

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 3
Titles 14 to 20



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
Copyright © 1964
by
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

CHAPTER 7

DESERTION AND NONSUPPORT

Subch.	Sec.
I. General Provisions	301
II. Uniform Reciprocal Enforcement of Support Act	331
III. Uniform Civil Liability for Support Act	441
IV. Criminal Liability	481

SUBCHAPTER I

GENERAL PROVISIONS

Sec.
301. Husband's obligation for family support.
302. Support of child committed to custodial agency.

§ 301. Husband's obligation for family support

Whenever a man, having a wife, a minor child or children, residing in this State and being of sufficient ability or being able to labor and provide for them, willfully and without reasonable cause, refuses or neglects to provide suitable maintenance for them, the Superior Court, the probate court and the District Court in the county where the wife or such minor child or children reside, or in the county where the husband or father may be found on petition of the wife for herself and for such child or children, or of such child or children by their guardian or by the municipality that is providing suitable maintenance, after such notice to the husband or father as it may order, and hearing, may order him to contribute to the support of his wife and such minor child or children or either of them such sums payable weekly, monthly or quarterly as are deemed reasonable and just, and may enforce obedience by appropriate decrees. Pending petition hereunder, the court may order the husband to pay to the court for the wife sufficient money for the prosecution thereof, upon default of which order execution may issue as in civil actions. Execution may issue for said sums when payable, and for costs, and when the husband is committed to jail on execution the county having jurisdiction of the process shall bear the expense of his support. Any party aggrieved by any order or decree authorized by this section and made by a probate court or the Dis-

strict Court may appeal from said order or decree in the same manner as provided for appeals from such court in other causes, and appeal may be taken from the Superior Court to the law court. Pending the determination of such appeal, the order or decree appealed from shall remain in force and obedience thereto may be enforced as if no appeal had been taken. No continuance of such appeal shall be had without the consent of the appellant or without legal cause shown therefor to the justice of said court to which appeal is had.

R.S.1954, c. 166, § 43; 1959, c. 75, § 5; c. 199; c. 378, § 74; 1961, c. 317, § 552; 1963, c. 402, §§ 268, 269.

§ 302. Support of child committed to custodial agency

Whenever a child under the age of 17 years is committed by the District Court, or the District Court acting as a juvenile court, to custody other than that of its parent, such commitment shall be subject to Title 22, sections 3793, 3794 and 3795. The court may, after giving a parent a reasonable opportunity to be heard, adjudge that such parent shall pay in such manner as the court may direct such sum as will cover in whole or in part the support of such child, and if such parent shall willfully fail or refuse to pay such sum he may be proceeded against as provided by law for cases of desertion or failure to provide subsistence.

R.S.1954, c. 146, § 7; 1959, c. 342, § 18.

SUBCHAPTER II

UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

ARTICLE 1. GENERAL PROVISIONS

Sec.

- 331. Purposes.
- 332. Definitions.
- 333. Remedies additional.
- 334. Extent of duties of support.

ARTICLE 2. CRIMINAL ENFORCEMENT

- 361. Interstate rendition.
- 362. Relief from above provisions

ARTICLE 3. CIVIL ENFORCEMENT

Sec.

- 391. Choice of law.
- 392. Remedies of State or political subdivision furnishing support.
- 393. How duties of support enforced.
- 394. Contents of petition for support.
- 395. Officials to represent petitioner.
- 396. Petition for a minor.
- 397. Duty of court of this State as initiating state.
- 398. Costs and fees.
- 399. Jurisdiction by arrest.
- 400. State information agency.
- 401. Duty of court of this State as responding state.
- 402. Further duty of responding court.
- 403. Order of support.
- 404. Responding state to transmit copies to initiating state.
- 405. Additional powers of court.
- 406. Additional duties of court of this State when acting as responding state.
- 407. Additional duty of court of this State when acting as initiating state.
- 408. Evidence of husband and wife.
- 409. Application of payments.
- 410. Effect of participation in proceeding.

