chapter 20-A requesting suspension or revocation of any license" for "is authorized to suspend or revoke a license issued" near the beginning of the second sentence, deleted the former third sentence, inserted "or suspended" near the beginning of the present third sentence and made other minor changes.

Sec. 272. Appeal.—Any person who is aggrieved by the decision of the department in refusing to issue a license or the renewal of a license may file a statement or complaint with the hearing officer designated in chapter 20-A. (1945, c. 355, § 1. 1959, c. 378, § 19. 1961, c. 394, § 18.)

Effect of amendments. — The 1961 amendment rewrote this section.

The 1959 amendment had changed a reference to other sections, formerly appearing near the beginning of the section.

Sec. 273. Standards.—The department shall have the power to establish reasonable standards under sections 265 to 273-A, which it finds to be necessary and in the public interest and may rescind or modify such regulations from time to time as may be in the public interest, in so far as such action is not in conflict with any of the provisions of said sections. No standards, rules or regulations of the department pursuant to sections 265 to 273-A shall be adopted or enforced which would have the effect of denying a license to any hospital or other institution required to be licensed, solely by reason of the school or system of practice employed or permitted to be employed by physicians therein, provided such school or system of practice is recognized by the laws of this state. (1945, c. 355, § 1. 1959, c. 378, § 20.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, substituted "273-A" for "274, inclusive," in both sentences and made other minor changes.

Sec. 273-A. Violations; penalties.—Any person, partnership, association or corporation, including county or local governmental units, establishing, conducting, managing or operating any hospital, maternity home or hospital, sanatorium, convalescent home, rest home, nursing home or institution within the meaning of sections 265 to 273-A without first obtaining a license therefor, or who shall violate any of the provisions of said sections or regulations thereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $100 or by imprisonment for not more than 90 days. (1945, c. 355, § 1. 1959, c. 330, § 1. 1959, c. 378, § 21.)

Effect of amendment.—P. L. 1959, c. 378, effective on its approval, January 29, 1960, substituted "273-A" for "274, inclusive," and eliminated "as herein provided" following "a license therefor".

Editor's note.—This section appears in the original as section 274. P. L. 1959, c. 330, adding section 273-B, provided in section 1 thereof that section 274 of chapter 25 should be renumbered 273-A.

Sec. 273-B. Investment of hospital trust funds. — Hospitals may treat any 2 or more trust funds as a single fund solely for the purpose of investment, if such investment is not prohibited by the instrument, judgment, decree or order creating such trust funds. Unless ordered by decree, the hospital so investing said funds is not required to render a court accounting with regard to such funds, but it, as accountant, or any interested person, may by petition to the superior court, or the probate court in the county where said hospital is located secure approval of such accounting on such conditions as the court may establish. (1959, c. 330, § 2. 1961, c. 417, § 69.)

Effect of amendment.—The 1961 amendment deleted "supreme judicial court, the" before "superior court" in the second sentence.

Sec. 274. Renumbered by Public Laws 1959, c. 330, § 1.

Cross reference.—See § 273-A and note thereto.

Solicitation of Charitable Funds.

Sec. 274-A. Definitions.—The following words and phrases as used in sections 274-A to 274-D, inclusive, shall have the following meanings unless a different meaning is required by the context:

"Charitable organizations" shall mean any group of benevolent, philanthropic, patriotic or eleemosynary persons or persons purporting to be such:

"Contribution" shall mean the promise or grant of any money or property of any kind or value;

"Person" shall mean any individual, organization, group, association, partnership, corporation or any combination of them.

"Professional fund raiser" shall mean any person who, for compensation or other consideration plans, conducts, manages or carries on any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of

any charitable organization or any other person, or who engages in the business of, or holds himself out to persons in this state as independently engaged in the business of soliciting contributions for such purpose. A bona fide officer or employee of a charitable organization shall not be deemed a professional fund raiser.

"Professional solicitor" shall mean any person who is employed by any person or charitable organization for compensation or other consideration to solicit contributions for charitable purposes from persons in this state. (1955, c. 422, § 1.)

Sec. 274-B. License.—No professional fund raiser and no professional solicitor shall solicit funds for charitable or benevolent purposes outside of the municipalities where such persons reside or where such firm, corporation or association has its place of business, without having in full force a written license therefor from the department of health and welfare. No license shall be granted for a term exceeding one year. The department shall grant such license whenever it shall be shown to its satisfaction that the person or organization requesting the license is reputable and responsible and has suitable facilities for applying the funds to the purpose for which they are to be solicited, and that the records of such funds and the purpose for which they are used will be properly and accurately kept. Such license shall be furnished to the licensee without fee or charge, and may be revoked by the department whenever in its discretion it seems for the best interest of the public to do so.

Application for such a license shall contain the following:

I. The name under which the charitable organization intends to solicit contributions;

II. The names and addresses of president, secretary and treasurer and places where records will be kept; addresses shall include both residence and place of business.

III. The names and addresses of any paid professional fund raisers and paid professional solicitors who act or will act on behalf of the charitable organization, together with a statement setting forth the terms of the arrangements for salaries, bonuses, commissions or other remuneration to be paid the paid professional fund raisers, and the paid or professional solicitors;

IV. The general purpose for which the charitable organization is organized;

V. The purpose for which the contributions to be solicited will be used;

VI. The period of time during which the solicitation will be made;

VII. Such other information as may be necessary or appropriate in the public interest or for the protection of contributors;

VIII. The application form and any other documents prescribed by the department, shall be signed by the president or other authorized officer and the chief fiscal officer of the charitable organization. (1955, c. 422, § 1.)

Sec. 274-C. Out of state organizations.—Any charitable organization having its principal place of business without the state or organized under and by virtue of the laws of a foreign state, or which shall solicit contributions from people in this state, shall be deemed to have irrevocably appointed the department of health and welfare as its agent upon whom may be served any summons, subpœna, subpœna duces tecum or other process directed to such charitable organization, or any partner principal, officer or director thereof, in any action or proceeding brought by the attorney general under the provisions of sections 274-A to 274-D, inclusive. (1955, c. 422, § 1.)

Sec. 274-D. Enforcement and penalties.—In the event that any solicitation is conducted without compliance with the terms of sections 274-A to 274-C, inclusive, the department shall have the right to enjoin the solicitation and the person concerned shall be punished by a fine of not more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (1955, c. 422, § 1.)

Sec. 275. Repealed by Public Laws 1955, c. 422, § 2.

Old Age Assistance.

Sec. 276. Department to administer old age assistance.

Editor's note.—Section 14 of c. 393, P. L. 1961, amending §§ 281, 283, 287, 290, 294 and other sections of this chapter, makes an appropriation of $200,000 for the fiscal year ending June 30, 1963, to carry out the puposes of the act.

Sec. 277. Definitions.

When the parent-child relationship between a parent and child was broken during the minority of the child and no significant relationship has ever been resumed, such person shall not be considered as a child of such parent in sections 276 to 297, inclusive. (1951, c. 269, § 1. 1957, c. 351, § 1.)

Effect of amendment. — The 1957 amendment added the paragraph appearing above as the last paragraph of this section. As the first paragraph was not changed by the amendment, it is not set out.

Sec. 279. Acceptance of provisions of federal law.

I. Federal aid. Apply for federal assistance under Title I or Title XVI of the Federal Social Security Act (Public No. 271, 74th Congress) and acts additional thereto are amendatory thereof; and to comply with such conditions, not inconsistent with sections 276 to 297, as may be required for such assistance.

(1963, c. 64, § 1.)

Effect of amendment.—The 1963 amendment added "or Title XVI" to subsection I and deleted "the provisions of" in two instances in subsection I.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 280. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of old age assistance and administration thereof, as contemplated by Title I or Title XVI of the Federal Social Security Act, and acts additional thereto or amendatory thereof, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 259. 1963, c. 64, § 2.)

Effect of amendment.—The 1963 amendment added "or Title XVI" following "Title I" and added "and acts additional thereto or amendatory thereof" following "Federal Social Security Act."

Sec. 281. Old age assistance provided; application procedure.—Subject to the qualifications and restrictions contained in sections 276 to 297, inclusive, every person residing in this state shall be entitled to assistance in old age. The amount of assistance which any person shall receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department. This assistance shall be sufficient, when added to all other income and support, to provide a reasonable subsistence compatible with decency and health, but not exceeding the maximum amount allowable by federal matching in accordance with Title I or Title XVI of the Social Security Act, as amended.

Applications for old age assistance shall be made to the department on forms provided by the department. Said applications shall contain such information as may be required by the department.

An application shall not be considered unless accompanied by an individual sworn statement made on the part of each adult child or spouse of said applicant residing in this state and accessible, and such statements shall include full information regarding individual income, assets and liabilities, provided that if such applicant has previously applied and there are on file with the department any of the necessary sworn statements then the applicant need only furnish such additional sworn statements as the department may require.

If the applicant is unable to obtain the sworn statement from such child or

spouse, then upon proof of his inability to do so the department shall obtain such statement or the required information from any available source and proceed to process the application. Any determination made under this section shall be subject to the right of appeal by the applicant under section 284. (R. S. c. 22, § 260. 1945, c. 251, § 1. 1947, c. 402, § 1. 1949, c. 1, § 1; c. 258, § 1. 1953, c. 3, § 1; c. 47, § 1. 1961, c. 145, § 1; c. 393, § 1. 1963, c. 64, § 3.)

Effect of amendments.—Chapter 145, P. L. 1961, rewrote the third sentence of the first paragraph and deleted the former last sentence of that paragraph. Chapter 393, P. L. 1961, rewrote the fourth paragraph of this section.

The 1963 amendment added "or Title XVI" following "Title I" in the third sentence of the first paragraph.

Sec. 283. Requisites for assistance.

II. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health. (1947, c. 402, § 2. 1957, c. 97.)

III. Has resided in the state continuously for one year immediately preceding the application; (1959, c. 365, § 1.)

VI. Repealed by Public Laws 1961, c. 393, § 2.

VII. Repealed by Public Laws 1957, c. 352. (R. S. c. 22, § 261. 1947, c. 402, § 2. 1949, c. 345, §§ 1, 2. 1951, c. 269, § 2. 1957, cc. 97, 352. 1959, c. 365, § 1. 1961, c. 393, § 2.)

