

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)

SEVENTH REVISION

THE
REVISED STATUTES

OF THE
STATE OF MAINE

PASSED AUGUST 5, 1930, AND TAKING
EFFECT NOVEMBER 10, 1930



By the Authority of the Legislature

AUGUSTA
KENNEBEC JOURNAL PRINT

provided, that this section shall not be so construed as to preclude the right of any owner or occupant of any mill to enter into any mutual agreement with any customer or customers as to the order in which the grain of such customers shall be received and ground, made at the time said customer or customers shall bring his or their grain to the mill for the purpose of being ground.

*86 Me. 103.

Sec. 6. Tolls. R. S. c. 63, § 6. The toll for grinding, cleansing and bolting all kinds of grain, shall not exceed one-sixteenth part thereof.

*86 Me. 103.

CHAPTER 72.

Marriage and its Solemnization. Registration of Vital Statistics. Parents and Children. Protection of Neglected Children.

Sections 1-14 Marriage and its Solemnization.
 Sections 15-40 Registration of Vital Statistics.
 Sections 41-42 Publication of Ancient Vital Statistics.
 Sections 43-48 Parents and Children.
 Sections 49-59 Protection of Children.
 Sections 60-62 State Military and Naval Children's Home.

Marriage and its Solemnization.

Sec. 1. Marriages prohibited within certain degrees. R. S. c. 64, § 1. No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister; and no woman shall marry her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's brother.

Sec. 2. Void marriages. R. S. c. 64, § 2. 1917, c. 40. No insane or feeble-minded person or idiot is capable of contracting marriage.

See c. 73, § 16; 46 Me. 510; *76 Me. 421, 595; 97 Me. 133.

Sec. 3. Polygamy. R. S. c. 64, § 3. Marriages, contracted while either of the parties has a former wife or husband not divorced, living, are void.

Sec. 4. Intentions of marriage to be recorded. R. S. c. 64, § 4. 1917, c. 100. Residents of the state intending to be joined in marriage shall cause notice of their intentions to be recorded in the office of the clerk of the town in which each resides, at least five days before a certificate of such intentions is granted; and if one only of the parties resides in the state, they shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such party resides, at least five days before such certificate is granted; and if there is no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town; and if both parties reside out of the state they shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such parties propose to have the marriage solemnized, at least

five days before such certificate is granted; and the book in which such record is made, shall be labeled on the outside of its cover, "Record of Intentions of Marriage," and be kept open to public inspection in the office of the clerk.

Upon application by both of the parties to an intended marriage, when both parties are residents of this state, or both parties are non-residents, or upon application of the party residing within the state when one of the parties is a resident and the other a non-resident, a judge of probate or the justice of a police, or municipal court, or trial justice, may after hearing such evidence as is presented, grant a certificate stating that in his opinion it is expedient that the intended marriage be solemnized without delay. Upon the presentation of such a certificate, or a copy thereof certified by the clerk of the court by which the certificate was issued, or in extraordinary or emergency cases when the death of either party is imminent, upon the authoritative request of a minister, clergyman, priest, rabbi, or attending physician, the clerk or registrar of the city or town in which the intention to be joined in marriage has been filed shall at once issue the certificate as prescribed in this section.

The five days' notice required by the provisions of this section shall not apply to cases in which either of the parties to an intended marriage has arrived as an immigrant from a foreign country within five days.

Sec. 5. Clerk to give certificate to parties, but not to paupers, nor to minors without written consent of parties. R. S. c. 64, § 5. 1929, c. 268. The clerk shall deliver to the parties a certificate specifying the time when such intentions were entered with him; and it shall be delivered to the minister or magistrate before he begins to solemnize the marriage; but no such certificate shall be issued to a male under twenty-one, or to a female under eighteen years of age, without the written consent of their parents or guardians first presented, if they have any living in the state; or to a male or female under sixteen years of age without the written consent of their parents or guardians first presented, if they have any living in the state, and without said clerk having notified in writing the judge of probate in the county in which they reside of the filing of such intentions, who may in the interest of public welfare, order that no such certificate shall issue, nor to a town pauper when the overseers of such town deposit a list of their paupers with the clerk.

Sec. 6. Certificate of record of intentions of marriage, how printed. R. S. c. 64, § 6. All such certificates shall have conspicuously printed thereon the following words: "The laws of Maine provide that a fine of not more than one thousand dollars or imprisonment for not more than five years shall be the punishment of any clergyman or other person, who shall solemnize a marriage within this state unless authorized to solemnize marriages therein." Following the above words, said certificate shall contain the blank form for the return to the clerk with a space for the entry of the date of the commission or license issued to the person solemnizing such marriage.

See § 14.

Sec. 7. Certificate of marriage out of state to be filed. R. S. c. 64, § 8. When residents of this state go into another state for the purpose of marriage, and it is there solemnized, and they return to dwell here, they shall, on the blank prepared by the state registrar for that purpose, fill out and file a certificate of their marriage with the clerk of the town in which each of them lived, within seven days after their return. The clerk shall then record such marriage.

Sec. 8. Proceedings when marriage is forbidden. R. S. c. 64, § 9. Any person, believing that parties are about to contract marriage when either of them cannot lawfully do so, may file a caution and the reasons therefor, in the

office of the clerk where notice of their intentions should be filed. Then if either party applies to enter such notice, the clerk shall withhold the certificate, until a decision is made by two justices of the peace, approving the marriage, after due notice to, and hearing all concerned; provided, that the person filing the caution, shall, within seven days thereafter, procure the decision of such justices, unless they certify that further time is necessary for the purpose. In which case a certificate shall be withheld until the expiration of the certified time. He shall, finally, deliver or withhold the certificate in accordance with the final decision of said justices. If the decision is against the sufficiency, the justices shall enter judgment against the applicant for costs, and issue execution therefor.

88 Me. 252; 120 Me. 293.

Sec. 9. Marriage in another state in evasion of law, void here. R. S. c. 64, § 10. When residents of this state, with intent to evade the provisions of sections one, two and three of this chapter, and to return and reside here, go into another state or country, and there have their marriage solemnized, and afterwards return and reside here, such marriage is void in this state.

