

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,  
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and  
amendatory, and notes showing repeals, together with annotations from the  
various courts, state and federal, and the opinions of the Attorney  
General, construing the constitution, statutes, charters  
and court rules of Minnesota together with digest  
of all common law decisions.



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MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1940

## CHAPTER 73

## Adoption and Change of Name

**8624. Adoption—Petition and consent.**

Evidence held to sustain oral contract to adopt a waif taken into home. *Firle's Estate*, 197M1, 265NW818. See Dun. Dig. 99a.

Guardianship of board of control over a feeble-minded ward can only be terminated in manner provided by §8992-133, and adoption does not terminate guardianship. Op. Atty. Gen. (679b-1), Jan. 17, 1938.

Adoption of ward of state public school is invalid where petition is not signed by superintendent of schools. Op. Atty. Gen. (88a-8), Jan. 18, 1938.

Superintendent of State Public School may join in a petition for adoption in a case where child is committed to the guardianship of the State Board of Control and that board transferred to State Public School for placement, and such joinder may constitute consent of director of division of social welfare if there exists a resolution sufficiently broad to cover it. Op. Atty. Gen. (840B-3), July 24, 1939.

Specific performance of oral contract to adopt. 16 MinnLawRev578.

**8626. Consent, when necessary.**

When a child has a guardian of the person appointed by the probate court, the consent of such guardian is necessary to permit an adoption by proceedings in the district court. In re *Martinson*, 184M29, 237NW596. See Dun. Dig. 99.

Decree of adoption reversed for lack of evidence sustaining finding that infant had been abandoned by mother, there being no consent to adoption by either parent. *Anderson*, 189M85, 248NW657. See Dun. Dig. 99.

Possible pecuniary advantage to child is immaterial as against natural rights of parents. Id.

Consent by parent may be withdrawn at any time before adoption. Id.

Where board of control unreasonably withholds its consent to adoption of a child under its control, district court may grant petition for adoption, notwithstanding refusal of board to consent. *McKenzie*, 197M234, 266NW 746. See Dun. Dig. 99.

A minor child's domicile follows that of his divorced parent to whom his custody was awarded by decree of divorce, and a judgment of a court of this state decreeing adoption of such child by his stepfather does not impair full faith and credit of divorce decree entered in court of another state, permitting father to see child. *Buckman v. H.*, 202M460, 278NW908. See Dun. Dig. 99.

**8630. Status of adopted child.**

When the name of an adopted child is omitted from the will of the parent, the presumption is that the omission was not intentional and was occasioned by accident or mistake. 175M193, 220NW601.

An oral contract to adopt, when executed creates same obligations and duties as an adoption legally executed. *Firle's Estate*, 197M1, 265NW818. See Dun. Dig. 99a.

An adopted child has rights of a natural child as next of kin for whose benefit an action for wrongful death may be brought. *McKeown v. A.*, 202M595, 279NW402. See Dun. Dig. 99a.

Death certificate of an adopted child should show the natural parent and also the same information as to adoptive parents. Op. Atty. Gen. (225j), Dec. 11, 1935.

Alien child adopted by citizens does not acquire citizenship. Op. Atty. Gen. (68f), Nov. 5, 1936.

Mother adopting a son 18 years old who later served in World War would be entitled to admission to soldiers' home, if the adopted son would be eligible to admission. Op. Atty. Gen. (394a), May 2, 1938.

Specific performance of pre-adoption contract in derogation of adoptive parents' rights. 15MinnLawRev 719.

Status of adopted children under wrongful death statutes. 23MinnLawRev83.

**8633. Change of name—Procedure—Penalty.**

A person may change his name without any legal proceedings whatever and may give himself a nickname and have it printed on official ballot. Op. Atty. Gen. (28b-2), May 22, 1934.

## CHAPTER 73A

## Dependent, Neglected and Delinquent Children

Juvenile court procedure. July 16, 1937, Sp. Sess., c. 79, §§1-6.

See §§208-1 to 208-9.

**8636. Definitions.**

Juvenile delinquents are not criminals. *State v. Zenzen*, 178M394, 227NW356.

No appeal lies from a decision of a juvenile court under this chapter. *State v. Zenzen*, 178M394, 227NW356.

Sections 8636 to 8670 are constitutional. *State v. Patterson*, 247NW573, 188M492, 249NW187. See Dun. Dig. 1646, 4460a.

Dependent, neglected, or delinquent children are proper subjects to be placed under guardianship by the probate court. Id. See Dun. Dig. 4460a, 4096.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. Op. Atty. Gen., Oct. 30, 1930.

Act does not contemplate any additional compensation by way of fees for making records per diem or for mileage to court. Op. Atty. Gen., Nov. 25, 1933.

**8637. Jurisdiction of District Court—Jurisdiction of Probate Court.**—The District Court in counties now or hereafter having a population of more than 40,000 inhabitants except in such counties of the Seventh Judicial District shall have original and exclusive jurisdiction in all cases coming within the terms of this act. In all trials in the district court under this act, except as hereinafter provided, any person interested therein may demand a jury, or a judge of his own motion may order a jury to try the case. In counties now or hereafter having a population of not more than 40,000 inhabitants and in all counties of the Seventh Judicial District the probate court shall have jurisdiction over the appointment of guardians of dependent, neglected or delinquent children for

the purpose of this act. The jurisdiction of both the district and probate courts over cases of dependency, neglect and delinquency arising under this act shall extend to all persons resident or found within the territorial limits of the court, although the evidentiary facts showing such dependency, neglect or delinquency may have occurred outside such territorial limits.

This Act shall apply to children under the age of eighteen years, except as hereinafter provided.

When jurisdiction shall have been obtained by the court in the case of any child, such child shall continue for the purposes of this Act under the jurisdiction of the court until he becomes twenty-one years of age, unless discharged prior thereto by the court. ('17, c. 397, §2; '27, c. 192, §2; Apr. 20, 1931, c. 250, §1; Apr. 8, 1933, c. 184.)

Laws 1931, c. 250, §1, amends the first paragraph of this section to read as above.

Fact that probate court committed neglected child to guardianship until she should reach age of 21 years did not warrant her release on habeas corpus before she attained age of 19 years. *State v. Patterson*, 247NW573, 188M492, 249NW187. See Dun. Dig. 4431.

Legislature may fix the age at which a delinquent child shall attain majority different from that fixed for other children. Id.

Law placing dependent, neglected, or delinquent children under jurisdiction of juvenile courts covers and applies to all such children under eighteen years, whether single or married. *State v. Wiecking*, 200M490, 274NW 585. See Dun. Dig. 4460a.

Probate judge, also acting as judge of juvenile court, has no jurisdiction of prosecution of adult. Op. Atty. Gen., Mar. 31, 1932.

Judge of probate obtaining jurisdiction of a child before he has reached age of 18 has jurisdiction over him until he reaches 21 years of age and he may commit

him to state training school after he has reached age of 19 years. Op. Atty. Gen., Nov. 2, 1933.

Jurisdiction of dependent or neglected children rests in court of county where they are found or have their residence. Op. Atty. Gen. (840a-6), Apr. 12, 1937.

Delinquent girl committed to home school for girls is not entitled as a right to release because she is more than 18 years old. Op. Atty. Gen. (840a-5), Apr. 24, 1937.

Delinquent girl over 18 years of age cannot be committed to home school. Op. Atty. Gen. (840a-5), Aug. 9, 1937.

**8638. Judges of juvenile court.**—In counties having more than 40,000 except the Fourth Judicial District, and the counties in the Seventh Judicial District the judges of the district court shall at such times as they shall determine designate one of their number whose duty it shall be to hear all cases arising under this act, unless absent or disabled, in which case another judge shall be temporarily assigned for said purposes; and such designation shall be for the period of one year unless otherwise ordered. The judge of the juvenile court so designated shall devote his first service and all necessary time to the business of the juvenile court, and this work shall have precedence over all his other court work. When deemed advisable the district judges may designate two judges for the purposes and subject to the provisions specified in this section. A special court room, to be designated as the juvenile court room, shall be provided for the hearing of such cases, and the findings of the court shall be entered in a book or books to be kept for that purpose, and known as the "juvenile record," and the court may for convenience be called the juvenile court of the appropriate county. The title of proceedings in the juvenile court, excepting prosecutions under sections 27 and 28 of this act, shall be substantially as follows:

Juvenile Court, County of ..... as a dependent (or neglected or delinquent, as the case may be) child. ('17, c. 397, §4; '27, c. 192, §3; Apr. 20, 1931, c. 250, §2.)