Effect of amendments.—The first 1957 amendment deleted from subsection II a former provision requiring sworn statements and facts as to income, etc., of applicants for old age assistance. The second 1957 amendment deleted subsection VII which required citizenship in the United States.

The 1959 amendment amended subsection III by reducing the residence requirement from 5 years to 1 year.

The 1961 amendment repealed subsection VI.

As only subsections II, III, VI and VII were affected by the amendments, the rest of the section is not set out.

Sec. 287. Disqualification of applicant and recipient.—Any applicant for or recipient of old age assistance who divests himself directly or indirectly of any property without a reasonable consideration shall forfeit all right to receive assistance under the provisions of sections 276 to 297, inclusive, for a period of 2 years from the date of the property transfer unless the property or its equivalent value is restored to the applicant or recipient.

Any recipient of old age assistance shall be disqualified from receiving old age assistance unless he files with the department, whenever the department may require it, the following information:

I. A sworn statement concerning income, assets and liabilities of the recipient sworn to by the recipient;

II. An individual sworn statement made on the part of each adult child residing in this state or spouse of said recipient, and such statements shall include full information regarding individual income, assets and liabilities.

If the recipient is unable to obtain the sworn statement from such child or spouse then upon proof of his inability to do so, the department shall obtain such statement or the required information from any available source and proceed to process the case. Any determination made under this section shall be subject to the right of appeal by the recipient under section 284. (R. S. c. 22, § 265. 1947, c. 402, § 3. 1949, c. 258, § 2. 1953, c. 279, § 1. 1955, c. 99, § 1. 1957, c. 64, § 1. 1961, c. 393, § 3.)

Effect of amendments. — The 1955 amendment substituted "1952" for "1950" in the first paragraph. The 1957 amendment, however, rewrote this section.

The 1961 amendment rewrote the last paragraph.

Sec. 290. Illegal payments recovered. — The department may recover the amount expended for aid in a civil action from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible

had he disclosed the assets. Such actions shall be prosecuted by the attorney general in the name of the state and the amount recovered shall be credited to the old age assistance fund. (R. S. c. 22, § 268. 1951, c. 269, § 4. 1961, c. 317, § 39; c. 393, § 4; c. 417, § 70.)

Effect of amendments.—Chapter 393, P. L. 1961, deleted the former first sentence of this section. Chapter 317, P. L. 1961, substituted "a civil action" for "an action on the case" in the present first sentence, and deleted "also" formerly preceding "recover" in such sentence. Chapter 417, P. L. 1961, gave effect to the repeal contained in P. L. 1961, c. 393.

Sec. 291. Funeral expenses.—On the death of a recipient, reasonable funeral expenses not exceeding $150 shall be paid by the state if the estate of the deceased is insufficient to pay the same. (R. S. c. 22, § 269. 1953, c. 381, § 1. 1955, c. 458.)

Effect of amendment.—The 1955 amendment increased the maximum amount of funeral expenses from $125 to $150.

Sec. 294. Liability of relatives to support.—The spouse, parents and child of a recipient of public assistance of any nature from the state shall, if of sufficient ability, be responsible for the partial or total support of such persons. In determining the ability of such relative, his assets as well as his income shall be considered.

The attorney general shall bring proceedings in the name of the state of Maine in any court of competent jurisdiction to compel any person liable under this section to contribute to the support of any recipient of public assistance, if after reasonable efforts on the part of the department to secure voluntary contributions have failed. The court shall determine a fair and reasonable amount for support to be paid by the defendant to the department as reimbursement for moneys furnished to a recipient.

The action shall be brought as a petition for support upon not less than 7 days' notice. Upon failure to pay the support ordered, execution as in tort shall issue. The state shall pay the expense of commitment and support when the defendant is committed to jail on execution and he may be discharged in the same manner as provided by chapter 166, section 64. (R. S. c. 22, § 271. 1947, c. 394, § 2. 1961, c. 393, § 5.)

Effect of amendment.—The 1961 amendment rewrote the first two paragraphs of this section and added the present last paragraph.

Sec. 294-A. Repealed by Public Laws 1961, c. 418, § 1.

Editor's note. — The repealed section, which related to a lien on real property, derived from P. L. 1963, c. 383, § 1.

Sec. 295. Claims against estate.—Upon the death of a beneficiary, the state shall have a claim against his estate, enforceable in the probate court, for all amounts paid to him under the provisions of sections 276 to 297, inclusive. Such claim shall have priority over all unsecured claims against such estate, except:

I. Administrative expenses, including probate fees and taxes;

II. Expenses of the last sickness; (1955, c. 246)

III. Funeral expenses, not exceeding $400, exclusive of clergymen's honorarium and cemetery expenses. (1955, c. 246)

Effect of amendment.—The 1955 amendment deleted the words "and burial expenses" at the end of the subsection II and added subsection III. As the last paragraph of the section was not changed, it is not set out.

Enforcement of claims. — The state must file its claim for old age assistance within twelve months after an administrator for the recipient of assistance has qualified, as required by chapter 165, § 15, which gives notice that the state has a claim against the real estate of the deceased, but the state is not compelled

under the provisions of chapter 165, § 17 to commence suit within the twenty months period because said § 17 of chapter 165 is not applicable to claims by the state for old age assistance furnished by the state. State v. Crommett, 151 Me. 188, 116 A. (2d) 614.

Aid to the Blind.

Sec. 298. Definitions.—

I. Aid to the blind. The words "aid to the blind" mean money payments to, or medical care or optometric services in behalf of or any type of remedial care in behalf of, blind individuals who are needy, but do not include any such payments to or care in behalf of any individual who is an inmate of a public institution, except as a patient in a medical institution, or any individual who is a patient in an institution for tuberculosis or mental diseases, or who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof. (1951, c. 44, § 1. 1963, c. 281, § 1.)

III. When the parent-child relationship between a parent and child was broken during the minority of the child and no significant relationship has ever been resumed, such person shall not be considered as a child of such parent in sections 298 to 318, inclusive. [1957, c. 351, § 2]. (R. S. c. 22, § 275. 1951, c. 44, § 1. 1957, c. 351, § 2. 1963, c. 281, § 1.)

Effect of amendments. — The 1957 amendment added subsection III.

The 1963 amendment added "or optometric services" following "medical care" near the beginning of subsection I.

As the rest of section was not affected by the amendment, it is not set out.

Editor's note.—Section 14 of c. 393, P. L. 1961, amending §§ 299, 303, 304, 308, 319 and other sections of this chapter, makes an appropriation of $200,000 for the fiscal year ending June 30, 1963, to carry out the purposes of the act.

Sec. 299. Requisites for aid.

III. Has resided in the state continuously for one year immediately preceding the application; (1959, c. 365, § 2.)

V. Income. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health. The department shall disregard earned income in the amounts stated in the social security act or any amendments thereto; (1949, c. 348. 1951, c. 44, § 2. 1953, c. 308, § 25. 1961, c. 78.)

VII. Spouse. Has no spouse residing in this state and able to support him. [1951, c. 44, § 3. 1961, c. 393, § 6]. (R. S. c. 22, § 276. 1949, c. 348. 1951, c. 44, §§ 2, 3. 1953, c. 308, § 25. 1959, c. 365, § 2. 1961, c. 78; c. 393, § 6.)

Effect of amendments.—The 1959 amendment amended subsection III by reducing the residence requirement from 5 years to 1 year.

Chapter 78, P. L. 1961, rewrote the second sentence of subsection V. Chapter 393, P. L. 1961, deleted "parents, adult child or children" from subsection VII.

As the rest of the section was not affected by the amendments, it is not set out.

Sec. 300. Services for the blind.—The department shall provide or cooperate with other public agencies in providing a program of services for the blind, including the prevention of blindness, the locating of blind persons, medical service for eye conditions, vocational guidance and training of the blind, the placement of blind persons in employment, assistance to the blind in marketing the products of their home industries, the instruction of the adult blind in their homes and other social services to the blind. (R. S. c. 22, § 277. 1963, c. 62.)

Effect of amendment.—The 1963 amendment repealed the last paragraph.

Sec. 302. Amount of aid.—The amount of aid which any person may receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the

department. This aid shall be sufficient, when added to all other income and support, to provide a reasonable subsistence compatible with decency and health, but not exceeding the maximum amount allowable by federal matching in accordance with Title X or Title XVI of the Social Security Act, as amended, except that earned income in the amounts stated in the Social Security Act, as amended, shall be disregarded in making a budget. All aid granted under sections 298 to 318 shall be paid monthly by the state. (R. S. c. 22, § 285. 1945, c. 251, § 3. 1949, c. 1, § 2. 1951, c. 44, § 4. 1953, c. 3, § 2; c. 47, § 2. 1961, c. 145, § 2. 1963, c. 64, § 4.)

Effect of amendments. — The 1961 amendment rewrote this section.

The 1963 amendment added "or Title XVI" following "Title X" in the second sentence.

Sec. 303. Application procedure.—Applications for aid to the blind shall be made to the department on forms provided by the department. Said applications shall contain such information as may be required by the department.

An application shall not be considered unless accompanied by an individual sworn statement made on the part of the spouse, parents and each adult child of said applicant residing in this state, and such statements shall include full information revealing individual income, assets and liabilities, provided that if such applicant has previously applied and there are on file with the department any of the necessary sworn statements then the applicant need only furnish such additional sworn statements as the department may require.

If the applicant is unable to obtain the sworn statement from such spouse, parents or child, then upon proof of his inability to do so the department shall obtain such statement or the required information from any available source and proceed to process the application. Any determination made under this section shall be subject to the right of appeal by the applicant under section 307. (R. S. c. 22, § 279. 1951, c. 44, § 5. 1957, c. 106. 1961, c. 393, § 7.)

Effect of amendments. — The 1957 amendment rewrote the second sentence of the first paragraph.

The 1961 amendment rewrote the last paragraph of this section.

Sec. 304. Disqualification of applicant and recipient.

If the recipient is unable to obtain the sworn statement from such spouse, parents or child, then upon proof of his inability to do so, the department shall obtain such statement or the required information from any available source and proceed to process the case. Any determination made under this section shall be subject to the right of appeal by the recipient under section 307. (R. S. c. 22, § 280. 1951, c. 44, § 6. 1961, c. 393, § 8.)

