

89022

GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

FRANCIS B. TIFFANY



WEST PUBLISHING CO.

1918

7157. Status of adopted child—Upon adoption such child shall become the legal child of the persons adopting him, and they shall become his legal parents, with all the rights and duties between them of natural parents and legitimate child. By virtue of such adoption, he shall inherit from his adopting parents or their relatives the same as though he were the legitimate child of such parents, and shall not owe his natural parents or their relatives any legal duty; and, in case of his death intestate the adopting parents and their relatives shall inherit his estate, as if they had been his parents and relatives in fact. ('17 c. 222, § 1; old § 7157 repealed, '17 c. 222 § 2)

7158. Annulment of adoption—If within five years after his adoption a child develops feeble-mindedness, epilepsy, insanity or venereal infection as a result of conditions existing prior to the adoption, and of which the adopting parents had no knowledge or notice, a petition setting forth such facts may be filed with the court which entered the decree of adoption, and if such facts are proved the court may annul the adoption and commit the child to the guardianship of the state board of control. In every such proceeding it shall be the duty of the county attorney to represent the interests of the child. ('17 c. 222 § 1; old § 7158, repealed '17 c. 222 § 2)

7159. Records of adoption—The files and records of the court in adoption proceedings shall not be open to inspection or copy by other persons than the parties in interest and their attorneys and representatives of the state board of control, except upon an order of the court expressly permitting the same. (Amended '17 c. 222 § 1)

7160. Change of name—Procedure—Penalty—A person who shall have resided in any county for one year may apply to the district court thereof to have his name changed in the manner herein specified. He shall describe in his application all lands in the state in or upon which he claims any interest or lien, and shall appear personally before the court and prove his identity by at least two witnesses. If he be a minor, his guardian or next of kin shall also appear. Every person who, with intent to defraud, shall make a false statement in any such application, shall be guilty of a misdemeanor. (Amended '17 c. 222 § 1)

7161. Order—Filing copies—If it shall appear to the court to be proper, it shall grant the application, and set forth in the order a description of the lands, if any, in which the applicant claims to have an interest. The clerk shall file such order, and record the same in the judgment book. If lands be described therein, a certified copy of the order shall be filed for record, by the clerk, with the register of deeds of each county wherein any of the same are situated. Any such order shall not be filed, nor any certified copy thereof be issued, until the applicant shall have paid to the clerk the cost of such record. The fee of the clerk shall be two dollars, and for each certified copy of the order, fifty cents. (Amended '17 c. 222 § 1)

CHAPTER 73A

DEPENDENT, NEGLECTED AND DELINQUENT CHILDREN

7162-7196. [Repealed.]

See § [7196-]35.

7162—Cited (123-382, 143+984, 49 L. R. A. [N. S.] 597).

The juvenile court act does not abrogate the function of the writ of habeas corpus to determine the question of custody of dependent children (123-508, 144+157). Habeas Corpus, 46, 99(1).

7168—Where a child, committed to the care of an association, leaves the home of persons to whom its custody is given by the association for sufficient cause, and finds a home with other persons, the prime consideration, on habeas corpus by the association, is the child's welfare,

and not the legal right to custody. The determination in such case does not necessarily interfere with the plan of administration under this section and § 7174, especially in absence of radical differences in religious faiths of the contending custodians. However, the question of religious faith is an important element in the final determination. Welfare of child held to require her to be left in respondent's care, subject to visitation of relator, an eleemosynary association, to which her custody had been awarded by the juvenile court (123-508, 144+157). Habeas Corpus, ☞99(3).

7174—A determination in habeas corpus is not necessarily in conflict with the general plan of the juvenile court act, though the legislative preference as to the religious beliefs of the custodians, indicated by this section, is disregarded, such preference being given due consideration in considering the welfare of the child (123-508, 144+157). Habeas Corpus, ☞99(1).

7178—A child dependent upon the public for support is within this section, and hence within § 7197, though the sole reason of such dependency is the financial inability of its parent to support it, and though there is neither delinquency on the part of the child nor other unfitness on the part of the parent (123-382, 143+984, 49 L. R. A. [N. S.] 597). Infants, ☞12½.

7179—This section repeals § 7163, giving exclusive jurisdiction in counties having a population of not less than 33,000 (123-382, 143+984, 49 L. R. A. [N. S.] 597). Infants, ☞18.

