REVISED STATUTES

OF THE

STATE OF MAINE

1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Discard Previous Supplement

THE MICHIE COMPANY
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1963

Support of Dependents of Veterans of World War I, World War II or the Korean Campaign.

Sec. 10. Definitions.

II. The term "child" shall be construed to mean a child under the age of 16, or over age 16 and under age 18 if found by the division to be regularly attending school, or over 16 and not attending school if, prior to reaching age 16, the child becomes or has become permanently incapable of self-support by reason of mental or physical defect, and shall include a foster child, a legitimate or legally adopted child of the veteran, or a stepchild if a member of the veteran's household either at time of application, or in the event of the veteran's death, at time of death, and who continues a member of the household, or an illegitimate child, provided that the veteran has been judicially ordered or decreed 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 Mental Health and Corrections.

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

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

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

The breakdown of the above appropriations shall be as follows:

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

Sections 7-A to 7-F. Public Ways and Parking Areas at State Institutions.
Section 7-G. Meaning of Words "Insane" and "Insanity."
Sections 8-A to 8-C. Disposition of Detainers.

Sections 94-A to 94-C. Bureau of Mental Health.
Sections 95 to 102-A. Hospitals for the Mentally Ill.
Sections 103-117. Commitment of the Mentally Ill.
Sections 142-A to 142-F. Community Mental Health Services.
Sections 143-148. Pineland Hospital and Training Center.
Sections 159-165. Governor Baxter State School for the Deaf.
Section 168. Hospitalization of the Mentally Ill.
Sections 169-171. Voluntary Hospitalization.
Sections 172-179. Involuntary Hospitalization. Admission Provisions.
Sections 180-186. Involuntary Hospitalization. Post-Admission Provisions.
Sections 187-194. Provisions Applicable to Patients Generally.

Organization.

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

The insane hospitals, Pineland hospital and training center, the state prison, the reformatories for men and women, the juvenile institutions, the Governor Baxter state school for the deaf, the military and naval children's home and such other charitable and correctional state institutions as may be created from time to time. All orders of commitment, medical and administrative records, in the department are held to be confidential. Such records may be subpoenaed by a court of record. The department shall be under the control and supervision of a commissioner of institutional service, hereinafter in this chapter called the "commissioner," who shall be appointed by the governor with the advice and consent of the council; said appointment shall be for 3 years and until his successor is appointed and qualified, or during the pleasure of the governor and council. Any vacancy shall be filled by appointment for a like term. He shall receive such salary as shall be fixed by the governor and council. The commissioner of institutional service shall be a person experienced in institutional administration, either as a superintendent, chief medical officer or business manager, or who has had other satisfactory experience in the direction of work of a comparable nature. Said commissioner shall have the power to appoint institutional heads as shall be necessary for the proper performance of the duties of said department, subject to the provisions of the personnel law. He may appoint such other employees as may be necessary, subject to the provisions of the personnel law. The heads or superintendents of the several said institutions under the department shall report directly to the said commissioner. Each institutional head shall be experienced in the management of the particular type of institution to which he or she is assigned.

The department shall be charged with the enforcement of all laws concerning the aforesaid institutions except in such cases where specific duties are given elsewhere.

The commissioner shall appoint, subject to the personnel law, a departmental farm supervisor. The salary and the expenses incurred by the departmental farm

supervisor shall be prorated among the accounts set up for the several institutional farms.

Wherever in this chapter powers and duties are given to the department these may be and shall be assumed and carried out by such of the institutional or bureau heads as the commissioner may designate from time to time, and these powers and duties so delegated may in turn be delegated by the said institutional or bureau heads with the approval of the commissioner.

In the case of a sudden death of any patient or inmate in any institution under the control of the department, under circumstances of reasonable suspicion, an examination and inquest shall be held as in other cases, and the superintendent or department shall cause a medical examiner to be immediately notified for that purpose.

The department is authorized and empowered to accept for the state any federal funds appropriated under federal law relating to mental health, mental illness or mental retardation or the juvenile offender, and to do such acts as are necessary for the purpose of carrying out such federal law; and to accept from any other agency of government, individual, group or corporation such funds as may be available in carrying out the provisions contained herein. The department is authorized to apply for and receive federal funds under the Housing Act of 1954, Public Law 560, title 7. (R. S. c. 23, § 1. 1949, c. 414. 1957, c. 313; c. 373, § 1. 1959, c. 242, § 1; c. 363, § 17. 1961, c. 304, §§ 1-3; c. 417, § 73.)

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

Effect of amendments.—The first 1957 amendment substituted "subject to the provisions of the personnel law" for "said appointments to be with the approval of the governor and council" at the end of the present eighth sentence of the second paragraph. The second 1957 amendment added a last paragraph which was eliminated in 1961.

This section was amended twice by the 1959 legislature. The first 1959 amendment substituted the words "Pineland hospital and training center", for the words "Pownal state school", formerly appearing after the word "hospitals" and before the word "the", in the enumeration of institutions following the colon in the first sentence of this section. It also struck out the words "the state sanatoriums" following the words "juvenile institutions" and added the words "Governor Baxter state" before the words "school for the deaf", in the same enumeration, and added the second and third sentences in the second paragraph. The second 1959 amendment re-enacted the first sentence of the section without change.

P. L. 1961, c. 304, §§ 1-3, substituted "department of mental health and corrections" for "department of institutional service" at the beginning of this section, added "research and planning" preceding "grounds" in the first sentence, added "property, officers and employees, and patients and inmates of all of the following" in that sentence, substituted "hospitals for the mentally ill" for "insane hospitals" following the colon in that sentence, rewrote the third paragraph, repealed the former last paragraph, relating to a deputy commissioner, and added the present fourth, fifth and sixth paragraphs. P. L. 1961, c. 417, § 73, deleted "property, officers and employees, and patients and inmates of all of the following" from the first sentence which had been added by the earlier 1961 amendment.

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

Powers and Duties. Rules and Regulations.

Sec. 2. General powers.—The department shall have authority to perform such acts, relating to the care, custody, treatment, relief and improvement of the inmates of the institutions under its control, as are not contrary to law. (R. S. c. 23, § 2. 1961, c. 354, § 1.)

Effect of amendment.—The 1961 amendment deleted provisions for inspection and investigation of county jails similar to those now found in § 2-A.

Sec. 2-A. Inspection of county jails; standards; transfer of prisoners.—The department may make frequent inspections of all county jails and shall inspect all county jails at least twice in each year and report annually, before December 1st, to the governor and executive council in respect to the conditions of said jails.

The department, in cooperation with the several county commissioners, shall establish mutually agreed upon standards for each county jail in particular and for all county jails generally. Such standards shall approximate, insofar as possible, those established by the inspector of jails, federal bureau of prisons.

The department, upon request of the sending sheriff and approval of the county commissioners, may transfer any prisoner serving a sentence in his jail to any other county jail to serve the balance of his sentence, or any part thereof, upon the approval of the sheriff and county commissioners of the receiving county. Cost of transfer or return of such prisoner is to be paid by the sending county; the amount to be paid for the support of the prisoner in the receiving county shall be at a rate agreed upon by the county commissioner party to the transfer, and shall be paid by the sending county. (1961, c. 354, § 2.)

Sec. 3. Industrial and vocational training.—The department shall establish and maintain suitable courses for vocational trades and industrial training in the boys training center at South Portland and the state reformatory at South Windham, and to install such equipment as may be necessary, and employ such suitable and qualified instructors subject to the approval of the state vocational director as may be necessary to carry out the purposes of this section. The expenses of carrying out this section shall be paid from the appropriations for the above-named institutions. (R. S. c. 23, § 3. 1961, c. 395, § 18.)

Effect of amendment.—The 1961 amendment, effective on its approval, June 17, 1961, substituted "boys training center" for "state school for boys".

Sec. 3-A. Employment of prisoners and inmates on public works; use for other purposes; escape from such employment or use.—The department may authorize the employment of able-bodied prisoners in the state prison or inmates of the reformatory for men in the construction and improvement of highways or other public works within the state under such arrangements as may be made with the state highway commission or other department or commission of the state having such public works in charge, and said department may prescribe such rules and conditions as it deems expedient to insure the proper care and treatment of the prisoners or inmates while so employed and their safekeeping and return. The department may further authorize the training and use of able-bodied prisoners in the state prison or inmates in the reformatory for men by the state forestry department or the department of civil defense and public safety to fight fires or provide assistance during or after any civilian disaster. Any prisoner or inmate who escapes from any assignments described in this section, or any other assignment beyond the walls of the state prison or off the grounds of the reformatory for men shall be guilty of escape under this chapter or chapter 135, section 28. (1959, c. 242, § 2.)

Sec. 5. Rules and regulations; fees.

It shall provide for the training of nurses in state hospitals. (R. S. c. 23, § 5. 1951, c. 266, § 29. 1959, c. 378, § 22. 1961, c. 304, §§ 4, 5. 1963, c. 19, § 1.)

Effect of amendments. — The 1961 amendment rewrote the first sentence of the former third paragraph, added all of that paragraph following the first sentence and added the former fourth paragraph.

The 1959 amendment, effective on its approval, January 29, 1960, affected the portion of the former third paragraph which was rewritten in 1961.

The 1963 amendment deleted the former third and fourth paragraphs and added the present third paragraph.

As the rest of the section was not affected by the amendment, it is not set out.

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.

Public Ways and Parking Areas at State Institutions.

Sec. 7-A. Definitions.—The words "public way" or "public ways," when used in sections 7-B to 7-F, shall be held to mean all roads and driveways on lands maintained by the state at the state institutions under the jurisdiction of the department of mental health and corrections.

The words "parking area" or "parking areas," when used in sections 7-B to 7-F, shall be held to mean all lands maintained by the state at the state institutions under the jurisdiction of the department of mental health and corrections which may be designated as parking areas by the superintendents of the state institutions. (1961, c. 164.)

Sec. 7-B. Rules and regulations.—The superintendents of the state institutions are authorized and empowered to make and enforce rules and regulations, subject to the approval of the commissioner, governing the use of public ways and parking areas maintained by the state at the state institutions. Said rules and regulations shall become effective upon deposit of a copy thereof with the secretary of state, who shall forward a copy thereof attested under the great seal of the state to the district court in the area of jurisdiction. (1961, c. 164. 1963, c. 402, § 40.)

Effect of amendment.—The 1963 amendment substituted "the district court" for "a municipal court or a trial justice court" in the last sentence of the section.

Application of 1963 act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 7-C. Special police officers; powers and duties; duty of other officers to cooperate.—The superintendents of the state institutions are authorized and empowered to appoint and employ, subject to the personnel law, special police officers for the purpose of enforcing rules and regulations made pursuant to section 7-B.

The powers and duties of the special police officers so appointed and employed shall be to patrol all of the public ways and parking areas subject to sections 7-A to 7-F, enforce rules and regulations made under section 7-B, arrest any violator thereof and prosecute any offender against the same.

The state police, sheriffs and deputy sheriffs, constables and police officers within the area of jurisdiction shall, so far as possible, cooperate with the special police officers appointed and employed under this section in the enforcement of rules and regulations made pursuant to section 7-B. (1961, c. 164.)

Sec. 7-D. Jurisdiction.—The district court within the areas in which the state institutions are located shall have jurisdiction in all proceedings brought under sections 7-A to 7-F, which courts shall take judicial notice of all rules and regulations adopted pursuant to section 7-B. In any prosecution for violation of any rules and regulations, the complaint may allege the offense as in prosecutions under a general statute and need not recite the rule or regulation. (1961, c. 164. 1963, c. 402, § 41.)

Effect of amendment.—The 1963 amendment substituted "district court" for "municipal courts or trial justice courts" in the first sentence.

Application of 1963 act.—See note to § 7-B.

