

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

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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 Mental Health and Corrections.

Editor's note.—P. L. 1959, c. 360, which added §§ 94-A to 95-C to this chapter, provided in §§ 2 and 3 as follows:

"Sec. 2. Amendatory clause. Chapter 27 of the Revised Statutes shall be changed to 'Department of Mental Health and Corrections.' Wherever in the Revised Statutes or in the public laws the words 'Department of Institutional Service' or 'Commissioner of Institutional Service' appear, they shall mean 'Department of Mental Health and Corrections' or 'Commissioner of Mental Health and Corrections.'

"Sec. 3. Appropriation. There is appropriated from the General Fund the sum of \$32,641 for the fiscal year ending June 30, 1960 and \$31,320 for the fiscal year ending June 30, 1961 to carry out the purposes of this act.

The breakdown of the above appropriations shall be as follows:

	1959-60	1960-61
Personal Services	\$22,691	\$23,020
All Other	8,100	8,100
Capital Expenditures	1,850	200
	\$32,641	\$31,320"

- Section 7-A. Meaning of Words "Insane" and "Insanity."
- Sections 8-A to 8-C. Disposition of Detainers.
- Sections 94-A to 94-C. Bureau of Mental Health.
- Sections 95 to 102-A. Hospitals for the Mentally III.
- Sections 103-117. Commitment of the Mentally III.
- Sections 143-148. Pineland Hospital and Training Center.
- Sections 159-165. Governor Baxter State School for the Deaf.

Organization.

Sec. 1. Supervision of institutions; commissioner, appointment, salary, qualification; heads; farm supervision. — The department of institutional service, as heretofore established, hereinafter in this chapter called the "department," shall have general supervision, management and control of the grounds, buildings and property, officers and employees, and patients and inmates of all of the following state institutions: The insane hospitals, Pineland hospital and training center, the state prison, the reformatories for men and women, the juvenile institutions, the Governor Baxter state school for the deaf, the military and naval children's home and such other charitable and correctional state institutions as may be created from time to time. All orders of commitment, medical and administrative records, in the department are held to be confidential. Such records may be subpoenaed by a court of record. The department shall be under the control and supervision of a commissioner of institutional service, hereinafter in this chapter called the "commissioner," who shall

be appointed by the governor with the advice and consent of the council; said appointment shall be for 3 years and until his successor is appointed and qualified, or during the pleasure of the governor and council. Any vacancy shall be filled by appointment for a like term. He shall receive such salary as shall be fixed by the governor and council. The commissioner of institutional service shall be a person experienced in institutional administration, either as a superintendent, chief medical officer or business manager, or who has had other satisfactory experience in the direction of work of a comparable nature. Said commissioner shall have the power to appoint institutional heads as shall be necessary for the proper performance of the duties of said department, subject to the provisions of the personnel law. He may appoint such other employees as may be necessary, subject to the provisions of the personnel law. The heads or superintendents of the several said institutions under the department shall report directly to the said commissioner. Each institutional head shall be experienced in the management of the particular type of institution to which he or she is assigned.

The commissioner shall appoint, subject to the provisions of the personnel law, a deputy commissioner and shall assign to him such duties as are necessary to carry out the provisions of this chapter. In the event of vacancy in the office of the commissioner, or during his absence or disability, the deputy commissioner shall perform the same duties and have the same powers as prescribed by law for the commissioner. (R. S. c. 23, § 1. 1949, c. 414. 1957, c. 313; c. 373, § 1. 1959, c. 242, § 1; c. 363, § 17.)

Cross reference.—See § 7-A, re amendment of words “insane” and “insanity” to “mentally ill” and “mental illness,” except where the word “insane” is in reference to the word “criminal.”

Effect of amendments.—The first 1957 amendment substituted “subject to the provisions of the personnel law” for “said appointments to be with the approval of the governor and council” at the end of the sixth sentence of the second paragraph. The second 1957 amendment added the last paragraph of this section as set out above.

This section was amended twice by the 1959 legislature. The first 1959 amendment substituted the words “Pineland hospital and training center,” for the words “Pownal state school”, formerly appearing after the word “hospitals” and before the word “the”, in the enumeration of institutions

following the colon in the first sentence of this section. It also struck out the words “the state sanatoriums” following the words “juvenile institutions” and added the words “Governor Baxter state” before the words “school for the deaf”, in the same enumeration, and added the second and third sentences to the section. The second 1959 amendment re-enacted the first sentence of the section without change. As the rest of the section was not changed by the amendments, only the first, second and last paragraphs are set out.

Editor’s note.—P. L. 1957, c. 373, which amended this section, provided in section 2 thereof as follows: “There is hereby appropriated from the general fund the sum of \$11,000 for the fiscal year ending June 30, 1958, and \$11,000 for the fiscal year ending June 30, 1959 to carry out the purposes of this act.”

Powers and Duties. Rules and Regulations.