[7196—]1. Terms defined—This act shall apply only to children under the age of eighteen years. For the purposes of this act the term "dependent child" shall mean a child who is illegitimate; or whose parents, for good cause, desire to be relieved of his care and custody; or who, is without a parent or lawful guardian able to adequately provide for his support, training and education, and is unable to maintain himself by lawful employment, except such children as are herein defined as "neglected" or "delinquent." The term "neglected child" shall mean a child who is abandoned by both parents, or, if one parent is dead, by the survivor, or by his guardian; or who is found living with vicious or disreputable persons, or whose home, by reason of improvidence, neglect, cruelty, or depravity on the part of the parents, guardian or other person in whose care he may be, is an unfit place for such child; or whose parents or guardian neglect and refuse, when able to do so, to provide medical, surgical or other remedial care necessary for his health or well being; or, when such child is so defective in mind as to require the custodial care and training of the state school for the feeble-minded, neglect and refuse to make application for his admission to said institution; or who, being under the age of twelve years, is found begging, peddling or selling any articles or singing or playing any musical instrument upon the street, or giving any public entertainment, or who accompanies or is used in aid of any person so doing. The term "delinquent child" shall mean a child who violates any law of this state or any city or village ordinance; or who is habitually truant or incorrigible; or who knowingly associates with vicious or immoral persons; or who without just cause and without the consent of his parents, guardian or other custodian absents himself from his home or place of abode, or who knowingly visits any place which exists, or where his presence is permitted, in violation of law; or who habitually uses obscene, profane or indecent language; or who is guilty of lewd or immoral conduct involving another person. The word "association" shall mean any corporation which includes in its purpose the care or disposition of children coming within the meaning of this act. ('17 c. 397 § 1)

By § 36 the act takes effect January 1, 1918.

[7196—]2. Same—Jurisdiction of district court—Jury trial—Jurisdiction of probate court—The district court in counties now or hereafter having a population of more than 33,000 inhabitants 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 33,000 inhabitants the probate court shall have jurisdiction over the appointment of guardians of dependent, neglected or delinquent children for the purposes 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. ('17 c. 397 § 2)

[7196—]3. **Same—Designation of judge of district court—Juvenile court—Title of proceedings—**In counties having more than 33,000 population 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 [7196—27, 7196—28], shall be substantially as follows:

Juvenile Court, County of.....
 In the matter of.....as a dependent (or neglected or delinquent, as the case may be) child. ('17 c. 397 § 3)

[7196—]4. **Same—Clerk to assign deputy—Salary—Duties—**The clerk of the district court shall assign a deputy, subject to the approval of the judge of the juvenile court, who shall have special charge of the duties to be performed by the clerk in connection with the juvenile court, and whose duty it shall be to keep all books and records thereof, to issue summons and process, to attend to correspondence in connection with the court, and in general to perform such duties in the administration of the business of the court, whether or not herein specifically enumerated, as the judge may direct. Such deputy may be specially appointed for the purposes specified herein, in addition to other deputies provided for by law. In counties where more than one judge of the juvenile court has been designated a deputy clerk may be assigned for each. In counties having not less than 150,000 population the salary of the deputy clerk assigned pursuant to this section shall be \$1,800 per annum. When not engaged in the duties pertaining to the juvenile court the deputy shall do such work in the clerk's office as the clerk may direct. When such deputy is absent the clerk, or another deputy, may perform the duties herein specified. The clerk may from time to time change the assignment of such deputy with the approval of the judge. When no assignment of a deputy has been made pursuant to this section the clerk of the district court shall perform the duties herein specified. ('17 c. 397 § 4)

[7196—]5. **Same—Bailiff in counties having not less than 150,000 inhabitants—Duties—Salary—**In counties having not less than 150,000 population a bailiff of the juvenile court may be appointed by the judge of the court. He shall serve four years, unless removed by the judge for cause, and shall be in attendance at all sessions of the court, make service of summons, writs, warrants and process 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 judge, 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 \$1,500 per annum, which sum shall include all expense incurred by him in the performance of his duties within the county. ('17 c. 397 § 5)

[7196—]6. **Same—Probate court as juvenile court—Records—Appeal—**In counties of not more than 33,000 population the judge of probate shall provide himself with a suitable book in which to record all proceedings for the appointment of guardians under the provisions of this act, at the expense of the county, and shall record in said book all proceedings taken in each case coming before him under this act, but need not record any evidence tak-

en except as it shall seem to him proper and necessary. 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)

