

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE

1954

1955 SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Place in Pocket of Corresponding
Volume of Main Set

THE MICHEL COMPANY
CHARLOTTESVILLE, VIRGINIA
1955

or over age 16 and under age 18 if found by the division to be regularly attending school, or over 16 and not attending school if, prior to reaching age 16, the child becomes or has become permanently incapable of self-support by reason of mental or physical defect, and shall include a foster child, a legitimate or legally adopted child of the veteran, or a stepchild if a member of the veteran's household either at time of application, or in the event of the veteran's death, at time of death, and who continues a member of the household, or an illegitimate child, provided that the veteran has been judicially ordered or decreed by the court to contribute to the child's support, or has been judicially decreed to be the putative father or has acknowledged under oath in writing that he is the father of such child. (1955, c. 109, § 1)

III. The term "parent" shall mean the father or mother of a veteran with whom the veteran lived during his minority and for whom he would be legally responsible under the laws of the state; or the foster father or mother of a veteran. (1955, c. 109, § 2)

V. The term "World War I" shall mean that period between April 6, 1917 and November 11, 1918, inclusive; if service was in Russia the ending date shall be on March 31, 1920. The term "World War II" shall mean that period between December 7, 1941 and December 31, 1946, inclusive. The term "Korean Campaign" shall mean that period between June 27, 1950 and January 31, 1955, inclusive. [1951, c. 157, § 2. 1955, c. 147, § 1]. (R. S. c. 22, § 299. 1947, c. 386, § 1. 1951, c. 157, §§ 1, 2. 1955, c. 109, §§ 1, 2; c. 147, § 1.)

Effect of amendments.—The first 1955 amendment inserted the words "a foster child" near the middle of subsection II and added the words "or the foster father or mother of a veteran" at the end of subsection III. The second 1955 amendment added "January 31, 1955, inclusive," at the end of the third sentence of subsection V

in lieu of the words "the date on which hostilities are declared to have ended, either by proclamation of the president or by joint resolution of congress." As the rest of the section was not changed by the amendments, only subsections II, III and V are set out.

Chapter 27.

Department of Institutional Service.

The State Prison.

Sec. 27-A. Power of officers; uniforms.—Employees of the Maine state prison shall have the same power and authority as sheriffs in their respective counties, only insofar as apprehending escapees from Maine state prison is concerned, when so authorized by the warden. Employees of the state prison shall be provided, at the expense of the state, with distinctive uniforms, for use when requisite to the performance of their official duties, all of which shall remain the property of the state. When on duty to enforce the orders of the warden, as stated above, prison employees shall be in uniform. (1955, c. 182.)

Sec. 32. Transportation of prisoners.—When any male person is convicted and sentenced to the state prison from any county, the warden shall be notified immediately and the sheriff of said county, or a sufficient number of his appointed deputies, shall then transport the convict to the state prison. The convict shall be delivered with a duly signed warrant of commitment and record, as provided by the provisions of section 13 of chapter 149, to the officer in charge of the prison before 4 P. M. on any day. The warden shall then file said warrant and record, as provided by the provisions of section 13 of chapter 149, with his return thereon in his office, and cause a copy of the warrant of commitment to be

filed in the office of the clerk of the court from which it was issued. (R. S. c. 23, § 31. 1953, c. 404, § 2. 1955, c. 176, § 1.)

Effect of amendment.—The 1955 amendment inserted in the second and third sentences the words "and record, as provided by the provisions of section 13 of chapter

149." It also inserted in the third sentence the words "of the warrant of commitment."

Sec. 32-A. Transfer of prisoners to federal penal institution.—Any person committed to the state prison whose presence may be seriously detrimental to the well-being of the state prison or who willfully and persistently refuses to obey the rules and regulations or who is considered an incorrigible inmate may, upon written certification from the warden to the commissioner of institutional service, be transferred to a federal penal or correctional institution, provided the commissioner of institutional service approves and the attorney general of the United States accepts such application and transfer.

The commissioner of institutional service is hereby authorized to contract with the attorney general of the United States or such officer as the congress may designate under the provisions of Title 18, section 5003 of the United States Code, and acts supplementary and amendatory thereof, in each individual case for the care, custody, subsistence, education, treatment and training of any prisoner transferred under the provisions of this section. The contract shall provide for the reimbursement of the United States in full for all costs or other expenses involved, said costs and expenses to be paid from the appropriation for the operation of the state prison. The warden shall affix to said contract a copy of the mittimus or mittimus under which the prisoner is held and the same along with the contract of transfer shall be sufficient authority for the United States to hold said prisoner on behalf of the state of Maine.

Any prisoner transferred under this section shall be subject to the terms of his original sentence or sentences as if he were serving the same within the confines of the Maine state prison. Nothing herein contained shall deprive such prisoner of his rights to parole or his rights to legal process in the courts of this state. (1955. c. 454.)