Sec. 7-E. Fines.—Any person found guilty of violating any rule or regulation made pursuant to section 7-B shall, upon conviction, pay a fine as follows:

I. First offense. For the first offense in any calendar year, a fine of $1;
II. Second offense. For the second offense in any calendar year, a fine of $2;
III. Subsequent offense. For each offense in excess of 2 in any calendar year, a fine of $5.

Notwithstanding any other law, the fines and costs of court paid under this section shall inure to the municipality in which the proceedings take place. (1961, c. 164.)

Sec. 7-F. Offenses not covered by rules and regulations.—Offenses not covered by the rules and regulations made under section 7-B shall be dealt with as otherwise provided by law. (1961, c. 164.)

Meaning of Words "Insane" and "Insanity."

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

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

Uniform Act for Out-of-State Parolee Supervision.

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

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

Editor's note.—P. L. 1957, c. 429, provided in section 35 thereof as follows: "Section 8 of chapter 27 of the Revised Statutes, as amended by chapter 19 of the Public Laws of 1957 and as repealed by section 2 of chapter 387 of the Public Laws of 1957, is hereby repealed."

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

Disposition of Detainers.

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

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

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

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

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

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

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

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

Escape, Removal, Examination and Transfer of Inmates.

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

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

Sec. 12. Physical and mental examination of inmates.—The department may require a physical and mental examination of persons committed to any state penal or correctional institution or training center for juvenile offenders. It shall designate competent examiners employed by the department or who may be employed by the department to conduct such examinations.

The department, upon the recommendation of the warden of the Maine state prison, or the superintendents of the state correctional institutions and training centers for juvenile offenders, may transfer any person in any of the said institutions to either of the hospitals for the mentally ill in the department for observation and study of his mental condition if his conduct in any of the said institutions indicates such need. Children in the training centers for juvenile offenders under the age of 16 at time of need for such transfer shall be transferred to the Pineland hospital and training center. Such transfers can be for any period of time up to 30 days and shall not exceed 30 days without a request for an extension for a further 30-day period. Thereafter, the person must be returned to the institution from which he was transferred, or transferred under section 13 to said hospital for treatment. (R. S. c. 23, § 12. 1961, c. 304, § 6.)

Effect of amendment.—The 1961 amendment rewrote the first paragraph of this section and added the second paragraph.

Sec. 13. Transfer of inmate to other institution; original sentence to continue.—Any person who is committed to a state penal or correctional institution or to a training center for juvenile offenders and is under the con-

trol of the department, who in the opinion of the head thereof becomes mentally ill, or who is found to be mentally ill by the examination authorized by section 12, shall be transferred to either of the state hospitals, except those children in the training centers who are under 16 years of age who shall be transferred to the Pineland hospital and training center, and any person who is committed to a state penal or correctional institution or to a training center for juvenile offenders and is under the control of the department, who in the opinion of the head thereof is in such condition that he or she is a fit subject for the Pineland hospital and training center, shall be transferred to the Pineland hospital and training center whenever, in the judgment of the commissioner, the welfare of the patients and inmates, or of either institution, or of the person will be promoted thereby. A copy of the certificate of original commitment certified by the head of the institution in which said person is confined and a certificate from a regular practicing physician in the state certifying that the person committed is feeble-minded or insane, as the case might be, with an order of transfer signed by the commissioner shall authorize the superintendent of the institution to receive and detain the said person, as above provided for.

Such patient shall be there detained in custody in the same manner as if he or she had been committed thereto originally. The transfers authorized in this and the preceding section shall have no effect on the original sentences which shall continue to run, and if the original sentence has not expired when the patient has been declared ready for discharge or release, the patient shall be returned to the institution to which he or she was originally committed. If prior to the expiration of the original sentence it is the opinion of the head of the institution which has charge of the patient that the patient should remain in the custody of the institution after the expiration of such sentence, the patient may be recommitted to either of the state hospitals upon complaint of the head of the institution which has charge of the patient under sections 169, 172, 173 or 175, or to the Pineland hospital and training center under section 144-B.

The expense attending such transfers shall be paid from funds available for the use of the institution from which or to which such person is transferred. (R. S. c. 23, § 13. 1951, c. 196, §§ 1, 2. 1961, c. 303, § 5; c. 304, § 7. 1963, c. 351, § 9.)

Effect of amendments. — Chapter 303, P. L. 1961, substituted "169, 172, 173 or 175" for "110 and 111" in the last sentence of the second paragraph. Chapter 304, P. L. 1961, rewrote the first sentence of the first paragraph.

The 1963 amendment substituted "section 144-B" for "section 145" at the end of the second paragraph.

Sec. 15. Repealed by Public Laws 1961, c. 222.

Sec. 16. Cost of transportation; fees when woman attendant required.—The cost of committing and transporting a girl to or from the Stevens training center, or a boy to or from the boys training center, or of a person to or from the Pineland hospital and training center, or of a woman to or from the reformatory for women, or of a man to or from the reformatory for men, shall, when not otherwise provided for, be paid from the treasury of the county from which such person is committed as the costs of conveying prisoners to the jails are paid. The county commissioners of such county shall examine and allow all such reasonable costs.

(1961, c. 395, § 19.)

Effect of amendment.—The 1961 amendment, effective on its approval, June 17, 1961, divided the first paragraph into two sentences and substituted "Stevens training center" for "state school for girls", "boys training center" for "state school for boys" and substituted "Pineland hospital and training center" for "Pownal state school" in the present first sentence thereof.

As the rest of the section was not affected by the amendment, it is not set out.

The State Prison.

Sec. 19. Location; prison farms.

Cited in Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den. 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

Sec. 20. Forms of imprisonment.

Quoted in Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den. 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

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

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

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

Effect of amendment.—The 1959 amendment struck out the words "a deputy appointed by the commissioner", formerly appearing after the word "have" and before the word "who", in the second sentence, and substituted in lieu thereof the words "deputies, to be appointed by him subject to the provisions of the personnel law".

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

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

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

commissioner of institutional service, the superintendent of the reformatory for men, the superintendent of the Augusta state hospital and the chairman of the state probation and parole board, the transfer of certain first offenders from the state prison to the reformatory for men when in his opinion such transfer is consistent with the best interest of the prisoner and the welfare of the public. Said recommendation for transfer to become effective must have the unanimous approval of the board of transfer and in such event shall take place forthwith. The prisoner so transferred shall serve the sentence imposed upon him by the court within the confines of the reformatory for men, and shall receive during said sentence the same deductions for good time as would have been received at the state prison, and shall be subject to the same parole and release procedures as effective at the state prison. The provisions of this paragraph shall not apply to any person convicted of an offense the only punishment for which prescribed by law is imprisonment for life, nor to any person convicted of an offense under the provisions of section 10, 11 or 12 of chapter 130 or under the provisions of section 6 of chapter 134. (R. S. c. 23, § 27. 1949, c. 67. 1951, c. 84, § 1. 1957, c. 149; c. 387, § 4. 1959, c. 242, § 5. 1961, c. 304, § 8.)

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

The 1959 amendment rewrote the first and second sentences of this section.

The 1961 amendment deleted "other than life sentences" at the end of the first paragraph and made other minor changes in the last sentence of that paragraph.

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."

Cited in Couture v. State, 156 Me. 231, 163 A. (2d) 646.

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. 41. Conveying, or attempting secretly to convey, any article to a convict.—If any officer, contractor, teamster or other person delivers, or has in his possession with intent to deliver, to any convict confined in the state prison, or deposits or conceals, in any place in or about the prison or its precincts, or in any wagon or other vehicle going thereto, any article, with intent that any convict therein shall obtain it, without consent or knowledge of the warden or deputy warden, he shall be punished by a fine of not more than $500, or by imprisonment for not more than 2 years. (R. S. c. 23, § 40. 1961, c. 304, § 9.)

Effect of amendment.—The 1961 amendment deleted "and by imprisonment for not more than 6 months" following "$500" near the end of the section.

Sec. 42. Convict assaulting officers; escape; prosecution.—If a convict, sentenced to the state prison for life or for a limited term of years, or transferred thereto from the reformatory for men under section 75, or committed thereto for safekeeping under chapter 148, section 33, assaults any officer or other person employed in the government thereof, or breaks or escapes therefrom, or forcibly attempts to do so, he may be punished by confinement to hard labor for any term of years, to commence after the completion of his former sentence, except in the case of a convict serving a life sentence, to commence at the completion of 30 years of such sentence. The warden shall certify the fact of a violation of this section to the county attorney for the county of Knox, who shall prosecute such convict therefor. (R. S. c. 23, § 41. 1955, c. 309. 1959, c. 242, § 6. 1963, c. 414, § 5.)

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

The 1959 amendment made the section applicable to convicts transferred from the reformatory or committed for safekeeping and added the exception to the first sentence.

The 1963 amendment deleted "at the discretion of the court" before "be punished by confinement" in the first sentence and substituted "this section" for "the foregoing provisions" in the second sentence.

History of section. — See Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den. 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

Legislative intent.—By this section the legislature intended that the courts should punish one who forcibly attempted to escape from state prison or who otherwise violated this section, within the limits of "any term of years." Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den. 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

This section is not void for indefiniteness in the penalty. Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den. 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

"Convict."—By the 1959 amendment to this section "convict" includes one transferred from the reformatory for men or committed under certain circumstances for safe keeping. Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den., 371 U. S. 867, 83 S Ct. 129, 9 L. Ed. (2d) 104.

One who has been sentenced and is serving the sentence in the state prison is a convict within the fair meaning of this section. Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den., 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

The words "may be punished" in this section have precisely the same meaning that would be given to the more usual phrase "shall be punished." Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den., 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

Attempt. — To constitute an attempt there must be something more than mere intention or preparation. There must be some act moving directly towards the commission of the offense after the preparations are made. Duncan v. State, 158 Me.

265, 183 A. (2d) 209, cert. den., 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

Lawful imprisonment a prerequisite to conviction under section.—In order to convict under this section it must be established that the defendant's imprisonment was lawful. Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den. 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

Sufficiency of indictment.—See Duncan v. State, 158 Me. 265, 183 A. (2d) 209, cert. den., 371 U. S. 867, 83 S. Ct. 129, 9 L. Ed. (2d) 104.

Sec. 47. When term commences.

When sentence begins.—This section indicates that a sentence begins when a prisoner is received in the institution to which he has been sentenced. Couture v. State, 156 Me. 231, 163 A. (2d) 646.

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

Effect of amendment.—The 1959 amendment deleted the words "when it is convenient, place the same at interest for his benefit," formerly appearing after the word "prison" and before the word "keep". The sentence was completed with the word "discharge", deleting the remainder of the sentence which formerly read: "or, in case of his death, to his representatives unless otherwise legally disposed of."

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

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

Sec. 50. Repealed by Public Laws 1961, c. 304, § 10.

Reformatory for Women.

Sec. 52. Reformatory for women.—The state shall maintain a reformatory in which all women over the age of 16 years and under the age of 40 years who have been adjudicated juvenile offenders, or who have been convicted of or have pleaded guilty to crime in the courts of the state or of the United States, and who have been duly sentenced and removed thereto, shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said reformatory. The head of the reformatory shall be a woman and be called the superintendent. (R. S. c. 23, § 51. 1959, c. 342, § 3.)

Effect of amendment.—The 1959 amendment added the words "who have been adjudicated juvenile offenders, or" after the words "40 years" and before the word "who" near the beginning of the first sentence. It also added the words "and detained" after the word "imprisoned" and before the word "in" near the end of the first sentence.

Sec. 54. Commitment; length of sentence; woman attendant in serving mittimus.—When, before any court having jurisdiction, a woman over the age of 16 years and under the age of 40 years is adjudicated a juvenile offender or is convicted of an offense punishable by imprisonment in the state prison, or in the county jail, or in any house of correction, such court may order her com-

mitment to the reformatory for women, or sentence her to the punishment provided by law for the same offense.