Effect of amendment.—The 1961 amendment rewrote the last paragraph of this section.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 305. Examination.—Applicants for aid under sections 298 to 318 shall be examined by an ophthalmologist, a physician skilled in diseases of the eye, or an optometrist. The expense of the examination may be paid by the state. The department is authorized to promulgate rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may have and still be eligible for aid under the provisions of said sections. (R. S. c. 22, § 281. 1951, c. 44, § 7. 1953, c. 308, § 26. 1963, c. 281, § 2.)

Effect of amendment.—The 1963 amendment deleted "provisions of" before "sections 298 to 318" in the first sentence and deleted "approved or designated by the department" at the end of the first sentence.

Sec. 306. Expenses for treatment.—On the basis of the findings of the examination as provided in the preceding section, supplementary services may be provided by the department to any applicant or recipient who is in need of treat-

ment either to prevent blindness or to restore his eyesight, whether or not he is blind as defined in section 299. Such supplementary services may be provided under the provisions of sections 298 to 318, inclusive, for the prevention of blindness for children under the age of 16 years. The supplementary services may include necessary traveling and other expenses to receive optometric, medical, surgical, clinical or hospital treatment as may be approved by the department, or to pay for such services or treatment. (R. S. c. 22, § 282. 1963, c. 281, § 3.)

Effect of amendment.—The 1963 amendment added "optometric" before "medical" and "services or" before "treatment" in the last sentence.

Sec. 308. Illegal payments recovered.—The department may recover the amount expended for aid in a civil action from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the attorney general in the name of the state and the amount recovered shall be credited to the aid to the blind fund. (R. S. c. 22, § 284. 1947, c. 353. 1949, c. 335, § 2. 1951, c. 44, § 9. 1961, c. 317, § 40; c. 393, § 9; c. 417, § 71.)

Effect of amendments.—Chapter 393, P. L. 1961, deleted the former first sentence of this section. Chapter 317, P. L. 1961, substituted "a civil action" for "an action on the case" in the present first sentence, and deleted "also" formerly preceding "recover" in such sentence. Chapter 417, P. L. 1961, gave effect to the repeal contained in P. L. 1961, c. 393.

Sec. 312. Disqualification of applicant and recipient.—Any applicant for or recipient of aid to the blind who divests himself directly or indirectly of any property without a reasonable consideration shall forfeit all right to receive aid to the blind under the provisions of sections 298 to 318, inclusive, for a period of 2 years from the date of the property transfer unless the property or its equivalent value is restored to the applicant or recipient. (R. S. c. 22, § 288. 1951, c. 44, § 11. 1953, c. 279, § 2. 1955, c. 99, § 2. 1957, c. 64, § 2.)

Effect of amendments. — The 1955 amendment inserted the words "or recipient of" and substituted "1952" for "1950." The 1957 amendment, however, rewrote this section.

Sec. 312-A. Repealed by Public Laws 1961, c. 418, § 2.

Editor's Note. — The repealed section, which related to a lien on real property, derived from P. L. 1961, c. 383, § 2.

Sec. 313. Claims against estate.—Upon the death of a beneficiary, occurring after August 20, 1951, the state shall have a claim against his estate, enforceable in the probate court, for all amounts paid to him under the provisions of sections 298 to 318, inclusive. Such claims shall have priority over all unsecured claims against such estate, except:

I. Administrative expenses, including probate fees and taxes;

II. Expenses of the last sickness;

III. Funeral expenses, not exceeding $400, exclusive of clergymen's honorarium and cemetery expenses.

(1957, c. 20, § 1.)

Effect of amendment. — The 1957 amendment deleted the words "and burial expenses" which formerly appeared at the end of subsection II, and added subsection III. As the last paragraph of this section was not changed by the amendment, it is not set out.

Sec. 315. Funeral expenses of persons aided.—On the death of a recipient, reasonable funeral expenses not exceeding $150 shall be paid by the state if the estate of the deceased is insufficient to pay the same. (R. S. c. 22, § 291. 1953, c. 381, § 2. 1957, c. 273, § 1.)

Effect of amendment. — The 1957 amendment increased the maximum amount to be paid by the state from $125 to $150.

Sec. 317. Acceptance of provisions of federal law.

I. Federal aid. Apply for federal aid under Title X or Title XVI of the Federal Social Security Act (Public No. 271, 74th Congress) and acts additional thereto or amendatory thereof; and to comply with such conditions, not inconsistent with sections 298 to 318, as may be required for such aid; (1963, c. 64, § 5.)

Effect of amendment.—The 1963 amendment added "or Title XVI" after "Title X" and deleted "the provisions of" before "sections 298 to 318" in subsection I.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 318. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of aid to the blind and administration thereof, as contemplated by Title X or Title XVI of the Federal Social Security Act, and acts additional thereto or amendatory thereof, and the state controller shall authorize expenditures therefrom as approved by the department. (R. S. c. 22, § 293. 1963, c. 64, § 6.)

Effect of amendment.—The 1963 amendment added "or Title XVI" after "Title X" and added "and acts additional thereto or amendatory thereof" following "Federal Social Security Act."

Aid to the Disabled.

Sec. 319-A. Definitions. — The words "aid to the disabled" mean money payments to, or medical care in behalf of or any type of remedial care in behalf of, needy individuals 18 years of age or older who are permanently and totally disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution, except as a patient in a medical institution, or any individual who is a patient in an institution for tuberculosis or mental disease, or who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

When the parent-child relationship between a parent and child was broken during the minority of the child and no significant relationship has ever been resumed, such person shall not be considered as a child of such parent in sections 319-A to 319-T, inclusive. (1955, c. 405, § 30. 1957, c. 351, § 3.)

Effect of amendment. — The 1957 amendment added the second paragraph of this section.

Sec. 319-B Department to administer aid to the disabled.—The department shall administer the law relating to aid to the disabled and may make rules and regulations necessary to the administration thereof. All aid granted under said sections shall be paid monthly by the state. The amount of aid which any person shall receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations of said department. This aid shall be sufficient, when added to all other income and support, to provide a reasonable subsistence compatible with decency and health, but not exceeding the maximum amount allowable by federal matching in accordance with Title XIV or Title XVI of the Social Security Act, as amended. (1955, c. 405, § 30. 1961, c. 145, § 3. 1963, c. 64, § 7.)

Effect of amendments. — The 1961 amendment rewrote this section, which formerly provided for the employment of assistants and for a maximum grant of $55 per month, subject to change when the federal maximum was changed.

The 1963 amendment added "or Title XVI" after "Title XIV" in the fourth sentence.

Sec. 319-C. Acceptance of provisions of federal law.—The department is authorized to:

I. Federal aid. Apply for federal assistance under Title XIV or Title XVI of the Federal Social Security Act (Public No. 271, 74th Congress) and acts

additional thereto or amendatory thereof; and to comply with such conditions, not inconsistent with sections 319-A to 319-T, as may be required for such aid.

II. Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports. (1955, c. 405, § 30. 1963, c. 64, § 8.)

Effect of amendment.—The 1963 amendment added "or Title XVI" following "Title XIV" and deleted "the provisions of" in two instances in subsection I.

Sec. 319-D. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of aid to the disabled and administration thereof, as contemplated by Title XIV or Title XVI of the Federal Social Security Act, and acts additional thereto or amendatory thereof; and the state controller shall authorize expenditures therefrom as approved by said department. (1955, c. 405, § 30. 1963, c. 64, § 9.)

Effect of amendment.—The 1963 amendment added "or Title XVI" following "Title XIV" and added "and acts additional thereto or amendatory thereof" following "Federal Social Security Act."

Sec. 319-E. Application procedure.—Applications for aid to the disabled shall be made to the department on forms provided by the department. Said applications shall contain such information as may be required by the department.

An application shall not be considered unless accompanied by an individual sworn statement made on the part of the spouse, parents and each adult child of said applicant residing in this state, and such statements shall include full information revealing individual income, assets and liabilities, provided that if such applicant has previously applied and there are on file with the department any of the necessary sworn statements, then the applicant need only furnish such additional sworn statements as the department may require.

If the applicant is unable to obtain the sworn statement from such spouse, parents or child, then upon proof of his inability to do so the department shall obtain such statement or the required information from any available source and proceed to process the application. Any determination made under this section shall be subject to the right of appeal by the applicant under section 319-G. (1955, c. 405, § 30. 1957, c. 96. 1961, c. 393, § 10.)

Effect of amendments. — The 1957 amendment rewrote the second sentence of the first paragraph.

The 1961 amendment rewrote the last paragraph of this section, which formerly required that the department determine if the inability was reasonable before considering the merits of the application.

Sec. 319-F. Requisites for aid.—Aid to the disabled shall be granted only to a person who:

I. Age and disability. Is 18 years of age or older and is permanently and totally disabled as defined in the rules and regulations of the department;

II. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;

III. Has resided in the state continuously for 1 year immediately preceding the application;

IV. Is not an inmate of any public institution, except as a patient in a medical institution as provided in section 319-A; but an inmate of any institution may file application for aid under the provisions of sections 319-A to 319-T, inclusive, and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution;

V. Spouse. Has no spouse residing in this state and able to support him;

VI. Is not receiving aid to the blind, old age assistance or aid to dependent children. (1955, c. 405, § 30. 1959, c. 365, § 3. 1961, c. 393, § 11. 1963, c. 63.)

Effect of amendments.—The 1959 amendment amended subsection III by reducing the residence **requirement** from 5 years to 1 year.

The 1961 amendment deleted "parents, adult child or children" from subsection V.

The 1963 amendment substituted "18 years of age or older" for "between 18 and 65 years of age" in subsection I.

Sec. 319-G. Right of appeal.—Any person who is denied aid, or who is not satisfied with the amount of aid allotted to him, or is aggrieved by a decision of the department made under any provisions of sections 319-A to 319-T, inclusive, or whose application is not acted upon with reasonable promptness, shall have the right of appeal to the commissioner, who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing provided that when the evidence in the case is heard by a person other than the commissioner the decision shall be rendered in the name of the commissioner. (1955, c. 405, § 30.)

Sec. 319-H. Aid may be paid to a guardian or conservator.—If an applicant for or a recipient of aid is found by the department to be incapable of taking care of himself or his money, payment shall be made only to a legally appointed guardian or conservator for his benefit. (1955, c 405, § 30.)