[7196—]7. **Same—Petition**—Any reputable person resident in the county, having knowledge of a child in the county who appears to be either dependent, neglected or delinquent; and any agent of the state board of control or the state department of labor and industries may file with the judge or clerk of the court having jurisdiction in the matter a petition in writing, setting forth the facts and verified by affidavit. The petition shall 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 that the affidavit is upon information and belief. ('17 c. 397 § 7)

[7196—]8. **Same — Summons — Notice — Warrant — Hearing — Temporary care of child**—Upon the filing of the petition a summons shall 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 services. 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 is neither parent or 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 issue on the order of 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 return of the summons 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 and dispose of the case in a summary manner. Pending the final disposition of any case, the child may be retained in the custody of the person having charge of the same, or may be kept in some suitable place provided by the village, city or county authorities, or in some suitable place designated by the court, at the expense of the county. ('17 c. 397 § 8)

[7196—]9. **Same—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 com-

mitted 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 33,000 population 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)

[7196—]10. **Same—Expert assistance in certain cases**—In any county of more than 150,000 population the court may establish a department of the juvenile probation system of such county for the physical and mental diagnosis of cases of children who are believed to be physically or mentally diseased or defective, and may appoint as special probation officers a competent nurse and a duly qualified physician, whose salaries shall be fixed by the judge with the approval of the county board. ('17 c. 397 § 10)

[7196—]11. **Same—Dependent or neglected children—Disposition**—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 citizen 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 public hospital or institution for treatment or special care; or in a private hospital or institution which will receive it for like purpose without charge. Provided, however, that in no case shall a dependent child be taken from his 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. ('17 c. 397 § 11)

[7196—]12. **Same—Guardianship—Adoption**—In any case where the court shall award a dependent or neglected child to the care of the state board of control, or of any association or individual in accordance with the provisions of this act, the child shall, unless otherwise ordered, become a ward, and be subject to the guardianship of the state board of control or of the association or individual to whose care it is committed; but such guardianship shall not include the guardianship of any estate of the child, except as provided in section 17 of this act [7196—17]. Such board, association or individual shall have authority to place such child in a family home, with or without indenture, and may be made party to any proceeding for the legal adoption of the child, and may by its or his attorney or agent appear in any court where such proceedings are pending and consent to such adoption. Provided, however, that when adoption proceedings for any such child are commenced in any other court than the court which originally committed such child, then notice of the filing of the petition in such adoption proceedings shall be filed in the office of the clerk of the court which originally committed

such child, at least thirty days before any final decree of adoption shall be entered. ('17 c. 397 § 12)

[7196—]13. **Same—Hearing when continued—Commitment by district court—Discharge**—In the case of a delinquent child the court may continue the hearing from time to time and may place the child in the care or custody of a probation officer, and may allow the child to remain in his own home, subject to the visitation of the probation officer, such child to report to the probation officer as often as may be required, and subject to be returned to the court for further or other proceedings whenever such action may appear to be necessary; or the court may cause the child to be placed in a suitable family home, subject to the friendly supervision of a probation officer and the further order of the court; or it may authorize the child to be boarded out in some suitable family home, in case provision is made by voluntary contribution or otherwise for the payment of the board of such child, until suitable provision may be made for the child in a home without such payment. A child found delinquent in the district court may be committed by the court to the state training school for boys or the Minnesota home school for girls, or to any institution established by law or incorporated under the laws of this state that may care for delinquent children, or to any place provided by the town or county suitable to the care of such children. In appropriate cases the court may commit the child to the care and custody of some association that will receive it, embracing in its objects the care of neglected or dependent children. In no case shall a child be held under any such commitment beyond the age of twenty-one years. A child committed to such an institution or association shall be subject to the control of the board of managers thereof; and the said board shall have power to parole the child on such conditions as it may prescribe, and the court shall have power to discharge the child from custody whenever in its judgment such action will be for the best interests of the child. Every child committed to the state training school for boys or the Minnesota home school for girls shall be subject to the guardianship of the state board of control, and to all the laws and regulations relating to discipline in and parole and discharge from said schools. No child shall be discharged from either of said schools within one year after commitment without the approval of the committing court; thereafter such approval shall not be required. ('17 c. 397 § 13)