ARTICLE 1. GENERAL PROVISIONS

§ 331. Purposes

The purposes of this subchapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

R.S.1954, c. 167, § 1.

§ 332. Definitions

As used in this subchapter unless the context requires otherwise:

1. Court. "Court" means the Superior Court or the District Court of this State and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.

1963, c. 402, § 273.

2. Duty of support. "Duty of support" includes any duty of support imposed or imposable by law, or by any court order,

decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance or otherwise.

3. Initiating state. "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

4. Law. "Law" includes both common and statute law.

5. Obligee. "Obligee" means any person to whom a duty of support is owed.

6. Obligor. "Obligor" means any person owing a duty of support.

7. Responding state. "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

8. State. "State" includes any state, territory or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted.

R.S.1954, c. 167, § 2; 1963, c. 402, § 273.

§ 333. Remedies additional

The remedies provided in this subchapter are in addition to and not in substitution for any other remedies.

R.S.1954, c. 167, § 3.

§ 334. Extent of duties of support

Duties of support arising under the law of this State, when applicable under section 391, bind the obligor, present in this State, regardless of the presence or residence of the obligee.

R.S.1954, c. 167, § 4.

ARTICLE 2. CRIMINAL ENFORCEMENT

§ 361. Interstate rendition

The Governor of this State may demand from the governor of any other state the surrender of any person found in such other state who is charged in this State with the crime of failing to provide for the support of any person in this State and may surrender on demand by the governor of any other state any person

found in this State who is charged in such other state with the crime of failing to provide for the support of a person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state.

R.S.1954, c. 167, § 5.

§ 362. Relief from above provisions

Any obligor contemplated by section 361, who submits to the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or nonsupport entered in the courts of this State during the period of such compliance.

R.S.1954, c. 167, § 6.

ARTICLE 3. CIVIL ENFORCEMENT

§ 391. Choice of law

Duties of support applicable under this subchapter are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

R.S.1954, c. 167, § 7.

§ 392. Remedies of State or political subdivision furnishing support

Whenever the State or a political subdivision thereof furnishes support to an obligee, it has the same right to invoke the provisions of this subchapter as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support.

R.S.1954, c. 167, § 8.

§ 393. How duties of support enforced

All duties of support are enforceable by petition irrespective of relationship between the obligor and obligee. Jurisdiction of all proceedings hereunder shall be vested in the Superior Court or the District Court. All proceedings may be commenced and acted upon by the Superior Court in vacation before a single justice as well as in term time or by the District Court.

Residence of the obligee shall determine the jurisdiction of the court even though the petitioner may have been a party to a divorce granted in another jurisdiction in which support was allowed.

R.S.1954, c. 167, § 9; 1957, c. 280; 1963, c. 402, § 274.

§ 394. Contents of petition for support

The petition shall be verified and shall state the name and, so far as known to the petitioner, the address and circumstances of the respondent and his dependents for whom support is sought and all other pertinent information. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent including, but without limitation by enumeration, a photograph of the respondent, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints or social security number.

R.S.1954, c. 167, § 10.

§ 395. Officials to represent petitioner

The county attorney shall represent the petitioner in any proceeding under this subchapter except that in cases involving public aid a representative of the Attorney General may represent the petitioner.

R.S.1954, c. 167, § 11; 1955, c. 5, § 1; 1959, c. 75, § 9.

§ 396. Petition for a minor

A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem.

R.S.1954, c. 167, § 12.

§ 397. Duty of court of this State as initiating state

If the court of this State acting as an initiating state finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or his property, it shall so certify and shall cause 3 copies of the complaint, its certificate and this subchapter to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court and that the court of the responding state acknowledge their receipt to the court of the initiating state.

R.S.1954, c. 167, § 13.