Laws 1931, c. 250, §2, amends the first paragraph of this section to read as above.

#### 8639. Clerk to assign deputy—Salaries.

##### CLERKS OF JUVENILE COURTS

Laws 1937, c. 289, effective May 1, 1937, amends Laws 1921, c. 470, §1, and provides that in counties having 477,750 or more inhabitants the salary of the clerk of the juvenile court shall be \$2,500 per annum, such clerk to be subject to assignment to other duties by the clerk of the district court.

**8640. Salary of bailiff in Juvenile Court in certain counties.**—In all counties of this state having, or which hereafter shall have a population of not less than 220,000 and not more than 330,000 inhabitants, a bailiff of the juvenile court may be appointed by the judge of the court. He shall serve four years, unless removed by the said judge for cause, and shall be in attendance at all sessions of the court, make and serve all summons, writs, warrants and processes issued out of the court and perform such other duties as may be directed by the judge. He shall have all the authority of a deputy sheriff and when his services are not required by the juvenile court, he may, with the consent of the court, be called upon by the sheriff to serve as such deputy. In case of his absence, the sheriff shall, upon request of the judge, assign a deputy to perform his duties. The bailiff shall receive a salary of \$1800 per annum which sum shall include all expenses incurred by him in the performance of his duties within the county. ('17, c. 397, §5; '27, c. 420, §6; Apr. 26, 1929, c. 405, §1.)

Sec. 2 repeals inconsistent acts. Sec. 3 provides that the act shall take effect from and after Apr. 1, 1929.

**8641. Probate court as juvenile court—record—appeal.**—In counties of not more than 40,000 population and in all counties in the 7th Judicial District, the judge of probate shall provide himself with a suitable book, at the expense of the county, in which he shall enter minutes of all proceedings of the

court in each case; he need not record any evidence taken except as it shall seem to him proper and necessary and he shall record therein all orders, decrees and judgments made by this court except non-appealable orders. The reasons for appointing a guardian shall be entered therein and any parent or the attorney for any child may appeal from the final disposition of the guardianship matter by complying with the law regulating appeals from probate courts. When acting under the provisions of this Act the probate court may for convenience be called the juvenile court of the appropriate county. ('17, c. 397, §6; Mar. 20, 1931, c. 82, §1; Apr. 20, 1931, c. 250, §3; Apr. 10, 1933, c. 204, §1.)

No appeal lies from an order of the probate judge, sitting as a juvenile court judge, adjudging a minor delinquent. Op. Atty. Gen., May 5, 1931.

Where probate judge acts as judge of juvenile court, records of that court in cases brought while the district judge was juvenile judge should remain in the office of the clerk of the district court and the new files in the office of the probate judge. Op. Atty. Gen., Aug. 15, 1931.

Where judge of probate court is made judge of juvenile court in place of one of the judges of the district court so acting, the clerk of the district court no longer acts as clerk of the juvenile court. Op. Atty. Gen., Aug. 19, 1931.

Probate judge acting as judge of the juvenile court has no authority to appoint an attorney for an indigent applicant for a mother's pension. Op. Atty. Gen., Aug. 21, 1931.

On appeal from commitment state board of control is not required to release child from state public school. Op. Atty. Gen. (840a-6), Dec. 28, 1937.

#### 8642. [Repealed.]

This section, being Laws 1917, c. 397, §7, was repealed by Act July 16, 1937, Sp. Ses., c. 79, §7, post, §8664-4.

The responsibility for placing children in homes is now with the juvenile court and the board of control rather than with the county board. Op. Atty. Gen., Jan. 13, 1930.

**8642-1. Who may file petition—requisites.**—Any reputable person including any agent of the state board of control or the state industrial commission having knowledge of a child in this state who appears to be either dependent, neglected or delinquent may file with the Juvenile Court in the county where the child is or in the county of its residence a verified petition setting forth the facts of the alleged dependency, neglect, or delinquency. The petition shall also set forth the name and residence of each parent, if known, and if both are dead or the residence unknown, then the name and residence of the legal guardian, or if there be none, or if his residence is unknown then the name and residence of some near relative, if there be one and his residence is known. It shall be sufficient if the petition is on information and belief. (July 16, 1937, Sp. Ses., c. 79, §1.)

Op. Atty. Gen. (840a-6), June 6, 1939; notes under §8646-1.

#### 8643. [Repealed.]

This section, being Laws 1917, c. 397, §8, as amended, was repealed July 16, 1937, Sp. Ses., c. 79, §7, post, §8664-4.

Where a petition was filed in probate court to have certain children committed to state public school as dependent, and pending investigation the children were removed to another county, the probate judge could not go to such other county and hold hearings and commit the children. Op. Atty. Gen., Mar. 27, 1931.

It is duty of county attorney to appear in connection with proceedings in juvenile court for commitment of children as dependent, neglected or delinquent. Op. Atty. Gen., Sept. 27, 1932.

**8643-1. Setting petition for hearing—summons—service—guardian ad litem—warrant—hearing—custody of child.**—Upon the presentation of the petition if it appears that a child may be dependent, neglected or delinquent and that it is for the best interests of the child that the matter be heard in said county, the petition shall be filed and a date set for hearing thereon. A summons may be issued by the judge or clerk of the court requiring the person having custody or control of the child, or with whom the child may be, to appear with the child at a place and time stated in the summons, which time shall not be less than twenty-four hours after service. Such place may be

in the county seat of the county, or in any other city or village in the county, at the discretion of the court. It shall be sufficient to confer jurisdiction if service is made at any time before the day fixed in the summons for the return thereof; but in such case the court if so requested shall not proceed with the hearing earlier than the second day after the service. The summons shall be served as provided by law for the service of summons in civil actions, and may be served by a probation officer. The parents of the child, if living, and their residence is known, or its legal guardian, if one there be, or if there be neither parent nor guardian, or if his residence is not known, then some relative, if there be one and his residence is known, shall be notified of the proceedings, and in any case the judge may appoint some suitable person to act in behalf of the child. Where the person to be notified resides within the county, service of notice shall be the same as service of the summons, but in any other case service of notice shall be made in such manner as the court may direct. If the person summoned as herein provided shall fail without reasonable cause to appear and abide the order of the court, or bring the child, he may be proceeded against as in case of contempt of court. In case the summons cannot be served or the party served fails to obey the same, and in any case when it shall be made to appear to the court that such summons will be ineffectual, or that the welfare of the child requires that he shall be brought forthwith into the custody of the court, a warrant may be issued by the court, either against the parent or guardian or the person having custody of the child or with whom the child may be, or against the child himself. On the date set for the hearing and on the return of the summons if any has been issued or other process, or on the appearance of the child with or without summons or other process, in person before the court, and on the return of the service of notice, if there be any person to be notified, or a personal appearance or written consent to the proceedings of the person or persons, if any to be notified, or as soon thereafter as may be, the court shall proceed to hear the case, and may proceed in a summary manner. The county attorney or an assistant designated by him shall assist in the presentation of cases when directed by the judge of the juvenile court. The child shall have the right to appear and be represented by counsel at all hearings in said court.

Except as hereinafter in this act provided, whenever any officer takes a child into custody he shall accept the promise of the parent, guardian or custodian to be responsible for the presence of the child in the court at the time fixed. Thereupon such child may be released in the custody of the parent, guardian or custodian, or in the custody of a probation officer or other person designated by the court. If not so released, such child shall be taken immediately to a place of detention designated by the court, at the expense of the county; and the officer taking him shall immediately notify the court and shall file a petition when directed to do so by the court. (July 16, 1937, Sp. Ses., c. 79, §2.)

Op. Atty. Gen. (840a-6), June 6, 1939; notes under §8646-1.