When a woman is sentenced to the reformatory for women the court imposing the sentence shall not fix the term of commitment to the reformatory. The duration of the commitment, including time spent on parole, may not exceed 3 years. Upon commitment of such woman, if the officer to whom the mittimus or order of commitment is addressed is not a woman, the judge shall in all cases when feasible designate a woman to be an attendant to accompany her to said reformatory. (R. S. c. 23, § 53. 1957, c. 387, § 5. 1959, c. 342, § 4. 1963, c. 402, § 42.)

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

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

The 1963 amendment deleted "or trial justice" following "court" near the beginning of the first paragraph, deleted "or justice" following "court" near the end of that paragraph and deleted "or trial justice" following "judge" in the last sentence of the second paragraph.

Application of 1963 act.—See note to § 7-B.

Sec. 58. Care of children of women committed.—If any woman committed to said reformatory is, at the time of her commitment, pregnant with child which shall be born after such commitment, the department may commit such child to the care and custody of some relative or proper person willing to assume such care, or such child may be committed to the custody of the department of health and welfare under chapter 25, section 249. If such woman, at the time of such commitment, shall be the mother of and have under her exclusive care, any child, which might be otherwise left without proper care or guardianship, the magistrate committing such woman shall cause such child to be committed to such asylum as may be provided by law for such purposes, or to the care and custody of some relative or proper person willing to assume such care or to the custody of the department of health and welfare. Any commitment of a child under this section to the custody of any asylum for children or to any relative or other person, or to the department of health and welfare shall be subject to the provisions of chapter 25, sections 250 to 252. (R. S. c. 23, § 57. 1959, c. 60.)

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

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

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

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

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

Effect of amendment. — The 1957 amendment deleted a former reference to 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.

Sec. 64. Incorrigible inmates; trial and sentence; discharge from reformatory.—Any person committed to the reformatory for women whose presence therein may be seriously detrimental to the well-being of the institution or who willfully and persistently refuses to obey the rules and regulations of said institution, may be deemed and declared an incorrigible. When complaint is made to the proper officer of the district court having jurisdiction, said court may upon hearing bind over any person so accused to the term of the superior court next to be holden within such county, and if indictment is returned therefor, then, upon conviction, said incorrigible may be sentenced to the state prison for not less than one year, nor more than 5 years. Upon conviction as such incorrigible and sentence as above provided, said person shall be discharged from said reformatory and be relieved from serving the balance of sentence in said reformatory. (R. S. c. 23, § 63. 1963, c. 402, § 43.)

Effect of amendment.—The 1963 amendment substituted "the proper officer of the district court" for "any judge of any municipal court" near the beginning of the second sentence and substituted "said court" for "he" in such sentence.

Application of 1963 act.—See note to § 7-B.

Sec. 65. Transfer to reformatory from other penal institutions. — Upon petition of the department asking for the transfer to the reformatory for women of any woman serving sentence in any county jail or in any house of correction, presented to the court having imposed sentence, the judge shall set a time for hearing, giving at least 48 hours' notice to said woman, and shall notify the custodian of said woman to bring said woman before him for hearing. After hearing, said judge may order said woman transferred to the reformatory for women to serve the remainder of the term of sentence under which said woman was committed to the county jail or house of correction. The provisions of this chapter in regard to original commitments to the reformatory shall apply to any transfer under the provisions of this section, but in no case shall the time of sentence to be served in the reformatory exceed the remaining time of the sentence originally imposed. A woman transferred under the provisions of this section shall be subject to the provisions of this chapter relating to the reformatory and to the same rules and regulations as inmates originally committed to the reformatory. (R. S. c. 23, § 64. 1963, c. 402, § 44.)

Effect of amendment.—The 1963 amendment deleted "or trial justice" following "court" in the first sentence, deleted "or magistrate" following "judge" in that sentence and deleted "or said magistrate" following "judge" in the second sentence.

Application of 1963 act.—See note to § 7-B.

Reformatory for Men.

Sec. 66. Reformatory for men.—The state shall maintain a reformatory in which all males over the age of 16 years, except as provided in chapter 152-A, section 33, and under the age of 36 years who have been adjudicated juvenile offenders, or who have been convicted of or have pleaded guilty to crime in the courts of this state or of the United States, and who have been duly sentenced and removed thereto, shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said reformatory. The provisions for the safekeeping or employment of such inmates shall be made for the purpose of teaching such inmates a useful trade or profession, and improving their mental and moral condition.

The head of the institution shall be called the superintendent. (R. S. c. 23, § 65. 1955, c. 318, § 1. 1959, c. 342, § 5.)

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

The 1959 amendment substituted the words "chapter 152-A, section 33" for the words "section 80", and added the words

"who have been adjudicated juvenile offenders, or" after the words "36 years" and before the words "who" in the first sentence.

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

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

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

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

Sec. 67. Commitments for less than 3 years; to be of indeterminate duration.—When, before any court having jurisdiction, a male over the age of 16 years and under the age of 36 years is adjudicated a juvenile offender, or is convicted of any offense punishable by imprisonment in the state prison, or in any county jail or in any house of correction, such court may order his commitment to the reformatory for men, or sentence him to any other punishment provided by law for the same offense. Any such person known by the court 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 ordering the commitment shall not prescribe the limit thereof, but no male committed to the reformatory shall be held for more than 3 years.

If through oversight, or otherwise, any person be committed to imprisonment in the said reformatory for men for a definite period of time, said commitment for that reason shall not be void; but the person so committed shall be entitled to the benefit, and subject to the provisions of this section, in the same manner and to the same extent as if the commitment had been in the terms required by this section. In such case the superintendent of the reformatory shall deliver to such offender a copy of sections 66 to 75, inclusive. (R. S. c. 23, § 66. 1951, c. 84, § 2. 1955, c. 318, § 2. 1959, c. 342, § 6. 1963, c. 402, § 45.)

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

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

The 1963 amendment deleted "or trial justice" following "court" wherever the latter appears in the first paragraph.

Application of 1963 act.—See note to § 7-B.

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

Cited in Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Sec. 68. Court to notify superintendent of commitments and to furnish copy of record with warrant.—The judge making a commitment pursuant to section 67 shall cause the superintendent of the reformatory to be notified immediately of such commitment and shall cause a record to be kept of the name, age, birthplace, occupation, previous commitments, if any, and for what offense, the last residence of such person so committed and the particulars of the offense for which he is committed. A copy of such record shall be transmitted with the warrant of commitment to the superintendent of such reformatory, who

shall cause the facts stated therein and such other facts as may be directed by the department to be recorded in such form as the department may direct. (R. S. c. 23, § 67. 1963, c. 402, § 46.)

Effect of amendment.—The 1963 amendment deleted "or trial justice" following "judge" near the beginning of the first sentence and deleted "the provisions of" preceding "section 67" in that sentence.

Application of 1963 act.—See note to § 7-B.

Sec. 69. Court to determine age of person committed.—Such judge shall, before committing any such person, inquire into and determine the age of such person at the time of commitment, and his age so determined shall be stated in the mittimus. The statement as to the age of said person so committed shall be conclusive evidence as to such age in any action to recover damages for his detention or imprisonment under such mittimus, and shall be presumptive evidence thereof in any other inquiry, action or proceeding relating to such detention or imprisonment. (R. S. c. 23, § 68. 1963, c. 402, § 47.)

Effect of amendment.—The 1963 amendment deleted "or trial justice" following "judge" near the beginning of the first sentence.

Application of 1963 act.—See note to § 7-B.

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

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

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

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

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

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

Sec. 73. Escapes; apprehension; assaults.

Whenever any inmate of said reformatory escapes therefrom, or forcibly attempts to do so or assaults any officer or other person in the government thereof, the superintendent may certify that fact on the original mittimus, with recommendation that said person be transferred to the state prison and present it to the commissioner for his approval. Upon approval of said recommendation by the commission, said inmate shall be transferred from the reformatory to the state prison, where he shall serve the remainder of the term for which he might otherwise be held at said reformatory, or he may be punished by imprisonment in the state prison for any term of years. Prosecution under the provisions of this section may be instituted in any county in which said person may be arrested or in the county of Cumberland but in such cases the cost and expenses of trial shall be paid by the county from which said person was originally committed, and payment enforced as provided in the following paragraph.

(1963, c. 414, § 6.)

Effect of amendment.—The 1963 amendment deleted "at the discretion of the court" following "said reformatory, or" in the second sentence of the second paragraph.

As the rest of the section was not af-

fected by the amendment, it is not set out.

History of section.—See Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Section presents choice of procedural action.—By this section the legislature intended to substitute for the old theory of discretionary choice of sentence vested in the court, a new theory of choice of procedural action, to be exercised by the institutional authorities. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Under this section the authorities may determine that nothing more than the need for greater custodial security is involved and may effect a transfer of the inmate to a maximum security institution, and alternatively, the authorities, or in an appropriate case the victim of an assault, may elect to prosecute the offending inmate for his escape, forcible attempt or assault as the case may be. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

It eliminates possibility of new sentence to reformatory for an additional term. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

"May be punished."—The words "may be punished" in this section have precisely the same meaning that would be given to the more usual phrase "shall be punished." Duncan v. State, 158 Me. 265, 183 A. (2d) 209; cert. den., 368 U. S. 842, 82 S. Ct. 70, 7 L. Ed. (2d) 41.

Mere transfer for security reasons requires no new conviction.—A mere transfer by the authorities for custodial security reasons involves no necessity for a new conviction or a new sentence. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

The administrative transfer, for security reasons, of a prisoner from the reformatory for men to the state prison which does not involve a change in or enlargement of the sentence, does not require new or additional court proceedings. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

And the inmate after transfer is still serving his original sentence to the reformatory for men with no enlargement thereof. He is in custody at the prison only because it has security facilities not available at the reformatory. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

In the absence of any prosecution therefor, an inmate transferred under this section would continue serving his original sentence to the reformatory for men without change or enlargement of that sentence. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Effect of transfer on parole.—A prisoner administratively transferred, for security reasons, from the reformatory for men to the state prison, and whose sentence has not been changed or enlarged, retains the same right to consideration for parole which would obtain if he were in custody at the reformatory, although the conduct which led to his transfer would be a proper factor for consideration in determining whether or not parole should be granted. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Validity of discretionary power. — The legislature acted within its competence in assigning to the superintendent and the commissioner a discretionary power of transfer of custody for security reasons when the original judgment and sentence are in no way changed or affected. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Section contrasted with § 75.—Incorrigibility as defined in § 75 of this chapter is in sharp contrast to the conduct which may give rise to administrative transfer under this section. This section deals with three specific acts, any one of which is an offense which might be the subject of a new prosecution, a new conviction and a new sentence. Each is serious in nature and is deemed by the legislature a sufficient ground for custodial transfer on approval by the commissioner alone. Whenever the superintendent is satisfied that any one of these specific acts has occurred, the assessment of the general conduct of the inmate is not involved. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

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

Sec. 75. Incorrigible inmates; proceedings for transfer to state prison. — Any person committed to the reformatory for men whose presence therein may be seriously detrimental to the well-being of the institution or who willfully and persistently refuses to obey the rules and regulations of said institution, may be deemed and declared incorrigible by the superintendent of said reformatory who may certify that fact upon the original mittimus with recommendation that said person be transferred to the state prison and present said recommendation to a board of transfer set up within the department of institutional service. This board shall consist of the commissioner, the warden of the state prison and the superintendent of the Augusta state hospital. Such recommendation to be-

come effective must have the unanimous approval of the board to transfer and in such event shall take place forthwith. Any person so transferred shall serve the remainder of the term he might otherwise have been held at the reformatory or upon complaint being made to the proper officer of the district court having jurisdiction, said court upon hearing may bind over any person so accused to the term of the superior court next to be holden within such county, and if indictment is returned therefor, then upon conviction said incorrigible may be sentenced to the state prison for not less than one year nor more than 5 years. Upon conviction of such person committed to the reformatory for men as such incorrigible and sentence as above provided, said person shall be discharged from said reformatory for men and be relieved from serving the balance of his sentence in said reformatory. The provisions of this section, as they relate to the board of transfer and its powers, shall apply only to those persons committed to the reformatory for men for a felony. (R. S. c. 23, § 73. 1951, c. 100. 1963, c. 402, § 48.)

