

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Place in Pocket of Corresponding
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creed by the court to contribute to the child's support, or has been judicially decreed to be the putative father or has acknowledged under oath in writing that he is the father of such child. (1955, c. 109, § 1)

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

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

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

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

Chapter 27.

Department of Institutional Service.

Sections 8-A to 8-C. Disposition of Detainers.

Sections 95 to 102-A. Hospitals for the Mentally Ill.

Sections 143-148. Pineland Hospital and Training Center.

Sections 159-165. Governor Baxter State School for the Deaf.

Organization.

Sec. 1. Supervision of institutions; commissioner, appointment, salary, qualification; heads; farm supervisor.

The insane hospitals, Pownal state school, the state prison, the reformatories for men and women, the juvenile institutions, the state sanatoriums, the school for the deaf, the military and naval children's home and such other charitable and correctional state institutions as may be created from time to time. The department shall be under the control and supervision of a commissioner of institutional service, hereinafter in this chapter called the "commissioner," who shall be appointed by the governor with the advice and consent of the council; said appointment shall be for 3 years and until his successor is appointed and qualified, or during the pleasure of the governor and council. Any vacancy shall be filled by appointment for a like term. He shall receive such salary as shall be fixed by the governor and council. The commissioner of institutional service shall be a person experienced in institutional administration, either as a superintendent, chief medical officer or business manager, or who has had other satisfactory experience in the direction of work of a comparable nature. Said commissioner shall have the power to appoint institutional heads as shall be necessary for the proper performance of the duties of said department, subject to the provisions of the personnel law. He may appoint such other employees as may be necessary, subject to the provisions of the personnel law. The heads or superintendents of the several said institutions under the department shall report directly to the said

commissioner. Each institutional head shall be experienced in the management of the particular type of institution to which he or she is assigned.

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

Effect of amendments.—The first 1957 amendment substituted “subject to the provisions of the personnel law” for “said appointments to be with the approval of the governor and council” at the end of the sixth sentence of the second paragraph. The second 1957 amendment added the last paragraph appearing above as the last paragraph of this section. As the rest of the section was not changed

by the amendments, only the second and last paragraphs are set out.

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

Parole Board.

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

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

Uniform Act for Out-of-State Parolee Supervision.

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

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

Disposition of Detainers.

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

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

The warden, commissioner of institutional service or other official having cus-

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

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

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

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

Escape, Removal, Examination and Transfer of Inmates.

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

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

The State Prison.

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

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

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

The warden may from time to time, as he sees fit, recommend to a board of transfer set up within the department of institutional service, and comprising the

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

Effect of amendments.—The first 1957 amendment added “probation and” in the amendment inserted the second sentence first sentence of the second paragraph. in the first paragraph. The second 1957

Sec. 32. Transportation of prisoners.—When any male person is convicted and sentenced to the state prison from any county, the warden shall be notified immediately and the sheriff of said county, or a sufficient number of his appointed deputies, shall then transport the convict to the state prison. The convict shall be delivered with a duly signed warrant of commitment and record, as provided by the provisions of section 13 of chapter 149, to the officer in charge of the prison before 4 P. M. on any day. The warden shall then file said warrant and record, as provided by the provisions of section 13 of chapter 149, with his return thereon in his office, and cause a copy of the warrant of commitment to be filed in the office of the clerk of the court from which it was issued. (R. S. c. 23, § 31. 1953, c. 404, § 2. 1955, c. 176, § 1.)

Effect of amendment.—The 1955 amendment inserted in the second and third sentences the words “and record, as provided by the provisions of section 13 of chapter 149.” It also inserted in the third sentence the words “of the warrant of commitment.”

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

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

Any prisoner transferred under this section shall be subject to the terms of his

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

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

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

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

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

Reformatory for Women.

Sec. 54. Commitment; length of sentence; woman attendant in serving mittimus.

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

Effect of amendment. — The 1957 amendment rewrote the provisions of the second paragraph relative to length of sentence. As the first paragraph was not changed by the amendment, it is not set out.

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

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

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

Sec. 61. Escape of inmate.—Any woman lawfully committed to said reformatory who escapes therefrom shall be punished by additional imprisonment in said reformatory for not more than 11 months for each such offense. Prosecu-

tion under the provisions of this section may be instituted in any county in which said woman may be arrested or in the county of Somerset, but in such case the costs and expense of trial shall be paid by the county from which said woman was originally committed, and payment enforced as provided in section 62. (R. S. c. 23, § 60. 1957, c. 387, § 8.)

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

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

Reformatory for Men.

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

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

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

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

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

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

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

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

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

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

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

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

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

State School for Boys.

