

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-first Legislature

OF THE

STATE OF MAINE

1923

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Eighty-First Legislature

1923

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of the revised statutes, chapter one hundred and seventeen, section seven, and amendments thereto, at a date previous to March fourteen, nineteen hundred and twenty-three.

Approved April 4, 1923.

(See Chapter 47, Public Laws 1923)

Chapter 157.

An Act with Reference to the Jurisdiction of the Courts in Certain Cases under Chapter One Hundred and Twenty of the Revised Statutes, Relating to Desertion and Non-Support of Families.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 120, sec. 38; relating to desertion and non-support of wife or minor children, amended. Section thirty-eight of chapter one hundred and twenty of the revised statutes is hereby amended by adding after the word "circumstances" in the eleventh line thereof the words 'when such offense is of a high and aggravated nature,' so that said section, as amended, shall read as follows:

'Sec. 38. Offense made a felony if of a high or aggravated nature. Whoever shall without lawful excuse desert 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 shall without lawful excuse, wilfully, neglect or refuse to provide such support and maintenance when such wife is in destitute or necessitous circumstances, or whoever shall without lawful excuse desert his or her minor child or children under the age of sixteen years 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, shall wilfully neglect or refuse 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 five hundred dollars or by imprisonment with or without hard labor for not more than two years or by both such fine and imprisonment, and 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; provided that, 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, direct-

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ing the defendant to pay a certain sum weekly for the space of one year 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, and to release the defendant from custody on probation for the space of one year 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.'

Sec. 2. R. S., c. 120; amended by adding new section. Chapter one hundred and twenty of the revised statutes is hereby amended by inserting therein a new section, as follows:

'Sec. 39. When desertion of wife or minor children is not of a high and aggravated nature, offense is a misdemeanor; penalty. Whoever shall without lawful excuse desert 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, shall without lawful excuse, wilfully, neglect or refuse to provide such support and maintenance when such wife is in destitute or necessitous circumstances, or whoever shall without lawful excuse desert his or her minor child or children under the age of sixteen years 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, shall wilfully neglect or refuse 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 conviction thereof shall be punished by a fine of not more than three hundred dollars or by imprisonment with or without hard labor for not more than one year or by both such fine and imprisonment. 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; provided that, 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 for the space of one year 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, and to release the defendant from custody on probation for the space of one

year 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.'

Sec. 3. R. S., c. 120, sec. 39; relating to procedure on proof of violation of court order, amended, and section renumbered as 40. Section thirty-nine of chapter one hundred and twenty of the revised statutes is hereby renumbered as section forty and amended by adding after the word "original" in the fourth line thereof the words 'complaint or,' so that said section, as amended, shall read as follows:

'**Sec. 40.** If defendant violates terms of court order, court may proceed to trial on original complaint. If the court shall be satisfied by information or evidence under oath, that at any time during the year 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.'

Sec. 4. R. S., c. 120, sec. 40; renumbered as 41. Section forty of chapter one hundred and twenty of the revised statutes is hereby renumbered to become section forty-one.

Sec. 5. R. S., c. 120, sec. 41; relating to fines and penalties for desertion of wife and children, amended and renumbered. Section forty-one of chapter one hundred and twenty of the revised statutes is hereby renumbered as section forty-two and amended by inserting after the word "the" in the second line thereof the word 'twelve' instead of "eleven," and adding after the word "prosecutions" in the third line thereof the words 'for misdemeanors,' so that said section, as amended, shall read as follows:

'**Sec. 42.** Judges of municipal and police courts given jurisdiction in misdemeanor cases. All fines or penalties provided for by the terms of the twelve preceding sections of this chapter may be recovered or enforced by complaint or indictment and in all prosecutions for misdemeanors under said sections, judges of municipal and police courts and trial justices within their respective counties shall have original and concurrent jurisdiction with the supreme judicial court and superior courts.'