1941 Supplement

To

Mason's Minnesota Statutes, 1927

and

Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 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 Law Review Articles and digest of all common law decisions.

Edited by
the
Publisher's
Editorial Staff

MASON PUBLISHING CO.
SAINT PAUL 1, MINNESOTA

1944

name changed in the manner herein specified. He shall state in his application the name and age of his wife and each of his children, if any, and shall describe 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. If he be under the age of 14 years, the application may be made by his guardian or next of kin. Every person who, with intent to defraud, shall make a false statement in any such application shall be guilty of a misdemeanor. (As amended Feb. 15, 1943, c. 28, §1; Apr. 2, 1943, c. 292, §1.)

Statute does not change common law rule which permits a person to change his name without legal proceeding, but it does not follow that a candidate on eve of an election may assume a new name for purpose of furthering his candidacy or for advertising his business. Op. Atty. Gen., (184e), May 12, 1941.

8634. Order—Filing copies.—If it shall appear to the court to be proper, it shall grant the application, and set forth in the order the name and age of his wife and each child of the applicant, if any, and shall state a description of the lands, if any, in which the applicant and said wife and children, if any, claim 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. Before doing so he shall present the same to the county auditor who shall enter the change of name in his official records and note upon the instrument, over his official signature, the words "change of name recorded." 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 $2.00, and for each certified copy of the order 50 cents. (As amended Act Apr. 10, 1941, c. 178, §1; Act Feb. 15, 1943, c. 28, §2.)

Act Apr. 28, 1941, c. 540, §1, validates final decrees of adoption heretofore entered pursuant to sections 8624 to 8634, inclusive.

CHAPTER 73A

Dependent, Neglected and Delinquent Children

8636. Definitions.

Child born to prisoner at Women's State Reformatory may not be placed in a private charity or boarding home by director of public institution or superintendent of reformatory, but case should be referred to director of social welfare, who should institute a proceeding in juvenile court for commitment if child is a dependent. Op. Atty. Gen. (840a-6), July 13, 1940.

8637. Jurisdiction of District Court—Jurisdiction of Probate Court.—The District Court in counties now or hereafter having a population of more than 45,000 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 45,000 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. (As amended Apr. 1, 1941, c. 110, §1.)

Jurisdiction of court is not affected by federal census until certified copies of official census are filed with secretary of state. Op. Atty. Gen. (56-a), July 26, 1940.

Where a boy was adjudged delinquent before he was 18 years of age, was placed on probation and on violation was committed to Home School for Boys, and then released on parole, and on violation of parole was committed to state training school with a stay on probation, court had jurisdiction to commit him to state training school at any time he was still under 21 years of age. Op. Atty. Gen. (345a-1), Jan. 25, 1943.

There is no minimum age for committing a boy to state training school for boys, but court imposing sentence or commitment has a wide range of discretion. Op. Atty. Gen. (345a-1), Jan. 25, 1943.

City attorney has no official duty before juvenile court, but county attorney shall assist when directed by juvenile court judge. Op. Atty. Gen. (59a-5), Nov. 2, 1943.

8638. Judges of juvenile court.—In counties having more than 45,000 except the Fourt 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 avisable 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 .....

In the matter of ..... as a dependent (or neglected or delinquent, as the case may be) child. (As amended Apr. 1, 1941, c. 110, §2.)

8641. Probate court as juvenile court—Record—Appeal.—In counties of not more than 45,000 population and in all counties in the Seventh 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 pro-

bate court may for convenience be called the juvenile court of the appropriate county. (As amended Apr. 1, 1941, c. 110, §3.)

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 24 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 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. Except in counties containing a city of the first class if the petition presented is made by a person other than a representative of the division of social welfare or county welfare board, notice as provided by the court shall be given to the county welfare board. Where the person to be notified, other than a member of the county welfare board or its staff, 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 commons 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 may 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. (As amended Apr. 9, 1941, c. 158, §1.)