§ 398. Costs and fees

A court of this State acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this State, including without limitation by enumeration, fees for filing, service of process, seizure of property and stenographic service of both petitioner and respondent, or either, shall be paid by the county. Where the action is brought by or through the State or an agency thereof, there shall be no filing fee.

R.S.1954, c. 167, § 14.

§ 399. Jurisdiction by arrest

When the court of this State, acting either as an initiating or responding state, has reason to believe that the respondent may flee the jurisdiction, it may as an initiating state request in its certificate that the court of the responding state obtain the body of the respondent by appropriate process if that be permissible under the law of the responding state; or as a responding state, obtain the body of the respondent by appropriate process.

R.S.1954, c. 167, § 15.

§ 400. State information agency

The Department of Health and Welfare is designated as the state information agency under this subchapter, and it shall be its

duty to compile a list of the courts and their addresses in this State having jurisdiction under this subchapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law.

R.S.1954, c. 167, § 16.

§ 401. Duty of court of this State as responding state

When the court of this State, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall docket the cause, notify the county attorney, set a time and place for a hearing and take such action as is necessary in accordance with the laws of this State to obtain jurisdiction.

R.S.1954, c. 167, § 17.

§ 402. Further duty of responding court

If a court of this State, acting as a responding state, is unable to obtain jurisdiction of the respondent or his property due to inaccuracies or inadequacies in the petition or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal to trace the respondent or his property, and shall hold the case pending the receipt of more accurate information or an amended petition from the court in the initiating state. When it is learned that the respondent is in another county of this State, the clerk shall forward all papers to that county where the clerk shall handle the cause as directed in section 401.

R.S.1954, c. 167, § 18; 1955, c. 5, § 2.

§ 403. Order of support

If the court of the responding state finds a duty of support, it may order the respondent to furnish support or reimbursement therefor and subject the property of the respondent to such order.

R.S.1954, c. 167, § 19.

§ 404. Responding state to transmit copies to initiating state

The court of this State, when acting as a responding state, shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor.

R.S.1954, c. 167, § 20.

§ 405. Additional powers of court

In addition to the foregoing powers, the court of this State when acting as the responding state has the power to subject the respondent to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

1. Recognizance. To require the respondent to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the respondent.

2. Payments. To require the respondent to make payments at specified intervals to the clerk of the court and to report personally to such clerk at such times as may be deemed necessary.

1955, c. 5, § 3.

3. Violations. To punish the respondent who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court or an execution may issue as in actions of tort. When the respondent is committed to jail for contempt or on execution issued, as provided, the county having jurisdiction of the process shall bear the expense of his support and commitment and he may be discharged in the same manner as provided by section 722. (1957, c. 22.)

R.S.1954, c. 167, § 21; 1955, c. 5, § 3; 1957, c. 22.

§ 406. Additional duties of court of this State when acting as responding state

The court of this State when acting as a responding state shall have the following duties which may be carried out through the clerk of the court:

1. Transmit payments. Upon the receipt of a payment made by the respondent pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

2. Certified statement of payments. Upon request to furnish to the court of the initiating state a certified statement of all payments made by the respondent.

R.S.1954, c. 167, § 22.

§ 407. Additional duty of court of this State when acting as initiating state

The court of this State, when acting as an initiating state, shall have the duty which may be carried out through the clerk of the court to receive and disburse forthwith all payments made by the respondent or transmitted by the court of the responding state.

R.S.1954, c. 167, § 23.

§ 408. Evidence of husband and wife

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this subchapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

R.S.1954, c. 167, § 24.

§ 409. Application of payments

Any order of support issued by a court of this State when acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.

R.S.1954, c. 167, § 25.

§ 410. Effect of participation in proceeding

Participation in any proceedings under this subchapter shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding.

R.S.1954, c. 167, § 26.

SUBCHAPTER III

UNIFORM CIVIL LIABILITY FOR SUPPORT ACT

- Sec.
- 441. Definitions.
 - 442. Man's duty of support.
 - 443. Woman's duty of support.
 - 444. Extent of duties of support.
 - 445. Jurisdiction.