Sec. 319-I. Inalienability of aid.—All rights to aid shall be absolutely inalienable by any assignment, sale, execution, pledge or otherwise, and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor. (1955, c. 405, § 30.)

Sec. 319-J. Transfer of property prohibited.—Any applicant for or recipient of aid to the disabled, who divests himself directly or indirectly of any property without a reasonable consideration shall forfeit all right to receive aid under the provisions of sections 319-A to 319-T, inclusive, for a period of 2 years from the date of the property transfer unless the property or its equivalent value is restored to the applicant or recipient. (1955, c. 405, § 30. 1957, c. 64, § 3.)

Effect of amendment. — The 1957 amendment rewrote this section.

Sec. 319-K. Disqualification of applicant and recipient.—Any recipient of aid to the disabled shall be disqualified from receiving aid to the disabled unless he files with the department, whenever the department may require it, the following information:

I. A sworn statement revealing his income, assets and liabilities;

II. An individual sworn statement made on the part of the spouse, parents and each adult child of said recipient residing in this state, and such statements shall include full information revealing individual income, assets and liabilities.

If the recipient is unable to obtain the sworn statement from such spouse, parents or child, then upon proof of his inability to do so, the department shall obtain such statement or the required information from any available source and proceed to process the case. Any determination made under this section shall be subject to the right of appeal by the recipient under section 319-G. (1955, c. 405, § 30. 1961, c. 393, § 12.)

Effect of amendment.—The 1961 amendment rewrote the last paragraph of this section, which formerly required the department to determine if inability was reasonable before considering the merits of the case.

Sec. 319-L. Report to department of increase in assets or income.—Every recipient of aid to the disabled shall forthwith notify the department upon the receipt or possession of any property or income in excess of the amount last disclosed to the department. (1955, c. 405, § 30.)

Sec. 319-M. Payments illegally received may be recovered. — The department may recover the amount expended for aid in a civil action from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the attorney general in the name of the state, and the amount recovered shall be credited to the aid to the disabled fund. (1955, c. 405, § 30. 1961, c. 317, § 41; c. 393, § 13; c. 417, § 72.)

Effect of amendments.—Chapter 317, P. L. 1961, substituted "a civil action" for "an action on the case" in the present first sentence, and deleted "also" formerly preceding "recover" in such sentence. Chapter 393, P. L. 1961, deleted the former first sentence of this section, providing for recovery from children, spouses or parents failing to provide support. Chapter 417, P. L. 1961, gave effect to the repeal contained in P. L. 1961, c. 393.

Sec. 319-N. Funeral expenses of person assisted.—On the death of a recipient, reasonable funeral expenses not exceeding $150 shall be paid by the state, if the estate of the deceased is insufficient to pay the same. (1955, c. 405, § 30. 1957, c. 273, § 2.)

Effect of amendment. — The 1957 amendment increased the maximum amount to be paid by the state from $125 to $150.

Sec. 319-O. Payment of certain obligations of deceased recipients of aid to the disabled.—When for any reason whatsoever a recipient of aid to the disabled is unable to properly indorse the check for the last payment approved for him prior to his death or commitment to an institution, the department may approve payment by the state of obligations incurred by the recipient for board, medical, osteopathic or nursing services in anticipation of the receipt of such check, but not in excess of the amount of the check, provided, however, that any claim which may be paid under the provisions of this section must be presented to the department in writing within 60 days of the date of the death or commitment of the recipient. (1955, c. 405, § 30.)

Sec. 319-P. Entire aid suspended, when.—If at any time the grant available to the state of Maine under the provisions of the Social Security Act of the United States relating to aid to the disabled shall cease to be available to match funds provided by law and to be distributed under the provisions of sections 319-A to 319-T, inclusive, the governor shall forthwith publicly so proclaim, and upon the date of such proclamation the provisions of said sections shall be suspended. (1955, c. 405, § 30.)

Sec. 319-P-1. Repealed by Public Laws 1961, c. 418, § 3.

Editor's note. — The repealed section, which related to a lien on real property, derived from P. L. 1961, 383, § 3.

Sec. 319-Q. Claims against estate of person assisted.—Upon the death of a beneficiary, the state shall have a claim against his estate, enforceable in the probate court, for all amounts paid to him under the provisions of sections 319-A to 319-T, inclusive. Such claim shall have priority over all unsecured claims against such estate, except:

I. Administrative expenses, including probate fees and taxes;

II. Expenses of the last sickness;

III. Funeral expenses, not exceeding $400, exclusive of clergymen's honorarium and cemetery expenses.

The attorney general shall collect any claim which the state may have hereunder against such estate; provided, however, that no such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the beneficiary and said spouse does not marry again. If the state participates in federal funds for the purposes of sections 319-A to 319-T, inclusive, a sum equal

to the pro rata share to which the United States is equitably entitled of the net amount collected from the estate of the beneficiary, with respect to aid to the disabled furnished him, shall be promptly paid by the treasurer of state to the United States as required by the laws of the United States. (1955, c. 405, § 30. 1957, c. 20, § 2.)

Effect of amendment. — The 1957 amendment deleted the words "and burial expenses" which formerly appeared at the end of subsection II, and added subsection III.

Sec. 319-R. Recipients of aid to the disabled not to be pauperized. —The receipt of aid to the disabled shall not pauperize the recipient thereof, and the receipt of general relief by such recipient shall not be considered to be pauper support. General relief expense incurred by any municipality or by the state in behalf of such recipient may be paid from funds made available for the relief of the poor, but shall in no other respect be treated as pauper expense. The town of settlement, or the state in nonsettled cases, shall reimburse the place of residence for such general relief in the same manner as is provided by sections 24 and 28 of chapter 94. During the period that such aid is being paid, the recipient thereof shall not acquire or lose a settlement or be in the process of acquiring or losing a settlement. (1955, c. 405, § 30.)

Sec. 319-S. Fraudulent representations; penalty.—Any person, who by means of a willfully false statement or representation, or by impersonation or other fraudulent devices, obtains or attempts to obtain, or aids or abets any person to obtain:

I. Aid to which he is not entitled;

II. A larger aid than that to which he is entitled;

III. Payment of any forfeited installment of aid;

and any person, who knowingly buys or aids or abets in buying or in any way disposing of the property of a recipient in such a way as to constitute a fraud upon the department, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (1955, c. 405, § 30.)

Sec. 319-T. General penalty.—Any person who violates any of the provisions of sections 319-A to 319-T, inclusive, for which no penalty is specifically provided, shall be punished by a fine of not more than $500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. If a recipient of aid is convicted of an offense under the provisions of this section, the department may cancel the aid. (1955, c. 405, § 30.)

Medical Care for Recipients of Public Assistance.

Sec. 319-U. Medical care accumulation fund; rules and regulations; shall not lapse.—The department is authorized to establish a medical care accumulation fund to be used solely for the payment of medical, hospital or remedial care costs of recipients of public assistance under the provisions of this chapter. The fund shall be created by periodic payments into it based on a monthly amount per case as determined by the department, which monthly amount may be paid into the fund even though the monthly amount added to the assistance payment exceeds the maximum assistance payment in this particular category. Said payment shall be made from the respective appropriations for the four public assistance categories and from federal grants available under the provisions of the Social Security Act as heretofore and hereafter amended. The payments out of the fund of the costs of medical, hospital or remedial care shall be made to those persons furnishing such services.

The department is authorized and empowered to make all necessary rules and regulations for the administration of and expenditures from said fund.

The medical care accumulation fund shall not lapse but shall be a continuing fund so long as federal grants are available to match the state's contribution. All payments into said fund shall cease whenever either federal grants or state appropriations are withdrawn. No payments shall be made out of said fund if federal grants or state appropriations are withdrawn, except that care contracted for before the date of such withdrawal shall be paid. Any money left in the fund in the event of withdrawal of federal grants or State appropriations shall be divided between the state and the federal government in proportion to the amount contributed by each. (1955, c. 111.)

Effective date.—This section became effective July 1, 1955.

Medical Care and Services Program.

Sec. 319-V. Establishment authorized; administration.—The department is authorized to establish a medical or remedial care and services program for medically indigent persons who are not recipients of public assistance.

The department is authorized and empowered to make all necessary rules and regulations for the administration of this program, including but not limited to defining the term medically indigent; the type of medical care to be provided; the amount to be paid for hospitalization and the length of hospitalization allowed during a fiscal year. (1961, c. 367.)

Effective date.—The 1961 act adding §§ 319-V to 319-Y became effective on its approval, June 15, 1961.

Sec. 319-W. Federal grants.—The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of medical care and services and administration thereof, as contemplated by the federal social security act, as amended, and the state controller shall authorize expenditures therefrom as approved by said department. (1961, c. 367.)

Sec. 319-X. Not to pauperize. — Medical care and services provided for any person under section 319-V shall not be considered as pauper supplies as defined by chapter 94, section 2. (1961, c. 367.)

Sec. 319-Y. Fund shall not lapse.—Appropriations for this purpose shall not lapse but shall be a continuing account so long as federal grants are available to match the state's contribution. No payments matchable by federal funds shall be made out of said account if federal grants are withdrawn, except that care and services contracted for before the date of such withdrawal shall be paid. Any money allocated to matching of federal grants left in the account in the event of withdrawal of federal grants shall be divided between the state and the federal government in proportion to the amount contributed by each. (1961, c. 367.)

Indian Tribes.

Sec. 326. Clerks of Indian tribes. — A clerk of the reservation of each Indian tribe shall be appointed by the tribal governor subject to the approval of the tribal council, if any. The clerks shall keep a record of the births and deaths of persons living on such reservation and perform all other duties with respect to the same as are required of the clerks of towns under section 378-A. He shall receive a fee of 25¢ for each certificate returned to the bureau of vital statistics. The accounts of the clerk of the Penobscot tribe shall be audited annually by the state department of audit or by a qualified public accountant. (1945, c. 264, § 1. 1959, c. 363, § 15. 1963, c. 341, § 1.)

Effect of amendments. — The 1959 amendment substituted the words "section 378-A" for the words "the provisions of sections 394 and 396", formerly appearing at the end of the second sentence of this section.

The 1963 amendment added the fourth sentence.