**8644. Probation officers—Duties—Compensation.**—The court shall have authority to appoint one or more persons of good character to serve as probation officers during the pleasure of the court. Such probation officers shall act under the orders of the court in reference to any child committed to their care, and in the performance of their duties shall have the general powers of a peace officer; and it shall be their duty to make such investigations with regard to any child as may be required by the court before, during or after the trial or hearing, and to furnish to the court such information and assistance as may be required; to take charge of any child before or after trial or hearing whenever so directed by the

court, and to keep such records and to make such reports to the court as the court may order. Probation officers heretofore or hereafter appointed under the provisions of chapter 154, General Laws of Minnesota, 1899, and all laws amendatory thereof, being sections 9385, 9386, 9387, 9388, 9389, 9390 and 9391, General Statutes 1913, shall be subject to the orders of the court in reference to all matters covered by the provisions of this Act. Probation officers appointed under authority of this Act shall serve without compensation from the county; provided that in counties of more than 40,000 population, except those of the 7th Judicial District, a majority of the judges of the district court may direct the payment of such salary to probation officers as may be approved by the county board; and provided further that in other counties probation officers shall receive the same fees as constables for similar services, including all travel, and in addition thereto such salary as may be fixed by the judge and approved by the county board. ('17, c. 397, §9; Apr. 10, 1933, c. 204, §1.)

Court may provide that any person other than sheriff may transport delinquent children to state institution. Op. Atty. Gen. (840a-5), Feb. 18, 1937.

Juvenile court is required to appoint a probation officer to take charge of child, both before and after hearing, and section is broad enough to include transporting child to institution of commitment, and person designated may be member of county welfare board, or any other person of "good character". Op. Atty. Gen. (268f), Sept. 1, 1939.

**8646. [Repealed.]**

This section, being Laws 1917, c. 397, §11, was repealed July 16, 1937, Sp. Ses., c. 79, §7, post, §8664-4.

Court may commit child to private charitable institution and require county to pay for its care as long as the court in its discretion directs. Op. Atty. Gen., Mar. 18, 1929.

Expense of placing minor child with respectable household cannot be charged against county. Op. Atty. Gen., Oct. 6, 1933.

County welfare board assumes duties of local agent appointed pursuant to §4458, but guardian appointed pursuant to §§8646 and 8647 will continue to act until guardianship is terminated in usual manner. Op. Atty. Gen. (125a-64), Oct. 5, 1937.

**8646-1. Commitment to state board of control or state public school or association—hospital and medical care—consent of parents—continuance—final commitment, notice.**—When any child shall be found to be dependent or neglected, within the meaning of this act, the court may make an order committing the child to the care of the state board of control or of the state public school or some other suitable state institution, or to the care of some reputable citizens of good moral character, or to the care of some association willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent or neglected children, which association shall have been accredited as provided by law. In appropriate cases the child may be left with the parents subject to such remedial supervision as the court may direct. The court may, when the health or condition of the child shall require it, cause the child to be placed in a private or public hospital or institution for treatment or special care or provide medical or remedial care at the expense of the county the cost of which shall not exceed \$25.00 per child. Provided, however, that in no case shall a dependent child be taken from its parents without their consent unless, after diligent effort has been made to avoid such separation, the same shall be found needful in order to prevent serious detriment to the welfare of such child. The court may continue the hearing from time to time without making an order of final commitment as above provided for and may make an order committing the child to the temporary care or custody of any such citizen or association. Before making an order of final commitment to the state board of control or the state public school for dependent children at Owatonna provided for by this section, the court shall give the state board of control at least ten days' notice of the time and place where such an order may be made and shall consider such evidence, report or recommendation as the state

board of control may make concerning the case. Upon making an order of final commitment, the judge or clerk shall mail or deliver a copy thereof to the state board of control. (July 16, 1937, Sp. Ses., c. 79, §3.)

County from which juvenile court commits a child to state public school, subject to guardianship of state board of control, is chargeable with its future care and maintenance as an indigent person in event of its discharge therefrom, even if returned to county of its settlement, but the petition may be filed in juvenile court of county of settlement and it might have inherent power to issue a commission to juvenile court of county where child is found to take evidence to be returned to court for commitment. Op. Atty. Gen. (840a-6), June 6, 1939.

#### 8647. Guardianship—Adoption.

Where board of control unreasonably withholds its consent to adoption of a child under its control, district court may grant petition for adoption, notwithstanding refusal of board to consent. McKenzie, 197M234, 266NW 746. See Dun. Dig. 99.

Where a dependent child was placed in home of said person for purpose of adoption, but before adoption could be had, supreme court directed district court to grant petition of other person for adoption. Board of Control may reimburse in a reasonable amount those who cared for the child and were unsuccessful in adoption. Op. Atty. Gen. (88a-8(b)), Aug. 10, 1936.

#### 8648. Hearing—Continuance—Commitment by court, etc.

Probate court has no jurisdiction to commit delinquent girls to the Home School for Girls, its jurisdiction being limited to the appointment of the state board of control as guardian. Op. Atty. Gen., Dec. 23, 1931.

Probate court in county where it has jurisdiction as juvenile court has authority to commit a delinquent boy directly to the state training school and need not commit him to guardianship of state board of control. Op. Atty. Gen. (345a-1), Sept. 18, 1935.

If person committed to board of control as feeble-minded is also under commitment to a correctional institution, board may transfer him to school for feeble-minded for purpose of sterilization and return him to correctional institution. Op. Atty. Gen. (679), Dec. 18, 1936.

Court may sentence or commit a delinquent person to a correctional institution though person is already a ward of board committed as feeble-minded. Id.

#### 8651. Guardians for delinquents in probate court.

Probate court has no jurisdiction to commit delinquent girls to the Home School for Girls, its jurisdiction being limited to the appointment of the state board of control as guardian. Op. Atty. Gen., Dec. 23, 1931.

#### 8656. Criminal proceedings.

Prior felony against juvenile disposed of in district court is considered prior conviction under Baumes Act. Op. Atty. Gen., May 13, 1932.

Minor charged with being delinquent cannot be extradited from another state. Op. Atty. Gen. (494b-15), Sept. 9, 1936.

**8660. Support by parents.**—In any case in which the juvenile court of a county having a population of over 40,000, except those of the 7th Judicial District, shall find a child dependent, neglected or delinquent, it may, in the same or a subsequent proceeding, upon the parents of said child, or either of them, being duly summoned or voluntarily appearing proceed to inquire into the ability of such parent or parents to support the child or contribute to his support, and if the court shall find such parent or parents able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution, or in any way in which a court of equity may enforce its orders or decrees. ('17, c. 397, §25; Apr. 10, 1933, c. 204, §1.)

#### 8662. Responsibility of parents, guardians, etc.

Proof of criminal intent is unnecessary where statute makes commission of prohibited act a punishable offense. State v. Sobelman, 199M232, 271NW484. See Dun. Dig. 2409.

In prosecution of tavern owner, acts and omissions of defendant's servants contributed to minor's delinquency, and court did not err in refusing to submit that question as a fact issue. Id. See Dun. Dig. 4924.

Boys regularly employed as newspaper carriers are exempt from the provisions of the law only while distributing papers to their regular subscribers, and not at times that they are on the street in their regular districts selling papers. Op. Atty. Gen., Nov. 25, 1931.

Probate judge, also acting as judge of juvenile court, has no jurisdiction of prosecution of adult. Op. Atty. Gen., Mar. 13, 1932.

Whether under facts stated there can be criminal prosecution for contributing to delinquency of minor is a question for county attorney and not attorney general to determine. Op. Atty. Gen. (605b-9), May 16, 1936.

#### 8664. [Repealed.]

This section, being Laws 1917, c. 397, §29, was repealed July 16, 1937, Sp. Ses., c. 79, §7, post, §8664-4.

Probate judge is not entitled to reimbursement from the county for his expenses in attending a convention of the Probate Judges' Association. Op. Atty. Gen., Feb. 9, 1931.

Where a petition was filed in probate court to have certain children committed to state public school as dependent, and pending investigation the children were removed to another county, the probate judge could not go to such other county and hold hearings and commit the children. Op. Atty. Gen., Mar. 27, 1931.

Probate judge acting as judge of the juvenile court has no authority to appoint an attorney for an indigent applicant for a mother's pension. Op. Atty. Gen., Aug. 21, 1931.

Fees collected under this section may be retained by judges of probate. Op. Atty. Gen., Apr. 13, 1932.

Where sheriff investigated crime and ran up mileage and it later developed that case was one for juvenile court, sheriff was not entitled to mileage. Op. Atty. Gen., July 1, 1932.