Sec. 3-A. Employment of prisoners and inmates on public works; use for other purposes; escape from such employment or use.—The department may authorize the employment of able-bodied prisoners in the state prison or inmates of the reformatory for men in the construction and improvement of highways or other public works within the state under such arrangements as may be made with the state highway commission or other department or commission of the state having such public works in charge, and said department may prescribe such rules and conditions as it deems expedient to insure the proper care and treatment of the prisoners or inmates while so employed and their safekeeping and return. The department may further authorize the training and use of able-bodied prisoners in the state prison or inmates in the reformatory for men by the state forestry department or the department of civil defense and

public safety to fight fires or provide assistance during or after any civilian disaster. Any prisoner or inmate who escapes from any assignments described in this section, or any other assignment beyond the walls of the state prison or off the grounds of the reformatory for men shall be guilty of escape under this chapter or chapter 135, section 28. (1959, c. 242, § 2.)

Parole Board.

Sec. 7. Repealed by Public Laws 1957, c. 387, § 2.

Cross reference.—For present provisions with regard to state probation and parole board, see c. 27-A, § 2.

Meaning of Words “Insane” and “Insanity.”

Sec. 7-A. Amendment of words “insane” and “insanity.”—Whenever in the Revised Statutes or public laws or private and special laws the words “insane” or “insanity” appear, they shall be amended to the words “mentally ill” and “mental illness” except in all instances where the word “insane” is in reference to the word criminal. (1959, c. 242, § 8.)

Editor’s note.—The above section is derived from P. L. 1959, c. 242, § 8. No official number was assigned to this section by the legislature.

Uniform Act for Out-of-State Parolee Supervision.

Sec. 8. Repealed by Public Laws 1957, c. 387, § 2; c. 429, § 35.

Cross reference.—For present uniform act for out-of-state parolee supervision, see c. 27-A, § 20.

Editor’s note.—P. L. 1957, c. 429, provided in section 35 thereof as follows: “Section 8 of chapter 27 of the Revised Statutes, as amended by chapter 19 of the

Public Laws of 1957 and as repealed by section 2 of chapter 387 of the Public Laws of 1957, is hereby repealed.”

Effective date.—P. L. 1957, c. 429, became effective on its approval, October 31, 1957.

Disposition of Detainers.

Sec. 8-A. Disposition of detainers, procedure.—Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of this state, and whenever during the continuance of the term of imprisonment there is pending in this state any untried indictment, information or complaint against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting official of the county in which the indictment, information or complaint is pending, and the appropriate court, written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint. For good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the warden, commissioner of institutional service or other official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the state probation and parole board relating to the prisoner.

The written notice and request for final disposition shall be given or sent by the prisoner to the warden, commissioner of institutional service or other official having custody of him, who shall promptly forward it, together with the certificate, to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

The warden, commissioner of institutional service or other official having custody of the prisoner shall promptly inform him in writing of the source and contents of any untried indictment, information or complaint against him concerning which the warden, commissioner of institutional service or other official has knowledge and of his right to make a request for final disposition thereof.

Escape from custody by the prisoner subsequent to his execution of the request for final disposition shall void the request. (1957, c. 18; c. 429, § 36.)

Effect of amendment.—The 1957 amendment added the words “probation and” after the word “state” and before the words “parole board” in the last line of the first paragraph of this section.

Effective date.—The 1957 act amending this section became effective on its approval, October 31, 1957.

Sec. 8-B. Action to be brought within time specified.—In the event that the action is not brought to trial within the period of time provided, no court of this state shall any longer have jurisdiction thereof, nor shall the untried indictment, information or complaint be of any further force or effect, and the court shall enter an order dismissing the same with prejudice. (1957, c. 18.)

Sec. 8-C. Application.—The provisions of sections 8-A and 8-B shall not apply to any person adjudged to be mentally ill. (1957, c. 18.)

Escape, Removal, Examination and Transfer of Inmates.

Sec. 9. Reward for escaped prisoners or inmates. — The department shall take all proper measures for the apprehension and return of any prisoner or inmate of a state penal or correctional institution and may offer a reward of not more than \$100 for the apprehension and return of any such prisoner or inmate who has escaped from the control of the department. Upon satisfactory proof that the terms of the offer have been complied with, the reward shall be paid by the state. (R. S. c. 23, § 9. 1957, c. 387, § 3.)

Effect of amendment. — The 1957 amendment deleted “or who having been released on parole shall have violated the terms of the release” which formerly appeared at the end of the first sentence.

The State Prison.

Sec. 22. Repealed by Public Laws 1959, c. 242, § 3.

Sec. 23-A. Prisoners to attend funerals.—Convicts of the state prison may, at the discretion of the warden, attend funerals of their legally considered mother, father, wife, son or daughter, if the funeral is held within the state of Maine. If the convict has the funds he must pay the cost of transportation and the officer’s salary who takes him to the funeral. (1957, c. 148.)