8644. Probation officers—Duties—Compensation.
In counties of less than 45,000 population probation officer is to be appointed by probate judge, and cannot be appointed by county board, but county board must approve salary, which is to be paid from general revenue fund of county. Op. Atty. Gen. (268J), Mar. 19, 1942.

8645. 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. Provided, that in any county under 150,000 population when the juvenile court has obtained jurisdiction of a dependent, neglected or delinquent child the court may require that a physical or mental examination, or both, be made of such child by a duly qualified physician or mental examiner. (As amended Apr. 9, 1941, c. 158, §7.)

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 director of social welfare 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 continue the hearing from time to time without making an order of final commitment as above provided for and may make an order placing the child in the temporary care or custody of the county welfare board or an association accredited as provided by law. The court may, when the health or condition of the child shall require it, authorize the county welfare board to provide special medical or remedial care or treatment of the child, including care in a public or private hospital, if necessary, at the expense of the county. 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. Before making an order of final commitment to the director of social welfare or the state public school for dependent children at Owatonna, provided for by this section, the court shall consider such evidence, report or recommendation as the county welfare board may make concerning the case. Upon making an order of commitment to the director of social welfare, the judge or clerk shall mail or deliver a copy thereof to the director of social welfare and the child shall be delivered by order of the court to the county welfare board, as the representative of the director of social welfare, to be cared for as directed by the director of social welfare. If the child is committed to the guardianship of an association, accredited by law to receive children for care and place them in private homes, the child shall be transported at the expense of the county by order of the court to the place designated by such association for the care of the child. (As amended Apr. 9, 1941, c. 158, §2.)

(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 property, 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. (As amended Feb. 1, 1943, c. 7, §2.)

Act Mar. 18, 1943, c. 149, §1, provides: The county welfare board of any county having a population of 500,000, and operating under the township system of caring for the poor, may provide at the expense of the county, such board, room, medical treatment and incidentals as it may deem necessary in emergency cases to care for any child who is separated from its parents and who is likely to be committed by the juvenile court as a dependent or neglected child. Such care may be provided to the extent only that such child is not entitled thereto as a poor person from any county, city, village or town of this state in which it has a legal settlement for poor relief purposes. The county welfare board of any such county may maintain at the expense of the county places in such licensed children's boarding homes available at all times for the placement and lodging of such children. Costs to be a claim against parent, guardian, trustee or custodian of such child.

Settlement is determined by residence of a child, but right to custody as between natural parents and other person is a question of fact that should be raised in a habeas corpus proceedings. Op. Atty. Gen. (840a-6), Feb. 14, 1940.

Residence, and not poor settlement, fixes liability for mother's pension. Op. Atty. Gen. (540m), Aug. 12, 1942.

If child has not resided continually in one county for the year preceding the application, then the county in which the child has resided for the longest period of time during the year shall be responsible for the payment of assistance, and it is immaterial that settlement may be in another county. Op. Atty. Gen. (840a-6), June 16, 1943.

Lack of cooperation on the part of the mother and children or other members of the family in receiving aid from the army for children in the home should not be considered in depriving the children of assistance. Op. Atty. Gen. (840a-6), Sept. 9, 1943.

(a).
Alien children are eligible to receive aid. Op. Atty. Gen. (540a), Nov. 22, 1940.

8688-7. Amount af 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 $23.00 per month for the first child and not to exceed $15.00 per month for each additional child in the same home. (As amended Act Apr. 23, 1943, c. 580, §1.)

Lack of cooperation on the part of the mother and children or other members of the family in receiving aid from the army for children in the home should not be considered in depriving the children of assistance. Op. Atty. Gen. (840a-6), Sept. 9, 1943.

8688-15. County agency to pay to recipient—Keep records—Accept part payment from state.—(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 the amount provided for in Mason's Supplement 1940, Section 8688-16 as amended.

(d) 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 the state and federal share of the County's total expenditures for aid to dependent children, as provided in Mason's Supplement 1940, Section 8688-16, as amended 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. (As amended Apr. 24, 1943, c. 619, §2.)