Sec.

- 446. Amount of support.
- 447. Modification of order.
- 448. Enforcement of rights.
- 449. Appeals.
- 450. Evidence of husband and wife.
- 451. Rights additional to those now existing.
- 452. Uniformity of interpretation.
- 453. Short title.

§ 441. **Definitions**

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

1. **Child.** “Child” means a son or daughter under the age of 21 years and a son or daughter of whatever age who is incapacitated from earning a living and without sufficient means.

2. **Obligee.** “Obligee” means any person to whom a duty of support is owed.

3. **Obligor.** “Obligor” means any person owing a duty of support.

4. **Parent.** “Parent” includes either a natural parent or an adoptive parent.

5. **State.** “State” includes any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

1955, c. 328.

§ 442. **Man’s duty of support**

Every man shall support his wife and his child; and his parent when in need.

1955, c. 328.

§ 443. **Woman’s duty of support**

Every woman shall support her child; and her husband and her parent when in need.

1955, c. 328.

§ 444. Extent of duties of support

An obligor present or resident in this State has the duty of support as defined in this subchapter regardless of the presence or residence of the obligee.

1955, c. 328.

§ 445. Jurisdiction

The Superior Court and the District Court shall have jurisdiction of all proceedings brought under this subchapter.

1955, c. 328; 1963, c. 402, § 275.

§ 446. Amount of support

When determining the amount due for support the court shall consider all relevant factors including but not limited to:

1. **Standard of living.** The standard of living and situation of the parties;
2. **Wealth and income.** The relative wealth and income of the parties;
3. **Obligor's ability to earn.** The ability of the obligor to earn;
4. **Obligee's ability to earn.** The ability of the obligee to earn;
5. **Need of obligee.** The need of the obligee;
6. **Age of parties.** The age of the parties;
7. **Obligor's responsibility.** The responsibility of the obligor for the support of others.

1955, c. 328.

§ 447. Modification of order

The court shall retain jurisdiction to modify or vacate the order of support where justice requires.

1955, c. 328.

§ 448. Enforcement of rights

The obligee may enforce his right of support against the obligor and the State or any political subdivision thereof may proceed on behalf of the obligee to enforce his right of support

against the obligor. Whenever the State or a political subdivision thereof furnishes support to an obligee, it has the same right as the obligee to whom the support was furnished, for the purpose of securing reimbursement and of obtaining continuing support.

1955, c. 328.

§ 449. Appeals

Appeals may be taken from orders under this subchapter as in other civil actions.

1955, c. 328.

§ 450. Evidence of husband and wife

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable under this subchapter. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.

1955, c. 328.

§ 451. Rights additional to those now existing

The rights created by this subchapter are in addition to and not in substitution for any other rights.

1955, c. 328.

§ 452. Uniformity of interpretation

This subchapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

1955, c. 328.

§ 453. Short title

This subchapter may be cited as the Uniform Civil Liability for Support Act.

1955, c. 328.

SUBCHAPTER IV

CRIMINAL LIABILITY

Sec.

- 481. Desertion and nonsupport; felony; jurisdiction.
- 482. —Misdemeanor.
- 483. Earnings of persons sentenced.
- 484. Failure to obey court order for support of children; felony.
- 485. —Misdemeanor.
- 486. Violation of orders; penalty; payments.
- 487. Abandonment of child under 6 years.