Sec. 26. Warden, duties; deputy wardens.—The head of the state prison shall be called the warden. He shall have deputies, to be appointed by him subject to the provisions of the personnel law, who, when the office of warden is vacant or the warden is absent from the prison or unable to perform the duties of his office, shall have the powers, perform the duties and be subject to all the obligations and liabilities of the warden. The warden shall not carry on or be concerned in trade or commerce during his continuance in office; he shall reside constantly within the precincts of the prison and have the care, custody and charge thereof, and of the convicts therein, in conformity to their sentences, and of the lands, buildings, machines, tools, stock, provisions and every other kind of property belonging to or within its precincts, under the direction and control of the department. (R. S. c. 23, § 25. 1959, c. 242, § 4.)

Effect of amendment.—The 1959 amendment struck out the words “a deputy appointed by the commissioner”, formerly appearing after the word “have” and before

the word "who", in the second sentence, "deputies, to be appointed by him subject and substituted in lieu thereof the words to the provisions of the personnel law".

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. 28. Deduction of sentence; board of transfer.—Each convict, whose record of conduct shows that he has faithfully observed all the rules and requirements of the prison, shall be entitled to a deduction of 7 days a month from the minimum term of his sentence, commencing on the first day of his arrival at the prison. An additional one day a month may be deducted from the sentence of those convicts who are assigned duties outside the prison walls or security system, or those convicts within the prison walls who are assigned to work deemed by the warden of the prison to be of sufficient importance and responsibility to warrant such deduction. The provisions of this section shall apply to the sentences of all convicts now or hereafter confined within the prison, and said provisions shall not be construed to prevent the allowance of good time from maximum sentences or definite sentences other than life sentences.

The warden may from time to time, as he sees fit, recommend to a board of transfer set up within the department of institutional service, and comprising the commissioner of institutional service, the superintendent of the reformatory for men, the superintendent of the Augusta state hospital and the chairman of the state probation and parole board, the transfer of certain first offenders from the state prison to the reformatory for men when in his opinion such transfer is consistent with the best interest of the prisoner and the welfare of the public. Said recommendation for transfer to become effective must have the unanimous approval of the board of transfer and in such event shall take place forthwith. The prisoner so transferred shall serve the sentence imposed upon him by the court within the confines of the reformatory for men, and shall receive during said sentence the same deductions for good time as would have been received at the state prison, and shall be subject to the same parole and release procedures as effective at the state prison. The provisions of this paragraph shall not apply to any person convicted of an offense the only punishment for which prescribed by law is imprisonment for life, nor to any person convicted of an offense under the provisions of section 10, 11 or 12 of chapter 130 or under the provisions of section 6 of chapter 134. (R. S. c. 23, § 27. 1949, c. 67. 1951, c. 84, § 1. 1957, c. 149; c. 387, § 4. 1959, c. 242, § 5.)

Effect of amendments.—The first 1957 amendment inserted the second sentence in the first paragraph. The second 1957 amendment added "probation and" in the first sentence of the second paragraph. The 1959 amendment rewrote the first and second sentences of this section.

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 mittimuses 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, or transferred thereto from the reformatory for men under section 75, or committed thereto for safekeeping under chapter 148, section 33, 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, except in the case of convict serving a life sentence, to commence at the completion of 30 years of such 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, 1959, c. 242, § 6.)

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

The 1959 amendment made the section

applicable to convicts transferred from the reformatory or committed for safekeeping and added the exception to the first sentence.

Sec. 48. Convict's property taken care of by warden.—The warden shall receive and take care of any property that a convict has with him at the time of his entering the prison, keep an account thereof, and pay the same to him on his discharge. (R. S. c. 23, § 47, 1959, c. 65.)

Effect of amendment.—The 1959 amendment deleted the words “when it is convenient, place the same at interest for his benefit,” formerly appearing after the word “prison” and before the word “keep”.

The sentence was completed with the word “discharge”, deleting the remainder of the sentence which formerly read: “or, in case of his death, to his representatives unless otherwise legally disposed of.”

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 Women.

Sec. 52. Reformatory for women.—The state shall maintain a reformatory in which all women over the age of 16 years and under the age of 40 years who have been adjudicated juvenile offenders, or who have been convicted of or have pleaded guilty to crime in the courts of the 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 head of the reformatory shall be a woman and be called the superintendent. (R. S. c. 23, § 51. 1959, c. 342, § 3.)

Effect of amendment.—The 1959 amendment added the words "who have been adjudicated juvenile offenders, or" after the words "40 years" and before the word "who" near the beginning of the first sen-

tence. It also added the words "and detained" after the word "imprisoned" and before the word "in" near the end of the first sentence.