8688-16. Payment by the state.—Based upon estimates submitted by the county agency to the state agency, which shall be submitted on or before the 15th day of each month, and shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month, together with an amount of state funds equal to fifty per cent of the difference between the total estimated cost and the federal funds so available. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month. (As amended Apr. 24, 1943, c. 619, §1.)

Same procedure as outlined for disbursements of supplemental funds for old age assistance should also be followed in supplemental aid to dependent children funds to distressed counties. Op. Atty. Gen. (840A-6), Aug. 15, 1941.

8689-1 to 8689-5. [Repealed.]
Repealed. Laws 1941, c. 159.

8689-6. Guardianship and care of dependent children—Delinquency—Adoption.—The director of social welfare shall have powers of legal guardianship over the persons of all children who may be committed by courts of competent jurisdiction to his care, or to institutions under state management. After commitment to his guardianship he may make such provision for and disposition of the child as necessity and the best interests of the child may from time to time require. Provided, however, that no child shall be placed in an institution maintained for the care of delinquents who has not been duly adjudged to be delinquent; and provided further, that the director shall not be authorized to consent to the adoption of a child who is committed to his guardianship on account of delinquency. (Act Apr. 9, 1941, c. 159, §1.) [257.32]

Laws 1941, c. 356, as far as it goes, supersedes Laws 1941, c. 159, and functions of public guardianship and other custodial authority over children committed either to training school for boys or to home school for girls are vested in director of public institution, including money belonging to them. Op. Atty. Gen. (88A-4), Jan. 2, 1942.

One committed to state home school for girls is a ward of state until she becomes 21 years of age, and director of division of public institutions is her guardian though she is out on parole and may consent to operation of tonsillectomy by doctor at institution, over objections of parents of ward, providing the ward also consents and has an understanding of nature and consequences of operation by doctor in institution. Op. Atty. Gen. (88A-27e), Jan. 16, 1942.

bate court may for convenience be called the juvenile court of the appropriate county. (As amended Apr. 1, 1941, c. 110, §3.)

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 24 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 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. Except in counties containing a city of the first class if the petition presented is made by a person other than a representative of the division of social welfare or county welfare board, notice as provided by the court shall be given to the county welfare board. Where the person to be notified, other than a member of the county welfare board or its staff, 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 commons 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 may 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. (As amended Apr. 9, 1941, c. 158, §1.)

8644. Probation officers—Duties—Compensation.
In counties of less than 45,000 population probation officer is to be appointed by probate judge, and cannot be appointed by county board, but county board must approve salary, which is to be paid from general revenue fund of county. Op. Atty. Gen. (268J), Mar. 19, 1942.

8645. 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. Provided, that in any county under 150,000 population when the juvenile court has obtained jurisdiction of a dependent, neglected or delinquent child the court may require that a physical or mental examination, or both, be made of such child by a duly qualified physician or mental examiner. (As amended Apr. 9, 1941, c. 158, §7.)

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 director of social welfare 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 continue the hearing from time to time without making an order of final commitment as above provided for and may make an order placing the child in the temporary care or custody of the county welfare board or an association accredited as provided by law. The court may, when the health or condition of the child shall require it, authorize the county welfare board to provide special medical or remedial care or treatment of the child, including care in a public or private hospital, if necessary, at the expense of the county. 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. Before making an order of final commitment to the director of social welfare or the state public school for dependent children at Owatonna, provided for by this section, the court shall consider such evidence, report or recommendation as the county welfare board may make concerning the case. Upon making an order of commitment to the director of social welfare, the judge or clerk shall mail or deliver a copy thereof to the director of social welfare and the child shall be delivered by order of the court to the county welfare board, as the representative of the director of social welfare, to be cared for as directed by the director of social welfare. If the child is committed to the guardianship of an association, accredited by law to receive children for care and place them in private homes, the child shall be transported at the expense of the county by order of the court to the place designated by such association for the care of the child. (As amended Apr. 9, 1941, c. 158, §2.)