Sec. 10. Marriage among Quakers. R. S. c. 64, § 11. Marriages solemnized among Quakers or Friends, in the form heretofore practiced in their meeting, are valid, and not affected by the foregoing provisions; and the clerk or the keeper of the records of the meeting in which they are solemnized, shall make return thereof as provided in section seventeen.

Sec. 11. Persons authorized to solemnize marriages; secretary of state to issue license; license or certified copy to be received as evidence; revocation of license. R. S. c. 64, § 12. 1929, c. 82. Every justice of the peace and every notary public residing in this state may solemnize marriages therein. Every ordained minister of the gospel, clergyman engaged in the service of the religious body to which he belongs, or person licensed to preach by an association of ministers, religious seminary or ecclesiastical body, whether a resident or non-resident of this state, and of either sex, may solemnize marriages therein after being licensed for that purpose, upon application duly filed with the secretary of state, as herein provided. Such application shall be made upon blanks furnished by the secretary of state which shall be signed by the applicant and set forth the necessary facts in the premises, which facts shall be certified to by the clerk, treasurer, or any of the municipal officers of the town wherein the applicant resides, or wherein the ceremony is to be performed. Upon receipt of such application the secretary of state shall issue to the applicant a license under the seal of the state to the effect that he is authorized to solemnize marriages in this state. Such license, or a certified copy thereof shall be received as evidence in all courts of his authority in the premises, and a copy of the record of any marriage solemnized by such licensee duly made and kept, attested or sworn to by the clerk of the town in which the marriage intention was recorded or in which the marriage was solemnized shall be received in all courts as evidence of the fact of marriage. Such license shall continue until revoked by the governor for cause, after notice and an opportunity to be heard thereon.

18 Me. 310; 42 Me. 288; 72 Me. 548.

Sec. 12. Copy of record, legal evidence. R. S. c. 64, § 15. A copy of a record of marriage duly made and kept, attested or sworn to by a justice of the peace, commissioned minister, or town clerk, shall be received in all courts as evidence of the fact of marriage.

19 Me. 158; 120 Me. 290.

Sec. 13. Marriage valid, if consummated in good faith by either party. R. S. c. 64, § 16. No marriage, solemnized before any known inhabitant of the state professing to be a justice of the peace, or an ordained or licensed minister of the gospel duly appointed and commissioned, is void, nor is its validity affected by any want of jurisdiction or authority in the justice or minister, or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful, and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

*6 Me. 149; 36 Me. 454; 61 Me. 177; *75 Me. 131.

Sec. 14. Penalties. R. S. c. 64, §§ 5, 7, 8, 11, 13, 14, 17. Whoever contracts a marriage, or makes false representations to procure the certificate provided for in section five, or the solemnization of marriage contrary to this chapter shall forfeit one hundred dollars.

The clerk of any town, or his deputy who intentionally violates the provisions of section five of this chapter or falsely states the residence of either party named in the certificate mentioned in said section shall forfeit twenty dollars for each offense.

Any person who fails to make the report of his marriage to the town clerk as required by section seven of this chapter shall forfeit twenty dollars, half to the prosecutor and half to the town where the forfeit is incurred.

Any person who wilfully neglects or refuses to perform the duty imposed upon him by the provisions of section ten of this chapter shall be punished by a fine of not more than one hundred dollars for each offense, for the use of the town in which the offense occurred.

Whoever knowingly and wilfully joins persons in marriage contrary to this chapter, shall be punished by a fine of one hundred dollars; and such offender is forbidden to join any persons in marriage thereafter.

If any person thus forbidden, or any minister or other person not authorized to solemnize marriages, joins any person in marriage, he shall be punished by a fine of not more than one thousand dollars, or shall be confined to hard labor in the state prison for not more than five years.

A town clerk who makes out and delivers to any person a false certificate of the entry of the intention of marriage, knowing it to be false in any particular, shall be punished by a fine of one hundred dollars or by imprisonment for six months.

Registration of Vital Statistics.

Sec. 15. Registrar of vital statistics; to furnish blanks for registration of births, marriages, deaths, and divorces. R. S. c. 64, § 18. The commissioner of health shall be the registrar of vital statistics for the state, and shall furnish to clergymen, and others authorized to marry, to sextons, to physicians, town clerks, clerks of the society of Friends, and clerks of courts, a copy of the provisions of this chapter relating to the registration of vital statistics, and suitable blanks for recording births, marriages, deaths, and divorces, so printed, with appropriate headings, as readily to show the following facts and such others as may be deemed necessary to secure an accurate registration.

I. The record of birth shall state its date and place of occurrence, full christian and surname, if named, color and sex of child, whether living or still-born, and the full christian and surnames, color, occupation, residence and birthplace of parents.

II. The record of marriage shall state its date and place of occurrence, the name, residence, and official character of the person by whom solemnized, the

full christian and surnames of the parties, the age, color, birthplace, occupation, and residence of each, the condition, whether single or widowed, whether first, second, or other marriage; and the full christian and surnames, residence, color, occupation, and birthplace of their parents.

III. The record of death shall state its date, the full christian and surname of the deceased, the sex, color, condition, whether single or married, age, occupation, place of birth, place of death, the full christian and surnames and birthplaces of parents, and the disease or other cause of death, so far as known.

Sec. 16. Report of birth to town clerk. R. S. c. 64, § 19. The attending physician, accoucheur, midwife, or other person in charge, who shall attend at the birth of any child, living or still-born, within the limits of any town or city in this state, shall report to the clerk of such town or city within six days thereafter, all the facts regarding such birth, as required in section fifteen.

Sec. 17. Copy of record of marriages, forwarded to town clerks. R. S. c. 64, § 20. Every person authorized to unite persons in marriage shall make a record of every marriage solemnized before him, in conformity with the requisitions prescribed for blank records of marriages in section fifteen, and shall within six days thereafter, deliver or forward to the clerk of each town in which the marriage intention was recorded, and to the clerk of the town in which the marriage was solemnized, a copy of such record of marriage.