§ 481. Desertion and nonsupport; felony; jurisdiction

Whoever without lawful excuse deserts his wife when such wife is in destitute or necessitous circumstances or, being able by means of his property or labor to provide for the necessary support and maintenance of his wife, without lawful excuse willfully neglects or refuses to provide such support and maintenance when such wife is in destitute or necessitous circumstances, or whoever without lawful excuse deserts his or her minor child or children under the age of 16 years or under the age of 18 years if regularly attending school, or being able by means of his or her property or labor to provide for the necessary support and maintenance of his or her minor child or children under said age, willfully neglects or refuses to provide such support and maintenance when such child or children are in destitute or necessitous circumstances, when such offense is of a high and aggravated nature, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than \$500 or by imprisonment with or without hard labor for not more than 2 years, or by both. If a fine is imposed, the court may direct that it be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children. Before the trial, with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, may make an order which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly to the wife for such period as the court may determine, and when there are children until such child or children reach the age of 16 years or the age of 18 years if regularly attending schools to the wife, or to the guardian or custodian of the minor child or children, or to an organization or

individual approved by the court, as trustee, or to the Department of Health and Welfare for the use of such child or children, and to release the defendant from custody on probation for the period during which the payments are ordered, and may in its discretion order said defendant to enter into a recognizance with sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within said period, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise in full force and effect.

The furnishing of aid by any town or city within the State or by the Department of Health and Welfare to any such wife, child or children shall be prima facie evidence that such wife, child or children is in destitute or necessitous circumstances.

Courts having jurisdiction in the places of residence of any of the dependents or the responsible parent shall have jurisdiction of the subject matter.

R.S.1954, c. 138, § 1; 1959, c. 75, § 1.

§ 482. —Misdemeanor

Whoever without lawful excuse deserts his wife when such wife is in destitute or necessitous circumstances or, being able by means of his property or labor to provide for the necessary support and maintenance of his wife, without lawful excuse willfully neglects or refuses to provide such support and maintenance when such wife is in destitute or necessitous circumstances, or whoever without lawful excuse deserts his or her minor child or children under the age of 16 years or under the age of 18 years if regularly attending schools or, being able by means of his or her property or labor to provide for the necessary support and maintenance of his or her minor child or children under said age, willfully neglects or refuses to provide such support and maintenance when such child or children are in destitute or necessitous circumstances, when such offense is not of a high and aggravated nature, shall be deemed guilty of a misdemeanor and on the conviction thereof shall be punished by a fine of not more than \$300 or by imprisonment with or without hard labor for not more than 11 months, or by both. If a fine is imposed, the court may direct that it be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children. Before the trial, with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore pro-

vided, or in addition thereto, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, may make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly to the wife for such period as the court may determine, and when there are children until such child or children reach the age of 16 years or the age of 18 years if regularly attending schools, to the wife or to the guardian or custodian of the minor child or children, or to an organization or individual approved by the court, as trustee, or to the Department of Health and Welfare for the use of such child or children, and to release the defendant from custody on probation for the period during which the payments are ordered, upon his or her entering into a recognizance, with sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within the year, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise in full force and effect.

The furnishing of aid by any town or city within the State or by the Department of Health and Welfare to any such wife, child or children shall be prima facie evidence that such wife, child or children is in destitute or necessitous circumstances.

Courts having jurisdiction in the places of residence of any of the dependents or the responsible parent shall have jurisdiction of the subject matter.

R.S.1954, c. 138, § 2; 1959, c. 75, § 2.

§ 483. Earnings of persons sentenced

When any person is sentenced to hard labor and actually employed in such labor in a county jail or any other county correctional institution or reformatory on account of any sentence imposed under sections 481, 482 and 486, the keeper of said jail or other institution or reformatory shall certify at the end of each week to the county commissioners the number of days during which such person shall have been actually employed in said jail, and the county commissioners shall thereupon draw their order upon the county treasurer for a sum equal to 50¢ for each day's hard labor so performed by such person, and the same shall thereupon be paid forthwith by the county treasurer to the wife of such person or to the guardian or custodian of his or her minor child or children, or to any organization or individual as

trustee which shall be approved by the court imposing such sentence.

R.S.1954, c. 138, § 4.