Sec. 329. Attorney general may bring action in name of tribe.—The attorney general upon his own initiative, or at the request of the governing body of any of the Indian tribes in this state, may in the name of any such tribe and in his said capacity, maintain actions for money due any such tribe and for injuries done to tribal lands. All sums or damages so recovered shall be distributed by the commissioner to the Indians of the tribe concerned according to their usages, or be invested in useful articles. This section shall apply only to tribal and unassigned lands not privately owned and shall apply only to damages and injuries arising out of acts done after September 16, 1961. (R. S. c. 22, § 314. 1953, c. 378, § 3. 1961, c. 342.)

Effect of amendment.—The 1961 amendment rewrote this section.

Indians: General Provisions.

Sec. 336. Constables.—The tribal governor, with the advice and consent of the tribal council, is hereby authorized to appoint one or more reliable Indians, in each of the Indian tribes in this state, as special constables with like powers and duties of constables and police officers, within towns and cities, in the enforcement of the laws of the state, within the limits of the reservation of his tribe, with authority to take any offender before any court of competent jurisdiction within his county. Such constables shall act as school attendance officers for their respective tribes. They shall receive such compensation as may be determined by the department. (1945, c. 124, § 1. 1957, c. 158, § 1.)

Effect of amendment. — The 1957 amendment inserted the word "tribal" preceding the word "governor" and also preceding the word "council", inserted the word "hereby", and deleted the words "and well commended" which formerly appeared following the word "reliable", in the first sentence of this section.

Sec. 337. Term of office.—Said constables shall be appointed for a term of 2 years from the date of his appointment or until his successor has been duly appointed and qualified. Any constable may be removed by the tribal governor upon recommendation of the department. (1945, c. 124, § 1. 1957, c. 158, § 2.)

Effect of amendment. — The 1957 amendment inserted the word "tribal" preceding the word "governor".

Penobscot Tribe.

Sec. 338. Repealed by Public Laws 1957, c. 164, § 1.

Sec. 339. Repealed by Public Laws 1957, c. 164, § 2.

Sec. 349. Persons not belonging to tribe to remove from reservation. — Any person residing or commorant upon the tribal reservation of the Penobscot tribe of Indians, not being a member nor the husband, wife or legally adopted child of a member of said tribe, may be required to remove therefrom by a written notice given to him in hand under the signature of the governor or, in his absence, the lieutenant governor, and the commissioner. A copy of such notice attested by said commissioner, with a return of service thereon by any officer qualified to serve criminal precepts, or an affidavit of service by any other person, shall be filed with said commissioner and be sufficient evidence of such service. If the person so notified shall not remove from said reservation within 2 days after service of said notice upon him, the commissioner or any member of the tribe may make complaint to the proper officer of the district court for Southern Penobscot, who shall cause a certified copy of said complaint with a notice of the time and place of hearing thereon to be given in hand to said person or left at his place of last and usual abode at least 2 days before the time fixed for said hearing,

or may cause said person to be at once apprehended and brought before said court. After due hearing, said judge with the recommendation of the tribal governor and council may order the respondent to remove within a specified time beyond the tribal reservation limits. If the respondent fails to obey said order, or if within 1 year after the service of said notice he shall again become resident or commorant upon any reservation of said tribe without the consent of said commissioner and said governor or lieutenant governor, said judge may cause such person to be apprehended and brought before said court and may punish him by fine of not more than $20, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. The costs of all such court proceedings under the provisions of this section may be included in the order or sentence of said judge; and if the respondent fails to pay the same, he may be committed to jail for not more than 30 days additional to any imprisonment otherwise imposed upon him; and in such case, or if the judge does not include said costs in his order or sentence, such costs shall be paid by said commissioner from the tribal fund. Costs shall be taxed as in ordinary proceedings upon complaint. (R. S. c. 22, § 333. 1953, c. 378, § 3. 1957, c. 184. 1963, c. 402, § 38.)

Effect of amendments. — The 1957 amendment rewrote the fourth sentence of this section which relates to the authority of the judge to order removal of respondent after hearing.

The 1963 amendment substituted "proper officer" for "charge" in the third sentence and substituted "district court for Southern Penobscot" for "Old Town municipal court" in that sentence.

Sec. 353. School moneys of tribe; schools; free tuition in high school. —All moneys appropriated for schools for the Penobscot tribe of Indians shall be expended under the supervision of the commissioner, subject to the approval of the department; said commissioner and the superintendent of the Old Town schools shall jointly employ the teachers and fix their salaries, limited by such appropriation. Said teachers shall meet all minimum qualifications as required for certification in the public schools of the state. The schools upon island number 1, commonly called Indian Old Town Island, shall be under the care and supervision of the superintendent of schools of the city of Old Town; and those within the territorial limits of any other town under the care and supervision of the superintending school committee of such town. Said superintendent or school committee shall visit such schools at least 3 times during each school term; regulate the grades and courses of study; assist the teachers and scholars by counsel; and make reports to the commissioner and to the commissioner of education once each year, noting therein such facts and information as may seem of importance in the interest of education among said tribe or as may be required by the said department. The superintendent of schools of Old Town shall have such authority over the schools on Indian Island as superintendents in any town may have, except as limited by this section. Said superintendent shall be paid from the state appropriation for school superintendents a sum not exceeding $100 per year for his services. The children of Indian Island may have the option of attending the Old Town schools whenever their parents may express a desire for them to so attend and the superintendent of schools shall transfer them to the building appropriate and suitable for their grades. The said children of said island shall be subject to all compulsory attendance laws as provided in chapter 41, sections 92 to 97, except that the superintendent of the Old Town schools and the commissioner shall jointly have full authority to enforce the full provisions of said attendance laws, and for purposes of such enforcement the attendance officer for the city of Old Town shall act as attendance officer for Indian Island. All laws relating to the public schools shall be applicable to the schools on Indian Island, and the superintendent of the Old Town schools and the commissioner shall be jointly responsible for the enforcement of the provisions of said laws. Whenever it shall be shown that any of the children of the Penobscot tribe of Indians shall have completed the course of study for elementary schools as prescribed or shall have passed the examination

prepared by the commissioner of education for entrance into high school, such children shall be granted entrance to any high school in this state, to which said children may apply under the same conditions as pupils residing in towns that do not maintain a free high school, as provided in section 107 of chapter 41, except that such tuition for such pupils shall be paid by the department from Indian funds. Said tuition shall be based on the average cost per pupil for the year preceding that for which the tuition is paid and the tuition rates shall be determined by the formula prescribed in section 108 of chapter 41 for secondary schools. Tuition likewise for the children of the Penobscot tribe of Indians who attend the elementary schools of any city or town in this state shall be paid said city or town by the department in similar manner and based on the average cost per pupil in the year preceding that for which tuition is paid and the tuition rates shall be determined by the formula prescribed in section 108 of chapter 41 for secondary schools. (R. S. c. 22, § 337. 1949, c. 349, § 40. 1953, c. 378, § 3. 1959, c. 342, § 2.)

Effect of amendment.—The 1959 amendment substituted "sections 92 to 97" for "sections 89 to 97" in the eighth sentence of this section.

Sec. 363. Conveyances by release deed; record; lots on Old Town Island.—Conveyances made by virtue of section 356 shall be by release deed, executed and acknowledged, and the approval of the commissioner shall be written thereon; said deed and approval shall be recorded by the register of deeds of Penobscot county in a book kept in the registry of deed in said county, upon payment of 25¢ for each deed so recorded; and until recorded as herein provided, no deed made as aforesaid shall pass any title. Sections 321 to 377, inclusive, apply to house lots on the point of Old Town Island, as well as to land allotted for agricultural purposes. (R. S. c. 22, § 347. 1949, c. 349, § 41. 1953, c. 378, § 3. 1955, c. 58.)

Effect of amendment.—The 1955 amendment eliminated a former requirement that the deed and approval be recorded by the commissioner, as well as by the register of deeds of Penobscot county.

Sec. 368-A. Excise taxes on motor vehicles.—All excise taxes on motor vehicles owned by members of the Penobscot tribe of Indians who live on the reservation shall be paid to the tribal clerk who shall hold and disburse the proceeds for the benefit of the tribe in accordance with the vote of the tribal committee. The tribal clerk shall give a corporate surety bond for the faithful discharge of his duty to the tribal committee in the sum and with such sureties as they approve. (1963, c. 341, § 2.)

Sec. 369. Census of Penobscot Indians; annual meeting; notices; correction of lists. — An accurate census of the Penobscot tribe shall be taken early each January by the tribal committee upon the best information which they can obtain, stating, as nearly as may be, the name, sex and age of each Indian as it existed on the 1st day of such January, each family by itself. On or before the 10th day of January, annually, the original, certified under oath, shall be delivered to the commissioner, and a copy thereof to the governor of said tribe for their use. On the 1st Wednesday of January, annually, the said committee shall hold a meeting with said tribe on Old Town Indian Island, for receiving information from such of the tribe as may attend, as to the membership of the tribe, the identity of persons and the correctness of names. Due notice in writing of the time and place of which meeting shall be given by said committee. At said meeting 5 of said tribal committee shall constitute a quorum thereof.

Corrections of the list, by reason of births, deaths or omissions, may, as they come to the knowledge of the committee, be certified to the commissioner and he shall correct his list accordingly. (R. S. c. 22, § 353. 1953, c. 378, § 3. 1957, c. 164, § 3.)

Effect of amendment. — The 1957 amendment deleted the words "as hereinafter provided" from the first sentence of this section, deleted a provision relative to

report at the annual meeting and entry on census rolls of names of persons entitled to membership from the last sentence of the first paragraph, and deleted provisions relative to return of lists and compensation of tribal committee from the second paragraph.

Sec. 370. Biennial election of tribe.—Biennially on the even-numbered years, on the 1st Tuesday of September, the Penobscot Indians shall hold their election for the choice of governor and lieutenant governor of said tribe, and a representative at the legislature of this state, and a tribal committee to consist of 12 members of said tribe, each of whom must be at least 21 years of age. The governor shall preside over all meetings of the committee and be a member ex-officio. In the absence of the governor, the lieutenant governor shall preside. Only certified members of the tribe who are 21 years of age or older shall be eligible to vote. The commissioner shall give notice of the time and place, 7 days before said day of election, by posting notices thereof, one at his office and one in some conspicuous place on Old Town Island. Said commissioner shall receive, sort and count the votes given in at said election, in presence of the members of the tribe, and shall give to those elected certificates thereof. All persons so elected shall hold office for 2 years or until their successors are elected. Whenever any vacancy occurs the commissioner shall call a meeting of the tribe to fill such vacancy.