Sec. 54. Commitment; length of sentence; woman attendant in serving mittimus.—When, before any court or trial justice having jurisdiction, a woman over the age of 16 years and under the age of 40 years is adjudicated a juvenile offender or is convicted of an offense punishable by imprisonment in the state prison, or in the county jail, or in any house of correction, such court or justice may order her commitment to the reformatory for women, or sentence her to the punishment provided by law for the same offense.

When a woman is sentenced to the reformatory for women the court imposing the sentence shall not fix the term of commitment to the reformatory. The duration of the commitment, including time spent on parole, may not exceed 3 years. Upon commitment of such woman, if the officer to whom the mittimus or order of commitment is addressed is not a woman, the judge or trial justice shall in all cases when feasible designate a woman to be an attendant to accompany her to said reformatory. (R. S. c. 23, § 53. 1957, c. 387, § 5. 1959, c. 342, § 4.)

Effect of amendments. — The 1957 amendment rewrote the provisions of the second paragraph relative to length of sentence.

The 1959 amendment rewrote the first paragraph of this section, adding the provisions as to juvenile offenders.

Sec. 58. Care of children of women committed.—If any woman committed to said reformatory is, at the time of her commitment, pregnant with child which shall be born after such commitment, the department may commit such child to the care and custody of some relative or proper person willing to assume such care, or such child may be committed to the custody of the department of health and welfare under chapter 25, section 249. If such woman, at the time of such commitment, shall be the mother of and have under her exclusive care, any child, which might be otherwise left without proper care or guardianship, the magistrate committing such woman shall cause such child to be committed to such asylum as may be provided by law for such purposes,

or to the care and custody of some relative or proper person willing to assume such care or to the custody of the department of health and welfare. Any commitment of a child under this section to the custody of any asylum for children or to any relative or other person, or to the department of health and welfare shall be subject to the provisions of chapter 25, sections 250 to 252. (R. S. c. 23, § 57. 1959, c. 60.)

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

Sec. 59. Apprehension of escapee from reformatory for women.—If a woman escapes from the reformatory, the superintendent may order her to be rearrested and returned to the reformatory by any officer of the reformatory or other law enforcement officer in the state authorized to make arrests. (R. S. c. 23, § 58. 1957, c. 387, § 6.)

Effect of amendment. — The 1957 amendment rewrote this section. Prior to the amendment this section also pertained to liberty permits.

Sec. 60. Repealed by Public Laws 1957, c. 387, § 7.

Sec. 61. Escape of inmate.—Any woman lawfully committed to said reformatory who escapes therefrom shall be punished by additional imprisonment in said reformatory for not more than 11 months for each such offense. Prosecution under the provisions of this section may be instituted in any county in which said woman may be arrested or in the county of Somerset, but in such case the costs and expense of trial shall be paid by the county from which said woman was originally committed, and payment enforced as provided in section 62. (R. S. c. 23, § 60. 1957, c. 387, § 8.)

Effect of amendment. — The 1957 amendment deleted a former reference to the violation of liberty permits in the first sentence and substituted "section 62" for "the following section" at the end of the section.

Sec. 63. Repealed by Public Laws 1957, c. 387, § 9.

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 chapter 152-A, section 33, and under the age of 36 years who have been adjudicated juvenile offenders, or 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. 1959, c. 342, § 5.)

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

The 1959 amendment substituted the words "chapter 152-A, section 33" for the words "section 80", and added the words "who have been adjudicated juvenile offenders, or" after the words "36 years" and before the words "who" in the first sentence.

Reformatory act and juvenile delinquency statute complementary. — The reformatory act and the juvenile delin-

quency statute are complementary, not repugnant. *Morton v. Hayden*, 154 Me. 6, 142 A. (2d) 37.

A juvenile of over sixteen years and under seventeen years of age guilty of "juvenile delinquency" may be legally sentenced and committed to the reformatory for men under this section, as amended, which provides for reformatory sentences of males over sixteen years of age who have been convicted of "crime." *Morton v. Hayden*, 154 Me. 6, 142 A. (2d) 37.

The legislature by plain implication

made sentences of juveniles to the reformatory permissive when it eliminated from the previous law the prohibition against "reformatory" sentences. (See P. L. 1951, Chap. 84, Sec. 4; R. S. 1954, Chap. 146, Secs. 2 and 6). This is so notwithstanding juvenile delinquency is not a crime and a delinquent child is not a criminal. *Morton v. Hayden*, 154 Me. 6, 142 A. (2d) 37.

History of section.—Save for the addition of the clauses, "and under the age of thirty-six years" and "except as provided in section 80," this section has existed quite as it was enacted in 1919. P. L. 1919, c. 182, § 1. *Morton v. Hayden*, 154 Me. 6, 142 A. (2d) 37, decided prior to the 1959 amendment to this section.

Sec. 67. Commitments for less than 3 years; to be of indeterminate duration.—When, before any court or trial justice having jurisdiction, a male over the age of 16 years, and under the age of 35 years is adjudicated a juvenile offender, or is convicted 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. 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 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. 1959, c. 342, § 6.)