Effect of amendment. — Prior to the 1963 amendment, the language between "made to" and "bind over" in the fourth sentence was "any judge of any municipal court in the county, he may upon hearing."

Application of 1963 act.—See note to § 7-B.

This section deals with inmates of the reformatory termed "incorrigible." Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Where a petitioner is not transferred as incorrigible, the provisions of this section have no application. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

It supplies its own definition of incorrigibility. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

And it deals with a course of conduct which may not involve any single instance of commission of a separate punishable crime. It is the total effect of such conduct which must be assessed by the board of transfer and it is for this reason that great care must be exercised and unanimous approval obtained from a board which does not include the superintendent of the reformatory. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Incorrigibility itself is made a crime by this section. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

But independent sentence to prison therefor requires court action and conviction.—An independent additional sentence for incorrigibility to the state prison can only result from a new court action and conviction. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

This section specifically prohibits the transfer of an inmate as "incorrigible" unless he was originally convicted of a felony. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Or unless he is convicted for incorrigibility and sentenced anew. — Under this section one originally sentenced for a misdemeanor could not be transferred to the prison as incorrigible, but could be confined there only upon a new conviction for incorrigibility and a new sentence. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Original sentence unchanged in absence of prosecution. — In the absence of any prosecution, the incorrigible inmate transferred under this section would continue serving his original sentence to the reformatory without change in or enlargement of that sentence. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

The function of the board of transfer is to assess the total effect of the prisoner's conduct. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Section contrasted with § 73.—Incorrigibility as defined in this section is in sharp contrast to the conduct which may give rise to administrative transfer under § 73 of this chapter. The latter section deals with three specific acts, any one of which is an offense which might be the subject of a new prosecution, a new conviction and a new sentence. Each is serious in nature and is deemed by the legislature a sufficient ground for custodial transfer on approval by the commissioner alone. Whenever the superintendent is satisfied that any one of these specific acts has occurred, the assessment of the general conduct of the inmate is not involved. Green v. Robbins, 158 Me. 9, 176 A. (2d) 743.

Juvenile Institutions.

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

State School for Boys.

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

State School for Girls.

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

Bureau of Mental Health.

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

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

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

It shall be the duty of the director to carry out the purposes of the bureau and, in the event of vacancy in the office of the commissioner or during his absence or disability, the director shall perform such duties and have the same powers as provided by law for the commissioner. (1959, c. 360, § 1. 1961, c. 304, § 11.)

Effect of amendment.—The 1961 amendment added all of the second paragraph following "bureau".

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

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

Hospitals for the Mentally Ill.

Sec. 96. Duties and powers of the superintendent.—The head of each hospital shall be called the superintendent and shall be a qualified psychiatrist. He shall have general superintendence of the hospital and grounds under the direction of the department; and shall receive all patients in need of special care and treatment, legally sent to the hospital, that the accommodations permit, subject to the regulations of the department. (R. S. c. 23, § 96. 1947, c. 192, § 1. 1961, c. 304, §§ 12, 13; c. 317, § 44; c. 417, § 74. 1963, c. 94.)

Effect of amendments. — Chapter 304, P. L. 1961, substituted "qualified psychiatrist" for "physician" in the first sentence and deleted the second paragraph. Chapter 317, P. L. 1961, made changes in the former second paragraph. Chapter 417, P. L. 1961, gave effect to the repeal made by the first 1961 amendment.

The 1963 amendment deleted "reside constantly at the hospital and" after "He shall" at the beginning of the second sentence of the first paragraph.

Secs. 98-99. Repealed by Public Laws 1961, c. 304, § 14.

Secs. 100-102. Repealed by Public Laws 1961, c. 303, § 6.

Sec. 102-A. Repealed by Public Laws 1959, c. 189, § 1.

Editor's note. — The repealed section, which derived from P. L. 1957, c. 207, related to the admittance of children between 8 and 16 years of age.

Commitment of the Mentally Ill.

Sec. 103. Repealed by Public Laws 1959, c. 189, § 2; 1961, c. 303, § 6.

Sec. 104-109. Repealed by Public Laws 1961, c. 303, § 6.

Secs. 110-111. Repealed by Public Laws 1961, c. 303, § 6.

Editor's note. — Prior to their repeal, these sections had been amended by P. L. 1959, c. 378, §§ 23 and 24. Section 25 of c. 378 made §§ 23 and 24 effective September 1, 1960.

Secs. 112-113. Repealed by Public Laws 1961, c. 303, § 6.

Sec. 113-A. Repealed by Public Laws 1961, c. 303, § 6.

Editor's note. — The repealed section, which derived from P. L. 1957, c. 195, required certificate of commitment to be delivered in 10 days.

Sec. 114. Repealed by Public Laws 1961, c. 303, § 6.

Sec. 115. Repealed by Public Laws 1961, c. 303, § 6; c. 417, § 75.

Editor's note.—The repealed section was also amended in 1961 by P. L. 1961, c. 304, §§ 15 and 16.

Secs. 116-117. Repealed by Public Laws 1961, c. 303, § 6.

Disposal of Insane Criminals.

Sec. 118. Repealed by Public Laws 1963, c. 311, § 1.

Editor's Note.—The repealed section was also amended in 1963 by P. L. 1963, c. 402, § 49.

Secs. 119-120. Repealed by Public Laws 1963, c. 311, § 1.

Sec. 121. Repealed by Public Laws 1961, c. 304, § 17.

Sec. 122. Repealed by Public Laws 1963, c. 266, § 1.

Editor's Note.—The repealed section was amended in 1961 by P. L. 1961, c. 417, § 76, P. L. 1961, c. 304, § 18, and P. L. 1961, c. 297, and in 1963 by P. L. 1963, c. 402, § 50.

Sec. 122-A. Convict or person detained alleged to be mentally ill; prehearing procedure.—When, in the opinion of the sheriff or the keeper of a county jail any convict in such jail or any convict whose sentence has expired and is there detained has become mentally ill, he shall apply in writing giving his reasons therefor, to the district court having territorial jurisdiction, for a judicial determination of the mental condition and need for care and treatment in a mental hospital of the convict or person detained, and shall accompany such application, with the certification of a licensed physician that he has examined the convict or person detained, and that in his opinion such person is mentally ill and is in need of care or treatment in a mental hospital.

Upon receipt of such application and certificate, the court shall appoint 2 licensed physicians to examine the proposed patient and report to the court their findings as to the mental condition of such person, and his need for care or treatment in a mental hospital.

If the report of the licensed physicians is to the effect that the individual ex-

amined is not mentally ill the court shall, without taking further action, terminate the proceedings and dismiss the application, otherwise it shall forthwith fix a date and time for a hearing and shall, not less than 24 hours from the date set for hearing, give notice thereof to the proposed patient, informing him that he has a right and will be given an opportunity to appear and be heard in the matter and shall also give notice of hearing in hand or by certified mail to the legal guardian, spouse, parent or adult next of kin of the proposed patient, if any such person exists and his whereabouts is known. (1963, c. 266, § 2.)

Sec. 122-B. Procedure at hearing.—If counsel to represent the proposed patient is not provided by him or by any person on his behalf the court shall appoint counsel to represent the proposed patient at the hearing. The hearing shall be private, unless otherwise requested by the proposed patient, and shall be conducted in a setting not likely to be harmful to the mental health of the proposed patient and shall be conducted in as informal a manner as shall be consistent with orderly procedure. The court shall hear the testimony of the 2 appointed licensed physicians and shall receive all other relevant and material evidence that may be offered.

If, upon completion of the hearing and consideration of the record, the court finds that the proposed patient is mentally ill and because of his mental illness is in need of care or treatment in a mental hospital, it shall order that he be committed to and received into either hospital for the mentally ill for custody, care and treatment, otherwise it shall dismiss the proceedings.

In every instance of commitment of a convict under this section, the court shall certify to the head of the admitting hospital on the commitment order the expiration date of the convict's sentence, and in every instance of commitment of a person detained, the court shall certify to the head of the admitting hospital on the commitment order, the existence, if known, of any criminal action which may be pending against him. (1963, c. 266, § 2.)

Sec. 123. Repealed by Public Laws 1963, c. 266, § 1.

Editor's note. — The repealed section, which related to a hearing, was amended in 1961 by P. L. 1961, c. 304, § 19.

Sec. 124. Repealed by Public Laws 1963, c. 266, § 1.

Editor's note. — The repealed section, which related to commitment, was amended in 1961 by P. L. 1961, c. 417, § 77; P. L. 1961, c. 304, § 20; and P. L. 1961, c. 303, § 8.

Sec. 125. Persons recovering before expiration of sentence. — If a person so committed as mentally ill is discharged from such commitment before the expiration of the term of the sentence on which he was originally committed, he shall be returned to the jail in which he was serving his original sentence, and shall be there detained until the time when his original sentence would have expired.

In the event that a convict so committed is hospitalized beyond the expiration date of his original sentence, his release and discharge shall be controlled by provisions of this chapter applicable to persons committed by the probate court. In the event that a person detained is so committed, and has not been certified to have any criminal action pending against him, his release and discharge shall be controlled by provisions of this chapter applicable to persons committed by the probate court. (R. S. c. 23, § 126. 1961, c. 304, § 21. 1963, c. 266, § 3.)

Effect of amendments. — The 1961 amendment deleted "prison or" preceding "jail" in the first sentence.

The 1963 amendment substituted "mentally ill" for "insane" and deleted "restored or" before "discharged" near the beginning of the first sentence and added the second paragraph.

Sec. 126. Costs and expenses; attorneys' and physicians' compensation.—All the costs and reasonable expenses incident to any such hearing, in-

cluding the compensation of any court appointed attorney and licensed physician rendering services under section 122-A or 122-B shall be paid, on approval by the court, by the county wherein the convict or person detained was convicted. (R. S. c. 23, § 127. 1961, c. 266; c. 304, § 22; c. 417, § 78. 1963, c. 266, § 4.)

Effect of amendments.—Chapter 266, P. L. 1961, increased the fee in the former first sentence. Chapter 304, P. L. 1961, made deletions in the former second sentence. P. L. 1961, c. 417, § 78, reenacted the section as previously amended in 1961 without change.

The 1963 amendment deleted the former first sentence and rewrote the former second sentence which now comprises the section.

Sec. 128. District court judges may hold court in towns where prison or jails are located.—The judge of the district court to which application is made by any jailer may hold his court for the purposes provided in the town where such jail is located. (R. S. c. 23, § 129. 1961, c. 304, § 23. 1963, c. 402, § 51.)

Effect of amendments. — The 1961 amendment deleted at the beginning of this section provisions authorizing the judge of the municipal court of Rockland to hold court in Thomaston.

The 1963 amendment substituted "the district court" for "any municipal court" near the beginning of the section and deleted "and which court is located in a town other than that in which the jail is situated and which is within the same county" formerly following "jailer."

Application of 1963 act.—See note to § 7-B.

Sec. 129. Commitment of persons insane when motion for sentence is made; proceedings if insane at expiration of term of commitment; support.—If a person convicted of any crime, in the superior court, is found by the judge of such court to be insane when motion for sentence is made, the court may cause such person to be committed to the department for the criminal insane at the Augusta state hospital under such limitations as the court may direct; provided that the crime of which such person is convicted is punishable by imprisonment in the state prison; otherwise such commitment shall be to one of the insane hospitals; if at the expiration of the period of commitment to the department for the criminal insane at the Augusta state hospital such person has not become of sound mind in the opinion of the suprintendent of the Augusta state hospital, he shall be removed to one of the insane hospitals. Persons committed by a justice of the superior court before final conviction, or after conviction and before sentence, whether originally committed or subsequently removed thereto, and insane convicts after the expiration of their sentences, shall be supported while in the hospital for the mentally ill in the manner provided by law. (R. S. c. 23, § 130. 1961, c. 303, § 9.)