On the first Tuesday of August biennially on the even-numbered years, the Penobscot Indians shall hold a caucus for the purpose of nominating candidates to be elected as provided in this section. (R. S. c. 22, § 354. 1953, c. 378, § 3. 1957, c. 161; c. 164, § 4. 1963, c. 222, § 1.)

Effect of amendments.—The first 1957 amendment added the second paragraph of this section. The second 1957 amendment inserted the provision as to the tribal committee in the first sentence of the first paragraph, inserted the second and third sentences, and added the present seventh and eighth sentences at the end of such paragraph.

The 1963 amendment added the present fourth sentence of the first paragraph.

Passamaquoddy Tribe.

Sec. 371. Biennial election.—Biennially on the even-numbered years, on the 1st Tuesday of November, the Passamaquoddy tribe of Indians shall hold their election for the choice of governor and lieutenant-governor of each reservation of said tribe, a representative at the legislature of this state and a tribal committee to consist of 6 members of said tribe from each reservation, all of whom must be at least 21 years of age. The representative at the legislature of this state shall be chosen alternately between the 2 reservations. Only certified members of the tribe who are 21 years of age or older shall be eligible to vote. The governors shall preside over all meetings of the committee and be a member ex-officio. In the absence of the governor, the lieutenant governor shall preside. The commissioner shall give notice of the time and place, 7 days before said day of election, by posting notices thereof in some conspicuous place on the reservations at Pleasant Point and Peter Dana's Point. Said commissioner shall receive, sort and count the votes given in said election, in the presence of members of the tribe, and those elected shall be given certificates therefor. All persons so elected shall hold office for 2 years or until their successors are elected. Whenever any vacancy occurs the commissioner shall call a meeting of the tribe to fill such vacancy. (R. S. c. 22, § 356. 1953, c. 378, § 3. 1957, c. 164, § 5. 1961, c. 141, §§ 1, 2. 1963, c. 222, § 2.)

Effect of amendments. — The 1957 amendment rewrote this section.

The 1961 amendment inserted "of each reservation" following "lieutenant-governor" in the first sentence, deleted "all of whom shall alternate between the 2 reservations" following "state" in that sentence, added the present second sentence and substituted "governors" for "governor" near the beginning of the present fourth sentence.

The 1963 amendment added the present third sentence.

Sec. 371-A. Census of Passamaquoddy Indians.—An accurate census of the Passamaquoddy tribe shall be taken early each January by the tribal committee upon the best information which they can obtain, as hereinafter provided, stating, as nearly as may be, the name, sex and age of each Indian as it existed on the 1st day of such January, each family by itself. On or before the 10th day of January, annually, the original, certified under oath, shall be delivered to the commissioner, and a copy thereof to the governor of said tribe for their use. On the 1st Wednesday of January, annually, the said committee shall hold a meeting with said tribe, for receiving information from such of the tribe as may attend, as to the membership of the tribe, the identity of persons and the correctness of names; due notice in writing of the time and place of which meeting shall be given by said committee. At said meeting 5 of said tribal committee shall constitute a quorum thereof.

Corrections of the list, by reason of births, deaths or omissions, may, as they come to the knowledge of the committee, be certified to the commissioner and he shall correct his list accordingly. (1957, c. 164, § 6.)

Sec. 372. Section 349 made applicable to Passamaquoddy tribe.—All the provisions of section 349 shall apply to the Passamaquoddy tribe of Indians as well as to the Penobscot tribe, except that complaints under said section relating to the Passamaquoddy tribe shall be made to the proper officer of the district court for Northern Washington instead of the district court for Southern Penobscot as provided in said section. (R. S. c. 22, § 357. 1963, c. 402, § 39.)

Effect of amendment.—The 1963 amendment substituted "proper officer" for "judge," substituted "district court for Northern Washington" for "Calais or Eastport municipal court" and substituted "district court for Southern Penobscot as provided in said section" for "Old Town municipal court."

Sec. 373. Forest commissioner may sell timber on Indian Township; improvement fund.—The forest commissioner may sell to the best advantage, at public or private sale, to a citizen of the state, the timber and grass from township numbered 2 on the St. Croix river, called the Indian Township, expressly retaining in the written contract of sale a lien on the timber and grass cut, until the amount due for stumpage thereon is paid. Every surveyor appointed by said forest commissioner to scale or survey the lumber so sold, before entering on his duties, shall be sworn to the faithful performance of his trust, and shall file a certificate of his oath with the commissioner. The net proceeds from such sales shall be placed in the Passamaquoddy tribe trust funds until a sum equal to that used from said trust funds for housing has been placed therein then the net proceeds shall be set up in the state treasury as an improvement fund for the reservation of the Passamaquoddy tribe of Indians to be expended with the approval and under the direction of the department. In the event the balance in said improvement fund shall at the end of any fiscal year exceed the sum of $10,000, the excess over $10,000 shall be added to the permanent trust funds of said tribe. From said improvement fund the department in charge shall make payment to the treasurer of state to be allotted the Maine forestry district in lieu of taxes on the basis of 6¢ per acre per year for all lands within Indian Township not already paying a Maine forestry district tax for the prevention, control and extinguishment of forest fires. (R. S. c. 22, § 359. 1947, c. 147. 1949, c. 83. 1953, c. 378. § 3. 1957, c. 162. 1961, c. 19.)

Effect of amendments. — The 1957 amendment inserted the provision which requires the net proceeds to be placed first in the tribe trust funds in the third sentence and made a former proviso of the third sentence into a separate sentence.

The 1961 amendment substituted "6¢" for "3¢" in the last sentence.

Sec. 374. No sale or permit to a foreigner.—No citizen or subject of a foreign government shall purchase, cut or carry off trees, timber or grass from the

township reserved for the benefit of the Passamaquoddy tribe. If the commissioner gives to such citizen or subject a permit for such unlawful purpose, he forfeits not more than $500 nor less than $100, to be recovered by a civil action, ½ to the state and ½ to the prosecutor. (R. S. c. 22, § 360. 1953, c. 378, § 3. 1961, c. 317, § 42.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted "a civil action" for "an action of debt" in the present second sentence.

Sec. 377. Supervision of schools at Pleasant Point and at Peter Dana's Point; compulsory attendance laws apply; reports and compensation of superintendent; teaching in English and use of textbooks; tuition rates.—The school at the Pleasant Point reservation shall be under the care and supervision of the superintendent of schools of the town of Perry or of the school union of which Perry may be a member. The school at Peter Dana's Point shall be under the care and supervision of the superintendent of schools of the town of Princeton, or of the school union of which Princeton may be a member. All subjects shall be taught in the English language, and the textbooks used shall be the same as those used in the town in which said schools are located. Said superintendents shall visit said schools at least 4 times during each school term; regulate the grades and courses of study; assist the teachers and scholars by counsel or discipline; and make report once each year to the commissioner, noting therein such facts and information as may seem of importance in the interest of education among the Indians of said reservation, or as may be required by the department. The state shall pay said superintendents reasonable compensation for said services; but the compensation shall not be less than $100 in each case, and shall be paid out of the state fund for the superintendence of school unions. The said children of the Passamaquoddy tribe shall be subject to all compulsory attendance laws as provided in chapter 41, sections 92 to 97, except that the superintendent of schools of the town of Perry or of the school union of which Perry may be a member and the commissioner shall jointly have full authority to enforce the full provisions of said attendance laws at Pleasant Point and for purposes of such enforcement the attendance officer for the town of Perry shall act as attendance officer for Pleasant Point, and the superintendent of schools of the town of Princeton or of the school union of which Princeton may be a member and the commissioner shall jointly have full authority to enforce the full provisions of said attendance laws at Peter Dana's Point, and for purposes of such enforcement the attendance officer for the town of Princeton shall act as attendance officer for Peter Dana's Point. Whenever it shall be shown that any of the children of the Passamaquoddy tribe living on the reservations shall have completed the course of study for elementary schools as prescribed or shall have passed the examination prepared by the commissioner of education for entrance into high school, such children shall be granted entrance to any high school in the state to which said children may apply under the same conditions as pupils residing in towns that do not maintain a free high school, as provided in section 107 of chapter 41, except that tuition for such pupils shall be paid by the department from Indian funds. Said tuition shall be based on the average instructional cost per pupil for the year preceding that for which the tuition is paid and the tuition rates shall be determined by the formula prescribed in section 108 of chapter 41 for secondary schools. Tuition likewise for the children of the Passamaquoddy tribe of Indians who attend the elementary schools of any city or town in this state shall be paid to said city or town by the department in similar manner and based on the average cost per pupil in the year preceding that for which tuition is paid and the tuition rates shall be determined by the formula prescribed in section 108 of chapter 41 for secondary schools. (R. S. c. 22, § 364. 1949, c. 349, § 43. 1953, c. 378, § 3. 1963, c. 230.)

Effect of amendment.—The 1963 amendment added the sixth sentence.

Office of Vital Statistics.

Sec. 378. Duties of department.—The department shall establish an office of vital statistics which shall maintain a state-wide system for the registration of vital statistics.

I. The commissioner shall appoint a state registrar of vital statistics, who shall be qualified in accordance with the standards of education and experience prescribed by the state department of personnel.

II. The state registrar shall have charge of the office of vital statistics and be custodian of its files and records. He shall preserve all certificates, records and other reports returned to him under the provisions of this chapter. He shall have general supervision of the provisions of this chapter and the regulations of the department relating to the registration of vital statistics, and shall direct the activities of municipal clerks in the registration of vital statistics.

III. The state registrar shall prescribe and furnish forms and issue instructions necessary to the administration of the vital statistics system. He shall prepare and publish annual reports of vital statistics and such other reports as are requested by the department.

IV. The forms of certificates, records and other reports required by the laws governing the registration of vital statistics shall be designed with due consideration for national uniformity in vital statistics and record service. (R. S. c. 22, § 366. 1945, c. 320, §§ 1-3. 1957, c. 298, § 1.)

Effect of amendment. — The 1957 amendment rewrote this section, which formerly related to the registrar of vital statistics.