Sec. 77. Commitments; alternative punishment; deaf and dumb, non compos or insane not sent; records.—When a boy between the ages of 11 and 17 years is convicted before any court having jurisdiction of an offense punishable by imprisonment in the state prison, not for life, or in the county jail or in the house of correction, such court may order his commitment to the state school for boys or sentence him to the punishment provided by law for the same offense. If to such school, the commitment shall be conditioned that if such boy is not received or kept there for the full term of his minority, unless sooner discharged by the department as provided in section 80, or released on parole, he shall then suffer the punishment provided by law, as ordered by the court; but no boy shall be committed to said school who is deaf and dumb, non compos or insane. The record in the event of conviction in all such cases shall be that the accused was convicted of juvenile delinquency, and the court shall have power at the hearing of any such case to exclude the general public other than persons having a direct interest in the case. The records of any such case by order of the court may be withheld from indiscriminate public inspection, but such records shall be open to inspection by the parent or parents of such child or lawful guardian or attorney of the child involved. (R. S. c. 23, § 75. 1947, c. 211. 1949, c. 349, § 46. 1955, c. 211, § 1. 1957, c. 387, § 14.)

Effect of amendments. — The 1955 amendment substituted “parole” for “probation as provided in section 82” in the second sentence. The 1957 amendment changed the minimum age in the first sentence from 9 to 11.

Sec. 79. Instruction and discipline.—Every boy committed to said school shall there be kept, disciplined, instructed, employed and governed, under the direction of the department until the term of his commitment expires, or he is discharged as reformed, paroled by the probation and parole board, or remanded to some penal institution under the sentence of the court, or transferred to the reformatory for men as incorrigible, upon information to the department. (R. S. c. 23, § 77. 1957, c. 387, § 15.)

Effect of amendment. — The 1957 amendment substituted “paroled” for “bound out” and substituted “the probation and parole board” for “said department according to its by-laws”.

Sec. 80. Proceedings, when department or superintendent does not receive a boy.—When a boy is ordered to be committed to said school and the department deems it inexpedient to receive him, or his continuance in the school is deemed injurious to its management and discipline, it shall certify the same upon the mittimus by which he is held, and the mittimus and boy shall be deliv-

ered to any proper officer, who shall forthwith commit said boy to the jail, house of correction or state prison, or if he has attained the age of 15 years, to the state reformatory for men according to his sentence. The department may discharge any boy as reformed; and may authorize the superintendent, under such rules as it prescribes, to refuse to receive boys ordered to be committed to said school, and his certificate thereof shall be as effectual as its own. (R. S. c. 23, § 78. 1955, c. 318, § 3.)

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

Sec. 81. Term of commitment; record and effect of discharge.—All commitments of boys shall be during their minority unless sooner discharged by order of the department. When a boy is discharged from the school at the expiration of his term, whether he be then in the institution or lawfully out on parole, or when discharged as reformed, an appropriate record of such discharge shall be made by the superintendent upon the register of the school required to be kept by provisions of section 84. Such discharge shall be a full and complete release from all penalties and disabilities created by his sentence and commitment, and the record of the proceedings under which such boy was so committed shall not be deemed to be, nor shall it be subsequently used as, a criminal record against him. Each boy discharged from the institution shall receive an appropriate written discharge, signed by the superintendent. Such discharge, or a copy, duly certified by the superintendent, of the record of discharge upon the register of the school, shall be receivable in evidence and conclusive of the facts therein stated. (R. S. c. 23, § 79. 1957, c. 387, § 16.)

Effect of amendment. — The 1957 amendment made the former first sentence into two sentences, deleted “as be- fore provided” and substituted “parole” for “probation”.

Sec. 82. Repealed by Public Laws 1957, c. 387, § 17.

Sec. 83. Instruction; rules and punishments. — The department shall establish and maintain a mechanical school, and cause the boys under its charge to be instructed in mechanical trades and in the branches of useful knowledge, adapted to their age and capacity; also in agriculture and horticulture, according to their age, strength, disposition and capacity; and otherwise, as will best secure their reformation, amendment and future benefit. The department shall specify the punishments that may be inflicted upon boys in the school, and any officer, agent or servant who inflicts punishment not so authorized shall be discharged. (R. S. c. 23, § 81. 1957, c. 387, § 18.)

Effect of amendment. — The 1957 amendment deleted the former second sentence which pertained to binding out inmates.

Hospitals for the Mentally Ill.