Expenses of county attorney when acting upon order of juvenile court in proceeding for commitment of dependent, neglected or delinquent children, should be paid by juvenile court and not out of contingent fund. Op. Atty. Gen., Sept. 27, 1932.

Fees of probate court applicable to delinquent children have no application to mother's pension. Op. Atty. Gen. (346c), Mar. 30, 1936.

Folio record allowance provided by this section applies to proceedings authorized by §§8671 to 8695-5. Op. Atty. Gen. (335h), Dec. 4, 1936.

Judge of juvenile court may order transcript of hearing held before him and charge cost thereof to county, but state board of control must pay for its own transcript if it desires one. Op. Atty. Gen. (268d), May 7, 1937.

Allowance of 15c for each folio for all records made by judge is only fee he is entitled to receive, and it is only in cases where parents of child do not have sufficient means that county is required to pay the same, and such fees are payable upon a certificate of judge and need not be presented to and audited by county board. Op. Atty. Gen. (346c), Feb. 11, 1938.

**8664-1. Expenses payable by county.**—The expenses in probate courts acting as juvenile court for the proceedings of dependent, neglected, and delinquent children including the care of children when in the custody of the court and during continuance when not with the parents, medical and hospital care that may be necessary at the hearing or while the child is in the custody of the court not to exceed, however, the sum of \$25.00 per child, the necessary witness fees and expenses for travel and board incurred by the probate judge when holding court in places other than the county seat, and 15 cents for each folio for all records in said matters additional to his salary, shall be paid by the county upon the certificate of the probate judge. (July 16, 1937, Sp. Ses., c. 79, §4.)

**8664-2. Same — findings — certification.** — In all proceedings of dependent, neglected and delinquent children the court shall make a finding as to the child's residence, and whenever it is found by the court that the child is a resident of another county the necessary costs and expenses of such proceedings shall be certified by such court to the auditor of the county in which the proceedings are held who shall certify the same to the county auditor of the county where the child is found to be a resident and shall be paid as other claims against said county. (July 16, 1937, Sp. Ses., c. 79, §5.)

County of commitment is responsible for return of child. Op. Atty. Gen. (840a-6), June 2, 1938.

**8664-3. Same—certification of rejection of claim by county auditor—determination by state board of control.**—Whenever the auditor of the county to which costs and expenses for a dependent, neglected, or delinquent case have been certified denies that such person has a legal residence in his county, he shall send such certificate with a statement of his

claim in reference thereto to the state board of control who shall immediately investigate and determine the question of residence and certify its findings to the auditor of each of said counties. Such decision shall be final unless an appeal may be to the district court of the county from which such person was committed. (July 16, 1937, Sp. Ses., c. 79, §6.)

**8664-4. Repeal.**—Sections 8642, 8643, 8646, 8664, of Mason's Minnesota Statutes are hereby repealed. (July 16, 1937, Sp. Ses., c. 79, §7.)

Sec. 8 of Act July 16, 1937, cited, provides that the act shall take effect from its passage.

**8665. Payment of salaries, etc.**

County must stand the expense of transporting a minor committed to the State Training School at Red Wing. Op. Atty. Gen., Sept. 1, 1931.

**8671. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, §8688-25, post, effective as provided in §8688-24.

Act Apr. 10, 1933, c. 204, §2, cited, provides that the act shall take effect from its passage.

See §§208-1 to 208-9.

Fact that family has settlement for purposes of poor relief in another county and is entitled, or is receiving relief, is relevant only in determining amount of mother's pension to be awarded. State v. Juvenile Court of Wadena County, 183M125, 246NW544. See Dun. Dig. 4460b.

Mother's pension law, being newer, prevails over poor laws to extent of conflict. Id.

"Residence" in mother's pension statute is not synonymous with "settlement" under poor laws, and residence for one year, as distinguished from settlement, is condition precedent. Id.

Judge of probate has no right to pay out any money in dependency cases until he has made findings under this section. Op. Atty. Gen., Aug. 9, 1929.

A woman with dependent children is entitled to pension where her husband has deserted her and she has obtained a divorce on that ground, and where there is an outstanding warrant for his arrest which has remained unserved for 3 months, or where there has been a conviction for abandonment. Op. Atty. Gen., July 23, 1930.

County commissioner investigating financial condition and status of children is not entitled to a per diem and mileage. Op. Atty. Gen., Sept. 18, 1930.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. Op. Atty. Gen., Oct. 30, 1930.

An allowance made by a county to a mother terminates when the mother ceases to be a resident of the county. Op. Atty. Gen., Feb. 20, 1931.

A county attorney required to make investigations in connection with applications of mothers for county allowances is entitled to take expenses necessarily incurred out of his contingent fund. Op. Atty. Gen., Mar. 26, 1931.

A county attorney may use his own automobile and receive compensation therefor from the county out of his contingent fund or otherwise. Op. Atty. Gen., Mar. 26, 1931.

Right to mother's pension does not depend upon a person's "settlement," but upon her "residence" for the prescribed period of time, and the fact that widow was moved out of another county where she had settlement for the sole purpose of obtaining a mother's pension was immaterial. Op. Atty. Gen., June 12, 1931.

A mother is entitled to an allowance on account of a child under sixteen who has completed the eighth grade. Op. Atty. Gen., Sept. 23, 1931.

No notice to county attorney and county commissioner is necessary. Op. Atty. Gen., Feb. 28, 1933.

Daughter supporting dependent sisters is not entitled to aid under Mothers' Pension Law. Op. Atty. Gen., Apr. 8, 1933.

One supporting dependent sister is not entitled to mother's pension. Op. Atty. Gen., Apr. 8, 1933.

Neither county commissioner nor county attorney is entitled to reimbursement for mileage for investigations with reference to mother's pensions. Op. Atty. Gen., June 14, 1933.

County attorney in counties where a contingent fund has been set aside by county board is entitled to reimbursement of traveling expenses in connection with investigations of mothers' pension cases. Op. Atty. Gen., Sept. 12, 1933.

Act does not contemplate any additional compensation by way of fees for making records per diem or for mileage to court. Op. Atty. Gen., Nov. 25, 1933.

Payment of poor relief by an adjoining county does not prevent mother from establishing a residence for purpose of mother's pension. Op. Atty. Gen., Dec. 19, 1933.

Public officers whose salaries are fixed by law are not entitled to compensation for mileage in connection with duties concerning investigations under mother's pension act. Op. Atty. Gen., Mar. 12, 1934.

Receipt of a mother's pension from one county would not prevent establishment of a settlement in another county for poor relief purposes. Op. Atty. Gen. (335b), June 28, 1934.

Right to receive a pension from a particular county is terminated by a change of residence to another county, and upon change of residence there is one year in which mother is not entitled to a pension from any county. Id.

Residence for purpose of mother's pension may be acquired in this state while receiving widow's pension from another state. Op. Atty. Gen. (335b), Dec. 13, 1934.

Neither county commissioners nor county attorney are entitled to mileage in connection with investigation of poor relief and mother pension cases. Op. Atty. Gen. (359a-14), Mar. 12, 1935.

Poor board of county operating under county poor system cannot refuse to pay mother's pension allowed by juvenile court. Op. Atty. Gen. (335b), Apr. 8, 1935.

Provisions of law are in effect and operate alike in all counties of the state and are compulsory. Op. Atty. Gen. (335b), Apr. 17, 1935.

Applicant not entitled to pension unless she lived for year previous to application in county. Op. Atty. Gen. (335b), May 7, 1935.

Removal of mother from state with children does not lose her right to a mother's pension unless the removal amounts to a change of residence. Op. Atty. Gen. (335b), Mar. 23, 1936.

Fees of probate court applicable to delinquent children have no application to mother's pension. Op. Atty. Gen. (346c), Mar. 30, 1936.

Rules and regulations passed by board of control are valid. Op. Atty. Gen. (88a-8), July 3, 1936.

Mother is not entitled to a pension for a child over 18 years of age though physically unable to attend school. Op. Atty. Gen. (335b), Aug. 4, 1936.

It is mandatory upon county to levy taxes for mothers' pensions. Op. Atty. Gen. (335b), Aug. 7, 1936.

County commissioners are not entitled to witness fees. Op. Atty. Gen. (124a), Aug. 10, 1936.