Sec. 18. Physicians in attendance to furnish certificate of name, age, disease, and date of birth of deceased. R. S. c. 64, § 21. A physician who has attended a person during his last illness shall within twenty-four hours after the death of said person make a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, and the date of his death, and shall either deliver it to the person superintending the burial or leave it with the family of the deceased or at the said physician's office where it may be obtained when called for; and a physician or midwife who has attended at the birth of a child dying immediately thereafter, or at the birth of a still-born child, shall, when requested, forthwith furnish for registration a certificate, stating to the best of his knowledge and belief the fact that such child died after birth or was born dead. It shall be a misdemeanor for any person to make a false return in regard to any birth or death.

Sec. 19. Town clerk to be furnished with record of any death in town; permit for burial. R. S. c. 64, § 22. Whenever any person shall die, or any still-born child be brought forth in this state, the undertaker, town clerk, or other person superintending the burial of said deceased person, shall obtain from the physician attending such bringing forth or last sickness, a certificate, duly signed, setting forth as far as may be, the facts required by section eighteen; and the undertaker or other person having charge of the burial of said deceased person, shall add to said certificate the other facts required by section fifteen; and having duly signed the same, shall forward it to the clerk of the town or city where said person died and obtain a permit for burial; and in case of any contagious or infectious disease, said certificate shall be made and forwarded immediately.

91 Me. 75.

Sec. 20. Notice of death from tuberculosis. R. S. c. 64, § 23. When a town or city clerk receives a certificate of the death of any person who has died of tuberculosis in his town, he shall forthwith send a copy of said certificate to the health officer of his town or city, or where there is no health officer, to the secretary of the local board of health.

Sec. 21. If no attending physician in last sickness, clerk may issue certificate, upon such facts as can be obtained. R. S. c. 64, § 24. Whenever any deceased

CHAP. 72

person did not have the attendance of a physician in his or her last sickness, the town clerk may issue and sign the certificate of death, upon presentation of such facts as may be obtained of relatives, persons in attendance upon said deceased person during said last sickness or present at the time of death, or from any other source, and the permit for burial shall be issued upon such information. Said certificate and permit shall not be required before burial in cases where it is impracticable to obtain the same within a reasonable time after death, but in all such cases said certificate shall be obtained as soon as practicable after death.

Sec. 22. Regulation of removal of bodies of persons dying of cholera, or other pestilential disease; certificate of cause of death; heart failure not deemed sufficient cause for burial permit; permit, when body is brought into this state for burial. R. S. c. 64, § 25. No body of a deceased person whose death was caused by cholera, yellow fever, diphtheria, scarlet fever, typhus fever, typhoid fever, smallpox, or other pestilential disease, shall be removed from place to place in this state by any railroad, steamboat, or other common carrier, unless there shall be attached to the outer case in which said body is enclosed, a certificate from the board of health where such person died, stating the disease causing such death, and that necessary precautions against infection satisfactory to said board have been observed. A certificate of death giving heart failure as the only cause of death shall not be deemed sufficient upon which to issue a burial permit, and such certificate must be returned to the physician who made it for the proper correction and definition. If the body of a deceased person is brought into this state from without for burial, and if it is accompanied by a permit issued by the legally constituted authorities of the state from which it was brought, such permit shall be received as sufficient authority upon which the clerk of the town in which said body is to be buried shall issue a permit for burial; but if it is not accompanied by such permit, then the person or persons in charge of it shall apply for a burial permit to the clerk of the town in which it is to be buried, and the clerk of the town shall issue such permit when furnished with satisfactory information.

Sec. 23. Reports to clerk of births and deaths. R. S. c. 64, § 26. Within six days following such events, parents shall report to the clerk of their city or town the births or deaths of their children; householders shall report every birth or death happening in their houses; the eldest person, next of kin, shall report the death of his kindred; the keeper of a workhouse, house of correction, prison, hospital, almshouse, or other institution, and the master or other commanding officer of a ship, shall report every birth or death happening among the persons under his charge; and parents and other persons enumerated in this section shall not be absolved from the duty of reporting births until the names of the children have been given to the clerk of the city or town in which the births occur.

Sec. 24. Birth, marriage, or death, in unincorporated place. R. S. c. 64, § 27. When a birth, marriage, or death occurs in an unincorporated place, it shall be reported to the town clerk in the town which is nearest to the place at which the birth, marriage, or death took place, and shall be recorded by the town clerk to whom the report is made; and all such reports and records shall be made and recorded and returned to the state registrar as is provided herein.

Sec. 25. Clerk to make certified copy of record on first Monday of each month, and transmit to clerk of town where person or parents of child were resident at time of death. R. S. c. 64, § 28. 1917, c. 29. The clerk of each town shall, on the first Monday of each month, make a certified copy of the record of all deaths and births recorded in the books of said town during the

previous month, whenever the deceased person or the parents of the child born were resident in any other town in this state at the time of said death or birth, or whenever they were recently resident in any other town, or whenever the remains of any deceased person have been carried to any other town for burial or whenever the deceased person was born in any other town of this state, and shall transmit said certified copies to the clerk of the town in which said deceased person or parents were resident at or near the time of said birth or death, or to which the remains of such deceased person have been carried for burial, or in which said deceased person was born as aforesaid, stating in addition the name of the street and the number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the registrar of vital statistics.

Sec. 26. No interment, or disinterment, to be made without permit. R. S. c. 64, § 29. 1929, c. 69. Except as provided in section twenty-one, no interment, disinterment, or placing in a tomb, or vault, of a dead human body shall be made without a permit, as aforesaid, from the clerk of the town, or city, where said person died, or is buried; and no disposition of a dead human body from any tomb, or vault, shall be made without a permit, as aforesaid, from the clerk of the town, or city, where said body has been entombed, or placed in such vault. No undertaker, or other person, shall assist in, assent to, or allow any such interment, or disinterment, to be made, except as provided in section twenty-one until such permit has been given, as aforesaid; and every undertaker, or other person, having charge of any burial place, as aforesaid, who shall receive such permit, shall preserve and forward the same to the clerk of the town in which burial takes place within six days after the day of burial.