Effect of amendment.—The 1961 amendment substituted "hospital for the mentally ill" for "insane hospital" in the last sentence and eliminated "in the case of persons committed by municipal officers, and the provisions of sections 137 to 139, inclusive, shall apply to such cases" at the end of that sentence.

Recommitment of Patients.

Secs. 131-133. Repealed by Public Laws 1961, c. 303, § 10; c. 304, § 24.

Sec. 134. Repealed by Public Laws 1961, c. 303, § 10.

Expenses of Commitment and Support.

Sec. 135. Repealed by Public Laws 1961, c. 407, § 1.

Editor's note.—The repealed section was also amended in 1961 by P. L. 1961, c. 304, § 25.

Effective date.—The 1961 act repealing this section became effective on its approval, December 1, 1961.

Sec. 135-A. Expenses of examination and commitment.—

I. Department chargeable in first instance. The probate court conducting proceedings for the involuntary judicial hospitalization of an individual under sections 175, 185 and 186 shall order that the department of mental health and corrections be charged in the first instance for any expenses of examination, fees incident to giving notice, fees of attorneys when court appointed, and other proper fees and charges when hospitalization is not ordered and, when hospitalization is ordered, for any expenses of examination and commitment, including fees of attorneys, when court appointed, and fees of charges for notice when served in hand or by certified mail. The department, after being made chargeable in the first instance for such expenses, shall recover amounts paid under this section from the proposed patient if able to pay, or from persons legally liable for his support under section 135-C, subsection II if able to pay or from the town of legal settlement of the proposed patient as if incurred for the expenses of a pauper. No proposed patient under sections 175, 185 and 186 shall suffer any of the disabilities of pauperism or be deemed a pauper by reason of his inability to pay any of such expenses of examination or commitment.

II. Determination of settlement. If the department of mental health and corrections shall determine that neither the proposed patient nor any person liable for support under section 135-C, subsection II is able to pay expenses of examination and commitment it shall certify that fact to the department of health and welfare, which department shall determine whether the proposed patient has a legal settlement within the state. If it is determined that the proposed patient has a legal settlement within the state, the department of mental health and corrections shall seek reimbursement from the municipality of legal settlement. If it is determined that there is no legal settlement within the state, the department of health and welfare shall reimburse the department of mental health and corrections for expenditures made under subsection I.

III. Fees for transportation. In instances of indorsement on the certificate of the licensed physicians by the district court or by a complaint justice, under section 173 or 174, for the purpose of authorizing a health or police officer to transport a patient to a hospital, fees for such transportation shall be charged in the first instance to the department of mental health and corrections. Any fee so charged shall be first approved in writing by the district court or by a complaint justice. Reimbursement shall be sought for such expenditures as in cases of expenses incurred in probate court commitment proceedings. (1961, c. 407, § 2. 1963, c. 103.)

Effect of amendment.—The 1963 amendment rewrote this section, which was added by P. L. 1961, c. 407, § 2, and split it into three subsections.

Effective date. — The 1961 act adding this section became effective on its approval, December 1, 1961.

Sec. 135-B. Revolving fund.—There is reappropriated to the department of mental health and corrections the unexpended balance of "Working Capital Reserve for Institutional Farms," Account #6397. Said sum so reappropriated shall be a revolving fund for the use of said department in carrying out the terms and purposes of section 135-A. This section shall remain effective until repealed by the legislature at which time the sum reappropriated by this section shall be repaid into the general fund. (1961, c. 407, § 2.)

Effective date. — The 1961 act adding this section became effective on its approval, December 1, 1961.

Sec. 135-C. Support at state institutions.—

I. Department to fix rate. The department shall fix rates for the support of patients at the Augusta state hospital, Bangor state hospital and the Pineland hospital and training center.

II. Persons liable for support. No bills shall be rendered under this section until the investigation has been made as provided for herein. Each patient and the spouse, child and parent, if the patient was wholly or partially dependent for support upon such parent at the time of admittance, shall be legally liable from the date of admittance for the support of such person committed or otherwise legally admitted to either state hospital for the mentally ill or to the Pineland hospital and training center, in accordance with his ability to pay. No patient or other person legally liable for support shall be charged therefor, if his estate is valued in the aggregate at less than $400. If the estate of a patient or other person legally liable for support is valued at less than $400, at the time of the admittance of the patient, but increases in value to exceed such figure during the period of hospitalization, charges for support, if levied, shall be as of the date of the determination that the patient or person legally liable for support is able to pay.

III. Determination of ability to pay. The department shall, following the admittance of a patient, into either of the state hospitals for the mentally ill or into the Pineland hospital and training center, cause an investigation to be made to determine the property, real and personal, and interests in property, if any, the patient has. The department shall also make an investigation to determine whether there exist any persons responsible under subsection II for the payment of charges for his support. It shall ascertain the financial condition of any such person and shall determine whether in each case such person is in fact, financially able to pay such charges.

In determining ability to pay in each case the department shall consider among other items the following expenses and obiligations: Special employment expenses; education expenses of the children of the patient or of any person legally liable for support under this section; medical and hospital obligations, if being liquidated; shelter expenses in excess of ¼ of the gross income of the liable person minus federal income tax and any mandatory retirement deductions; accrued and unpaid obligations under a court order; debts currently being liquidated, if contracted prior to the date of admittance of the patient or contracted involuntarily, subsequent to such date; and the number and condition of others dependent upon him; and shall also consider any payments which may become due and payable to the patient or the patient's estate by reason of any social security, workmen's compensation, veterans administration or other like benefits, or from any policy of insurance covering such patient.

IV. Statement forms to be completed by persons liable for support. The commissioner shall prescribe financial statement forms which shall be completed by any person legally liable for support under this section. Such statement shall be sworn to by such liable person and shall be returned to the department within 30 days from the date of mailing or presentation if in hand. Should such person fail to return such statement to the department properly completed within 30 days, the department shall send another statement form by certified mail, return receipt requested and if the statement is not then returned completed within 30 days of mailing such liable person shall be assessed $5 for each week or part thereof, in excess of the latter 30-day period that the statement is overdue. Penalties incurred under this subsection shall be collected in the same manner as are charges for support under this section. Penalties collected under this subsection shall be paid into the general fund. A copy of this subsection shall appear in boldfaced type on the first page of each statement form.

V. Amount of charges; claims against estates. The department may charge less than the maximum rate fixed under subsection I but shall not in any case charge more than the fixed maximum rate. The department may enter into an agreement for support with any person legally liable for support under this section, under which agreement the department may postpone billing for

support for any period of time. The state of Maine shall have a claim against the estate of any patient and against the estate of any person legally liable for support under this section, for any amount due and owing to the state of Maine at the date of death of such patient or such person, according to the books of account of the department, including any claim arising under an agreement entered into under this section, enforceable in the probate court. Such claim shall have priority over all unsecured claims against such estate, except:

A. Administrative expenses, including probate fees and taxes;

B. Expenses of the last sickness;

C. Funeral expenses, not exceeding $400, exclusive of clergymen's honorarium and cemetery expenses;

D. Claims filed against such estate under chapter 25, sections 295, 313 and 319-Q.

The attorney general shall collect any claim which the state may have hereunder against such estate. Provided that no such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the patient or person legally liable for support under this section and said spouse does not marry again.

VI. Debt to state. Charges made under this section shall be a debt of the patient or of any person legally liable for support under this section, recoverable in any court of competent jurisdiction in a civil action, in the name of the state of Maine.

VII. Military and naval children's home. This section shall be applicable to the support of children admitted to the military and naval children's home. (1963, c. 19, § 2.)

Secs. 136-138. Repealed by Public Laws 1961, c. 407, § 1.

Effective date.—The 1961 act repealing these sections became effective on its approval, December 1, 1961.

Sec. 139. Repealed by Public Laws 1961, c. 303, § 10; c. 304, § 26.

Discharge of Patients.

Sec. 140. Repealed by Public Laws 1961, c. 303, § 10; c. 304, § 26; c. 417, § 79.

Editor's note.—The repealed section was also amended in 1961 by P. L. 1961, c. 317, § 45.

Sec. 141. Repealed by Public Laws 1961, c. 303, § 10; c. 417, § 80.

Editor's note.—The repealed section was also amended in 1961 by P. L. 1961, c. 304, § 27.

Sec. 142. Repealed by Public Laws 1961, c. 303, § 10.

Community Mental Health Services.

Sec. 142-A. Purpose.—The purpose of sections 142-A to 142-F is to expand community mental health services; to encourage participation in such a program by persons in local communities; to obtain better understanding of the need of such services and to secure aid for the program by state aid and local financial support. (1961, c. 391, § 1.)

Editor's note.—P. L. 1961, c. 391, adding §§ 142-A to 142-F to this chapter, appropriated in § 2 the sums of $75,000 for the fiscal year ending June 30, 1962, and $75,000 for the fiscal year ending June 30, 1963, to carry out the provisions of the act, and provided that unexpended balances shall not lapse until June 30, 1963.

Sec. 142-B. Powers.—The department of mental health and corrections may provide mental health services throughout the state, and for that purpose may cooperate with other state agencies, municipalities, persons and nonprofit corporations. The department of mental health and corrections shall adopt and promulgate rules and regulations relating to the administration of the services authorized by sections 142-A to 142-F. Under sections 142-A to 142-F, funds will be granted by the commissioner only to those organizations whose programs provide for adequate standards of professional service. The department of mental health and corrections may receive and use for the purpose of sections 142-A to 142-F money appropriated by the state and grants by the United States government and gifts from individuals. (1961, c. 391, § 1.)

Sec. 142-C. Municipalities and other governmental units. — A municipality or other governmental unit, such as a county, school district, health district, etc., through its local board of health or other town or governmental agency approved by the department of mental health and corrections, is authorized to adopt and carry out a program of mental health services established or approved by the department of mental health and corrections and appropriate money for that purpose. A municipality or other governmental unit may join with another municipality or governmental unit to carry out such a program. (1961, c. 391, § 1.)

Sec. 142-D. State aid.—Upon application to the department of mental health and corrections by such municipality, governmental unit or by a nonprofit corporation organized for the improving of community health and welfare, the department of mental health and corrections may grant to the municipality, governmental unit or nonprofit organization money to be used for carrying out its mental health services. (1961, c. 391, § 1.)

Sec. 142-E. Amount.—Such grant of money shall not exceed in any single year ½ of the operating expenses incurred by the municipality, governmental unit or nonprofit corporation receiving the grant after deducting from said expense the fees, if any, received for the services rendered. Consideration shall be given to the ability of the municipality or governmental unit to support the mental health services, as reflected by the state's evaluation of the component communities. For nonprofit corporations, all income and resources shall be taken into account. (1961, c. 391, § 1.)

Sec. 142-F. Fees.—The program authorized by the department of mental health and corrections may include the providing of services by said department or the municipality, governmental unit or nonprofit corporation directly to individuals, for which a fee may be charged if the individual is financially able to pay the same. Fees received by the department of mental health and corrections shall credit to the general fund. Fees received by the municipality, governmental unit or nonprofit corporation are appropriated to each for use in carrying out its duties under sections 142-A to 142-F. (1961, c. 391, § 1.)

Pineland Hospital and Training Center.

Sec. 143. Repealed by Public Laws 1963, c. 351, § 1.

Cross reference.—For present provisions as to Pineland hospital and training center, see c. 27, §§ 144-A to 144-H.

Editor's note.—The repealed section was amended in 1957 by P. L. 1957, c. 21, § 1, in 1959 by P. L. 1959, c. 189, § 4, and in 1961 by P. L. 1961, c. 304, § 28.

Secs. 143-A to 143-C. Repealed by Public Laws 1963, c. 351, § 2.

Cross reference.—For present provisions as to Pineland hospital and training center, see chapter, 27, §§ 144-A to 144-H.