Whether or not a mother of children, that have been abandoned by the father, who has complied with provisions of subsection 4 and assuming that findings of probate court on other material provisions of state are favorable, is entitled to receive a mother's pension involved questions of fact which court must determine. Op. Atty. Gen. (335b), Oct. 13, 1936.

Folio record allowance to probate judge provided by §8664 applies to proceedings authorized by §8671 to 8695-5. Op. Atty. Gen. (335h), Dec. 4, 1936.

One year's residence is sufficient to entitle mother to pension, though she has been receiving a pension from an adjoining county from which she moved, and though husband was committed to prison from adjoining county and children were committed to guardianship of board of control in such county. Op. Atty. Gen. (335b), Jan. 20, 1937.

A divorced woman is entitled to mother's pension. Op. Atty. Gen. (540c), June 9, 1937.

Remarriage of one receiving a mother's pension does not terminate pension in absence of duty on stepfather to support child. Id.

A grandmother may qualify for mother's pension. Id.

Judge of juvenile court will continue to exercise functions and duties imposed by §8671 to 8689 until Laws 1937, c. 438, become effective. Op. Atty. Gen. (335b), June 11, 1937.

(a). Grandmother may make application for allowance where mother is living in another county and unable to support children, but grandmother is subject to same conditions as to husband living as mother of children. Op. Atty. Gen., Nov. 29, 1933.

(b). Statute makes no provision for the payment of allowances to a divorced mother. Op. Atty. Gen., Mar. 4, 1931.

A person paroled from prison is not an "inmate" of the prison within this section. Op. Atty. Gen., Dec. 9, 1931.

(f). Mother's pension is different from poor relief and right to receive from county granting it may be lost by changing residence to another county. Op. Atty. Gen., Dec. 20, 1933.

**8672. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, §8688-25, post, effective as provided in §8688-24.

Mason's Stat., §3177 is still in effect in counties having town system, and such counties may levy in excess of the five mill limitation for poor purposes, and this levy may include moneys for the payment of mother's pensions. Op. Atty. Gen., Oct. 30, 1931.

Settlement may be acquired by poor relief purposes during period that mother's pension is received. Op. Atty. Gen. (335b), May 3, 1934.

It is mandatory duty of county officials to draw warrants to pay pension after certified copy of court order granting an allowance to mother. Op. Atty. Gen. (335b), Apr. 17, 1935.

**8673, 8674. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, post, §8688-25, effective as provided in §8688-24.

**8675. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, post, §8688-25, effective as provided in §8688-24.

No formal hearing is necessary to modify or revoke a mother's allowance. Op. Atty. Gen., Aug. 31, 1931.  
No notice is required to modify or revoke mother's allowance. Op. Atty. Gen., June 28, 1933.

**8676 to 8680. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, post, §8688-25, effective as provided in §8688-24.

**8681. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, post, §8688-25, effective as provided in §8688-24.

Grandmother may make application for allowance where mother is living in another county and unable to support children, but grandmother is subject to same conditions as to husband living as mother of children. Op. Atty. Gen., Nov. 29, 1933.

A grandmother may qualify for mother's pension. Op. Atty. Gen. (540c), June 9, 1937.

**8682. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, post, §8688-25, effective as provided in §8688-24.

**8683. [Repealed.]**

State board of control has authority to make rules and regulations as deemed necessary in its application to federal social security board. Op. Atty. Gen. (840a-6), Mar. 18, 1936.

Rules and regulations passed by board of control are valid. Op. Atty. Gen. (88a-8), July 3, 1936.

**8683-1, 8683-2. [Repealed.]**

Act Apr. 29, 1935, c. 326, repealed by Act Apr. 24, 1937, c. 438, §23, post, §8688-25, effective as provided in §8688-24.

**8684 to 8688. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, post, §8688-25, effective as provided in §8688-24.

**§8688-1, 8688-2 [Repealed].**

Repealed Mar. 20, 1935, c. 57, §8.

**AID TO DEPENDENT CHILDREN**

**8688-3. Definitions.**—(a) "State Agency" as used in this act shall mean the State Board of Control.

(b) "County Agency" as used in this act shall mean the County Board of Public Welfare as established by law.

(c) "Dependent Child" as used in this act means a child under the age of 18 years who, if school facilities are available is regularly attending school, if physically able and above the minimum school age, or who is under compulsory school age, or who is physically unable to attend school, or who is over compulsory school age, but through physical or mental disability is unable to be employed, or who is over compulsory school age and unemployed, but where further schooling is inadvisable in the opinion of the county agency and his unemployment is without fault on his part, and who is found to be deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and whose relatives, liable under the law for his support, are not able to provide, without public assistance, adequate care and support of such child, and who is living with his mother, stepmother, grandmother, sister, stepsister, aunt or in a place of residence maintained by one or more of such relatives as his or their home.

(d) "Continued absence from the home" as used in this act means the absence from the home of the parent, whether or not entitled to the custody of the child, by reason of being an inmate of a penal institution under a sentence which will not terminate within three months after the date of application for assistance under this act, or a fugitive after escape therefrom, or absence from the home by the parent for a period of at least three months continuous duration together with failure on the part of the absent parent to support the child, provided that reasonable efforts have been made to secure support for such child from the defaulting parent, and, if such child

shall have been abandoned in this state, that a warrant for arrest shall have been issued for such abandonment. (Act Apr. 24, 1937, c. 438, §1; Apr. 12, 1939, c. 195, §1.)

Act Apr. 13, 1939, c. 238, makes an appropriation, provides for issuance of certificates of indebtedness, and provides for tax levy for 1940, 1941, 1942 and 1943.

Where father does not comply with court order to pay alimony for support of children, children are not eligible for aid unless court action is instituted for abandonment and a warrant issued, but where father pays support money in full, and it does not provide adequately for children, they are eligible for aid in amount of deficiency. Op. Atty. Gen. (840a-6), July 29, 1937.

Child is eligible for aid if stepfather refuses to furnish support, and has not assumed that obligation. Op. Atty. Gen. (840a-6), Dec. 15, 1937.

Where abandonment warrant has been issued and father has been convicted and served his full time, aid cannot be granted without issuance of a second abandonment warrant. Op. Atty. Gen. (840a-6), Apr. 18, 1938.

"Stepmother" does not include a woman taking care of dependent children "in loco parentis". Op. Atty. Gen. (840a-6), Nov. 14, 1938.

Children are entitled to aid where father has been absent and unaccounted for more than seven years. Op. Atty. Gen. (840a-6), April 21, 1939.

(e) Where mother and children voluntarily move to Minnesota after being deserted in another state, children are not entitled to aid. Op. Atty. Gen. (840a-6) Oct. 20, 1937.

Where mother residing in another state obtained a divorce there from her husband and later voluntarily came to this state, father remaining in other state, children were not "dependent" so as to be entitled to aid. Op. Atty. Gen. (335b), Dec. 6, 1937.

Word "aunt" includes wife of a brother of parent of child, but "grandmother" does not include "stepgrandmother" of child. Op. Atty. Gen. (840a-6), Dec. 21, 1937.

Fact that there are relatives able to support child and refuse to do so does not render child ineligible for aid if all other conditions have been established. Op. Atty. Gen. (840a-6), Apr. 12, 1938.

"Sister" does not include "sister-in-law". Op. Atty. Gen. (840a-6), Aug. 16, 1938.

Wife is entitled to aid to dependent children where father has been absent from home for more than three months, though elements of criminal abandonment are not sufficient to sustain a conviction on that charge. Op. Atty. Gen. (840a-6), May 26, 1939.

Mother does not lose right to aid by continuing casual employment and leaving children in care of responsible parties. Id.

(d) For pension purposes life of warrant of arrest is not limited. Op. Atty. Gen. (494a-1), Dec. 10, 1937.

Aid may not be granted prior to expiration of three months from issuance of bench warrant, but county may grant relief in deserving cases under poor laws. Op. Atty. Gen. (840a-6), Dec. 30, 1937.

"Continued absence from the home" was broadened by Laws 1939, c. 195, and if there was an abandonment of a child "continued absence from home" may be established by issuance of a warrant, and if there was no abandonment, it may be established by showing of absence from home by parent for period of at least three months together with failure to support child and a showing of reasonable effort to secure support from parent. Op. Atty. Gen. (840a-1), August 30, 1939.