See c. 135, § 47.

Sec. 27. Subregistrars may be appointed who may issue burial permits. R. S. c. 64, § 30. 1923, c. 139. The town or city clerk may appoint two or more suitable and proper persons, in each town or city, as subregistrars, who shall be authorized to issue burial permits, and permits for transportation of dead human bodies, based upon a death certificate, as hereinbefore provided, in the same manner as is required of the town or city clerk; and the said death certificate upon which the permit is issued shall be forwarded to the town clerk within six days after receiving the same, and all permits by whomsoever issued shall be returned to the town clerk as required by section twenty-six. The appointment of subregistrars shall be made with reference to locality, so as to best suit the convenience of the inhabitants of the town, and such appointment shall be in writing and recorded in the office of the town or city clerk; the subregistrars in any town shall hold office at the pleasure of the town clerk.

Sec. 28. Clerks and subregistrars may issue burial permits in contiguous towns. R. S. c. 64, § 31. Town clerks and subregistrars may issue burial permits to persons in contiguous towns, when by so doing it would be more convenient for those seeking a permit, but in all cases the permit shall be made returnable to the town clerk of the town in which the death occurred.

Sec. 29. Assessors to make return of all births. R. S. c. 64, § 32. The assessors shall, when taking the annual inventory, collect and return to the town clerk, before the first day of June, the births which have occurred within their respective jurisdictions during the year ending December thirty-first next preceding, together with the names of such children.

Sec. 30. Town clerks required to make returns to state registrar, monthly; copies to be typewritten or in legible hand. R. S. c. 64, § 33. The clerk of every town shall keep a chronological record of all births, marriages, and deaths reported to him, or known to him, and shall, between the tenth and the fifteenth of every month, transmit to the state registrar a copy of the record of all births, marriages, and deaths which have occurred within the month next preceding, together with the names, residences, and official stations of all persons who have neglected to make returns to him in relation to the subject matters of such records, which the law required them to make, all to be made upon blanks to be prepared and furnished by the state registrar; and if no births, marriages, or deaths have occurred in the aforementioned period of time or month, for which returns are to be made, the town clerk shall send the state registrar a statement to that effect. Whenever a birth, marriage, or death, required by law to be returned to such clerk, is reported to him, or he learns of it, too late for inclusion in his returns as provided hereunder to the state registrar, he shall, after it is reported to him, or after he has knowledge of it, make due returns thereof to the state registrar forthwith. The registrar of vital statistics shall require all copies which are transmitted under the provisions of this section to be typewritten or written with black durable ink in a fair or legible hand.

Clerks of cities shall transmit to the board of registration list of persons over twenty-one years of age deceased since the preceding election; c. 6, § 28.
Clerks of cities and towns shall report to treasurer of state names of persons dying, and next of kin, c. 77, § 32.

Sec. 31. Clerk of courts required to make return of divorces, annually. R. S. c. 64, § 34. The clerks of courts for the several counties shall, annually, during the month of February, make returns to the registrar of vital statistics relating to libels for divorce in their respective counties for the calendar year next preceding. Such returns shall specify the following details; the number of divorces granted; and the names of the parties including the maiden name and any other former name of female, if any, when ascertainable.

Sec. 32. Duty of state registrar. R. S. c. 64, § 35. The state registrar shall cause the returns made to him in pursuance of the two preceding sections to be arranged alphabetically for convenient reference, and carefully preserved in his office. He shall annually make and publish a general abstract and report of the returns of the preceding year in such form as will render them of practical utility, not more than two thousand copies of which shall be printed and bound in cloth, one copy of which shall be forwarded to every town, one copy to each senator and representative, one copy to each state and territory in the union, and the remainder to such departments, libraries, and persons as the state registrar shall direct.

Sec. 33. Clerk's record or certified copy, prima facie evidence. R. S. c. 64, § 37. The town clerk's record of any birth, marriage, or death, or a duly certified copy thereof, shall be prima facie evidence of such birth, marriage, or death, in any judicial proceeding.

119 Me. 297; 120 Me. 200.

Sec. 34. Defective and erroneous records, how perfected. R. S. c. 64, § 38. If the record relating to a birth, marriage, or death does not contain all the required facts, or if it is alleged that the facts are not correctly stated therein, the town clerk shall receive an affidavit containing the facts required for record, if made by a person who was required by law to furnish information for the original record, or, at the discretion of the town clerk, by one or more credible persons having knowledge of the case. The town clerk shall file such affidavit and record it in a separate book to be kept for that purpose, with the name and

residence of any deponent and the date of such record, and shall thereupon draw a line through the incorrect statements in the original record without erasing them, and shall then enter the facts required to amend the record; and forthwith, if a copy of the record has been sent to the state registrar of vital statistics, shall forward to the registrar a certified copy of the corrected record upon blanks to be provided by said registrar; and the registrar shall thereupon amend the record in his office and state in the margin thereof his authority therefor. Reference to the record of the affidavit shall be made by the clerk on the margin of the original record. If the clerk furnishes a copy of such record, he shall certify to the facts contained therein as amended, and shall state in addition that the certificate is issued under the provisions of this section, a copy of which shall be printed on every such certificate. Such affidavit, or a certified copy of the record of any other city or town or of a written statement made at the time by any person since deceased who was required by law to furnish evidence thereof, may, at the discretion of the clerk, be made the basis for the record of a birth, marriage, or death not previously recorded, and such copy of a record may also be made the basis for completing the record of a birth, marriage, or death which does not contain all the required facts. Any oath which is required by the provisions of this section may be administered by the clerk or deputy clerk of a city or town; they shall receive no fee therefor.

Sec. 35. Duties of clerks. R. S. c. 64, § 40. The clerk of each city or town shall enforce, so far as comes within his power, sections ten, sixteen, seventeen, eighteen, nineteen, twenty-three, twenty-six, and twenty-nine of this chapter, and when he knows of any birth, marriage, or death, which is not reported to his office in accordance with the provisions of this chapter, he shall collect so far as he is able to do so, the facts called for in the blank certificates of birth, of marriage, or of death, as furnished by the state registrar, and shall record them as is herein prescribed; for each birth or death or marriage duly reported to the town clerk, physicians or persons solemnizing marriages shall receive twenty-five cents from the town in which the birth or death or marriage has occurred.