[7196—]14. **Same—County home schools**—In counties of over 33,000 population the county board shall have authority to purchase, lease, erect, equip and maintain a county home school for boys and girls, or a separate home school for boys and a separate home school for girls, and the same may, with the approval of the district court judges, be a separate institution, or it may be established and operated in connection with any other organized charitable or educational institution; but the plans, location, equipment and operation of said county home school shall in all cases have the approval of the judges of the district court. There shall be a superintendent or matron, or both, appointed for such home, who shall be probation officers of the juvenile court, and shall be appointed and removed by the district judges. The salaries of the superintendent, matron and other employes shall be fixed by the judges of the district court, subject to the approval of the county board. The juvenile court may place in said home school, for a period of not more than six months under any order, any child coming before said court, and any child who is placed in such home school may be released therefrom by order of said court at any time. Provided, that a delinquent child may be committed during the pleasure of the court to any county home school, or any orphans' home conducted by a charitable institution, where the inmates are taught the branches of study usually pursued in the public schools, and where agriculture, horticulture, gardening or domestic science is studied and carried on by the inmates thereof; but in no case shall such child be detained beyond his majority. The county board of all counties to which this section applies is hereby authorized, empowered and required to provide the necessary funds to make all needful appropriations to carry out the provisions of this section. The board of education, commissioner of edu-

cation or other persons having charge of the public schools in any city of the first or second class, in a county where a county home school is maintained pursuant to the provisions of this section, shall have authority to furnish all necessary instructors, school books and school supplies for the boys and girls placed in any such home school. ('17 c. 397 § 14)

[7196—]15. **Same—Existing home schools continued**—All juvenile detention homes, farms and industrial schools heretofore established under section 5, chapter 285, Laws 1905, as amended by chapter 172, Laws 1907, and chapter 353, Laws 1911, (being section 7166, General Statutes, 1913), or chapter 83, Laws 1913, (being sections 7194, 7195 and 7196, General Statutes, 1913) or chapter 228, Laws 1915, are hereby declared to be county home schools within the meaning of this act; and all the provisions hereof relating to county home schools shall apply thereto. ('17 c. 397 § 15)

1915 c. 228, above referred to, is repealed by § [7196—]35.

[7196—]16. **Same—Guardians for delinquents in probate court**—When any child is found delinquent in a probate court the court may appoint the state board of control to be the guardian of such child, or any institution or association incorporated under the laws of this state that may care for delinquent children and become their guardian, or any suitable city, county or state institution. The provisions of section 13 [7196—13] relative to the control, parole and discharge of delinquent children committed by district courts shall apply to delinquent children placed under guardianship by probate courts. In all cases girls committed to the state home school for girls shall be accompanied to said school by a woman. ('17 c. 397 § 16)

[7196—]17. **Same—Property of child**—If any child placed under guardianship by a probate court pursuant to the provisions of this act has any property, the income thereof shall, unless more than is necessary, be applied to the education of such child; and upon cause shown to the court the principal or any part thereof may be used for the same purpose. ('17 c. 397 § 17)

[7196—]18. **Same—Information with commitment**—Whenever a juvenile court shall commit a child to a state institution or to the guardianship of the state board of control there shall be delivered with the order of commitment a copy of the findings and order of the court relative to such child, and a brief statement of such particulars of the case as the board of control may require. ('17 c. 397 § 18)

[7196—]19. **Same—Evidence in delinquency cases protected**—Any disposition of a child dealt with for delinquency under this act, or any evidence given in such cause, shall not in any civil, criminal or other cause or proceeding whatever, in any court, be lawful or proper evidence against such child for any purpose; provided, however, that nothing in this section shall be construed to relate to subsequent proceedings in a juvenile court. ('17 c. 397 § 19)

[7196—]20. **Same—Religious belief of parents**—The court in committing any child, or appointing a guardian for him under the provisions of this act, shall place him so far as it deems practicable in the care and custody of some individual holding the same religious belief as the parents of the child, or with some association which is controlled by persons of like religious faith with the parents. ('17 c. 397 § 20)

[7196—]21. **Same—Criminal proceedings**—The adjudication of a juvenile court that a child is delinquent shall in no case be deemed a conviction of crime; but the court may, in its discretion, cause any alleged delinquent child of the age of twelve years or over to be proceeded against in accordance with the laws that may be in force governing the commission of and punishment for crimes and misdemeanors, or for the violation of municipal ordinances, by an order directing the county attorney to institute such prosecution as may be appropriate. ('17 c. 397 § 21)