**8688-4. Duties of state agencies.**—The State Agency shall:

(a) Supervise the administration of assistance to dependent children under this Act by the County Agencies in an integrated program with other service for dependent children maintained under the direction of the state agency;

(b) May subpoena witnesses and administer oaths, make rules and regulations, and take such action as may be necessary or desirable for carrying out the provisions of this Act. All rules and regulations made by the State Agency shall be binding on the counties and shall be complied with by the respective County Agencies;

(c) Establish adequate standards for personnel employed by the Counties and the State Agency in the administration of this Act and make the necessary rules and regulations to maintain such standards;

(d) Prescribe the form of and print and supply to the County Agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable;

(e) Cooperate with the Federal Government and its Public Welfare Agencies in any reasonable manner as may be necessary to qualify for federal aid

for aid to dependent children and in conformity with the provisions of this Act; including the making of such reports in such forms and containing such information as the Federal Social Security Board may from time to time require, and comply with such provisions as such Board may from time to time find necessary to assure the correctness and verification of such reports; and

(f) Make an annual report to the Governor not later than four months after the close of each fiscal year showing for such year the total amount paid under this Act, the total number of persons assisted, and such other particulars as it may deem advisable. (Apr. 24, 1937, c. 438, §2.)

**8688-5. Duties of county agencies.**—The County Agencies shall:

(a) Administer the provisions of this Act in the respective counties subject to the rules and regulations prescribed by the State Agency pursuant to the provisions of this Act;

(b) Report to the State Agency at such times and in such manner and form as the State Agency may from time to time direct;

(c) Submit quarterly and annually to the County Board of Commissioners a budget containing an estimate and supporting data setting forth the amount of money needed to carry out the provisions of this Act. (Apr. 24, 1937, c. 438, §3.)

**8688-6. Who shall receive assistance.**—Assistance shall be given under this Act to any dependent child who:

(a) Has resided in the state for one year immediately preceding the application for such assistance; or was born within the state within one year immediately preceding the application, and whose mother has resided in the state one year immediately preceding the birth of said child; and whose mother if she be the applicant is a citizen of the United States or has declared her intention to become such a citizen. The county responsible for the payment of assistance under this act shall be the county in which said child has resided for the year preceding the application for assistance; provided, however, that if said child has not resided continually in any one county for the year preceding said application, then the county in which said child has resided for the longest period of time during said year shall be responsible for the payment of assistance under this act, subject to the provisions of section 11 thereof.

(b) Is living in a suitable home conducted by a family having as far as practicable the same religious faith as the family of the child and meeting the standards of care and health fixed by the laws of this state and rules and regulations of the state agency thereunder.

(c) The ownership by a mother or father of property as follows shall be a bar to any allowance under this act:

(1) Personal property of a reasonable market value in excess of \$300.00, exclusive of appropriate clothing and necessary household furniture and equipment, and of such tools, implements, and domestic animals as in the opinion of the County Agency it is expedient to retain for the purpose of reducing the expense or increasing the income of the family; or

(2) Real estate not used as a home, provided that if such real estate does not produce net income sufficient to meet the family budget and there is no available market for the sale of such property, or if the price which can be obtained on the prevailing market is not fair and reasonable considering the applicant's interest therein and the possibilities of sale of said property for a greater amount within a reasonable length of time thereafter then, in that event, in the discretion of the county agency, ownership of the same shall not be a bar to an allowance under this act. Net income shall be the residue after payment from gross income of taxes, insurance, maintenance and interest on encumbrances, if any, on the proper-

ty, provided that in computing net income the gross income shall not be charged with any expenses toward betterment of the property as improvements or by payment on the principal of a mortgage; provided, further, that the net income thus derived shall be applied on the family budget. (Act Apr. 24, 1937, c. 438, §4; Apr. 12, 1939, c. 195, §2.)

Where a child has resided with grandmother in certain county for two years, and father resides in another county, but is a disabled veteran, and mother is in a sanatorium, county where grandmother resides is proper county in which to make application. Op. Atty. Gen. (840a-6), July 29, 1937.

Children whose grandmother had created a trust payable to them when they reached 21 years, but trust provided that in emergency trustee could expend the principal for the benefit of the children, were not entitled to assistance. Op. Atty. Gen. (840a-6), Feb. 13, 1939.

Where man residing in one county was committed to state institution from another county as feeble-minded and thereafter married a resident of county from which he was committed, and wife and children resided in first county for more than one year, county of residence was liable for assistance under aid to dependent children act and for direct relief. Op. Atty. Gen. (840a-6), May 26, 1939.

Removal from one county to another while receiving aid for dependent children from first county, disqualified one from acquiring settlement in second county for poor relief purposes, but is not bar to acquisition of residence in second county for aid for children. Op. Atty. Gen. (840a-6), July 12, 1939.

(a) Where husband and wife and minor children resided in first county for several years, moved to second county and resided there for 3 months, then moved to third county and resided there for 2 months and were returned to first county upon applying for relief, and husband and father died in first county, first county was liable for poor relief, but second county was liable for aid to dependent children until one year after return to first county. Op. Atty. Gen. (840a-6), July 12, 1939.

Child living for part of last year in another state was not entitled to assistance. Op. Atty. Gen. (840a-10), August 1, 1939.

Provision "and whose mother if she be the applicant is a citizen of the United States or has declared her intention to become such a citizen" is unconstitutional, and may be disregarded. Op. Atty. Gen. (840a-6), August 5, 1939.

(c)(1). \$400 left in trust for two children to the mother by a deceased husband is not a bar to an allowance, and a child dependent and eligible for aid otherwise, may own personal property of value of \$300 or less and still be eligible at discretion of county agency, and where more than \$300 has been bequeathed to a child to be held in trust until his majority, and such funds are not available, child, being dependent otherwise, is eligible for aid. Op. Atty. Gen. (840a-6), Oct. 25, 1937.

(c)(2). Aid may be given for a child where there is a gross income from the property which is entirely consumed by taxes, upkeep and necessary payments on encumbrances, provided there is no available market for sale of property, or price which may be obtained on prevailing market is not fair and reasonable, considering applicant's interest therein and possibilities of sale within a reasonable time for a greater amount. Op. Atty. Gen. (840a-6), Oct. 14, 1937.

Residence of child in county for one year meets requirements of act, even though relief under poor laws was furnished to child. Op. Atty. Gen. (840a-6), Dec. 30, 1937.

Where custody of children is awarded mother on divorce and no order for alimony has been made, and later father moves from state and establishes himself elsewhere during which time no demand has been made upon him for support, child may be eligible, for aid though no warrants of abandonment may be issued and father has offered to care for child in foreign state. Op. Atty. Gen. (840a-1), Jan. 23, 1938.

Where father pays full amount of alimony ordered by court, which amount does not provide an adequate budget for support of children, children are not eligible for aid in an amount to cover deficiency. Op. Atty. Gen. (840a-6), Feb. 8, 1938.

**8688-7. Amount of assistance.**—The amount of assistance which shall be granted for any dependent child shall be determined by the County Agency with due regard to the resources and necessary expenditures of the family and the conditions existing in each case and in accordance with the rules and regulations made by the State Agency, and shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health, not to exceed \$20 per month for the first child and not to exceed \$15 per month for each ad-



ditional child in the same home. (Apr. 24, 1937, c. 438, § 5.)

Where father does not comply with court order to pay alimony for support of children, children are not eligible for aid unless court action is instituted for abandonment and a warrant issued, but where father pays support money in full, and it does not provide adequately for children, they are eligible for aid in amount of deficiency. Op. Atty. Gen. (840a-6), July 29, 1937.

**8688-8. Application for assistance.**—Application for assistance under this act shall be made to the County Agency of the County from which the dependent child is entitled to receive assistance as provided in Section 4 of this act. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the State Agency and shall be verified by the oath of the applicant. The application shall be made by the person with whom the child will live and shall contain information as to the age and residence of the child and such other information as may be required by the rules and regulations of the State Agency. One application may be made for several children of the same family if they reside with the same person. (Apr. 24, 1937, c. 438, § 6.)

Relative of child inmate of public or private charitable institution may make application for aid to such child. Op. Atty. Gen. (840-6), Dec. 21, 1937.