Sec. 36. Duty of state registrar of vital statistics, when provisions of law as to registration of vital statistics are not complied with. R. S. c. 64, § 41. When the state registrar of vital statistics believes that, in any place in this state, the records of births, marriages, or deaths are not made as is provided by law, or that any person neglects or fails to perform any duty required in the law relating to the registration of vital statistics, the said registrar may visit such places and make such investigations as he may deem necessary, and all records, blanks and papers of town clerks relating to births, marriages, or deaths shall be open to his examination. All actual traveling and other necessary expenses thus incurred by the state registrar, or incurred in attending the prosecution of cases brought by county attorneys, under the provision of section forty, shall be paid by the state, but not more than two hundred dollars shall thus be paid to the state registrar for such expenses in one year.

Sec. 37. Registrar of vital statistics to ascertain from what towns complete returns are lacking, and to send blanks to clerks for completion. 1927, c. 213, § 1. The state registrar of vital statistics shall, as soon as practicable, ascertain from what cities, towns, and plantations and from what years, prior to eighteen hundred ninety-two, complete returns of births, marriages, and deaths have not been made to the state, or are not to be found among the records of his office, and shall convey this information to the clerks of such cities, towns, and plantations, together with suitable blanks upon which to make returns.

Sec. 38. Clerks of towns to complete returns. 1927, c. 213, § 2. Such clerks may, within a period of ten years, from July fifteen, nineteen hundred twenty-seven, under the direction of the state registrar of vital statistics, cause to be transcribed in full upon such blanks all records of births, marriages, and deaths prior to eighteen hundred ninety-two in the possession of the city, town, or plantation and of the churches situated in the city, town, or plantation, not already returned, and shall transmit the same, properly certified, to the state registrar of vital statistics, within such reasonable time as he may prescribe.

Sec. 39. Inscriptions on gravestones may be copied and recorded; blank forms to be furnished by registrar; fees. 1927, c. 213, §§ 3, 4. If the death records of the city, town, or plantation prior to eighteen hundred ninety-two are incomplete, the clerk of such city, town, or plantation may, within ten years from July fifteen, nineteen hundred twenty-seven, as may be prescribed by the said state registrar of vital statistics, cause to be copied at the expense of the city, town, or plantation, under the direction of the said state registrar of vital statistics, the inscriptions on all gravestones in the city, town, or plantation erected to the memory of any person who died prior to eighteen hundred ninety-two, so far as the same relates to the name of the deceased, date of death, age or date of birth, if given, and the name of the cemetery, and shall cause such records to be recorded in the books or archives of the city, town, or plantation. The state registrar of vital statistics shall furnish each of said clerks with suitable blank forms for the return of such records, which shall be copied, certified, and returned to the said state registrar of vital statistics within such reasonable time as he may prescribe as provided in section thirty-eight hereof. The work of transcription and certification shall be distributed as fairly and evenly as may be over said period of ten years.

When required for any lawful and proper purpose, certified copies of such records shall be furnished by the state registrar of vital statistics for a fee of fifty cents, to be paid by the applicant. For any search of the files and records, when no certified copy is made, the fee shall be fifty cents for each hour or fractional part of an hour of time of search, said fee to be paid by the applicant.

See c. 126, § 19.

Sec. 40. Penalties. R. S. c. 64, §§ 33, 39, 41. Any city or town clerk, who neglects or refuses to make or cause to be made the returns as required by section thirty of this chapter shall forfeit not less than twenty dollars, nor more than one hundred dollars, to the use of the state.

If any person wilfully neglects or refuses to perform any duty imposed upon him by the provisions of section eleven and sections fifteen to thirty-four, inclusive, of this chapter, he shall be punished by a fine of not more than one hundred dollars for each offense, for the use of the town in which the offense occurred, and the state registrar shall enforce this section as far as comes within his power; when the state registrar knows, or has good reason to believe, that any penalty or forfeiture hereunder has been incurred, he shall forthwith give notice thereof, in writing, to the county attorney of the county in which said penalty or forfeiture has occurred, which notice shall state as near as may be the time of such neglect, the name of the person or persons incurring the penalty or forfeiture, and such other facts relating to the default of duty as said registrar may have been able to learn, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons.

Any person who refuses to permit or hinders the examination or investigation of the state registrar as provided in section thirty-six of this chapter, shall be punished by a fine of not less than five dollars, nor more than twenty dollars.

Publication of Ancient Vital Statistics.

Sec. 41. Publication of ancient records of vital statistics. R. S. c. 64, § 42. 1919, c. 33, § 1. Whenever the record of the births, marriages, and deaths of any town in the state, previous to the year eighteen hundred ninety-two, beginning at the very earliest date, shall be collected from church records, church registers, records of clergymen, family bibles, public records, and other available sources, and shall be printed and verified in the manner required by the standing committee of the Maine Historical Society, under the editorship of some person selected by said committee, whose services shall be rendered free and without any compensation, and the work shall appear to them to have been prepared with accuracy, the librarian of the state library shall purchase five hundred copies of such record at a price not exceeding one cent per page; provided, that the written copies of the town records shall become the property of the state, and shall be deposited in the office of the registrar of vital statistics; and provided, further, that not more than one thousand dollars shall be expended by authority of this section in any one year.

Sec. 42. Distribution of volumes. R. S. c. 64, § 43. 1919, c. 33, § 2. The volumes purchased as aforesaid shall be distributed by the state registrar as follows: one copy to the state library; one copy to the free public library of each town and city of the state; one copy to each state and territorial library in the United States; one copy to the library of congress; one copy to each incorporated historical society in the state; one copy to the library of each college in the state; and one copy to each registry of deeds. The remainder shall be placed in the state library for the purpose of exchange.

Parents and Children.