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

The 1959 amendment rewrote the first paragraph, deleting the exception added by the 1955 amendment, adding the provisions as to juvenile offenders and dividing the first sentence into two sentences.

Reformatory act and juvenile delinquency statute complementary.—The reformatory act and the juvenile delinquency statute are complementary, not repugnant. *Morton v. Hayden*, 154 Me. 6, 142 A. (2d) 37.

Sec. 70. Classification.—The superintendent of the reformatory shall classify each person committed thereto and keep a monthly record of his behavior and his progress in industry. (R. S. c. 23, § 69. 1957, c. 387, § 10.)

Effect of amendment.—The 1957 amendment deleted the former second sentence which pertained to conduct records and parole eligibility.

Sec. 71. Repealed by Public Laws 1957, c. 387, § 11.

Cross reference.—For present probation and parole law, see c. 27-A.

Sec. 72. Parolees; record forwarded to state police.—Whenever any person, who has been convicted of an offense under the provisions of sections 10, 11 or 12 of chapter 130, or under the provisions of section 6 of chapter 134, is discharged according to law, the superintendent shall make and forward to the state police a copy of the record of said inmate together with such other information as he may deem important for a full comprehension of the case. (1949, c. 110. 1957, c. 387, § 12.)

Effect of amendment.—The 1957 amendment deleted "released upon parole, or otherwise" which formerly appeared before the words "discharged according to law."

Sec. 74. Repealed by Public Laws 1957, c. 387, § 13.

Juvenile Institutions.

Sec. 76. Repealed by Public Laws 1959, c. 242, § 7; c. 342, § 7.

State School for Boys.

Secs. 77-87. Repealed by Public Laws 1959, c. 242, § 7; c. 342, § 7.

State School for Girls.

Secs. 88-94. Repealed by Public Laws 1959, c. 242, § 7; c. 342, § 7.

Bureau of Mental Health.

Sec. 94-A. Bureau of mental health; purpose.—There is created within the department of institutional service a bureau of mental health.

The bureau of mental health shall be responsible for the direction of the mental health programs in the institutions within the department and shall be responsible for the promotion and guidance of mental health programs within the several communities of the state. (1959, c. 360, § 1.)

Sec. 94-B. Director; duties.—The commissioner shall appoint, subject to the provisions of the personnel law, a director of mental health. The director shall be a qualified psychiatrist with administration and organization experience and ability.

It shall be the duty of the director to carry out the purposes of the bureau. (1959, c. 360, § 1.)

Sec. 94-C. Advisory committee on mental health; duties.—The governor shall appoint a committee on mental health to consist of 9 members and appoint the chairman. Of the first appointments 3 shall be appointed for one year, 3 for 2 years and 3 for 3 years. Thereafter appointments shall be made for 3 years. In order to insure a broad contact with the problems of the municipalities in the state, the committee shall be composed of members whose chief employment is outside of state government.

The duties shall be to assist in carrying out the purposes of the bureau of mental health. (1959, c. 360, § 1.)

Hospitals for the Mentally Ill.

Sec. 102-A. Admittance of children between 8 and 16 years of age.—The superintendent of the Augusta state hospital or Bangor state hospital may, at his discretion, admit to the hospital any child between the ages of 8 years and 16 years who is deemed by him to be suffering from psychosis, neurosis, psychoneurosis, behavior disorder or other mental disability, upon written application made therefor by the parent, guardian, or natural guardian, or person having custody of such child. Such application, attested and sworn to by the clerk of the municipality where the child is found, shall be accompanied by a certificate of a reputable physician that such person is suffering from mental disability and, in the opinion of the physician, is a fit subject for said hospital. The physician who makes such certificate shall have examined such child, whose admission is sought, within 5 days of the signing and making oath to this certificate. Admission to the hospital must be completed within 15 days of the signing of the certificate or said certificate is invalidated. No child who is feeble-minded and without psychosis shall be eligible for admission to a state hospital under the provisions of this section. If a child is received for care under this section and is deemed by the superintendent not to be a proper person for further care in the institution, he shall be dis-

charged forthwith, and the person who signed the original application shall immediately remove such child and, if he is not so removed, such person shall be liable to the state for all reasonable expenses incurred on account of the patient until such discharge is effected.

No person received under this section shall be detained beyond his 16th birthday, unless he shall have been legally committed to such institution, and no such person shall be detained more than 10 days after the applicant for his admission has filed with the said superintendent written notice of his intention or desire to have the patient released from the institution. If the condition of such patient at the time his release is sought is deemed by the superintendent to be such that further hospital care is necessary, because the patient is mentally ill and could not be discharged from the institution with safety to himself and others, said superintendent, after receipt of a request for discharge, shall forthwith cause application to be made for the patient's commitment as mentally ill under the provisions of sections 104, 105, 106 and 110, and during the pendency of such application may detain him under the written application for commitment hereinbefore referred to.