**8688-9. Investigations to be made by county agencies.**—Whenever a County Agency receives a notification of the dependency of a child or an application for assistance, an investigation and record shall be made within a reasonable time of the circumstances to ascertain the dependency of the child or the facts supporting the application made under this Act and such other information as may be required by the rules of the State Agency. (Apr. 24, 1937, c. 438, § 7.)

**8688-10. Shall determine the amount of assistance.**—Upon the completion of such investigation the County Agency shall decide whether the child is eligible for assistance under the provisions of this Act, and determine the amount of such assistance and the date on which such assistance shall begin. It shall make a grant of assistance which shall be binding upon the County and be complied with by the County until such grant is modified or vacated. The County Agency shall notify the applicant of its decision in writing. Such assistance shall be paid monthly to the applicant upon order of the County Agency from funds appropriated to the County Agency for this purpose. The County Agency shall upon the granting of assistance under this act file an order on the form to be approved by the State Agency with the County Auditor of said County and thereafter warrants shall be drawn and payments made only in accordance with said order to recipients of this assistance or in accordance with any subsequent order to be hereinafter made. (Apr. 24, 1937, c. 438, § 8.)

**8688-11. Shall report to state agency.**—The County Agency shall at once report to the State Department its decision upon each application. Any applicant or recipient aggrieved by any order or determination by the county agency may appeal from such order or determination to the state agency. Such appeal may also be taken if the application is not acted upon within a reasonable time by the county agency. Before making such appeal to the state agency the applicant or recipient shall give written notice to the county agency that he is not satisfied with its decision or its delay in acting upon his application. Upon the filing of such notice of dissatisfaction, the county agency shall make an order fixing the time and place for hearing thereon, which hearing shall be held within the ensuing thirty days. Copies of such order shall be forthwith mailed to the applicant or recipient and the state agency. The county agency may adhere to the decision already made or may modify the same, and copies of such new decision shall be forthwith mailed to the appli-

cant or recipient and the state agency. If the applicant or recipient is then dissatisfied he may, within thirty days after the mailing of such decision, appeal to the state agency as herein provided. The state agency shall upon receipt of such an appeal notify the county agency and review the case, giving the applicant or recipient an opportunity for a fair hearing before such state agency. The state agency may also, upon its own motion, review any decision of the county agency, and may consider any application upon which a decision has not been made by the county agency within a reasonable time. Any applicant aggrieved by a decision of the state agency made upon its own motion shall be granted an opportunity for a fair hearing before the state agency.

The State Agency may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of assistance and the amount of assistance to be granted as in its opinion is justified and in conformity with the provisions of this act. Any applicant or recipient shall have the right to produce any evidence that he desires and be represented by a friend or counsel at all hearings before any administrative agency considering his case. All decisions of the state agency shall be binding upon the county agency involved and the applicant or recipient and shall be complied with by such county agency unless modified or reversed on appeal as hereinafter provided.

If a decision or determination by the state agency is not, in the opinion of the county agency or applicant or recipient, in conformity with this act, either may within thirty days after such decision appeal from the decision or determination of the state agency to the district court of the county in which the application was filed, by serving a copy of a written notice of such appeal upon the state agency and adverse party and filing the original of such written notice, together with proof of service, with the clerk of the district court of the said county. Such appeal may be brought on for hearing by either party by mailing ten days' written notice stating the time and place of such hearing. Upon serving of such notice, the state agency shall, if demanded, furnish the county agency and applicant or recipient a summary of the issues involved, a copy of all supporting papers, a transcript of any testimony and a copy of its decision. The court shall summarily, upon ten days' written notice, try and determine the said appeal upon the record of the state agency as certified to it and in said determination shall be limited to the issue as to whether the order of the state agency is fraudulent, arbitrary or unreasonable. No new or additional evidence shall be taken on such appeal or introduced by any party to such hearing on appeal in the district court, unless such new or additional evidence, in the opinion of the court, is necessary to a more equitable disposition of the appeal. If the court shall find the order of the state agency fraudulent, arbitrary or unreasonable, the court shall within thirty days make an order declaring the order of the state agency null and void, giving its reasons therefor, and shall order the state agency to take further action in said matter not inconsistent with the determination of the court.

Said matter may be heard by said district court at any general or special term thereof or out of term or in chambers; and in judicial districts having more than one judge, the senior or presiding judge shall hear the same, or if unable to do so, shall refer the matter to some other judge in said district.

The applicant or recipient or the county agency or the state agency may appeal from the order of the district court to the supreme court of the state of Minnesota in the same manner as other appeals in civil actions. No costs or disbursements shall be taxed against any party on appeals to the district court or to the supreme court.

All grants of assistance or aid shall be paid pending the hearing and determination of appeals to the

District or Supreme Court when such assistance or aid is ordered paid by the State Agency. (Apr. 24, 1937, c. 438, §9; Apr. 12, 1939, c. 195, §3.)

Statute provides no avenue of appeal by county agency from decisions of state agency, but possibly certiorari would lie. Op. Atty. Gen. (840a-6), Feb. 28, 1939.

**8688-12. Assistance grants shall be reconsidered.**

—All assistance granted under this Act shall be reconsidered as frequently as may be required by the rules of the State Agency. After such further investigation as the County Agency may deem necessary or the State Agency may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the State or County Agency find that the child's circumstances have altered sufficiently to warrant such action. The County Agency may for cause at any time revoke, modify or suspend any order for assistance previously made. Whenever assistance is thus revoked, modified or suspended the County Agency shall at once report to the State Agency such decision together with supporting evidence required by the rules of the State Agency. All such decisions shall be subject to appeal and review by the State Agency as provided in Section 9 of this act. (Apr. 24, 1937, c. 438, §10.)

**8688-13. Removal to another county.**—Any child qualified for and receiving assistance pursuant to the provisions in this act in any County in this State, who moves or is taken to another County in this State, with the approval of the State Agency, shall be entitled to continue to receive assistance from the County from which he has moved or has been taken until he shall have resided for one year in the County to which he has moved. When he has resided one year in the County to which he has moved, or has been taken, the County Agency of the County from which he has moved shall transfer all necessary records relating to the child to the County Agency of the County to which he has moved. (Apr. 24, 1937, c. 438, §11.)

Aid to dependent children under this act is not poor relief within meaning of §3161, relating to settlement for poor relief purposes. Op. Atty. Gen. (840a-6), July 11, 1938.

Aid to dependent children act, and poor laws with respect to removal of family to legal settlement are not in conflict, and county should request approval of state agency for removal of children qualified and receiving aid in all cases of removal of parents by counties under poor laws, and state agency should give approval in all such cases. Op. Atty. Gen. (840a-6), Sept. 15, 1938.

Removal from one county to another while receiving aid for dependent children from first county, disqualified one from acquiring settlement in second county for poor relief purposes, but is not bar to acquisition of residence in second county for aid for children. Op. Atty. Gen. (840a-6), July 12, 1939.

Laws 1939, c. 398, amending §3161, does not modify this section. Op. Atty. Gen. (840a-6), July 13, 1939.

**8688-14. County board to appropriate money.**—

The County Board of Commissioners in each County in this State shall appropriate annually such sum as may be needed to carry out the provisions of this Act, including expenses of administration based upon a budget prepared by the County Agency, after taking into account state aid, and to include in the tax levy for such County the sum or sums appropriated for that purpose. Should the sum so appropriated, however, be expended or exhausted, during the year and for the purpose for which it was appropriated, additional sums shall be appropriated by the Board of County Commissioners. (Apr. 24, 1937, c. 438, §12.)

Act makes it mandatory upon every political subdivision to provide aid to dependent children. Op. Atty. Gen. (125a-10), May 21, 1937.

**8688-15. County agency to keep records.**—(a)

The County Agency shall keep such records, accounts and statistics in relation to aid to dependent children as the State Agency shall prescribe.

(b) Each grant of aid to dependent children shall be paid to the recipient by the County Agency in the first instance.

(c) The County shall be paid from state and Federal funds available therefor an amount equal to two-thirds of the county's total expenditures for aid to dependent children as defined by the Federal Social Security Act.

(d) The County shall be paid from state funds in an amount equal to two-thirds of the county's total expenditures for aid to dependent children not included in the provisions of the Federal Social Security Act and which are eligible for assistance under the provisions of this Act.