§ 484. Failure to obey court order for support of children; felony

Whoever without lawful excuse, being able by means of his property or capacity for labor, willfully neglects or refuses to comply with any order of court made pursuant to the laws of this Title pertaining to the support of a minor child or minor children and such neglect or refusal results in said child or children being in destitute or necessitous circumstances, when such offense is of a high and aggravated nature, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than \$500 or by imprisonment at hard labor for not more than 2 years, or by both. If a fine is imposed, the court may direct that it be paid in whole or in part to the mother or to the guardian or custodian of said minor child or children. Before the trial, with consent of the defendant, or after the conviction, instead of imposing the punishment whenever provided, or in addition thereto, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, may make an order which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly until such child or children reach the age of 16 years or the age of 18 years if regularly attending schools to the mother or to the guardian or to the custodian of said minor child or children, or to any organization or individual approved by the court, as trustee, or to the Department of Health and Welfare of the State for the use of such child or children, and to release the defendant from custody on probation for the period during which the aforesaid payments are ordered, and may in its discretion order said defendant to enter into a recognizance with sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his personal appearance in court whenever ordered to do so within said period, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise in full force and effect.

The furnishing of aid by any town or city within the State or by the Department of Health and Welfare of the State to any such child or children shall be prima facie evidence that such child or children are in destitute or necessitous circumstances.

Courts having jurisdiction in the places of residence of any of the dependents or the responsible parent shall have jurisdiction of the subject matter.

R.S.1954, c. 166, § 71; 1959, c. 75, § 7.

§ 485. —Misdemeanor

Whoever without lawful excuse, being able by means of his property or capacity for labor, willfully neglects or refuses to comply with any order of court made pursuant to the laws of this Title pertaining to the support of a minor child or minor children and such neglect or refusal results in said child or children being in destitute or necessitous circumstances, when such offense is not of a high or aggravated nature, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$300 or by imprisonment with or without hard labor for not more than 11 months, or by both. If a fine is imposed, the court may direct that it be paid in whole or in part to the mother or to the guardian or custodian of said minor child or children. Before the trial, with consent of the defendant, or after the conviction, instead of imposing the punishment whenever provided, or in addition thereto, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, may make an order which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly until such child or children reach the age of 16 years or the age of 18 years if regularly attending schools to the mother or to the guardian or to the custodian of said minor child or children, or to any organization or individual approved by the court, as trustee, or to the Department of Health and Welfare of the State for the use of such child or children, and to release the defendant from custody on probation for the period during which the aforesaid payments are ordered, and may in its discretion order said defendant to enter into a recognizance with sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his personal appearance in court whenever ordered to do so within said period, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise in full force and effect.

The furnishing of aid by any town or city within the State or by the Department of Health and Welfare of the State to any

such child or children shall be prima facie evidence that such child or children are in destitute or necessitous circumstances.

Courts having jurisdiction in the places of residence of any of the dependents or the responsible parent shall have jurisdiction of the subject matter.

R.S.1954, c. 166, § 72; 1959, c. 75, § 8.

§ 486. Violation of orders; penalty; payments

If the court shall be satisfied by information or evidence under oath, that at any time during the period in which the payments were ordered the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original complaint or indictment, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In case of forfeiture of a recognizance and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children, or to the Department of Health and Welfare provided said department has furnished aid to said minor child or minor children.

If the court shall be satisfied by information or evidence under oath that at any time during the period in which the payments were ordered pursuant to sections 484 and 485 the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original complaint or indictment, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In case of forfeiture of recognizance and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the mother or to the guardian or custodian of the minor child or children or to the State Department of Health and Welfare when said department has furnished aid for said minor child or children.

R.S.1954, c. 138, § 3; c. 166, § 73.

§ 487. Abandonment of child under 6 years

If the father or mother of a child under the age of 6 years, or a person to whom such child is entrusted, exposes it in any place with intent wholly to abandon it, he shall be punished by a fine of not more than \$500 or by imprisonment for not more than 5 years.

R.S.1954, c. 138, § 5.