[7196—]22. **Same—Transfer of cases from municipal courts, etc.**—Whenever any minor is arraigned upon a criminal charge before a judge of a municipal court or justice of the peace, otherwise than upon an order transfer-

ring the case from a juvenile court, the judge or justice shall inquire concerning the age of such minor, and if it satisfactorily appears that he is under the age of eighteen years the case shall forthwith be transferred to the juvenile court of the county. Such transfer shall be effected by filing with the judge or clerk of the juvenile court a certificate showing the name, age and residence of the child, the names and addresses of his parents or guardian, if known, the specific charge upon which he has been arraigned, and the name and residence of the complainant. The certificate shall have the effect of a petition filed in the juvenile court; but the judge of said court may in his discretion direct the filing of a new petition, which shall supersede such certificate. The judge of the municipal court or the justice shall have power to commit such child to appropriate custody, when deemed advisable, for a period of not more than one week and to fix reasonable bail, upon furnishing which said child shall be returned to the custody of his parents or guardian to respond to such proceedings as shall be had in the juvenile court. ('17 c. 397 § 22)

[7196—]23. **Same—Arrest—Warrants**—Nothing in this act shall be construed to forbid the arrest of any person, with or without warrant, as is now or hereafter may be provided by law; or to forbid the issue of warrants by magistrates as so provided. ('17 c. 397 § 23)

[7196—]24. **Same—Privacy of hearings and records**—Upon the trial or hearing of cases arising under this act the court shall exclude the general public from the room wherein such trial or hearing is had, admitting only such persons as may have a direct interest in the case, witnesses, officers of the court and accredited persons interested in the study of social conditions. The records of all cases may be withheld from indiscriminate public inspection at the discretion of the court; but such records shall at all times be open to the inspection of any child to whom the same relates, and to his parents and guardian. For the purposes of this section the records of juvenile probation officers and county home schools shall be deemed records of the court. This section shall not be deemed to apply to prosecutions under Sections 27 and 28 [7196—27, 7196—28]. ('17 c. 397 § 24)

[7196—]25. **Same—Support by parents**—In any case in which the juvenile court of a county having a population of over 33,000 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)

[7196—]26. **Same—Unlawful removal of child**—Any unlawful removal, attempt to remove or interference with a child committed by a juvenile court to the custody or guardianship of any institution, association or individual is hereby declared to be contempt of court and punishable accordingly. ('17 c. 397 § 26)

[7196—]27. **Same—Responsibility of parents, etc.—Penalty**—In all cases when any child shall be found to be neglected or delinquent as defined in this act the parent or parents, legal guardian or person having the custody of such child, or any other person who by any act, word or omission encourages, causes or contributes to the neglected or delinquent condition of such child, when such act, word or omission is not by other provisions of law declared to be a felony, is guilty of a misdemeanor. The fact that a child has been adjudged more than twice to be delinquent on account of conduct occurring while in the custody of his parents or the same guardian shall be presumptive evidence that such parents or guardian are responsible for his last adjudged delinquency. ('17 c. 397 § 27)

[7196—]28. **Same—Jurisdiction**—In counties having a population of over 33,000 the juvenile court shall have jurisdiction of the offenses described in Section 27 [7196—27]. Prosecutions hereunder shall be begun by complaint duly verified and filed in the juvenile court of the county. If the defendant is found guilty the court may impose conditions upon him; and so long as he shall comply therewith to the satisfaction of the court the sentence imposed may be suspended. ('17 c. 397 § 28)

[7196—]29. **Same—Expenses in probate court, how paid**—The expenses of the proceedings in probate courts provided for by this act, including the care of children during continuances, when not with relatives, the necessary expenses for travel and board incurred by the judge of probate when holding court in places other than the county seat, and fifteen cents for each folio to the judge of probate for all records made by him, additional to his salary, shall be paid by the parents of the child, if of sufficient means, and if not so paid, by the county upon the certificate of the judge of probate. Suit to recover the same from the parents shall be brought by the county attorney when a judgment therefor could probably be collected. ('17 c. 397 § 29)

[7196—]30. **Same—Payment of salaries, etc.**—All salaries required to be paid under the provisions of this act shall be paid by the county in equal monthly installments, and all authorized fees and expense money shall be paid by the county upon proper certification by the judge. ('17 c. 397 § 30)