Legislative intent.—P. L. 1957, c. 298, which rewrote this section, amended or repealed many of the sections which follow in this chapter, and also inserted three new sections therein, provided in section 12 of such act as follows: "It is the intent of the legislature that this act shall in no way affect the present tenure of office of the present registrar of vital statistics and the present employees in the office of vital statistics."

Registration of Vital Statistics.

Sec. 378-A. Duties of municipal clerks.—The clerk of each municipality in this state shall keep a chronological record of all live births, marriages, deaths and fetal deaths reported to him under the provisions of this chapter. Such record shall be kept as prescribed by the state registrar.

I. Each municipal clerk in this state shall enforce, so far as comes within his jurisdiction, the provisions of this chapter and the regulations of the department relating to the registration of vital statistics.

II. Between the 10th and 15th of each month, the clerk of each municipality in this state shall transmit to the state registrar each original certificate of live birth, death and fetal death, and a certified copy of each original certificate of marriage returned to him under the provisions of this chapter during the calendar month next previous. If a municipal clerk has received no original certificates during said month for which certificates or records are to be transmitted, he shall notify the state registrar that he has no certificates or records to transmit.

III. When the parents of any child born are residents of any other municipality in this state, or when any deceased person was a resident, or was buried in any other municipality in this state, the clerk of the municipality where such live birth or death occurred shall, between the 10th and the 15th of the month next following, transmit a certified copy of the certificate of such live birth or death to the clerk of the municipality where such parents reside, or where the deceased was a resident, or was buried. (1957, c. 298, § 2.)

Sec. 379. Repealed by Public Laws 1959, c. 291, § 1.

Sec. 380. Copy of record of marriages. — Every person authorized to unite persons in marriage shall make and keep a record of every marriage solemnized by him in conformity with the forms and instructions prescribed by the state registrar of vital statistics. That person shall forthwith, following each marriage solemnized by him, return each original certificate or certificates to the clerk who issued the same; and if the marriage was solemnized in a town other than the place or places where the parties to the marriage reside, return a copy of the certificate or of either certificate if 2 were issued, to the clerk of the town where the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the names of the parties united in marriage, place and date of the marriage, the signature of the person by whom the same was solemnized and the names of the 2 witnesses. The person who solemnized the marriage shall add the title of the office by virtue of which marriage was solemnized, his residence and the date of his commission. All certificates or copies so returned shall be recorded by the clerk receiving them. (R. S. c. 22, § 368. 1959, c. 363, § 16.)

Effect of amendment.—The 1959 amendment rewrote the first sentence of this section.

Sec. 381. Issuance of marriage certificates to nonresidents; submitting certificate of divorce.—Before issuing a marriage certificate to a person who resides and intends to continue to reside in another state, the town or city clerk shall satisfy himself by requiring affidavits or otherwise that such person is not prohibited to marry by the laws of the state where he or she resides.

Persons filing notice of intention to marry, one or both of whom have previously been married and divorced, shall submit therewith a certificate of divorce or certified copy of the divorce decree from the clerk of the court by which the divorce was granted. The clerk shall make a notation on the reverse side of the marriage intention form showing the title and location of the court, the names of the parties to the proceeding for divorce and the date when the decree became absolute. If there has been more than one divorce, the said certificate or certified copy as to every such divorce shall be submitted with and noted on each notice of intention. (R. S. c. 22, § 369. 1949, c. 58, §§ 1, 2. 1959, c. 291, § 2.)

Effect of amendment.—The 1959 amendment deleted the last part of this section, relating to sending information of marriages of nonresidents to the registrars of their states and to the contents, execution and form of marriage certificates.

Sec. 382. Registration of deaths.—Except as authorized by the department, a certificate of each death which occurs in this state shall be filed with the clerk of the municipality where death occurred within 3 days after the day on which death occurred and prior to the removal of the body from the state.

I. The funeral director or other person in charge of the disposition of the dead human body or its removal from the state shall be responsible for filing the certificate. He shall obtain the personal data from the best qualified person or source available and he shall present the certificate to the physician or medical examiner responsible for completing the medical certification of the cause of death.

II. The medical certification of the cause of death shall be completed and signed within 24 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when an inquiry as to the cause of death is required by law.

III. When death occurs without medical attendance, or when inquiry as to the cause of death is required by law, the medical examiner shall complete and sign the medical certification and verify or provide the date of death within 24 hours after death. (R. S. c. 22, § 370. 1949, c. 59, § 1. 1951, c. 319, § 1. 1955, c. 326, § 3. 1959, c. 291, § 3.)

Effect of amendments. — The 1959 amendment rewrote this section. In view of that fact, a comparison of the section as it read before and after the 1955 amendment is not practicable here.

Sec. 383. Registration of fetal deaths.—Except as authorized by the department a certificate of each fetal death which occurs in this state shall be filed with the clerk of the municipality where the delivery occurred within 3 days after delivery and prior to removal of the fetus from the state.

I. The funeral director or person acting as such who first assumes custody of the fetus shall be responsible for filing the certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery shall be responsible for filing the certificate. He shall obtain the personal data from the best qualified person or source available and shall present the certificate to the person responsible for completing the medical certification of the cause of death.

II. The medical certification shall be completed and signed within 24 hours after delivery by the physician in attendance at or after the delivery except when an inquiry as to the cause of fetal death is required by law.

III. When the fetal death occurs without medical attendance upon the mother at or after delivery, or when inquiry as to the cause of fetal death is required by law, the medical examiner shall complete and sign the medical certification within 24 hours after delivery. (R. S. c. 22, § 371. 1959, c. 291, § 4.)

Effect of amendment.—The 1959 amendment rewrote this section.

Sec. 384. Repealed by Public Laws 1957, c. 298, § 10.

Sec. 385. Repealed by Public Laws 1957, c. 298, § 10.

Sec. 386. Permits for final disposition of dead human bodies.—Except as authorized by the department, no dead human body shall be buried, cremated or otherwise disposed of, or removed from the state, until the person in charge of such final disposition or removal has obtained a permit from the clerk of the municipality where death occurred.

I. Each dead human body transported into this state for final disposition shall be accompanied by a permit issued by the duly constituted authority at the place of death. Such permit shall be sufficient authority for final disposition in any place where dead human bodies are disposed of in this state.

II. Except as ordered by a court of competent jurisdiction, no dead human body shall be disinterred or removed from any vault or tomb until the person in charge of such disinterment or removal has obtained a permit from the clerk of the municipality where such dead human body is buried or entombed.

III. The person in charge of each burying ground or crematory in this state shall endorse each such permit with which he is presented, and return it to the clerk of the municipality in which such burying ground or crematory is located within 7 days after the date of burial. (R. S. c. 22, § 375. 1953, c. 308, § 28. 1957, c. 298, § 3.)

Effect of amendment. — The 1957 amendment rewrote this section.

Sec. 387. Cremation.—Any person, firm or corporation within the state, with the approval of the department, may establish and maintain suitable buildings and appliances for the cremation of bodies of the dead and, subject to the regulations of the department, may cremate such bodies and dispose of the ashes of the same.

(1957, c. 298, § 4.)

Effect of amendment. — The 1957 amendment deleted the words "but if the ashes are interred in a cemetery a permit for burial shall be required" from the end

of the first paragraph and made other minor changes in such paragraph. As the second and third paragraphs were not changed by the amendment, they are not set out.

Sec. 389. Repealed by Public Laws 1959, c. 291, § 5.

Sec. 390. Registration of live births. — A certificate of each live birth which occurs in this state shall be filed with the clerk of the municipality in which such live birth occurred within 7 days after the date of birth.

I. When the live birth occurs in a hospital or related institution, the person in charge of such institution shall be responsible for entering information on the certificate, for securing signatures required on the certificate, and for filing the certificate with the clerk of the municipality.

II. On each such certificate, the physician in attendance shall verify or provide the date of birth and medical information required within 5 days after birth.

III. Except as provided in this section, the certificate shall be prepared and filed by:

A. The physician or other person in attendance on the birth, or in the absence of such a person,

B. The father; or in the absence of both of these,

C. The mother; or in the absence of the aforesaid, and in the inability of the mother,

D. The person in charge of the premises where the live birth occurred.

IV. In the case of the birth of an illegitimate child, the name of the putative father shall not be entered on the certificate without his written consent. In the case of a birth of a child out of wedlock, the child's surname shall be entered on the certificate as that of the mother.

V. In every case, the father or mother of the child shall sign the certificate and shall attest to the accuracy of the personal data entered thereon in time to permit its filing within the 7 days prescribed. If father and mother are unable to sign, then no signature need be required. (R. S. c. 22, § 379. 1951, c. 319, § 3. 1957, c. 298, § 5.)

Effect of amendment. — The 1957 amendment rewrote this section, which formerly related to reports of both live and stillborn births and of deaths.

Sec. 392. New certificate of birth following adoption or legitimation.— **I.** The state registrar shall establish a new certificate of birth for a person born in this state when he receives the following:

A. A certificate of adoption as provided in chapter 158, section 38, or a certified copy of the decree of adoption along with the information necessary to identify the original certificate and establish the new certificate of birth; except that a new certificate shall not be established if so requested by the adopting parents or the adopted person.

B. A request that a new certificate be established and such evidence as the department may require by regulation proving that such person has been legitimated.

II. When a new certificate of birth is established the actual place and date of birth shall be shown. It shall be substituted for the original certificate of birth. Thereafter, the original certificate of birth and the evidence of adoption or legitimation shall not be subject to inspection except upon order of a probate court or the superior court.

III. Upon receipt of notice of an annulment or revocation of adoption the original certificate shall be restored to its place in the files and the new certificate and evidence of adoption shall not be subject to inspection except upon order of a probate court or the superior court.

IV. If no certificate of birth is on file for the person for whom a new certificate

is to be established under this section, a delayed birth registration shall be filed as provided by law before a new certificate of birth is established.

V. When the new certificate of birth is established, the state registrar shall provide each municipal clerk who is required by law to have a copy of the certificate of birth on file with a copy of the new certificate of birth. All copies of the original certificate in the custody of any municipal clerk shall be sealed from inspection or surrendered to the state registrar as he shall direct. (R. S. c. 22, § 381. 1959, c. 291, § 6.)

Effect of amendment.—The 1959 amendment rewrote this section.