Sec. 42. Convict assaulting officers; escape; prosecution.—If a convict, sentenced to the state prison for life or for a limited term of years, assaults any officer or other person employed in the government thereof, or breaks or escapes therefrom, or forcibly attempts to do so, he may, at the discretion of the court, be punished by confinement to hard labor for any term of years, to commence after the completion of his former sentence. The warden shall certify the fact of a violation of the foregoing provisions to the county attorney for the county of Knox, who shall prosecute such convict therefor. (R. S. c. 23, § 41. 1955, c. 309.)

Effect of amendment.—The 1955 amendment inserted the words "for life or" near the beginning of the section.

Sec. 49. Convicts, on discharge.—On the discharge of any convict who has conducted himself well during his imprisonment, the warden may furnish him a sum not exceeding \$25, and, if he requests it, a certificate of such good conduct; and shall take care that every convict on his discharge is provided with decent clothing. The warden shall also furnish transportation to the place where he was convicted, or to his home if within the state; or if he has secured employment within the state, to that place. If he lived out of the state or if he has secured employment out of the state, he shall receive transportation to the state border nearest his home or nearest the place where he has secured employment. (R. S. c. 23, § 48. 1955, c. 442.)

Effect of amendment.—The 1955 amendment substituted "\$25" for "\$10" in the first sentence.

Reformatory for Men.

Sec. 66. Reformatory for men.—The state shall maintain a reformatory in which all males over the age of 16 years, except as provided in section 80, and under the age of 36 years who have been convicted of or have pleaded guilty to crime in the courts of this state or of the United States, and who have been duly sentenced and removed thereto, shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said reformatory. The provisions for the safekeeping or employment of such inmates shall be made for the purpose of teaching such inmates a useful trade or profession, and improving their mental and moral condition.

The head of the institution shall be called the superintendent. (R. S. c. 23, § 65. 1955, c. 318, § 1.)

Effect of amendment.—The 1955 amendment inserted the words "except as provided in section 80" in the first sentence.

Sec. 67. Commitments for less than 3 years; to be of indeterminate duration.—When a male over the age of 16 years, except as provided in section 80, and under the age of 36 years is convicted by any court or trial justice having jurisdiction of the offense, of an offense punishable by imprisonment in the state prison, or in any county jail or in any house of correction, such court or trial justice may order his commitment to the reformatory for men, or sentence him to any other punishment provided by law for the same offense; provided, however, that any such person known by the court or trial justice having jurisdiction of the offense to have been previously committed to a state prison shall not be committed to said reformatory. When a male is ordered committed to the reformatory for men, the court or trial justice ordering the commitment shall not prescribe the limit thereof, but no male committed to the reformatory as aforesaid shall be held for more than 3 years.

If through oversight, or otherwise, any person be committed to imprisonment in the said reformatory for men for a definite period of time, said commitment for that reason shall not be void; but the person so committed shall be entitled to the benefit, and subject to the provisions of this section, in the same manner and to the same extent as if the commitment had been in the terms required by this section. In such case the superintendent of the reformatory shall deliver to such offender a copy of sections 66 to 75, inclusive. (R. S. c. 23, § 66. 1951, c. 84, § 2. 1955, c. 318, § 2.)

Effect of amendment.—The 1955 amendment inserted the words "except as provided in section 80" near the beginning of the first sentence.

State School for Boys.

Sec. 77. Commitments; alternative punishment; deaf and dumb, non compos or insane not sent; records.—When a boy between the ages of 11 and 17 years is convicted before any court having jurisdiction of an offense punishable by imprisonment in the state prison, not for life, or in the county jail or in the house of correction, such court may order his commitment to the state school for boys or sentence him to the punishment provided by law for the same offense. If to such school, the commitment shall be conditioned that if such boy is not received or kept there for the full term of his minority, unless sooner discharged by the department as provided in section 80, or released on probation as provided in section 82, he shall then suffer the punishment provided by law, as aforesaid, as ordered by the court; but no boy shall be committed to said school who is deaf and dumb, non compos or insane. The record in the event of conviction in all such cases shall be that the accused was convicted of juvenile delinquency, and the court shall have power at the hearing of any such case to exclude the general public other than persons having a direct interest in the case. The

records of any such case by order of the court may be withheld from indiscriminate public inspection, but such records shall be open to inspection by the parent or parents of such child or lawful guardian or attorney of the child involved. (R. S. c. 23, § 75. 1947, c. 211. 1949, c. 349, § 46. 1955, c. 211, § 1.)

Effect of amendment.—The 1955 amendment changed the minimum age in the first sentence from 9 to 11.