[7196—]31. **Same—Judges and officers serving when act takes effect**—All designations of a district judge and assignments of a deputy clerk to serve in a juvenile court, and all appointments of a bailiff and probation officers in and for such a court, heretofore or hereafter made according to law and in force when this act takes effect, are hereby continued in force during the period for which they were made or until otherwise ordered by the court. ('17 c. 397 § 31)

[7196—]32. **Same—Act to be liberally construed**—This act shall be liberally construed to the end that its purpose may be carried out, to-wit: That in all proceedings arising under its provisions the court shall act upon the principle that to the child concerned there is due from the state the protection and correction which he needs under the circumstances disclosed in the case; and that whenever it is necessary to provide for him elsewhere than with his parents his care, custody and discipline shall approximate as nearly as may be that which ought to be given by his parents; and that in all cases where it can properly be done he shall be placed in an approved family home and become a member of the family by legal adoption or otherwise. ('17 c. 397 § 32)

[7196—]33. **Same—Partial invalidity of act**—The provisions of this act are severable one from another and in their application to the persons and interests affected thereby. The judicial declaration of the invalidity of any provision, or the application thereof, shall not affect the validity of any other provision, or the application thereof. ('17 c. 397 § 33)

[7196—]34. **Same—Laws not repealed**—Nothing herein contained shall be construed to repeal any of the provisions of Sections 189, 9385, 9386, 9387, 9388, 9389, 9390, 9391, 9394, 9395, 9396 or 9397, General Statutes 1913; or chapter 3, Laws 1915 [1957—5, 1957—6]. ('17 c. 397 § 34)

[7196—]35. **Same—Laws repealed**—Sections 233, 234, 235, 7162, 7163, 7164, 7165, 7166, 7167, 7168, 7169, 7170, 7171, 7172, 7173, 7174, 7175, 7176, 7177, 7178, 7179, 7180, 7181, 7182, 7183, 7184, 7185, 7186, 7187, 7188, 7189, 7190, 7191, 7192, 7193, 7194, 7195 and 7196, General Statutes 1913; and chapters 83, 134 and 228, Laws 1915, and all other acts and parts of acts inconsistent with this act are hereby repealed. ('17 c. 397 § 35)

7197-7199. [Repealed.]

See § [7199—]18.

7197—The general statutory system of providing for the poor (§ 3067) did not curtail the power of the legislature to pass this act (123-382, 143+984, 49 L. R. A. [N. S.] 597). Infants, 12.

The relief provided by this section is not a matter of purely local concern, and its provisions are operative in a county wherein the town system of caring for the poor prevails, as well as elsewhere, and also in a city in such county, though it maintains its own pauper system. A child dependent upon the public for support is within § 7178, and hence within this section, though the sole reason of such delinquency is the financial inability of its parent to support it, and though there is neither delinquency on the part of the child nor other unfitness on the part of the parent. There was no error or impropriety in entertaining a joint application for relief in behalf of several children of the same parents residing with the mother. In such case the court was not required to make the same order with reference to all the children. The probate court held, on the facts, properly to have exercised its power to grant relief under this section (123-382, 143+984, 49 L. R. A. [N. S.] 597). Infants, $\text{C}\text{--}12\frac{1}{2}$.

[7199—]1. **Allowances to mothers—When made—Amount—**Whenever any child under the age of sixteen years who is not lawfully entitled to apply for and receive an employment certificate is found by juvenile court to be dependent the court shall, when requested so do to [to do], and in the same proceeding, make its findings upon the following points:

- (a) Whether the mother of the child is a widow;
- (b) If her husband is living, whether he is an inmate of a penal institution under a sentence which will not terminate within three months after the date of such finding; or is an inmate of a state insane asylum or hospital, or of a state hospital for inebriates; or is unable to labor for the support of his family by reason of physical disabilities; or is and for one year has been under indictment for the crime of abandoning such child;
- (c) Whether the dependency of the child is due to the poverty of the mother without neglect, improvidence or other fault on her part;
- (d) Whether the mother is otherwise a proper person to have the custody of the child;
- (e) Whether the welfare of the child will be subserved by permitting him to remain in the custody of the mother, if adequate means of support shall be provided;
- (f) Whether the mother is a citizen of the United States or whether she or her husband has made declaration of intention to become a citizen and has resided two years in the state and one year in the county.