The superintendent of the Augusta state hospital or Bangor state hospital may also, at his discretion, receive and detain for observation, study and treatment, for a period not to exceed 60 days, nor beyond the 16th birthday, any such person between the ages of 8 and 16, from any part of the state, upon written application and as provided for in the first paragraph of this section.

No child under the age of 12 years shall be admitted to the Augusta state hospital or Bangor state hospital under the provisions of any statutes other than this section. (1957, c. 207.)

Effective date.—The act adding this section became effective on its approval, May 2, 1957.

Repeal of section.—This section was re-

pealed by P. L. 1959, c. 189, § 1. Section 6 of c. 189 makes that act effective September 1, 1960.

Commitment of the Mentally Ill.

Cross reference.—See § 7-A, re amendment of words "insane" and "insanity" to "mentally ill" and "mental illness."

Constitutionality of proposed act.—Proposed act providing for hospitalization of

mentally ill held constitutional. See Opinion of the Justices, 151 Me. 1, 117 A. (2d) 53; Opinion of the Justices, 151 Me. 24, 117 A. (2d) 57.

Sec. 103. Repealed by Public Laws 1959, c. 189, § 2.

Effective date.—P. L. 1959, c. 189, repealing this section, provided in section 6

thereof as follows: "This act shall take effect on September 1, 1960."

Sec. 104. Municipal officers may commit to the hospitals. — Insane persons, over 16 years of age, may be admitted to state institutions for the insane but shall be subject to examination. The municipal officers of towns shall constitute a board of examiners, and on complaint in writing of any blood relative, husband or wife of said alleged insane person, or of any justice of the peace, they shall immediately inquire into the condition of any person in said town alleged to be insane; shall appoint a time and place for a hearing by them of the allegations of said complaint, and shall cause to be given in hand to the person so alleged to be insane, at least 24 hours prior to the time of said hearing, a true copy of said complaint, together with a notice of the time and place of said hearing and that he has the right and will be given opportunity then and there to be heard in the matter; shall call before them all testimony necessary for a full understanding of the case; and if they think such person insane and that his comfort and safety or that of others interested will thereby be promoted, they shall forthwith send him to either the Augusta or the Bangor state hospital or to an institution established and maintained within this state by the United States government for the care and treatment of persons who have been in the

military or naval service of the United States and are suffering from mental disease, with a certificate stating the fact of his insanity, and the town in which he resided or was found at the time of his examination, together with a statement of facts under oath satisfactory to the department in regard to the financial ability of such patient, or of any of his relatives legally liable to pay for his support, and directing the superintendent to receive and detain him until he is restored or discharged by law, or by the superintendent or department. (R. S. c. 23, § 105. 1959, c. 189, § 3.)

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

Effective date. — P. L. 1959, c. 189, amending this section, provided in section 6 thereof as follows: "This act shall take effect on September 1, 1960."

Municipal officers constituted a judicial tribunal.—In insanity commitment cases the municipal officers of towns are constituted a judicial tribunal. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

The act of detention in an institution for the insane, if any be made, is per-

formed by the municipal officers. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

Authority of officers.—Jurisdiction to summon, inquire, hear, adjudge, detain and, where warranted, commit is the judicial authority conferred upon the municipal officers by this and the following section. Necessary to such functions are the right and duty to subject witnesses to examination and to accept or reject evidence. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

Sec. 105. Emergency cases.

Certifying physician is a witness.—This section read with § 113, demonstrates that the certifying physician is a witness in emergency restraint and detention proceedings as in indeterminate commitment cases and that the municipal officers are the judges. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

And entitled to privilege of protection from tort liability.—The doctrine of the privilege of protection from tort liability

to witnesses for pertinent recitals in judicial proceedings is well established. It is defined as a "doctrine of the highest legal policy." It is an absolute privilege and thereby different from the qualified privilege. The privilege includes the certifying physician in lunacy proceedings who acts within the scope of the privileged occasion. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

Sec. 106. Evidence of 2 physicians required.

Cross reference.

See note to § 113.

Sec. 113. Examination of insane persons.

The examination and certificate by the physicians are "imperative and mandatory." To sustain the municipal officers in an emergency detention, an examination and certificate of insanity by two reputable physicians licensed and practicing in this state and appointed by such municipal officers are a preliminary requisite. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

The role and function of the examining and certifying physician in insanity detention and commitment cases are those of a witness. His relation to the alleged insane person is not, pro hac vice, that of physician with patient. The physician is

an expert witness. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

Privilege of protection from tort liability.—The doctrine of the privilege of protection from tort liability to witnesses for pertinent recitals in judicial proceedings is well established. It is defined as a "doctrine of the highest legal policy." It is an absolute privilege and thereby different from the qualified privilege. The privilege includes the certifying physician in lunacy proceedings who acts within the scope of the privileged occasion. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

Sec. 113-A. Certificate of commitment delivered in 10 days.—Any certificate of commitment under the provisions of this chapter, except section 105,

shall be delivered with the insane person to the Augusta or Bangor state hospital within 10 days of the date of said certificate.