Sec. 102-A. Admittance of children between 8 and 16 years of age. —The superintendent of the Augusta state hospital or Bangor state hospital may, at his discretion, admit to the hospital any child between the ages of 8 years and 16 years who is deemed by him to be suffering from psychosis, neurosis, psychoneurosis, behavior disorder or other mental disability, upon written application made therefor by the parent, guardian, or natural guardian, or person having custody of such child. Such application, attested and sworn to by the clerk of the municipality where the child is found, shall be accompanied by a certificate of a reputable physician that such person is suffering from mental disability and, in the opinion of the physician, is a fit subject for said hospital. The physician who makes such certificate shall have examined such child, whose admission is sought, within 5 days of the signing and making oath to this certificate.

Admission to the hospital must be completed within 15 days of the signing of the certificate or said certificate is invalidated. No child who is feeble-minded and without psychosis shall be eligible for admission to a state hospital under the provisions of this section. If a child is received for care under this section and is deemed by the superintendent not to be a proper person for further care in the institution, he shall be discharged forthwith, and the person who signed the original application shall immediately remove such child and, if he is not so removed, such person shall be liable to the state for all reasonable expenses incurred on account of the patient until such discharge is effected.

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

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

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

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

Commitment of the Insane.

Constitutionality of proposed act.—Proposed act providing for hospitalization of mentally ill held constitutional. See Opin-

ion of the Justices, 151 Me. 1, 117 A. (2d) 53; Opinion of the Justices, 151 Me. 24, 117 A. (2d) 57.

Sec. 104. Municipal officers may commit to the hospitals.

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

The act of detention in an institution for the insane, if any be made, is performed by the municipal officers. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

Sec. 105. Emergency cases.

Certifying physician is a witness.—This section read with § 113, demonstrates that the certifying physician is a witness in emergency restraint and detention proceedings as in indeterminate commitment cases and that the municipal officers are

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

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

And entitled to privilege of protection from tort liability.—The doctrine of the privilege of protection from tort liability to witnesses for pertinent recitals in judi-

cial proceedings is well established. It is defined as a "doctrine of the highest legal policy." It is an absolute privilege and thereby different from the qualified privilege. The privilege includes the certify-

ing physician in lunacy proceedings who acts within the scope of the privileged occasion. *Dunbar v. Greenlaw*, 152 Me. 270, 128 A. (2d) 218.

Sec. 106. Evidence of 2 physicians required.

Cross reference.

See note to § 113.

Sec. 113. Examination of insane persons.

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

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

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

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

Sec. 113-A. Certificate of commitment delivered in 10 days.—Any certificate of commitment under the provisions of this chapter, except section 105, shall be delivered with the insane person to the Augusta or Bangor state hospital within 10 days of the date of said certificate.

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

Sec. 114. Penalty for false testimony.

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

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

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

Effect of amendment. — The 1957 amendment deleted the words "other than

Maine" following the word "state" near the beginning of the section and inserted "which is not a member of the interstate compact on mental health" following the

words "District of Columbia" in lieu thereof. Such amendment also inserted in the list of qualifications of the patient the requirement as to residence in Maine

and deleted a former provision which required a settlement in a Maine municipality.

Disposal of Insane Criminals.

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

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

Recommitment of Patients.

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

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

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

Pineland Hospital and Training Center.

Sec. 143. Management; ages of inmates.—The Pineland hospital and training center, heretofore established at Pownal in the county of Cumberland, shall be maintained for the care and education of idiotic and feeble-minded males and females, between the ages of 5 years and 55 years, except that idiotic and feeble-minded state paupers or patients transferred from either state hospital for the insane under the provisions of this chapter may be admitted after the above stated age. (R. S. c. 23, § 152. 1951, c. 84, § 3. 1957, c. 21, § 1.)

Effect of amendment. — The 1957 amendment inserted "Pineland hospital and training center" where "Pownal state school" formerly appeared. Section 2 of this amendment states that

whenever in the Revised Statutes or laws the words "Pownal state school" appear they shall be amended to read "Pineland hospital and training center."

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

State Sanatoriums for Treatment of Tuberculosis.

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

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

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

Governor Baxter State School for the Deaf.

Sec. 159. Purpose.—Governor Baxter State School for the Deaf, established by chapter 446 of the private and special laws of 1897, is to be devoted to

the education and instruction of deaf and dumb children. (R. S. c. 23, § 168. 1957, c. 379, § 1.)

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

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

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

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

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

State Military and Naval Children's Home.

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

The relatives of any such child liable by law for their support, shall pay to the state for board and care of such child the amount determined by the department of institutional service. The department may, after proper investigation of the financial circumstances of such relatives, if it finds that such relative is unable to pay the amount determined, in whole or in part, waive such payment or so much thereof as the circumstances appear to warrant. All income from this source shall be paid to the treasurer of state and shall be credited to the general fund. (R. S. c. 23, § 174. 1955, c. 415.)

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