Upon the making and filing of findings that the mother is a widow or that support is not obtainable from her husband by reason of one of the alternatives specified in subdivision (b), together with findings in the affirmative upon the points specified in subdivisions (c), (d), (e), (f), the courts shall further find, and order the payment of the sum of money which it deems necessary for the county to allow the mother in order to enable her to bring up the child properly in her own home, not exceeding fifteen dollars per month for one child and not exceeding ten dollars per month for each additional child; provided, however, that no allowance shall be made when the husband is under indictment for abandonment unless the court is satisfied that he is a fugitive from justice and that the mother has in good faith assisted and will continue to assist in all reasonable efforts to apprehend him. ('17 c. 223 § 1)

By § 19 the act takes effect January 1, 1918.

[7199—]2. **Same—Manner of payment—Subsequent order—**A certified copy of such order shall be filed with the county auditor and thereafter, so long as such order remains in force and unmodified, it shall be the duty of the county auditor each month to draw his warrant on the general revenue fund of the county in favor of the mother for the amount specified in such order. The warrant shall be delivered to the clerk of the court making the order and shall by the latter be delivered to the mother upon her executing a receipt therefor, to be retained by the clerk with the other records in the proceedings relating to the child. It shall be the duty of the county treasurer to pay the warrant out of the general revenue fund of the county when properly presented. No such allowance shall be paid toward the support of any child who has become lawfully entitled to apply for and receive an employment certificate or who has ceased to be under the immediate care of the mother. The court may for cause duly shown revoke or modify any order previously made. A certified copy of any such subsequent order shall forthwith be filed with the county auditor and thereafter warrants shall be drawn and payments made only in accordance with such subsequent order. ('17 c. 223 § 2)

[7199—]3. **Same—Court may impose conditions**—The court may require any mother to whom an allowance is made under this act to make a reasonable effort to learn the English language and customarily use the same in her family. The court may also require the mother to do such remunerative work outside her own home as she can do without detriment to her health or neglect of her family and may limit the number of days per week when she may be so employed. ('17 c. 223 § 3)

[7199—]4. **Same—County child welfare board—Duty to assist court**—In counties where there is a county child welfare board as provided by law such board, when so requested by the court, shall consider applications for allowance under this act and shall advise the court concerning their merit, the sum, if any, which ought to be allowed and the special conditions, if any, upon which the same ought to be granted. ('17 c. 223 § 4)

[7199—]5. **Same—Investigation and supervision—Official reports as basis for findings**—Before making any order or allowance under this act it shall be the duty of the court, either through the judge in person or through the county child welfare board and its agents or a probation officer designated for that purpose or an official investigator appointed as provided in section 6 of this act, to make inquiry as to all the points necessary to establish the right to such allowance; and particularly to inquire whether the surroundings of the household, including its other members, are such as to make for the good character of children growing up therein; to ascertain all the financial resources of the family, including the ability of its members of working age to contribute to its support and if need be to urge upon such members their proper contribution to take all lawful means to secure support for the family from relatives under legal obligation to render such support; to ascertain the ability of other relatives to assist the family and to interview individuals, societies and other agencies which may be deemed appropriate sources of such assistance. Every family to which an allowance has been made shall be visited at its home by a representative of the court at least once in three months; and after each visit the person making the same shall make and keep on file as a part of the official record of the case a detailed statement of the condition of the home and family, and all other data which may assist in determining the wisdom of the allowance granted and the advisability of its continuance; and the court shall at least once in each year reconsider every case in which an allowance has been made, and take such action as the facts then existing shall warrant. All findings and orders provided for herein may be made upon the written reports of official investigators with like effect as if based upon competent testimony given in open court. ('17 c. 223 § 5)

[7199—]6. **Same—Official investigators**—In counties having over 200,000 population the judge of the juvenile court may appoint one or more persons for the investigation of applications for allowances under this act, whose duty it shall be to visit the homes of the applicants and ascertain all the relevant facts and circumstances, including the facts specified in the preceding section and make report in such form as the court may require. Each person so appointed shall receive a salary of \$1080 per annum to be paid in monthly installments out of the county treasury, together with all actual expenses certified by the judge to have been necessarily incurred by them in the performance of their duties. ('17 c. 223 § 6)