Probate court has power to commit a blind boy to state school for blind at Faribault, or may commit him to guardianship of division of social security, which will place boy in proper school. Op. Atty. Gen., (482a), Dec. 28, 1939.

Juvenile court committing defendant child to welfare board has jurisdiction to enforce order by appropriate order to sheriff, whether court is presided over by a judge of probate court or of district court. Op. Atty. Gen. (840A-6), Feb. 26, 1942.

Parent is liable for support of neglected child where juvenile court has placed it temporarily in a local home. Op. Atty. Gen. (840a-9), May 7, 1943.

A juvenile delinquent under commitment to Sauk Centre School may be sentenced to state reformatory for a crime thereafter committed while on parole. Op. Atty. Gen. (341l-3), Nov. 15, 1943.

8647. Guardianship—Adoption.—In any case where the court shall award a dependent or neglected child to the care of the director of social welfare, 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 director of social welfare or of the association or individual to whose care he 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, Mason's Minnesota Statutes of 1927, Section 8652. The director of social welfare, association or individual shall have authority to place such child in a family home and may be made a party to any proceedings for the legal adoption of the child, and may by his or its attorney or representative appear in any court where such proceedings are pending and consent to such adoption. (As amended Apr. 9, 1941, c. 158, §3.)

Procedure for transfer of dependent child from guardianship of director to an acredited agency. Op. Atty. Gen. (840a-7), July 28, 1943.

8648. Hearing — Continuance — Commitment by court; etc.

Powers and duties respecting children committed to state training school for boys and Minnesota home school for girls vested in state director of public institutions, state board of parole, director of social welfare, or any other state agency are transferred to the director of public institutions. Laws 1941, c. 356. See §§3199-106a and 3199-106b.

Laws 1941, c. 356, as far as it goes, supersedes Laws 1941, c. 159, and functions of public guardianship and other custodial authority over children committed either to training school for boys or to home school for girls are vested in director of public institution, including money belonging to them. Op. Atty. Gen. (88A-4), Jan. 2, 1942.

Delinquent child who escaped from girls school at Sauk Center is not subject to extradition, but director of social welfare as guardian has right to custody of his ward and may obtain it in courts of the other states. Op. Atty. Gen. (193b-15), July 14, 1943.

8652. Property of child.—If any child placed under guardianship by a juvenile 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 having jurisdiction of the estate of such child the principal or any part thereof may be used for the same purpose. (As amended Apr. 9, 1941, c. 158, §8.)

8657. Transfer of cases from municipal courts; etc.

It is only as to minor crimes triable by a magistrate that it is contemplated that jurisdiction of a juvenile court shall supersede that of the magistrate, and where juvenile court has assumed jurisdiction in case of an assault with intent to commit a felony and fails or refuses to direct institution of criminal proceedings, county attorney may cause accused to be rearrested and proceeded against criminally. Op. Atty. Gen. (268f), Apr. 10, 1942.

8662. Responsibility of parents, guardians, etc.

Before a prosecution will lie under this section there must be a formal adjudication by proper juvenile court that child is neglected or delinquent. Op. Atty. Gen., (840a-5), March 19, 1940.

Municipal liquor store may not sell intoxicating liquor to father of a minor child, such liquor to be consumed by such minor upon the premises. Op. Atty. Gen. (218J-12), Sept. 5, 1940.

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, the fees and necessary mileage, not to exceed five cents per mile, of witnesses and of officers serving notices and subpoenas ordered by the court, the 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. (As amended Apr. 9, 1941, c. 158, §4.)

Notwithstanding §254-47, sheriff acting under this act cannot be paid in excess of five cents per mile. Op. Atty. Gen. (390A-11), Aug. 5, 1941.

Word "officers" includes social welfare workers, sheriffs, marshals, constables, or any other person designated by court to serve notices and subpoenas, and these are subject to five cent limitations, assuming that they are otherwise entitled to reimbursement. Op. Atty. Gen. (104A-6), Sept. 29, 1941.