The superintendents of said hospitals shall not receive and detain any person upon a certificate dated more than 10 days in advance of the date of admission of said committed person to the hospital. (1957, c. 195.)

Sec. 114. Penalty for false testimony.

Stated in *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

Sec. 116. Transfer of insane persons from out of the state institutions.—The commissioner may, upon the request of a competent authority of a state, or of the District of Columbia, which is not a member of the interstate compact on mental health, grant authorization for the transfer of an insane patient directly to a Maine state hospital, provided said patient has resided in the state of Maine for a consecutive period of one year during the 3-year period immediately preceding commitment in such other state or the District of Columbia; that said patient is currently confined in a recognized state institution for the care of the insane as the result of proceedings considered legal by that state; that a duly certified copy of the original commitment proceedings and a copy of the patient's case history is supplied; that if, after investigation, the commissioner shall deem such a transfer justifiable; and that all expenses incident to such a transfer be borne by the agency requesting same. When the commissioner has authorized such a transfer, the superintendent of the state hospital designated by him shall receive the patient as having been regularly committed to said hospital under the laws of this state. (R. S. c. 23, § 117. 1957, c. 231, § 2.)

Cross reference.—As to interstate compact on mental health, see c. 27-A.

Effect of amendment. — The 1957 amendment deleted the words "other than Maine" following the word "state" near the beginning of the section and inserted "which is not a member of the interstate compact on mental health" following the

words "District of Columbia" in lieu thereof. Such amendment also inserted in the list of qualifications of the patient the requirement as to residence in Maine and deleted a former provision which required a settlement in a Maine municipality.

Disposal of Insane Criminals.

Sec. 118. Proceedings when a person, committed to jail on a criminal charge, pleads insanity.

Cited in *State v. Arsenault*, 152 Me. 121, 124 A. (2d) 741.

Recommitment of Patients.

Sec. 134. Inquiry into cases of alleged unreasonable detention.

Constitutionality of proposed act.—Proposed act adding new provisions with regard to hospitalization of the mentally ill, which would have repealed and replaced

this section, held constitutional. See *Opinion of the Justices*, 151 Me. 1, 117 A. (2d) 53; *Opinion of the Justices*, 151 Me. 24, 117 A. (2d) 57.

Pineland Hospital and Training Center.

Sec. 143. Management; ages of inmates. — The Pineland hospital and training center, heretofore established at New Gloucester in the County of Cumberland, shall be maintained for the care and education of persons of both sexes between the ages of 5 years and 55 years who are mentally retarded. (R. S. c. 23, § 152. 1951, c. 84, § 3. 1957, c. 21, § 1. 1959, c. 189, § 4.)

Effect of amendments. — The 1957 amendment inserted "Pineland hospital and training center" where "Pownal state school" formerly appeared. Sec-

tion 2 of this amendment states that whenever in the Revised Statutes or laws the words "Pownal state school" appear they shall be amended to read "Pineland hospital and training center."

The 1959 amendment rewrote this section.

Effective date.—P. L. 1959, c. 189, provided in section 6 thereof as follows: "This act shall take effect on September 1, 1960."

Sec. 143-A. Further purposes of Pineland hospital and training center.—Said hospital and training center shall further be maintained for the care and education of such children between the ages of 6 years and 16 years as are deemed by the superintendent of said Pineland hospital and training center to be suffering from psychoses, neuroses, psychoneuroses, behavior disorders or other mental disabilities. (1959, c. 189, § 5.)

Effective date.—P. L. 1959, c. 189, adding this section, provided in section 6 there-

of as follows: "This act shall take effect on September 1, 1960."

Sec. 143-B. Admittance of children between the ages of 6 years and 16 years with mental disabilities.—Any child falling within the description mentioned in section 143-A may be admitted to the Pineland hospital and training center upon written application made therefor by the parent, guardian, natural guardian, or person or institution having custody of such child. Such application shall be sworn to by the applicant before any person qualified to take oaths in the State of Maine and shall be accompanied by the certificate of a reputable physician licensed to practice in the State of Maine by the board of registration in medicine or the board of osteopathic examination and registration that such child is suffering from mental disability and, in the opinion of the physician, is a fit subject for said hospital and training center, which said certificate shall be sworn to by such physician in the manner provided in the case of such application. The physician who makes such certificate shall have examined such child within 5 days of signing and making oath to such certificate, and admission to said hospital and training center shall be completed within 15 days thereafter or said application and certificate shall be invalidated. (1959, c. 189, § 5.)

Effective date.—P. L. 1959, c. 189, adding this section, provided in section 6 there-

of as follows: "This act shall take effect on September 1, 1960."