Sec. 80. Proceedings, when department or superintendent does not receive a boy.—When a boy is ordered to be committed to said school and the department deems it inexpedient to receive him, or his continuance in the school is deemed injurious to its management and discipline, it shall certify the same upon the mittimus by which he is held, and the mittimus and boy shall be delivered to any proper officer, who shall forthwith commit said boy to the jail, house of correction or state prison, or if he has attained the age of 15 years, to the state reformatory for men according to his sentence. The department may discharge any boy as reformed; and may authorize the superintendent, under such rules as it prescribes, to refuse to receive boys ordered to be committed to said school, and his certificate thereof shall be as effectual as its own. (R. S. c. 23, § 78. 1955, c. 318, § 3.)

Effect of amendment.—The 1955 amendment substituted "15" for "16" near the end of the first sentence.

State Sanatoriums for Treatment of Tuberculosis.

§§ 157-158. Repealed by Public Laws 1955, c. 437, § 2.

Editor's note.—The repealed sections related to state tuberculosis sanatoriums now covered by chapter 25, §§ 105-C and 105-D, inserted by P. L. 1955, c. 437, § 1. Section 3 of the repealing act transferred

the duties imposed upon the department of institutional service under the repealed sections to the department of health and welfare.

Maine School for the Deaf.

Sec. 164. Costs.—For each child admitted to the school, the town in which the child is entitled to school privileges in accordance with the provisions of section 44 of chapter 41 shall pay to the state, to be credited to the general fund, an amount equal to the per capita cost of instruction and equipment in a public elementary school for a normal child in that town. (1951, c. 56. 1953, c. 195. 1955, c. 215.)

Effect of amendment.—The 1955 amendment deleted the words "a school resident at the time of admission" and inserted in lieu thereof the words "entitled to school privileges in accordance with the provisions of section 44 of chapter 41."

State Military and Naval Children's Home.

Sec. 166. Bath Military and Naval Children's Home declared a state institution; purposes.—The State Military and Naval Children's Home, established as the Bath Military and Naval Orphan Asylum at Bath by chapter 163 of the private and special laws of 1866, is declared to be a state institution, the purpose of which is the rearing and educating, in the common branches of learning and ordinary industrial pursuits of the poor and neglected children of this state, preference being given to the children of soldiers and sailors of Maine who have served in the various wars in which the United States has engaged.

The relatives of any such child liable by law for their support, shall pay to the state for board and care of such child the amount determined by the department of institutional service. The department may, after proper investigation of the financial circumstances of such relatives, if it finds that such relative is unable to

pay the amount determined, in whole or in part, waive such payment or so much thereof as the circumstances appear to warrant. All income from this source shall be paid to the treasurer of state and shall be credited to the general fund. (R. S. c. 23, § 174. 1955, c. 415.)

Effect of amendment.—The 1955 amendment deleted the word "gratuitously" after the word "educating" in line five, and added the second paragraph.

Chapter 29. Maine Employment Security Law.

Definitions.

Sec. 3. Definitions.

IX. "Employer" means:

A. Prior to January 1, 1956, any employing unit which for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment 8 or more individuals, irrespective of whether the same individuals are or were employed in each such day; (1955, c. 421, § 1)

A-1. On and after January 1, 1956, any employing unit which for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment 4 or more individuals, irrespective of whether the same individuals are or were employed in each such day. However, no contributions shall become due and payable from those employers covered by this paragraph for the calendar year 1955; (1955, c. 421, § 1)

E. Any employing unit not an employer by reason of any other paragraph of this subsection, for which within either the current or preceding calendar year service in employment is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; (1947, c. 375, § 12. 1955, c. 421, § 2)

Effect of amendment.—The 1955 amendment added the words "Prior to January 1, 1956" at the beginning of paragraph A of subsection IX, added paragraph A-1 of subsection IX and rewrote paragraph E of subsection IX. Only the paragraphs added or changed by the amendment are set out.

Pension payments are not "wages" within the meaning of subsection XVII of this section. *Dubois v. Maine Employment Security Comm.*, 150 Me. 494, 114 A. (2d) 359.

A pension payment, characterized as "retirement separation pay," does not become a wage payment "with respect to" the weeks following retirement, merely because the amount of the pension payment is computed with respect to a contract formula relating to weekly wages during the last week of service. *Dubois v. Maine Employment Security Comm.*, 150 Me. 494, 114 A. (2d) 359.

The Commission.

Sec. 4. Administrative organization.—

II. Salaries. The chairman of the commission shall receive a fixed weekly salary, at the rate of \$8,000 per year, and each of the other members shall receive a fixed weekly salary, at the rate of \$7,500 per year, and shall be paid from the employment security administration fund. (1945, c. 367. 1949, c. 401, § 2. 1951, c. 412, § 7. 1955, c. 473, § 7)

Effect of amendment.—The 1955 amendment increased the salary of the chairman of the commission from \$7,000 to \$8,000 and of the other members from \$6,500 to \$7,500 per year. As only subsection II was changed by the amendment, the rest of the section is not set out.