Sheriff's compensation in Rice County is controlled by sheriff's general salary law and the general mileage statute, and sheriff's salary is in full for his services in serving an insane warrant and conveying patient to state institution, and this applies to insane, feebleminded and inebriate cases, and sheriff receives mileage at seven cents per mile and actual disbursement for travel, board and lodging of himself and patient and his authorized assistants paid on order of probate court, and sheriff is not entitled to any fees because his services for the county in juvenile cases are covered by general salary act, and sheriff's mileage rate for services rendered upon order of juvenile court is five cents per mile. Op. Atty. Gen. (390a-11), Oct. 21, 1942.

8664-2. Same—Findings—Certification.—In any proceeding relating to a dependent, neglected or delinquent child, if it appears that the child has a legal settlement in another county, the court may continue the case and forward to the clerk of the juvenile court of the county in which it appears the child has a legal settlement a certified copy of all papers filed together with an order of transfer of the case to the county of legal settlement. Whenever the judge of the juvenile court of the county to which the case has been transferred denies that such child has a legal settlement in his county, he shall send such order of transfer with his statement of facts as to settlement of the child to the director of social welfare who shall immediately investigate and determine the question of legal settlement and certify his findings to the juvenile judge of each of said counties. Such decision shall be final and complied with unless within 30 days thereafter action is taken in the district court as provided in Mason's Minnesota Statutes of 1927, Sections 3161-1 and 3161-2 as amended.

When the legal settlement of the child has been determined the judge of the juvenile court of the county of legal settlement shall proceed to hear and determine the disposition of the case. The judge may accept the findings of the juvenile court where the petition was filed or he may in his discretion direct the filing of a new petition and hear the case de novo. (As amended Apr. 9, 1941, c. 158, §5.)

"Legal settlement" means the same as in statute relating to poor relief. Op. Atty. Gen. (840A-5), Sept. 24, 1941.

8664-3. Same—Certification of rejection of claim by county auditor—Determination by state board of control.—When it has been determined that the legal settlement of such child is in another county by the admission of the juvenile court judge of such county or by the director of social welfare or the district court, the necessary costs and expenses of such proceedings together with the cost of caring for such child during continuances when not with the parents, shall be certified by the 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 have a legal settlement and shall be paid as other claims against said county. (As amended Apr. 9, 1941, c. 158, §6.)

AID TO DEPENDENT CHILDREN

8688-3. Definitions.—(a) "State Agency" as used in this act shall mean the director of social welfare.

(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 father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt 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. (As amended Act Feb. 1, 1943, c. 6.)

Whether the entrance of the father of a four-year-old child into the military service under the Selective Service Act constitutes "continued absence from home" is a question of fact to be administratively determined. Op. Atty. Gen., (840a-6), July 12, 1941.

(c).

Death of mother does not qualify for aid unless child is thereby deprived of support or care. Op. Atty. Gen. (840-a-6), July 19, 1940.

Aid may be allowed if child is deprived of parental support by reason of physical or mental incapacity of a parent, and a father might have physical or mental capacity insufficient to support his child because of habitual drunkenness. Op. Atty. Gen. (840a-1), Aug. 20, 1942.

(d).

If father of children pays in full amount of alimony ordered by court, children are eligible for aid in an amount to cover deficiency between amount paid by father and sum required for children's support, if it clearly appears that father has not the financial ability to supply more money. Op. Atty. Gen., (840a-6), Dec. 20, 1939.

Where father is a drunkard and an adulterer and has failed to make any regular contributions in support of his children for more than 5 years, and has not lived with his family for several years, and he is convicted of abandonment under §10135 and is given a suspended sentence upon condition that he contribute $25 per month to support of his family and does contribute such amount to keep out of the penitentiary and there is a family budget requirement of $100 per month, a grant of aid to the dependent children would be warranted. Op. Atty. Gen. (840a-6), Sept. 26, 1940.

Homesteads up to $4,000 through and full value are exempt from 3 tax levy items imposed by Laws 1939, cc. 238, 245 and 436, relating to old age assistance, aid to dependent children, and relief. Op. Atty. Gen. (519), Nov. 22, 1940.