Sec. 43. Father and mother joint natural guardians of children; neither has paramount rights. R. S. c. 64, § 44. 1927, c. 78, § 1. The father and mother are the joint natural guardians of their minor children and are jointly entitled to the care, custody, control, services, and earnings of such children; and neither parent has any rights paramount to the rights of the other with reference to any matter affecting such children.

*124 Me. 38; 126 Me. 112.

Liability of parent for injury by minor to schoolhouse and school furnishings, c. 19, § 198; 90 Me. 312; 94 Me. 471.

Sec. 44. Parents may maintain joint action for loss of services; either may sue when one refuses. 1927, c. 78, § 2. The parents of a minor child jointly may maintain an action for loss of the services or earnings of such child when such loss is caused by the negligent or wrongful act of another. But where one parent refuses to sue, the other may sue alone. Nothing contained herein shall be deemed to limit, amend, supersede, or affect the provisions of the workmen's compensation law or acts in amendment thereof.

Sec. 45. When one parent is dead or has abandoned child, rights devolve on other. 1927, c. 78, § 3. If one of the parents of a minor child be dead or has abandoned such child, all parental rights respecting such child shall devolve upon the other parent.

Sec. 46. When parents live apart, judge of probate may decree as to care and custody; appeals. R. S. c. 64, § 45. 1917, c. 8. If the father and mother of a minor child are living apart from each other, the judge of probate in the county where either resides, on petition of either, and after such notice to the other as he may order, may decree which parent shall have the exclusive care and custody

CHAP. 72

of the person of such minor, or he may apportion the care and custody of the said minor between the parents, as the good of the child may require; which decree shall be in force until further order of the judge of probate. An appeal shall lie from such decree to the supreme court of probate, which appeal shall be heard and determined by the justice presiding, but the decree of the judge of probate shall be in force until reversed.

See c. 80, § 3; 94 Me. 471.

Sec. 47. Vested jurisdiction of courts not affected. R. S. c. 64, § 46. 1927, c. 78, § 4. Nothing contained in the four preceding sections shall be deemed to abrogate any power or jurisdiction now vested in any court over the care and custody of minor children.

94 Me. 471.

Sec. 48. Administrators, etc., may pay funds to a minor not having a guardian in certain cases; limitation on amount; when payment may be made to either parent. R. S. c. 64, § 48. Whenever, under any decree or order of the supreme judicial court or superior court of this state, or of any justice of either of said courts, in term time or in vacation, or of any judge of any probate court in this state, any receiver, master, executor, administrator, trustee, guardian, or other person acting under authority of either of said courts, or any justice or judge thereof, shall have in his hands any funds not exceeding two hundred dollars to be distributed or paid to any person under the age of twenty-one years, not having a guardian legally appointed in this state, payment may be made directly to such minor, if such minor be ten years of age and such minor's receipt therefor shall be a sufficient voucher for such payment in the settlement in court of any account by the party who makes such payment, and shall discharge and release him from any and all further liability on account of the same. When said minor is under ten years of age the payment may be made to either parent at the discretion of said person paying said money; provided, however, that where the money is paid directly to said minor the person paying the same may, in his discretion, require on such receipt the counter signature of one or both of the parents of such minor, and when the minor is under ten years of age the person paying the same shall receive the receipt of either or both parents, or if neither parent is living may withhold payment until further order of court, or until the appointment of a guardian.

Protection of Children.

Sec. 49. Designation of state and municipal boards changed. R. S. c. 64, § 49. 1917, c. 297. 1919, c. 171. The state board of mother's aid, as now constituted, under the provisions of chapter one hundred sixty-one, shall be a state board of children's guardians, hereinafter referred to as the state board, and in each city, town, or plantation, the municipal board of mother's aid, as provided for in said chapter one hundred sixty-one, shall be a municipal board of children's guardians, hereinafter referred to as the municipal board.

Sec. 50. Compensation of probation officers for services. R. S. c. 64, § 50. 1917, c. 297. 1919, c. 171. County probation and associate probation officers performing any of the duties specified in the following sections of this chapter shall be allowed, by their respective counties, their actual expenses and such compensation as their respective boards of county commissioners may from time to time determine.

Sec. 51. Investigations and prosecutions. R. S. c. 64, § 51. 1917, c. 297. 1919, c. 171. All municipal boards, their agents and employees, all county probation officers and associate probation officers, and the state board and its agents,

so far as funds are available, shall investigate all cases of cruel or injurious treatment of children coming to their knowledge, and shall cause offenders against any law for the protection of children or prevention of cruelty to the same to be prosecuted. The costs of court proceedings under this section shall be taxed and paid in the same manner as in any criminal process. All fines imposed for the punishment of offenses under any of the last eleven sections of this chapter shall be paid over to the county treasurer of the county in which the offenses may have been committed.

Sec. 52. Warrants to be issued on complaint of cases of neglect to children; child may be given into custody of individual or child welfare institution; court may direct municipal board to care for child pending hearing. R. S. c. 64, § 53. 1917, c. 297. 1919, c. 171. 1929, c. 267. When complaint in writing signed by an agent of the state board, sheriff, county probation officer, police officer, member of a municipal board or by three or more citizens of any town or city is made under oath to the probate court of the county or the municipal or police court having jurisdiction in said city or town, alleging that such child in such city or town is cruelly treated or wilfully neglected by its parents or parent or by the wilful failure of such parents or parent is not provided with suitable food, clothing or privileges of education, or is kept at or allowed to frequent any disorderly house, house of ill fame, gambling place, or place where intoxicating liquors are sold, or other places injurious to the health and morals, or that such child is an orphan without means of support or kindred of sufficient ability who will furnish such support, and praying that suitable and proper provision be made for the care, custody, support and education of the child named in such complaint, the court to whom such complaint is made shall issue a warrant causing the parents or other persons having custody or control of such child, if any, and the child, if necessary, to be brought before it, or shall cause notice to be given to said parents or said other persons in such manner or in such length of time as the court deems proper. The court shall cause notice in writing to be given by mail or otherwise to the state board of children's guardians, to the municipal board of the town, and to the county attorney of the county where the child is residing at least ten days before the date set for the hearing, provided, however, that the state board of children's guardians and the municipal board and the county attorney may waive such notice. It shall be the duty of the county attorney to represent the interests of the state board of children's guardians at the hearing. If, upon hearing, it shall appear that any material allegations of said complaint are true, the court may order said child committed into the custody of any suitable person or duly incorporated children's institution or child welfare organization consenting to receive same, at their own expense, unless the payment of such expense by the state shall be approved by the state board of children's guardians, which approval and payment may at any time be withdrawn, whose standards of care and maintenance are approved by the state board, or into the custody of the state board itself. The court shall cause a copy of the order of commitment and of any subsequent modifications thereof to be sent forthwith to the state board. The court may direct the municipal board where the child is residing to make such provision for its care as may be necessary pending hearing, and the expense, if any, of such care shall be paid by the town or city in which the child has a lawful settlement. Whoever being a parent of any child committed under this section shall be found guilty of having without just and sufficient cause failed or neglected to support said child shall be punished by a fine of not more than one thousand dollars or by imprisonment