(e) Not exceeding two-thirds of the balance of any Federal funds made available annually to the State Agency for carrying out the purposes of this act, after the payment to the County of two-thirds of the County's total expenditures for aid to dependent children, as provided in subsection (c) of this section, shall be used to repay the counties' necessary administrative expenses pro rata in the proportion the total number of recipients in each county bears to the total number of recipients in the state for the period for which such funds were received and are available, and the balance of any such sum shall be available to the State Agency to defray the necessary expenses of the State Agency. (Apr. 24, 1937, c. 438, §13.)

State and federal funds as grants in aid for dependent children and old age assistance must be paid by state board of control directly to county, and not to welfare board. Op. Atty. Gen. (5211-2), May 20, 1937.

Each grant of aid made and paid by county is legal irrespective of availability of any state and federal funds to reimburse counties; state agency cannot arbitrarily limit amount to be paid to county from state and federal funds while there are sufficient funds available; and amount certified by state agency to federal government for purpose of federal reimbursement should include total expended by county and state. Op. Atty. Gen. (840a-6), Nov. 18, 1937.

State board of control may limit its monthly expenditures to one-twelfth part of annual appropriation if it is reasonably anticipated that appropriation will be insufficient to take care of state share in full. Op. Atty. Gen. (840a-6), Dec. 17, 1937.

Insufficiency of state appropriation does not relieve county from paying aid in full. Op. Atty. Gen. (640a), June 28, 1939.

**8688-16. Payment by the state.**—Payments shall be made by the state to the counties of two-thirds of the estimated costs of aid for dependent children in each county of the state from state and federal funds available for that purpose monthly in advance upon the direction of the State Agency based upon estimate submitted by the County Agency to the State Agency which shall be submitted by said County Agency on or before the fifteenth day of each month stating their estimated expenditures required for the succeeding month. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the State Agency in any succeeding month. (Apr. 24, 1937, c. 438, §14.)

Insufficiency of state appropriations for aid to dependent children does not relieve county of primary duty to pay aid as provided by law, and state may not exceed the appropriation, and insufficiency of state funds does not affect amount of federal aid, which is based upon aggregate of aid furnished by state and county. Op. Atty. Gen. (640a), June 28, 1939.

**8688-17. Violations a misdemeanor.**—

Whoever obtains, or attempts to obtain, or aids, or abets any person to obtain by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device;

- (1) Assistance to which he is not entitled;
- (2) Assistance greater than that to which he is justly entitled; is guilty of a misdemeanor, and upon the conviction thereof shall be fined not more than one Hundred Dollars (\$100) or be imprisoned for not more than three months. (Apr. 24, 1937, c. 438, §15.)

**8688-18. U. S. Government assistance not to bar aid.**—The receipt or possession by any person of sums received from United States Government War Risk insurance or any government compensation shall not be a bar to the granting of an allowance pro-

vided for in this act, if in the opinion of the County Agency having jurisdiction to order the allowance, such insurance or compensation is not sufficient to maintain the children, in whose behalf an allowance is requested, in their own home. (Apr. 24, 1937, c. 438, §16.)

**8688-19. Act to be liberally construed.**—This act shall be liberally construed with a view to accomplishing its purpose, which is hereby declared to be to enable the state and its several counties to cooperate with responsible mothers or relatives in rearing future citizens, when such cooperation is necessary on account of relatively permanent conditions, in order to keep the family together in the same household, reasonably safeguard the health of the mother and secure to the children during their tender years her personal care and training. (Apr. 24, 1937, c. 438, §17.)

Relative of child inmate of public or private charitable institution may make application for aid to such child. Op. Atty. Gen. (840-6), Dec. 21, 1937.

**8688-20. U. S. funds to be appropriated to state agency.**—All monies received or to be received from the United States government for aid to dependent children are hereby appropriated to the State Agency for the purpose of carrying out the provisions of this Act. (Apr. 24, 1937, c. 438, §18.)

**8688-21. Not to limit actions.**—Nothing herein shall be deemed to be inconsistent with any right of action against a relative of a poor person conferred by law. (Apr. 24, 1937, c. 438, §19.)

**8688-22. Not to be vested right.**—All assistance granted under this Act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may hereafter be passed, and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by any amending or repealing Act. (Apr. 24, 1937, c. 438, §20.)

**8688-23. 1937 aid to dependent children act.**—This Act may be cited as the "1937 Aid to Dependent Children Act." (Apr. 24, 1937, c. 438, §21.)

**8688-24. Effective upon approval by social security board.**—This Act shall take effect on and after its passage and upon approval by the Social Security Board pursuant to the provisions of Title IV of the Federal Social Security Act approved August 14, 1935, as the state plan for aid to dependent children formulated by the State Agency pursuant to this act. (Apr. 24, 1937, c. 438, §22.)

Judge of juvenile court will continue to exercise functions and duties imposed by §§8671 to 8689 until this act becomes effective. Op. Atty. Gen. (335b), June 11, 1937.

County welfare board will not assume duties imposed by this act until it is approved by federal social security board. Op. Atty. Gen. (125a-64), July 28, 1937.

**8688-25. Inconsistent acts repealed.**—Mason's Minnesota Statutes 1927, Sections 8671 to 8689, both inclusive, as amended by Laws 1935, Chapters 57 and 326, and all acts and parts of acts inconsistent with the provisions of this act be and the same hereby are, repealed upon the effective date of this act as

provided in renumbered Section 22 hereof. Provided, however, that grants of county allowances to mothers of dependent children, in force at the time this act takes effect, shall be continued by the county agency until a reinvestigation has been made to determine eligibility under the provision of this act and the expense thereof shall be borne as provided herein. (Apr. 24, 1937, c. 438, §23.)

County must pay mother's pension under old act pending establishment of county board of public welfare. Op. Atty. Gen. (840a-6), Dec. 30, 1937.

**8688-26. Provisions severable.**—If any Section of this act shall be held invalid, the remaining provisions shall be given full force and effect as if the part held invalid had not been included herein. (Apr. 24, 1937, c. 438, §24.)

**8689. [Repealed.]**

Repealed Apr. 24, 1937, c. 438, §23, post, §8688-25, effective as provided in §8688-24.  
See §§208-1 to 208-9.

**8689-1. Care of dependent children unsuitable for adoption or for commitment to state school for feeble-minded—definition—commitment to state board of control.**—Whenever a juvenile court shall find a child to be dependent or neglected and it appears that such child is not at the time a proper subject for commitment to the state school for the feeble-minded, but is so handicapped physically or mentally that he cannot be admitted to the state public school or be placed in a home for adoption, the court may commit such child to the care of the state board of control as a child needing specialized care in order that he may receive study, treatment, and care designed to fit him, if possible, to be placed out for adoption or to become self-supporting. A child may be adjudged to be a dependent or neglected child needing specialized care when it appears: (a) That he is the offspring of incestuous cohabitation; (b) That one or both of his parents are feeble-minded, epileptic or insane, and the probable permanent mental status of the child is as yet undetermined; (c) That he is crippled, deformed, has serious physical defects or is afflicted with tuberculosis, venereal disease, or other communicable or offensive disease that renders his presence offensive or a menace to others; (d) That he is affected by habits, ailments, or handicaps that produce erratic and unstable conduct. ('25, c. 303, §1; Apr. 1, 1935, c. 82, §2.)

**8689-2. Same—Duties of board of control—Etc.**

State Board of Control may authorize surgical operation upon or immunization against diphtheria to a child committed to its guardianship as unsuitable for adoption. Op. Atty. Gen., Aug. 27, 1932.

Discharge from state public school through error and mistake may be revoked where child is still in school. Op. Atty. Gen. (840a-4), Jan. 12, 1937.

**8689-5. Same—Counties liable for one-half of costs.**

A feeble-minded, dependent child which had been committed to state board of control for specialized care under §§8689-1 to 8689-5, and thereafter adjudged to be feeble-minded and ordered committed to the custody of the state board of control but not admitted to a state institution, is not a charge of the state. County of Stearns v. F., 203M11, 279NW707. See Dun. Dig. 4249.

County of commitment is liable for expense of child needing specialized care. Op. Atty. Gen. (840a-6), June 2, 1938.