Where custody of children has been awarded to mother in a divorce action and there is no order for support or alimony and father is not able to do more than make a living for himself, aid may be awarded children without the issuing of a warrant for abandonment, if there is no abandonment. Op. Atty. Gen. (840a-1), Aug. 25, 1942.

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) May cooperate with other state agencies in establishing reciprocal agreements in instances where a child receiving aid to dependent children moves or contemplates moving into or out of the state, in order that such child may continue to receive supervised aid from the state from which he has moved until he shall have resided for one year in the state to which he has moved; and

(g) 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. (As amended Feb. 1, 1943, c. 7, §1.)

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 of a mother who has so resided; 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 Mason's Supplement 1940, Section 8688-13.

(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 father or mother 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 property, 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. (As amended Feb. 1, 1943, c. 7, §2.)

Act Mar. 18, 1943, c. 149, §1, provides: The county welfare board of any county having a population of 500,000, and operating under the township system of caring for the poor, may provide at the expense of the county, such board, room, medical treatment and incidentals as it may deem necessary in emergency cases to care for any child who is separated from its parents and who is likely to be committed by the juvenile court as a dependent or neglected child. Such care may be provided to the extent only that such child is not entitled thereto as a poor person from any county, city, village or town of this state in which it has a legal settlement for poor relief purposes. The county welfare board of any such county may maintain at the expense of the county places in such licensed children's boarding homes available at all times for the placement and lodging of such children. Costs to be a claim against parent, guardian, trustee or custodian of such child.

Settlement is determined by residence of a child, but right to custody as between natural parents and other person is a question of fact that should be raised in a habeas corpus proceedings. Op. Atty. Gen. (840a-6), Feb. 14, 1940.

Residence, and not poor settlement, fixes liability for mother's pension. Op. Atty. Gen. (540m), Aug. 12, 1942.

If child has not resided continually in one county for the year preceding the application, then the county in which the child has resided for the longest period of time during the year shall be responsible for the payment of assistance, and it is immaterial that settlement may be in another county. Op. Atty. Gen. (840a-6), June 16, 1943.

Lack of cooperation on the part of the mother and children or other members of the family in receiving aid from the army for children in the home should not be considered in depriving the children of assistance. Op. Atty. Gen. (840a-6), Sept. 9, 1943.

(a).

Alien children are eligible to receive aid. Op. Atty. Gen. (540a), Nov. 22, 1940.

8688-7. Amount af 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 $23.00 per month for the first child and not to exceed $15.00 per month for each additional child in the same home. (As amended Act Apr. 23, 1943, c. 580, §1.)

Lack of cooperation on the part of the mother and children or other members of the family in receiving aid from the army for children in the home should not be considered in depriving the children of assistance. Op. Atty. Gen. (840a-6), Sept. 9, 1943.

8688-15. County agency to pay to recipient—Keep records—Accept part payment from state.—(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 the amount provided for in Mason's Supplement 1940, Section 8688-16 as amended.

(d) 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 the state and federal share of the County's total expenditures for aid to dependent children, as provided in Mason's Supplement 1940, Section 8688-16, as amended 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. (As amended Apr. 24, 1943, c. 619, §2.)

8688-16. Payment by the state.—Based upon estimates submitted by the county agency to the state agency, which shall be submitted on or before the 15th day of each month, and shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month, together with an amount of state funds equal to fifty per cent of the difference between the total estimated cost and the federal funds so available. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month. (As amended Apr. 24, 1943, c. 619, §1.)

Same procedure as outlined for disbursements of supplemental funds for old age assistance should also be followed in supplemental aid to dependent children funds to distressed counties. Op. Atty. Gen. (840A-6), Aug. 15, 1941.

8689-1 to 8689-5. [Repealed.]

Repealed. Laws 1941, c. 159.