Editor's note. — The repealed sections,

which related to Pineland hospital and training center, derived from P. L. 1959, c. 189, § 5. Section 143-A was amended by P. L. 1961, c. 304, § 29. Section 143-C was amended by P. L. 1961, c. 417, § 81.

Sec. 144. Repealed by Public Laws 1961, c. 304, § 30.

Sec. 144-A. Purposes.—Pineland hospital and training center, heretofore established at New Gloucester in the county of Cumberland, shall be maintained for the training, education, treatment and care of persons who are mentally retarded and of persons who are between the ages of 6 and 16, except as provided in section 144-E, who are mentally ill.

The head of the Pineland hospital and training center shall be called the superintendent and shall be a qualified psychiatrist or pediatrician. He shall be responsible for the training, education, treatment and care of all persons received into the Pineland hospital and training center; he shall be responsible for the release of all such persons, except those placed in the Pineland hospital and training center under chapter 149, section 17-A or 17-C, and shall have direct supervision, management and control of the grounds, buildings and property and officers and employees of the Pineland hospital and training center, subject to the approval of the department. (1963 c. 351, § 7.)

Sec. 144-B. Admittance and commitment procedures.—The superintendent of the Pineland hospital and training center, subject, except in the case of emergency admittance, to the availability of suitable accommodations and in the order of priority determined by the department, shall receive for observation, diagnosis, training, education, treatment or care any person whose admittance is applied for under any of the following procedures.

The words "proposed patient" as used in subsection III shall mean any person with respect to whom application is made for admittance to the Pineland hospital and training center for training, education, treatment or care under such section. The word "patient" as used in sections 144-D to 144-F shall mean any person received into Pineland hospital and training center for training, education, treatment or care.

I. Voluntary admittance.

A. Application. Application for voluntary admittance of any person to the Pineland hospital and training center shall be made to the department in writing by a parent, relative, spouse or guardian of the person, a health or public welfare officer, or the head of any institution in which such person may be; and

B. Certification. Certification by either a psychiatrist or a licensed physician and a certified psychologist that they have examined the person, and that in their opinion such person is mentally retarded or being between the ages of 6 and 16 is mentally ill and is in need of institutional care, such as is provided at the Pineland hospital and training center; except that, certification by psychologist shall not be required if the person, as determined by the department, is so severely retarded as to be untestable by formal methods.

II. Emergency admittance. Whenever it is made to appear to the superintendent of the Pineland hospital and training center that a person, a proper subject for the Pineland hospital and training center, is in need of immediate care and treatment and admittance is requested by a licensed physician with the approval of a parent, relative, spouse or guardian of the person, the person may be admitted solely on the basis thereof for a period not to exceed 15 days. A report of the circumstances of such emergency admission shall be made promptly to the department and if continuing care and treatment is indicated the regular admission procedures shall be initiated for voluntary admission without certification. During the pendency of said procedure the superintendent

may detain such patient at his institution, but in no event for a period longer than 30 days.

III. Admittance by order of probate court. Whenever it is made to appear that a person is a proper subject for Pineland hospital and training center and voluntary admittance cannot be accomplished, application may be made to the judge of probate, within whose jurisdiction the individual may be, by a friend, a licensed physician, a health or public welfare officer, or the head of any institution in which such person may be. Any such application shall be accompanied by a certificate of a psychiatrist or a licensed physician stating that he has examined the person and is of the opinion that the person is mentally retarded, or being between the ages of 6 and 16, is mentally ill and is a proper subject for Pineland hospital and training center, or a written statement by the applicant that the person has refused to submit to examination.

Upon receipt of an application the court shall give notice thereof in hand to the proposed patient, in hand or by certified mail to his legal guardian, if known, and to his spouse or a parent or one of his adult children, or if none of these persons exist or if their whereabouts are unknown, then to one of his next of kin or to a friend. If the court has reason to believe that notice would be likely to be injurious to the proposed patient, notice to him may be omitted.

As soon as practicable after notice of the commencement of proceedings is given or it is determined that notice should be omitted, the court shall appoint 2 licensed physicians, one of whom shall be a psychiatrist, or shall appoint a licensed physician and a certified psychologist to examine the proposed patient and report to the court their findings as to the mental condition of the proposed patient and his need for training, education, treatment or care at the Pineland hospital and training center.

The examination shall be held at a hospital or other medical facility, at the home of the proposed patient or at any other suitable place not likely to have a harmful effect on his health. A proposed patient to whom notice of the commencement of proceedings has been omitted shall not be required to submit to an examination against his will, and on the report of the appointed examiners of refusal to submit to an examination, the court shall give notice to the proposed patient as provided under this section and order him to submit to such examination.

If the report of the appointed examiners is to the effect that the proposed patient is not mentally retarded or mentally ill, the court may without taking any further action terminate the proceedings and dismiss the application; otherwise, it shall forthwith fix a date for and give notice of a hearing to be held not less than 5 nor more than 15 days from the receipt of the report.

Notice of the hearing shall be given at least 72 hours prior to the time of said hearing, in the same manner as is required for notice of receipt of application, to the person or persons receiving notice of receipt of application, to the applicant in hand or by certified mail, and to such other persons as the court may direct.

The proposed patient, the applicant and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses, and the court may in its discretion receive the testimony of any other persons. The proposed patient shall not be required to be present, and all persons not necessary for the conduct of the proceedings shall be excluded, except as the court may direct in its discretion. The court may order a public hearing upon the request of the patient or any member of his family. The hearings shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the proposed patient. The court shall receive all relevant and material evidence which may be offered. An opportunity to be represented by counsel shall be

afforded to every proposed patient, and if neither he nor others provide counsel, the court shall appoint counsel.

If, upon completion of the hearing and consideration of the record, the court finds that the proposed patient is mentally retarded or mentally ill, and because of his retardation or illness is in need of education, training, treatment or care at the Pineland hospital and training center, it shall order his commitment; otherwise it shall dismiss the proceedings.

Unless otherwise directed by the court, it shall be the responsibility of the sheriff of the county in which the probate court has jurisdiction to assure the carrying out of the order within such period as the court shall specify. The court is authorized to appoint a special commissioner who shall be a member of the bar of the state to assist in the conduct of commitment proceedings. In any case in which the court refers an applicant to the commissioner, the commissioner shall either recommend dismissal of the application or hold a hearing as provided in this section and make recommendations to the court regarding the commitment of the proposed patient.

The superintendent of the Pineland hospital and training center admitting a patient pursuant to proceedings under this section shall forthwith make a report of such admittance to the department. (1963, c. 351, § 7.)

Sec. 144-C. Writ of habeas corpus.—Any person detained pursuant to section 144-B, subsection I, II or III, shall be entitled to the writ of habeas corpus upon proper petition by his parent, spouse or any adult relative or friend to any justice generally empowered to issue the writ of habeas corpus in the county in which said person is detained. (1963, c. 351, § 7.)

Sec. 144-D. Conditional release of patients. — The superintendent of the Pineland hospital and training center may at his discretion, except in instances of placement in the Pineland hospital and training center under chapter 149, section 17-A or 17-C, release any patient for a definite or indefinite length of time to any responsible person under such conditions as the superintendent may specify, which release may at any time be revoked or extended; provided, however, that no such patient shall be allowed to leave the institution temporarily until an agreement has been procured by the superintendent from some responsible person or persons to provide such patient with proper care during his period of temporary absence from the institution. In the event that any such patient should fail to return to the institution at any time required by the superintendent, full power to retake and return such patient is expressly conferred upon the superintendent, whose written order shall be a sufficient warrant authorizing any officer named therein to return such patient to the institution. (1963, c. 351, § 7.)

Sec. 144-E. Mentally ill child reaching age 18.—No child received in the children's psychiatric unit of the Pineland hospital and training center shall be detained beyond his 18th birthday and if the mental condition of the child at that time is such that further hospital care is necessary because of mental illness, the superintendent of the Pineland hospital and training center shall cause application to be made for the admittance of said child to one of the hospitals for the mentally ill. (1963, c. 351, § 7.)

Sec. 144-F. Discharge of patients.—If any patient received under section 144-B, subsection I, II or III, is deemed by the superintendent of the Pineland hospital and training center not to be a proper person for further training, education, treatment or care in that institution, he shall be discharged. Notice of impending discharge shall be given to the person or agency initiating the original application within a reasonable length of time preceding actual discharge.

No patient received under section 144-B, subsection I or II, shall be detained for more than 10 days after the parent, guardian or person or agency having right to custody of such patient has filed with the superintendent a written re-

quest for discharge, except that, upon application to the probate court or a judge thereof, whether in session or in vacation, supported by a certification by the superintendent of the Pineland hospital and training center that in his opinion such release would be unsafe for the patient or for others, release may be postponed for such period not to exceed 10 days as the court or a judge thereof may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 144-B, subsection III.

The superintendent of the Pineland hospital and training center shall inform the legal guardian, spouse, parent, relative or a friend of any patient received under section 144-B, subsection I or II, in writing, on admittance, of the patient's right to release as provided in this section and shall provide reasonable arrangements for making and presenting requests for release. (1963, c. 351, § 7.)

Sec. 144-G. Petition for rehearing to determine need for continuing training, education, treatment or care.—Any person received pursuant to section 144-B, subsection III, shall be entitled to a rehearing to determine his need for continuing training, education, treatment or care on the petition of his legal guardian, spouse, parent or of a relative or friend to the probate court for the county from which such person was originally received.

Upon receipt of the petition the court shall conduct or cause to be conducted, by special commissioner, proceedings in accordance with section 144-B, subsection III, except that notice of receipt of application may be omitted. Such proceedings shall not be required to be conducted if the petition is filed less than 6 months after issuance of the original order of commitment or less than one year after the filing of a previous petition under this section. (1963, c. 351, § 7.)

Sec. 144-H. Expenses of examination and commitment.—The probate court conducting proceedings under section 144-B, subsection III, section 144-F or 144-G, shall order that the department of mental health and corrections be made chargeable in the first instance for expenses of examination and commitment as in cases covered by section 135-A, subsection I, and reimbursement shall be sought for such expenses in accordance with section 135-A, subsections I and II. (1963, c. 351, § 7.)

Sec. 145. Repealed by Public Laws 1963, c. 351, § 3.

Editor's note. — The repealed section, which related to commitment by the judge of probate, was amended in 1959 by P. L. 1959, c. 378, § 26.

Sec. 146. Repealed by Public Laws 1963, c. 351, § 4.

Sec. 146-A. Repealed by Public Laws 1963, c. 351, § 5.

Cross reference.—For present provisions as to Pineland hospital and training center, see c. 27, §§ 144-A to 144-H.

Editor's Note. — The repealed section, which related to voluntary admission to Pineland hospital and training center, derived from P. L. 1957, c. 315.

Sec. 147. Repealed by Public Laws 1963, c. 351, § 6.

Sterilization in Certain Cases.

Sec. 153. Appeal from order for sterilization.—Within 30 days of the issuance of any order of sterilization an appeal may be taken therefrom to the superior court by the inmate or his or her representative. Such appeal shall be filed and heard in the county where inmate was domiciled when committed. The proceedings in such appeals shall be governed by the rules provided for probate appeals.

(1961, c. 317, § 46.)

Effect of amendment.—The 1961 amendment substituted "filed and heard" for "entered and heard at the next term of said court held at least 14 days after the

date of such appeal" in the second sentence of the first paragraph of this section.

As the second paragraph of the section was not affected by the amendment, it is not set out.

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 children. (R. S. c. 23, § 168. 1957, c. 379, § 1. 1963, c. 93, § 1.)

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

Effect of amendment.—The 1963 amendment deleted "and dumb" before "children" at the end of the section.

Sec. 162. Admittance of children to school.—With the consent of his parent or guardian, the department may admit to said school for a term not exceeding 16 years, any deaf child residing in this state and not less than 2 years of age, and the sums necessary for the support and instruction of such children while attending said school shall be paid by the state. (R. S. c. 23, § 171. 1953, c. 332. 1963, c. 93, § 2.)