[7199—]7. **Same—Reconsideration upon complaint—Appeal**—Upon complaint being made to the county attorney by a taxpayer of the county that any person is unlawfully receiving an allowance out of the county funds on account of an alleged dependent child it shall be the duty of the county attorney to investigate such complaint and if he finds it to have probable cause to bring it to the attention of the court by appropriate proceedings. The court shall hear such evidence and argument as shall be offered and shall thereupon make its order confirming, modifying or setting aside the order complained of, from which decision an appeal may be taken as in a civil action. ('17 c. 223 § 7)

[7199—]8. **Same—What property bar to allowance—**The ownership by a mother of personal property of the value of one hundred dollars, exclusive of appropriate clothing and household furniture and of such tools, implements and domestic animals as in the opinion of the court it is expedient to retain for the purpose of reducing the expense or increasing the income of the family or of real estate not used as a home; or of real estate, when used as a home; of a value disproportionate to the actual needs of the family, shall be a bar to any allowance under this act. ('17 c. 223 § 8)

[7199—]9. **Same—Terms defined—**The word "husband" in this act may denote either the father of a dependent child or a stepfather of whose family the child is or has been a member. The word "mother" may denote either the mother or a step-mother of whose family the child is a member. ('17 c. 223 § 9)

[7199—]10. **Same—Allowance to grandmother—**Whenever the court shall be of the opinion that the welfare of a dependent child will be best served by permitting him to live in the family of his grandmother, all the provisions of this act shall be so construed as to apply to such grandmother and her husband in like manner as to the mother and her husband. ('17 c. 223 § 10)

[7199—]11. **Same—Fraud in procuring allowance—Penalty—**Any person fraudulently procuring or attempting to procure an allowance under this act for a person not entitled thereto, by any act which does not constitute a felony, shall be guilty of a misdemeanor. ('17 c. 223 § 11)

[7199—]12. **Same—Duties of board of control—**It shall be the duty of the state board of control to promote efficiency and uniformity in the administration of this act. To that end it shall advise and co-operate with courts and shall supervise and direct county child welfare boards with respect to methods of investigation, oversight and record-keeping; shall devise, recommend and distribute blank forms; shall by its agents visit and inspect families to which allowances have been made; shall have access to all records and other data kept by courts and other agencies concerning such allowances; and may require such reports from clerks of the courts, child welfare boards, probation officers and other official investigators as it shall deem necessary. ('17 c. 223 § 12)

[7199—]13. **Same—Payments to be reported to state officers—State to allow one-third—**During the month of January in each year the county auditor shall certify under oath, in duplicate, to the state auditor and the state board of control the amount paid out by the county during the preceding calendar year for allowances under this act; and if the board of control shall approve the same it shall cause its approval to be indorsed by its chairman on the certificate received by the state auditor; whereupon the state auditor shall draw his warrant to the county treasurer for one-third of the amount so certified to have been paid out by the county and the state treasurer shall pay the same and the county treasurer shall credit the sum so paid to the general revenue fund of the county. ('17 c. 223 § 13)

[7199—]14. **Same—Improper administration—Duty of board of control—**If in any county this act shall be unlawfully or improvidently administered or if any of the agencies administering it shall wrongfully refuse to co-operate with the state board of control as provided in section 12 [7199—12], the board may refuse to approve and indorse the certificate of disbursements provided for in section 13 [7199—13]. Such refusal shall be subject to judicial review upon appropriate proceedings. ('17 c. 223 § 14)

[7199—]15. **Same—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 co-operate with responsible mothers in rearing future citizens, when such co-operation is necessary on account of relatively permanent conditions, in order to keep the mother and children 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. ('17 c. 223 § 15)

MINNESOTA STATUTES 1917 SUPPLEMENT

670

DEPENDENT, NEGLECTED AND DELINQUENT CHILDREN § [7199—]16

[7199—]16. **Same—Action against relative preserved**—Nothing herein shall be deemed to be inconsistent with any right of action against a relative of a poor person conferred by sections 3067 and 3068, General Statutes, 1913. ('17 c. 223 § 16)

[7199—]17. **Same—Orders made under former law**—All orders of court granting county aid to mothers of dependent children under the provision of chapter 130, laws 1913, (being sections 7197, 7198 and 7199, General Statutes, 1913), in force where this act takes effect, shall continue in force until confirmed, modified or set aside pursuant to the provisions of this act. ('17 c. 223 § 17)

[7199—]18. **Same—Laws repealed**—Sections 7197, 7198 and 7199, General Statutes, 1913, are hereby repealed. ('17 c. 223 § 18)