CHAP. 72

for not more than eleven months or by both fine and imprisonment. It shall be the duty of the county attorneys in their respective counties to prosecute all violations of this section that are brought to their attention.

Sec. 53. Orders of court to divest parent of legal rights, but not to relieve of responsibility for support; appeal; condition of child may be investigated and decree altered. R. S. c. 64, § 54. 1917, c. 297. 1919, c. 171. Orders and decrees provided for in the preceding sections shall have the same effect to divest the parent or parents of all legal rights in respect to said child as specified in section thirty-eight of chapter eighty, but shall not relieve the parent or parents of liability for the support of such child, or from the penalties for failure to support which are provided in sections forty-four, forty-six, forty-seven and forty-eight of chapter one hundred twenty-nine. Such orders shall not extend beyond the time when the child arrives at the age of twenty-one years. The children's institution or organization or state board to which said child is committed shall have full custody and control over said child thereafter for said time, and shall have authority to give the consent required in section thirty-six of said chapter eighty. An appeal may be taken from the order or decree of any probate, municipal, or police court determining the custody of the child under the provisions of this chapter to the next term of the superior court to be holden within the county not earlier than fourteen days after the signing of said order or decree. The proceedings under such appeal from a probate court shall follow the form prescribed for appeal from probate courts and under such appeal from a municipal or police court shall follow the provisions of any special charter of the municipal or police court concerned, but pending action upon any such appeal the court may order the custody of the child to be retained by said suitable person, children's institution or child welfare organization or state board. Upon application by the state board, by a municipal board, by the parents or parent of any such child, or by the children's institution or child welfare organization or suitable person to which such child may have been committed to the court making the commitment, said court shall examine into the conditions and welfare of the said child, and may at any time make such further order in relation to his care, custody, support, and education as justice may demand.

Sec. 54. Bond required when child given into custody of individual; state board may provide for maintenance and education; state to recover from town; children or parents not to be considered paupers. R. S. c. 64, § 55. 1919, c. 171. 1929, c. 226. Whenever the court deems it suitable and conducive to the public welfare that any such child be placed under the control of an individual, the court shall first take a bond from such person running to the state in such sum and with such sureties as the court approves, conditioned that such person shall humanely treat and properly support, clothe, and educate the child, and in case of non-performance of the conditions of said bond a suit may be commenced thereon and the sum so recovered shall be paid into the treasury of the state for the joint benefit of the state and town of settlement, if any, of said child in proportion to the amount of expenses incurred by the state and said town because of the failure of said person so to treat, support, clothe, and educate said child. The state board shall provide for the maintenance and education in or by duly incorporated children's institutions and child welfare organizations, where such are available, and otherwise direct in family homes, of any children committed to its custody under the provisions of the preceding sections. Bills itemizing the expense of maintenance and education of children committed under the provisions of this chapter, when approved by the state

board and audited by the state auditor, shall be paid by the treasurer of state, who shall recover from the town of settlement, if any, of any such child, two-thirds of any such payments on account of said child. At the request of the parents or next friend of any dependent child under sixteen years of age who is without parent or grandparent of sufficient ability, or without other relatives able and willing to provide for its care, said request being approved by the municipal board of the city or town where the child is domiciled or by any duly incorporated children's institution or organization, the state board may make similar provision, without intervention of court, for the care of such child. No such child, nor the parents or grandparents of such child who are unable to provide for its care, shall be deemed paupers by reason of any care furnished to the child under the provisions of this chapter.

122 Me. 172.

Sec. 55. Child to be placed in family or institution of same religious faith as that of the parents; written promise made by either parent to be carried out. R. S. c. 64, § 56. 1917, c. 297, § 7. Any child who shall come in any way under the inspection or supervision of the state department of public welfare or under the provisions of sections fifty-one to fifty-nine, inclusive, shall, when placed in a family be placed in a family of the same religious faith as that of the parents or surviving parent of such child, where a suitable family of such faith can be found willing to take such child. Any written promise made to either parent shall be faithfully carried out by the agent, institution, or private person concerned. If such family can not be found, then such child shall be placed in an institution maintained for children of such faith. In case no institution of such faith exists in this state or is able to take care of said child, then it may be placed in such family or institution as may be approved by the state department of public welfare until such a family has been secured; provided, however, that if the parents of such child are of different religious faiths, or the faith of its parents cannot for any reason be ascertained, then such child shall be placed in a family or institution of that religious faith in which such child has been reared and educated, but where no such family or institution can be found to take such child, then in some family or institution approved by said board until such family or institution can be found. No child when placed in any home or institution shall be denied the opportunity of attending the religious worship or exercising the religious belief of its parents or surviving parent or in which it was reared and educated.

See c. 152, § 65.