Sec. 143-C. Discharge of patients.—If any child is received for care under section 143-B and is deemed by the superintendent of the Pineland hospital and training center not to be a proper person for further care in said institution, he shall be discharged forthwith and the person or institution executing the original application in such case shall immediately remove such child from such institution and, if not so removed, such person or institution shall be liable to the State of Maine for all reasonable expenses incurred on account of such child thereafter and until such discharge is effected.

No child received under section 143-B shall be detained more than 10 days after the parent, guardian or natural guardian of such child, or the persons or institution having the right to custody of such child, has filed with the said superintendent written notice of his or its intention or desire to have such child released from said institution. No child received under section 143-B shall be detained beyond his 18th birthday unless the condition of such patient at that time is deemed by the superintendent of said institution to be such that further hospital care is necessary because such child is mentally ill and could not be discharged with safety to himself and others; in which event said superintendent shall forthwith cause application to be made for the commitment of such child as mentally ill under sections 104, 105, 106 and 110 and during the pendency of such application, said superintendent may detain him at said institution but in no event for a period longer than 60 days. (1959, c. 189, § 5.)

Effective date.—P. L. 1959, c. 189, adding this section, provided in section 6

thereof as follows: "This act shall take effect on September 1, 1960."

Sec. 146-A. Voluntary admission. — Whenever it is made to appear, upon application to the department, by parent or guardian that any person resident of the state, including persons under 5 years of age, is a proper subject for Pineland hospital and training center, the department may authorize the superintendent to accept such person as a voluntary patient for care and treatment. Such voluntary patient shall not be detained for more than 10 days after the superintendent has been notified, in writing, by parent or guardian of their intention to have patient leave the institution. The charges for support of such patient shall be governed by regulations applicable to the support of patients in the institution. (1957, c. 315.)

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.

Governor Baxter State School for the Deaf.

Sec. 159. Purpose.—Governor Baxter State School for the Deaf, established by chapter 446 of the private and special laws of 1897, is to be devoted to the education and instruction of deaf and dumb children. (R. S. c. 23, § 168. 1957, c. 379, § 1.)

Effect of amendment. — The 1957 Maine School for the Deaf to Governor amendment changed the name from Baxter State School for the Deaf.

Sec. 163. Deaf and dumb children between ages of 6 and 18 to be sent to Governor Baxter State School for the Deaf.—Every parent, guardian or other person having control of any mentally normal child between 6 and 18 years of age, too deaf or too dumb to be materially benefited by the methods of instruction in vogue in the public schools, unless it can be shown that the child is receiving regular instruction during the same period in studies usually taught in the public schools, shall be required to send such child or youth to the Governor Baxter State School for the Deaf during the scholastic year of that school. Such child or youth shall attend such school, year after year, until discharged by the superintendent upon approval of the department. (R. S. c. 23, § 172. P. & S. L. 1953, c. 100. 1957, c. 379, § 2.)

Effect of amendment. — The 1957 Maine School for the Deaf to Governor amendment changed the name from Baxter 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 27-A.

Probation and Parole Law.

Editor’s note.—P. L. 1957, c. 387, which inserted this chapter, provided in §§ 35 to 37 as follows:

“Sec. 35. Transfer of records and property to board. The parole board, the probation officers and each county shall transfer all books, papers, records and property connected with the functions, duties and powers exercised by the probation and parole board for the use of the state. The probation and parole board is authorized to take possession of this property for the state.”

“Sec. 36. Tenure of present probation and parole officers. Each full-time probation or parole officer presently in office, if he desires, shall be continued in office as a probation-parole officer so long as he continues to perform his duties in a manner satisfactory to the director of probation and parole.”

“Sec. 36-A. Tenure of present parole

board. The present parole board shall assume the powers and duties prescribed in chapter 27-A of the Revised Statutes, and shall be known as the state probation and parole board. Appointed members shall continue in office until their present terms expire.”

“Sec. 37. Appropriation. There is hereby appropriated from the general fund of the state to the department of institutional service to carry out the purposes of this act the sum of \$212,874 for the fiscal year ending June 30, 1958 and \$207,010 for the fiscal year ending June 30, 1959; the breakdown of which shall be as follows:

	1957-58	1958-59
Personal services	\$156,174	\$162,960
Capital expenditures	10,150	
All other	46,550	44,050
	<u>\$212,874</u>	<u>\$207,010</u>

Section 1. Definitions.

Sections 2-5. State Probation and Parole Board.

Sections 6 to 10-A. General Probation Provisions.

Sections 11-19. General Parole Provisions.

Section 20. Uniform Act for Out-of-State Parolee Supervision.

Sections 21, 22. Uniform Interstate Compact on Juveniles.

Definitions.

Sec. 1. Definitions.—The listed terms as used in this chapter are defined as follows, unless a different meaning is plainly required by the context:

I. “Correctional institution” means the following state institutions: The state reformatory for men and the state reformatory for women.

II. “Fine” includes court costs wherever applicable.