Effect of amendment.—The 1963 amendment substituted "his" for "its" near the beginning of the section and deleted "and dumb" before "child" near the middle of the section.

Sec. 163. Deaf 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 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. 1963, c. 93, § 3.)

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

The 1963 amendment deleted "or too dumb" following "too deaf" near the beginning of the section.

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."

Sec. 165. Admittance of children from other states.—Deaf children residing in other states may, at the discretion of the department, be admitted to said school upon the payment by their parents, guardian or other responsible agency of a reasonable compensation to be fixed by the department. All income from this or any other source shall be paid to the treasurer of the state and shall be credited to the general fund. (R. S. c. 23, § 173. 1961, c. 245. 1963, c. 93, § 4.)

Effect of amendments. — The 1961 amendment substituted "credited to the general fund" for "added to the appropriation for the maintenance of said school" at the end of this section.

The 1963 amendment deleted "and dumb" following "Deaf" at the beginning of the section.

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.

Hospitalization of the Mentally Ill.

Sec. 168. Definitions.—Each word or term defined in this section has the meaning indicated in this section for the purposes of sections 168 to 194, unless a different meaning is plainly required by the context.

I. Department. "Department" means the department of mental health and corrections.

II. Head of hospital. "Head of hospital" means the individual in charge of a hospital, or his designee.

III. Hospital. "Hospital" means a public or private hospital or institution, or part thereof, equipped to provide in-patient care and treatment for the mentally ill.

IV. Licensed physician. "Licensed physician" means an individual licensed under the laws of the state of Maine to practice medicine or osteopathy and a medical officer of the government of the United States while in this state in the performance of his official duties.

V. Mentally ill individual. "Mentally ill individual" means an individual having a psychiatric or other disease which substantially impairs his mental health. For the purposes of sections 168 to 194, the term "mentally ill individual" does not include mentally retarded or sociopathic individuals.

VI. Patient. "Patient" means an individual under observation, care or treatment in a hospital pursuant to sections 168 to 194. (1961, c. 303, § 1.)

Voluntary Hospitalization.

Sec. 169. Authority to receive voluntary patients.—The head of a private hospital may and, the head of a public hospital, subject, except in case of medical emergency, to the availability of suitable accommodations, may admit for observation, diagnosis, care and treatment any individual who is mentally ill or has symptoms of mental illness and who, being 16 years of age or over, applies therefor, exclusive of those persons with pending criminal action. (1961, c. 303, § 1.)

Sec. 170. Discharge of voluntary patients.—The head of the hospital shall discharge any voluntary patient who has recovered or whose hospitalization he determines to be no longer advisable. He may discharge any voluntary patient if to do so would, in the judgment of the head of the hospital, contribute to the most effective use of the hospital in the care and treatment of the mentally ill. (1961, c. 303, § 1.)

Sec. 171. Right of release on application.—A voluntary patient who requests his release or whose release is requested, in writing, by his legal guardian, parent, spouse or adult or next of kin shall be released forthwith except that:

I. Patient admitted on own application. If the patient was admitted on his own application and the request for release is made by a person other than the patient, release may be conditioned upon the agreement of the patient thereto; or

II. Head of hospital certifies release unsafe. If the head of the hospital, within 10 days from the receipt of the request, files with the probate court of the county where said hospital is situated or a judge thereof, whether in session or in vacation, a certification that in his opinion the release of the patient would be unsafe for the patient or others, release may be postponed on application for as long as the court or a judge thereof determines to be necessary for the commencement of proceedings for judicial hospitalization, but in no event for more than 10 days.

Notwithstanding any other provision of sections 168 to 194, judicial proceedings for hospitalization shall not be commenced with respect to a voluntary patient unless release of the patient has been requested by himself or the individual who applied for his admission. (1961, c. 303, § 1.)

Section protects constitutional rights of voluntary patient.—The provisions of this section adequately protect the constitutional rights of any person hospitalized as a voluntary patient under § 169. Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Involuntary Hospitalization. Admission Provisions.

Sec. 172. Authority to receive involuntary patients.—The head of a private hospital may and the head of a public hospital, subject, except in case of medical emergency, to the availability of suitable accommodations, shall receive therein for observation, diagnosis, care and treatment any individual whose admission is applied for under any of the following procedures:

I. Medical certification, nonjudicial procedure. Hospitalization on medical certification; standard nonjudicial procedure.

II. Medical certification, emergency. Hospitalization on medical certification; emergency procedure.

III. Court order. Hospitalization on court order; judicial procedure. (1961, c. 303, § 1.)

Sec. 173. Hospitalization on medical certification; standard nonjudicial procedure.—Any individual may be admitted to a hospital upon:

I. Application. Written application to the hospital by a friend, relative, spouse

or guardian of the individual, a health or public welfare officer, or the head of any institution in which such individual may be; and

II. Certification. Certification by 2 licensed physicians that they have examined the individual and that they are of the opinion that:

A. He is mentally ill, and

B. Because of his illness is likely to injure himself or others if allowed to remain at liberty, or

C. Is in need of care or treatment in a mental hospital, and because of his illness, lacks sufficient insight or capacity to make responsible application therefor.

The certification by the licensed physicians may be made jointly or separately, and may be based on examination conducted jointly or separately. An individual with respect to whom such certification has been issued may not be admitted on the basis thereof at any time after the expiration of 15 days after the date of examination. The head of the hospital admitting the individual shall forthwith make a report thereof to the department.

Such a certificate, if it states a belief that the individual is likely to injure himself or others if allowed to remain at liberty, upon endorsement for such purpose by a district court judge or complaint justice within whose jurisdiction the individual is present, shall authorize any health or police officer to take the individual into custody and transport him to a hospital as designated in the application. (1961, c. 303, § 1. 1963, c. 402, § 52.)

Effect of amendment.—The 1963 amendment substituted "the district court judge or complaint justice" for "a municipal court judge" in the last paragraph.

Application of 1963 act.—See note to § 7-B.

Sec. 174. Hospitalization on medical certification; emergency procedure.—Any individual may be admitted to a hospital upon:

I. Application. Written application to the hospital by any health or police officer or any other person stating his belief that the individual is likely to cause injury to himself or others if not immediately restrained, and the grounds for such belief; and

II. Certification. A certification by at least one licensed physician that he has examined the individual and is of the opinion that the individual is mentally ill and, because of his illness, is likely to injure himself or others if not immediately restrained.

An individual with respect to whom such a certificate has been issued may not be admitted on the basis thereof at any time after the expiration of 3 days after the date of examination. The head of the hospital admitting the individual shall forthwith make a report thereof to the department.

Such a certificate, upon endorsement for such purpose by the district court judge or complaint justice within whose jurisdiction the individual is present, shall authorize any health or police officer to take the individual into custody and transport him to a hospital as designated in the application. (1961, c. 303, § 1. 1963, c. 402, § 53.)

Effect of amendment.—The 1963 amendment substituted "the district court judge or complaint justice" for "a judge of any municipal court" in the last paragraph.

Application of 1963 act.—See note to § 7-B.

Sec. 175. Hospitalization upon court order; judicial procedure. — Proceedings for the involuntary hospitalization of an individual may be commenced by the filing of a written application with the probate court by a friend, relative, spouse or guardian of the individual, or by a licensed physician, a health or public welfare officer, or the head of any public or private institution in which such individual may be. Any such application shall be accompanied by a certificate of a licensed physician stating that he has examined the individual and is of the opinion that he is mentally ill and should be hospitalized, or a written state-

ment by the applicant that the individual has refused to submit to examination by a licensed physician.

Upon receipt of an application the court shall give notice thereof in hand to the proposed patient, in hand or by certified mail, to his legal guardian, if known, and to his spouse, or a parent or one of his adult children, or if none of these persons exist or if their whereabouts are unknown then to one of his next of kin or to a friend. If one of the named persons is the applicant, notice to that person may be omitted but must be given to one other of the named persons. If the court has reason to believe that notice would be likely to be injurious to the proposed patient, notice to him may be omitted.

As soon as practicable after notice of the commencement of proceedings is given or it is determined that notice should be omitted, the court shall appoint 2 licensed physicians to examine the proposed patient and report to the court their findings as to the mental condition of the proposed patient and his need for custody, care or treatment in a mental hospital.

The examination shall be held at a hospital or other medical facility, at the home of the proposed patient or at any other suitable place not likely to have a harmful effect on his health. A proposed patient to whom notice of the commencement of proceedings has been omitted shall not be required to submit to an examination against his will, and on the report of the licensed physicians of refusal to submit to an examination, the court shall give notice to the proposed patient as provided under this section and order him to submit to such examination.

If the report of the licensed physicians is to the effect that the proposed patient is not mentally ill, the court may without taking any further action terminate the proceedings and dismiss the application; otherwise, it shall forthwith fix a date for and give notice of a hearing to be held not less than 5 nor more than 15 days from receipt of the report.

Notice of the hearing shall be given at least 72 hours prior to the time of said hearing, in the same manner as is required for notice of receipt of application, to the person or persons receiving notice of receipt of application, to the applicant in hand or by certified mail, and to such other persons as the court may direct.

The proposed patient, the applicant and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses, and the court may in its discretion receive the testimony of any other person. The proposed patient shall not be required to be present, and all persons not necessary for the conduct of the proceedings shall be excluded, except as the court may direct in its discretion. The court may order a public hearing upon the request of the patient or any member of his family. The hearings shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the proposed patient. The court shall receive all relevant and material evidence which may be offered. An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither he nor others provide counsel, the court shall appoint counsel.

If, upon completion of the hearing and consideration of the record, the court finds that the proposed patient is mentally ill, and because of his illness is likely to injure himself or others if allowed to remain at liberty, or is in need of custody, care or treatment in a mental hospital and, because of his illness, lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization, it shall order his hospitalization; otherwise, it shall dismiss the proceedings.

Unless otherwise directed by the court, it shall be the responsibility of the sheriff of the county in which the probate court has jurisdiction to assure the carrying out of the order within such period as the court shall specify.

The court is authorized to appoint a special commissioner who shall be a member of the bar of the state to assist in the conduct of hospitalization proceedings. In any case in which the court refers an applicant to the commissioner, the commissioner shall promptly cause the proposed patient to be examined and on the basis thereof shall either recommend dismissal of the application or hold a hearing as provided in this section and make recommendations to the court regarding the hospitalization of the proposed patient.

The head of the hospital admitting a patient pursuant to proceedings under this section shall forthwith make a report of such admission to the department. (1961, c. 303, § 1; c. 407, §§ 3, 4.)

Effect of amendment.—The 1961 amendment, effective December 1, 1961, rewrote the second paragraph and added the sixth paragraph.

Grounds for writ of habeas corpus.—A patient hospitalized pursuant to this section has a right to apply for a writ of habeas corpus under § 190 or pursuant to c. 126, even though he seeks the writ within three months of having been denied a reexamination of his order of hospitalization under § 186, solely on the grounds that he had fully recovered from his mental illness at the time of his application for the writ. Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Sec. 176. Hospitalization by an agency of the United States.—If an individual ordered to be hospitalized pursuant to section 175 is eligible for hospital care or treatment by any agency of the United States, the court, upon a receipt of a certificate from such agency showing that facilities are available and that the individual is eligible for care or treatment therein, may order him to be placed in the custody of such agency for hospitalization. When any such individual is admitted pursuant to the order of such court to any hospital or institution operated by any agency of the United States within or without the state, he shall be subject to the rules and regulations of such agency. The chief officer of any hospital or institution operated by such agency and in which the individual is so hospitalized shall with respect to such individual be vested with the same powers as the heads of hospitals or the department within this state with respect to detention, custody, transfer, conditional release or discharge of patients. Jurisdiction is retained in the appropriate courts of this state at any time to inquire into the mental condition of an individual so hospitalized, and to determine the necessity for continuance of his hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned. (1961, c. 303, § 1.)