Sec. 392-A. Registration of births and deaths at veterans administration center.—Certificates of live births, deaths and fetal deaths occurring at the veterans administration center at Togus shall be filed directly with the state registrar. The state registrar shall forward copies of all such certificates of live birth, death and fetal death to the clerk of the municipality where the parents of the child reside or where the deceased was a resident or was buried. (1959, c. 291, § 7.)

Sec. 393-A. Delayed birth registration.—In order to provide an official record of statements concerning births which have occurred in this state, the state registrar shall accept a registration of any birth of which no record can be found in either the files of the state registrar or the clerk of the municipality where the birth occurred, provided such registration is filed in accordance with the provisions of this section.

I. A certificate of live birth on the prescribed form shall be filed with the clerk of the municipality where birth occurred if the date of filing is more than 7 days but not more than 7 years after the date of birth. The state registrar may prescribe the evidence of the facts of birth to be presented in the event none of the persons specified in section 390 are available to sign the certificate.

II. When the birth occurred more than 7 years prior to the date of filing, it shall be registered on a form entitled "Delayed Registration of Birth." The form shall provide for the following information and such other data as may be required by the department:

A. A statement by the applicant including the name and sex of the person whose birth is to be registered, the place and date of birth, the name and birthplace of the father, the maiden name and birthplace of the mother;

B. The signature of the registrant, or a parent or guardian if the registrant is under 15 years of age or is mentally incompetent;

C. The signature of the registrant shall be acknowledged before an official authorized to take oaths;

D. A description of each document submitted in support of the delayed birth registration; and

E. The date of filing.

III. The state registrar shall complete the description of evidence required on the delayed registration of birth and accept and file the certificate, provided the following evidence is submitted in support of the facts of birth:

A. If the birth occurred more than 7 but less than 15 years prior to the date of filing, the facts of birth stated by the applicant shall be supported by at least 2 documents, only one of which may be an affidavit of personal knowledge; or

B. If the birth occurred more than 15 years prior to the date of filing, the date and place of birth must be supported by at least 3 documents, only one of which may be an affidavit of personal knowledge, and the names of the parents must be supported by at least one document, which may be any one of the 3 submitted in evidence of the place and date of birth.

C. Any document accepted as evidence, other than the affidavit of personal knowledge, shall be at least 5 years old, or shall be a copy or abstract of a record made at least 5 years prior to the date of filing and certified as a true and correct copy by the custodian of the record.

IV. When the applicant does not submit documentation as specified in subsections II and III in support of his statements, or when the state registrar finds reason to question the adequacy of the documentation, the said state registrar shall not sign or accept the delayed registration of birth, but shall advise the applicant of its deficiencies and request that further documentation be submitted.

V. After the delayed birth registration has been accepted, the state registrar shall forward a certified copy to the clerk of the municipality where the birth occurred.

VI. Any certified copy of a delayed birth registration filed under the provisions of this section shall be issued on a form which indicates that it is a copy of a delayed birth registration, and shall contain a description of the documents submitted in evidence. (1957, c. 298, § 6.)

Sec. 394. Repealed by Public Laws 1957, c. 298, § 10.

Sec. 396. Repealed by Public Laws 1957, c. 298, § 10.

Cross reference.—See § 378-A for present provisions re duties of municipal clerks.

Sec. 396-A. Records of divorces and annulments.—The clerk of the superior court in each county and the clerk of the district court in each judicial division shall file with the state registrar of vital statistics a record of each divorce judgment or annulment issued in his jurisdiction within 45 days after judgment.

Such record shall contain the names and residences of the parties and name of the person to whom judgment was issued, the date and place of the marriage, the date of and legal grounds for the judgment and the names and ages of the minor children. Forms shall be furnished by the registrar.

The record of divorce prepared for the state registrar shall not become a part of the official record of the court. (1963, c. 325, § 2.)

Sec. 396-B. Index of divorces and annulments.—The registrar of vital statistics shall prepare and keep a cumulative alphabetical index, by the names of both parties, of all annulments and divorces reported. When requested the registrar shall cause a search to be made of his files for the record of any divorce or annulment and shall furnish a copy thereof. The fee for such search and copy shall be $2, payable in advance. (1963, c. 325, § 2.)

Sec. 397. Repealed by Public Laws 1963, c. 325, § 1.

Sec. 397-A. Disclosure of vital records.—Custodians of certificates and records of birth, marriage and death may permit inspection of records, or issue certified copies of certificates or records, or any parts thereof, when satisfied that the applicant therefor has a direct and legitimate interest in the matter recorded, the decision of the state registrar or the clerk of a municipality being subject to review by the superior court, under the limitations of this section.

I. No official in this state shall permit inspection, or issue a certified copy of any certificate or record of birth disclosing illegitimacy. Such a record may be disclosed or a certified copy issued upon request of the illegitimate himself, or his legal guardian or counsel or of petitioners for adoption or in response to court process.

II. The state registrar may permit the use of data contained in vital records for purposes of statistical research. Such data shall not be used in a manner which will identify any individual.

III. The national agency responsible for compiling national vital statistics may be furnished such copies or data as it may require for national statistics. The state shall be reimbursed for cost of furnishing such copies or data, and such data shall not be used in a manner which will identify any individual, except as authorized by the state registrar.

IV. It shall be unlawful for any employee of the state or of any municipality in the state to disclose data contained in such records except as authorized in this section.

V. Persons own records disclosed. Vital records of a person shall be made available at any reasonable time upon his request or to his duly designated attorney or agent, or attorney for an agent designated by such person or by a court having jurisdiction over said person whether the request be made in person, by mail, telephone or otherwise, provided the registrar is satisfied as to the identity of the requester, and if an attorney or agent, provided the registrar is satisfied as to his authority to act as such agent or attorney. If such agent or attorney has been appointed by a court of competent jurisdiction, or his appearance for such person is entered therein, the registrar shall upon request so ascertain by telephone call to the register, clerk or recorder of said court, and this shall be deemed sufficient justification to compel compliance with the request for said record. The state registrar shall, as soon as possible, designate persons in the office of vital statistics who may act in his absence, or in case of his disqualification, to carry out the intent of this subsection. (1957, c. 298, § 7. 1961, c. 274; 317, § 43.)

Effect of amendments.—Chapter 274, P. L. 1961, added subsection V. Chapter 317, P. L. 1961, deleted "or any justice thereof in vacation" following "court" near the end of the first paragraph of this section.

Sec. 398. Repealed by Public Laws 1957, c. 298, § 10.

Sec. 399. Evidentiary character of vital records.—Any certificate or record of any live birth, marriage, death or fetal death filed under the provisions of this chapter, or a copy thereof duly certified by its official custodian, shall be prima facie evidence of the fact of such birth, marriage, death or fetal death, if not "amended" or "delayed." The probative value of "amended" or "delayed" records shall be determined by the judicial or administrative body or official before whom the certificate is offered in evidence. (R. S. c. 22, § 388. 1945, c. 320, § 4. 1957, c. 298, § 8.)

Effect of amendment. — The 1957 amendment rewrote this section.

Sec. 400. Correction of errors on vital statistics records.—Except as provided by this chapter, a certificate or record filed under the provisions of sections 378 to 403, inclusive, may be altered or amended only in accordance with such regulations as the department may adopt to protect the integrity of vital statistics records.

I. A certificate which has been altered or amended after its filing shall be marked "amended," and the date on which the certificate or record was amended and a summary description of the evidence submitted in support of the correction shall be endorsed on the record. Any certified copies of certificates or records amended under the provisions of this section shall be marked "amended."

II. Incomplete certificates and records may be completed from a supplementary form within one year after the date of filing without being considered altered or amended. (R. S. c. 22, § 389. 1957, c. 298, § 9.)

Effect of amendment. — The 1957 amendment rewrote this section.

Sec. 401. Penalties.—

I. Willful falsification. Any person who willfully falsifies, willfully provides false information, makes or alters any certificate or certified copy except as provided for in this chapter, or who knowingly possesses and uses any such false or altered certified copy, or knowingly possesses and uses as his own, any certificate or certified copy pertaining to another person, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $100 and not more than $1,000 or by imprisonment for not more than one year, or by both.

II. Dead bodies, vital statistics, etc. Any person who knowingly transports or accepts for transportation, interment or other disposition, a dead body without an accompanying permit issued in accordance with this chapter; any person who refuses to provide information required by this chapter; or any person who violates any of the provisions of this chapter having to do with the registration of vital statistics or neglects or refuses to perform any of the duties imposed upon him by this chapter having to do with the registration of vital statistics, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than $25 nor more than $100. (R. S. c. 22, § 390. 1959, c. 291, § 8. 1963, c. 172.)

Effect of amendments. — The 1959 amendment rewrote this section.

The 1963 amendment added the provision as to false or altered certified copies, using, etc., copies pertaining to another person and substituted "misdemeanor" for "felony" in subsection I.

Sec. 402. Repealed by Public Laws 1957, c. 298, § 10.

Sec. 403. Duty of state registrar when law violated.—When the state registrar of vital statistics believes that, in any place in this state, the certificates or records of live births, marriages, deaths or fetal deaths are not made or kept as is provided by law, or that any person neglects or fails to perform any duty required in the law relating to the registration of vital statistics, the said registrar may visit such places and make such investigations as he may deem necessary, and all records, blanks and papers of town clerks relating to live births, marriages, deaths or fetal deaths shall be open to his examination. Any person who refuses to permit or hinders the examination or investigation shall be punished by a fine of not less than $25 nor more than $50.

When the state registrar knows, or has good reason to believe, that any penalty or forfeiture under the law relating to vital statistics has been incurred, he shall forthwith give notice thereof, in writing, to the county attorney of the county in which said penalty or forfeiture has occurred, which notice shall state as near as may be the time of such neglect, the name of the person or persons incurring the penalty or forfeiture, and such other facts relating to the default of duty as said registrar may have been able to learn, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons. (R. S. c. 22, § 392. 1959, c. 291, § 9.)

Effect of amendment.—The 1959 amendment rewrote the first paragraph of this section.

Chapter 25-A.

Interdepartmental Board on Mental Retardation.

Sec. 1. Declaration of intent; creation of board. — In order to make possible joint and mutual planning and action by several state agencies in regard to those problems of the mentally retarded of Maine which are of direct concern to more than one department or agency of state government, there is created a