Sec. 56. No child under sixteen to be placed in almshouse; exceptions. R. S. c. 64, § 57. 1917, c. 297, § 8. No child under sixteen years of age shall be placed in any almshouse in this state or be suffered by the overseers of the poor to remain in such almshouse except in cases of emergency, and then for a period not exceeding sixty days, provided that children under two years of age may be kept in almshouses when their mother is also an inmate; provided further, that with the consent of the state department of public welfare children when in need of medical or surgical treatment may be kept in hospitals or infirmaries connected with such almshouses for such length of time as they are in need of such treatment; provided also that when upon a certificate of two physicians who are graduates of some legally organized medical college and have practiced three years in this state, it shall be made to appear that any child is a proper subject for the Pownal state school, such child may with the consent of and under such regulations as the state department of public welfare may determine, be kept in the almshouse until such time as it can, under the provisions of section forty-

nine, of chapter one hundred fifty-five, be committed to said school. Whenever any child or children under sixteen years of age are placed or allowed by the overseers of the poor to remain in an almshouse, or in hospitals or infirmaries connected therewith, notice of that fact giving the name, parentage, and such other facts as the state department of public welfare may require, shall be sent by the overseers of the poor to said department within forty-eight hours of the entrance of such child into the almshouse, infirmary, or hospital. A similar notice within the same time shall be sent by the overseers of the poor to the said board when the child is discharged from said almshouse, hospital, or infirmary.

Sec. 57. Parents or guardians may petition for restoration of custody. R. S. c. 64, § 59. 1919, c. 171. Whenever a child is in the custody of any children's institution, or child's welfare organization, or suitable person, or of the state board, the parents or either of them may make application in writing to any justice of the superior court to have its custody restored to him or them, such notice on the application and the time and place of the hearing thereon as the court orders, shall be given to such person, institution, or organization or to the state board and to the municipal board of the town where the proceedings therein were commenced; and if, upon such hearing it appears that the applicant is of sufficient ability and inclination suitably to provide for maintenance and education of said child, and that justice requires that its custody be restored to said applicant, the judge shall so order, and the custody and control of said child shall thereafter be given to said applicant until the further order of the court.

Sec. 58. State or town may recover from parents. R. S. c. 64, § 60. 1919, c. 171. The state, any town or county incurring expenses under sections fifty-one, fifty-two, fifty-three, fifty-four and fifty-seven of this chapter, through the fault of parents who are able to support and educate their children, but wrongfully neglect and refuse to do so, may recover of them or either of them, in an action of debt, the amount so expended.

Sec. 59. Penalty for failure to perform duty. R. S. c. 64, § 62. Whoever violates any provision of section fifty-five of this chapter, or wilfully fails, neglects or refuses to perform any of the duties imposed upon him by the provisions of the ten preceding sections, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than six months.

Crimes against children, c. 129, §§ 31-43.

Criminal proceedings for desertion of families, c. 129, §§ 44-48.

Proceedings when child under age of sixteen years is arrested and charged with crime, c. 147, §§ 15-21.

State Military and Naval Children's Home.

Sec. 60. Bath Military and Naval Children's Home declared a state institution; purposes. 1929, c. 254, § 1. The State Military and Naval Children's Home established as the Bath Military and Naval Orphan Asylum at Bath by chapter one hundred sixty-three of the private and special laws of eighteen hundred sixty-six, is hereby declared to be a state institution, the purpose of which is the rearing and educating, gratuitously 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.

Sec. 61. Appointment of trustees, powers and duties; superintendent. 1929, c. 254, § 2. There shall be chosen annually for the government of said home

seven trustees, four of whom shall be appointed by the governor with the advice and consent of the council and three to be chosen at the annual meeting of the association provided for by the original act of incorporation, provided, however, that trustees now holding office shall continue therein until their respective terms shall have expired. The trustees shall have charge of the affairs of said home and shall annually select one of their number to be president of the board. Said trustees shall appoint a superintendent and other officers and employees of said institution. The president and superintendent shall act as a board of guardians of all the children who are members of said home and shall have all the power and authority granted by law to guardians.

Sec. 62. Trust funds to be invested by treasurer of state; income appropriated for expenses of institution. 1929, c. 254, § 3. The trustees shall pay over to the treasurer of state all trust funds of said institution and the treasurer shall invest same as provided by section ninety-three of chapter five and section eighty-six of chapter two. The income earned by said fund shall be available for the expenses of said institution and the same is hereby appropriated for said purpose.

CHAPTER 73.

Divorce and Annulling Illegal Marriages.

Sec. 1. Certain marriages void, without process. R. S. c. 65, § 1. Marriages prohibited in sections one, two and three of chapter seventy-two, if solemnized in this state, are absolutely void; and the sentence of either party to imprisonment for life and confinement under it, dissolves the bonds of matrimony, without legal process in either case.

31 Me. 491; 32 Me. 589; *76 Me. 421; *97 Me. 133.

Divorce from Bonds of Matrimony.

Sec. 2. Causes for which divorce may be granted. R. S. c. 65, § 2. A divorce from the bonds of matrimony may be decreed in the county where either party resides at the commencement of proceedings, for causes of adultery, impotence, extreme cruelty, utter desertion continued for three consecutive years next prior to the filing of the libel, gross and confirmed habits of intoxication from the use of intoxicating liquors, opium or other drugs, cruel and abusive treatment, or on the libel of the wife, where the husband being of sufficient ability or being able to labor and provide for her, grossly or wantonly and cruelly refuses or neglects to provide suitable maintenance for her; provided, that the parties were married in this state or cohabited here after marriage, or if the libelant resided here when the cause of divorce accrued, or had resided here in good faith for one year prior to the commencement of proceedings, or if the libelee is a resident of this state. But when both parties have been guilty of adultery, or there is collusion between them to procure a divorce, it shall not be granted. Either party may be a witness. The superior court has jurisdiction of libels for divorce in all counties.

32 Me. 338; *43 Me. 261; 45 Me. 379; *51 Me. 481; 54 Me. 366; 58 Me. 162, 514; 60 Me. 452; 61 Me. 377, 397; 69 Me. 535; *78 Me. 409; 88 Me. 120; 111 Me. 406; 114 Me. 60; *118 Me. 454; 119 Me. 81; *120 Me. 395; 121 Me. 104; 123 Me. 448; 125 Me. 397, 506; *126 Me. 342; 127 Me. 126.