Sec. 177. Transfer of mentally ill persons from out-of-state institutions.—The commissioner may, upon 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 a mentally ill 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 mentally ill 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 section 173. (1961, c. 303, § 1.)

Sec. 178. Care of mentally ill members of armed forces; status.—Any member of the armed forces of the United States, who was a resident of the state at the time of his induction into the service, who shall be determined by a federal board of medical officers to have a mental disease not incurred in

line of duty, shall be received at either of the state hospitals for the mentally ill in the discretion of the commissioner, without formal commitment, upon delivery of such person, together with the findings of such board of medical officers that such person is mentally ill, at the hospital designated by said commissioner.

After delivery of such person at the hospital designated by said commissioner, his status shall be the same as if he had been committed to the hospital under section 173. (1961, c. 303, § 1.)

Sec. 179. Transportation; temporary detention.—Whenever an individual is about to be hospitalized under sections 173, 174 or 175, the sheriff of the county or a state or local police officer shall, on request, arrange for the individual's transportation to the hospital with suitable attendants and by such means as may be suitable for his medical condition. Whenever practicable, the individual to be hospitalized shall be transported to the hospital by one or more of his friends or relatives, or shall be permitted to be accompanied by one or more of his friends or relatives.

Pending his removal to a hospital, a patient taken into custody or ordered to be hospitalized pursuant to sections 168 to 194 may be detained in his home, a licensed foster home or any other suitable facility under such reasonable conditions as the sheriff of the county may fix, but he shall not, except because of and during an extreme emergency, be detained in a nonmedical facility used for the detention of individuals charged with or convicted of penal offenses. The sheriff of the county or his properly accredited assistant shall take such reasonable measures, including provision of medical care, as may be necessary to assure proper care of an individual temporarily detained pursuant to this section. (1961, c. 303, § 1.)

Involuntary Hospitalization. Post-Admission Provisions.

Sec. 180. Notice of hospitalization.—Whenever a patient has been admitted to a hospital pursuant to sections 173 or 174 on the application of any person other than the patient's legal guardian, spouse or next of kin, the head of the hospital shall notify the patient's legal guardian, spouse or next of kin, if known. (1961, c. 303, § 1.)

Sec. 181. Medical examination of newly admitted patients.—Every patient admitted pursuant to sections 173, 174 or 175 shall be examined as soon as practicable after his admission.

The head of the hospital shall arrange for examination by a staff physician of every patient hospitalized pursuant to section 174. If such an examination is not held within 3 days after the day of admission, or if a staff physician fails or refuses after such examination to certify that in his opinion the patient is mentally ill and is likely to injure himself or others if allowed to remain at liberty, the patient shall be immediately discharged. (1961, c. 303, § 1.)

Sec. 182. Transfer of patients.—The department may transfer, or authorize the transfer of, a patient from one hospital to another either within or out of state if the department determines that it would be consistent with the medical needs of the patient to do so. Whenever a patient is transferred, written notice thereof shall be given to his legal guardian, parents or spouse, or, if none be known, his nearest known relative or friend. In all such transfer, due consideration shall be given to the relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient.

Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered hospitalized pursuant to law or hereafter pursuant to section 175 in any hospital for

care or treatment of the mentally ill and that such individual is eligible for care or treatment in a hospital or institution of such agency, the hospital may cause his transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the court ordering hospitalization, the legal guardian, spouse or parents, or if none be known, his nearest known relative or friend and the department shall be notified thereof by the hospital. No person shall be transferred to an agency of the United States if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement of such person shall enter an order for such transfer after appropriate motion and hearing. Any person transferred as provided in this section to an agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of hospitalization. (1961, c. 303, § 1.)

Sec. 183. Discharge. — The head of a hospital shall as frequently as practicable, but not less often than every 12 months, examine or cause to be examined every patient and whenever he determines that the conditions justifying hospitalization no longer obtain, discharge the patient and make a report thereof to the department. (1961, c. 303, § 1.)

Quoted in Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Sec. 184. Convalescent status; rehospitalization. — The head of a hospital may release an improved patient on convalescent status when he believes that such release is in the best interests of the patient. Release on convalescent status may include provisions for continuing responsibility to and by the hospital, including a plan of treatment on an out-patient or nonhospital patient basis. Prior to the end of a year on convalescent status, and not less frequently than annually thereafter, the head of the hospital shall re-examine the facts relating to the hospitalization of the patient on convalescent status and, if he determines that in view of the condition of the patient convalescent status is no longer necessary, he shall discharge the patient and make a report thereof to the department. Convalescent status of voluntary patients must be terminated within 10 days after receiving from the patient a request for discharge from convalescent status.

Prior to such discharge, the head of the hospital from which the patient is given convalescent status may at any time readmit the patient. If there is reason to believe that it is to the best interests of the patient who had been involuntarily admitted to be rehospitalized, the department or the head of the hospital may issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with, shall, upon the endorsement by a district court judge or complaint justice in the county in which the patient is resident or present, authorize any health or police officer to take the patient into custody and transport him to the hospital, or if the order is issued by the department to a hospital designated by it. (1961, c. 303, § 1. 1963, c. 402, § 54.)

Effect of amendment.—The 1963 amendment substituted "district court judge or complaint justice in" for "judge of a municipal court of" in the last sentence of the section.

Application of 1963 act.—See note to § 7-B.

Sec. 185. Right to release; application for judicial determination. —Any patient hospitalized under section 173 or 174 who requests to be released or whose release is requested in writing by his legal guardian, spouse or adult next of kin shall be released within 10 days after receipt of the request except that, upon application to the probate court or a judge thereof, whether in session or in vacation, supported by a certification by the head of the hospital that in his opinion such release would be unsafe for the patient or for others, re-

lease may be postponed for such period not to exceed 10 days as the court or a judge thereof may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 175.

The head of the hospital shall inform involuntary patients in writing, on admission, of their right to release as provided in this section and shall provide reasonable arrangements for making and presenting requests for release. (1961, c. 303, § 1.)

Section protects constitutional rights of patient.—See Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Sec. 186. Petition for re-hearing to determine need for continuing hospitalization.—Any patient hospitalized pursuant to section 175, or if hospitalized prior to September 16, 1961 pursuant to chapter 27, sections 104, 105, 107 and 110 shall be entitled to a re-hearing to determine his need for continuing hospitalization on his own petition, or that of his legal guardian, parent, spouse, relative or friend, to the probate court of the county in which he is detained at the time of the request for re-hearing. Upon receipt of the petition, the court shall conduct or cause to be conducted by a special commissioner, proceedings in accordance with section 175, except that notice of receipt of application may be omitted. Such proceedings shall not be required to be conducted if the petition is filed less than 6 months after the issuance of the original order of hospitalization or less than one year after the filing of a previous petition under this section. (1961, c. 303, § 1; c. 407, § 5.)

Effect of amendment.—P. L. 1961, c. 407, § 5, effective December 1, 1961, added the provision relative to hospitalization prior to September 16, 1961, added "at the time of the request for re-hearing" at the end of the first sentence, split the last sentence into the present second and third sentences, added "notice of receipt of application may be omitted" at the end of the present second sentence and made other minor changes.

Section protects constitutional rights of patient.—See Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

This section does no more than protect probate court against required re-examination of its order until after a time for a change in the patient's condition. Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Provisions Applicable to Patients Generally.

Sec. 187. Right to humane care and treatment.—Every patient shall be entitled to humane care and treatment and, to the extent that facilities, equipment and personnel are available, to medical care and treatment in accordance with the highest standards accepted in medical practice. (1961, c. 303, § 1.)

Sec. 188. Mechanical restraints and seclusion. — Restraint, including any mechanical means of restricting movement, and seclusion, including isolation by means of doors which cannot be opened by the patient, shall not be applied to a patient unless it is determined by the head of the hospital or his designee to be required by the medical needs of the patient. Every use of mechanical restraint or seclusion and the reasons therefor shall be recorded and available for inspection. The limitation of the use of seclusion by this section shall not apply to maximum security installations. (1961, c. 303, § 1.)

Sec. 189. Right to communication and visitation. — Every patient shall be entitled:

I. Mail. To communicate by sealed envelopes with the department, clergyman or his attorney and with the court, if any, which ordered his hospitalization, and to communicate by mail in accordance with the regulations of the hospital;

II. Visitors. Te receive visitors unless definitely contraindicated by his medi-

cal condition; except, however, he may be visited by his clergyman or his attorney at any reasonable time. (1961, c. 303, § 1.)

Cited in Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Sec. 190. Writ of habeas corpus.—Any individual detained pursuant to sections 168 to 194 shall be entitled to the writ of habeas corpus upon proper petition by himself or a friend to any justice generally empowered to issue the writ of habeas corpus in the county in which such individual is detained. (1961, c. 303, § 1.)

The writ of habeas corpus must remain available at all times to any person hospitalized under §§ 168 to 194. Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Sec. 191. Disclosure of information. — All certificates, applications, records and reports made for the purpose of sections 168 to 194 and directly or indirectly identifying a patient or former patient or an individual whose hospitalization has been sought under sections 168 to 194 shall be kept confidential and shall not be disclosed by any person except insofar:

I. Consent of individual. As the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, shall consent, or

II. Necessity. As disclosure may be necessary to carry out any of the provisions of sections 168 to 194, or

III. Court directive. As a court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it or that failure to make such disclosure would be contrary to the public interest.

Nothing in this section shall preclude disclosure, upon proper inquiry, of information as to his current medical condition to any members of the family of a patient or to his relatives or friends, nor the disclosure of any information concerning the patient to other hospitals, accredited social agencies or for purposes of research; nor shall this section affect the public-record status of the court docket, so called.

Any person wilfully violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than $500 and by imprisonment for not more than one year. (1961, c. 303, § 1.)

Sec. 192. Detention pending judicial determination.—Notwithstanding any other provisions of sections 168 to 194, no patient with respect to whom proceedings for judicial hospitalization have been commenced shall be released or discharged during the pendency of such proceedings unless ordered by the probate court upon the application of the patient, or his legal guardian, parent, spouse or next of kin, or upon the report of the head of the hospital that the patient may be discharged with safety, or upon writ of habeas corpus under section 190. (1961, c. 303, § 1.)

The writ of habeas corpus must remain available at all times.—See note to § 190.

Sec. 193. Additional powers of the department.—In addition to the specific authority granted by other provisions of sections 168 to 194, the department shall have authority to prescribe the form of applications, records, reports and medical certificates provided for under sections 168 to 194 and the information required to be contained therein; to require reports from the head of any hospital relating to the admission, examination, diagnosis, release or discharge of any patient; to visit each hospital regularly to review the commitment procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any patient or by any person on behalf of a patient; and to adopt such rules and regulations not inconsistent with sections 168 to 194 as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill. (1961, c. 303, § 1.)

Sec. 194. Unwarranted hospitalization or denial of rights; penalties.—Any person who willfully causes, or conspires with or assists another to cause, the unwarranted hospitalization of any individual under sections 168 to 194, or the denial to any individual of any of the rights accorded to him under said sections, shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment for not less than one year nor more than 5 years, or by both. (1961, c. 303, § 1.)

Cited in Opinion of the Justices, 157 Me. 187, 170 A. (2d) 660.

Chapter 27-A.

Probation and Parole Law.

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

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

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

"Sec. 36-A. Tenure of present parole board. The present parole board shall assume the powers and duties prescribed in chapter 27-A of the Revised Statutes, and shall be known as the state probation and parole board. Appointed members shall continue in office until their present terms expire."

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

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

Definitions.

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

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

II. "Fine" includes court costs wherever applicable.

III. "Inmate" means a person in execution of a sentence to a reformatory.

IV. "Juvenile" means a person under the age of 17 years or a person who is alleged to have committed, while under the age of 17 years, any acts or offenses covered by chapter 152-A regardless of whether, at the time of the proceeding, such person is of the age of 17 years or over.

V. "Parole" is a release procedure by which a person may be released from a state penal or correctional institution by the state probation and parole board prior to the expiration of his maximum term.