8689-6. Guardianship and care of dependent children—Delinquency—Adoption.—The director of social welfare shall have powers of legal guardianship over the persons of all children who may be committed by courts of competent jurisdiction to his care, or to institutions under state management. After commitment to his guardianship he may make such provision for and disposition of the child as necessity and the best interests of the child may from time to time require. Provided, however, that no child shall be placed in an institution maintained for the care of delinquents who has not been duly adjudged to be delinquent; and provided further, that the director shall not be authorized to consent to the adoption of a child who is committed to his guardianship on account of delinquency. (Act Apr. 9, 1941, c. 159, §1.) [257.32]

Laws 1941, c. 356, as far as it goes, supersedes Laws 1941, c. 159, and functions of public guardianship and other custodial authority over children committed either to training school for boys or to home school for girls are vested in director of public institution, including money belonging to them. Op. Atty. Gen. (88A-4), Jan. 2, 1942.

One committed to state home school for girls is a ward of state until she becomes 21 years of age, and director of division of public institutions is her guardian though she is out on parole and may consent to operation of tonsillectomy by doctor at institution, over objections of parents of ward, providing the ward also consents and has an understanding of nature and consequences of operation by doctor in institution. Op. Atty. Gen. (88A-27e), Jan. 16, 1942.

8689-7. Duties of director of social welfare.—Thereafter it shall be the duty of the director of social welfare through the bureau of child welfare and county welfare boards to arrange for such tests, examinations, and investigations as are necessary for the proper diagnosis, classification, treatment, care and disposition of the child as necessity and the best interests of the child shall from time to time require. When it appears that a dependent or neglected child is sound of mind, free from disease, and suitable for placement in a foster home for care or adoption, the director may so place him or delegate such duties to a child-placing agency accredited as provided by law, or authorize his care in the county by and under the supervision of the county welfare board. (Act Apr. 9, 1941, c. 159, §2.)
[260.35]

8689-8. Children mentally or physically handicapped.—Whenever the director of social welfare shall find that a child committed to his guardianship as a dependent or neglected child is handicapped physically or whose mentality has not been satisfactorily determined or who is affected by habits, ailments or handicaps that produce erratic and unstable conduct, and is not suitable or desirable for placement in a home for permanent care or adoption, the director of social welfare shall make special provision for his care and treatment designed to fit him, if possible, for such placement or to become self-supporting. The facilities of the division of social welfare and all state institutions, the Minnesota General Hospital and the child guidance clinic of its psychopathic department, as well as the facilities available through reputable clinics, private child-caring agencies, and foster boarding homes, accredited as provided by law, may be used as the particular needs of the child may demand. Whenever it appears that the child is suitable for permanent placement or adoption, the director of social welfare shall cause him to be placed as provided in Section 2 hereof. Provided if the director of social welfare is satisfied that the child is feebleminded he may bring him before the probate court of the county where he is found or the county of his legal settlement for examination and commitment as provided by law. (Act Apr. 9, 1941, c. 159, §3.)
[260.36]

8689-9. Child reaching majority—Guardianship of child 14 years of age.—When a child is no longer a minor, as provided by law, the guardianship of the director of social welfare shall cease. If he is not self-supporting he shall be returned to the county of his legal settlement for care by the authorities charged with poor relief. Provided that a child, of the age of 14 years, not adopted but placed in a satisfactory foster home, may with the foster parents' consent, join with the director of social welfare in a petition to the court having jurisdiction of such child, praying that such foster parents be appointed guardian of such child and for the discharge of the director of social welfare as such guardian. (Act Apr. 9, 1941, c. 159, §4.)
[260.37]

8689-10. Costs and disbursements—Reimbursement.—In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the director of social welfare in providing care for such child except such children as may have been committed to the state public school, shall be paid by the county committing such child which, subject to uniform regulations established by the director of social welfare, may receive a reimbursement not exceeding one-half of such costs from funds made available for this purpose by the legislature. (Act Apr. 9, 1941, c. 159, §5.)
[260.38]

Part of appropriation to director of public institution by Laws 1941, c. 358, §13, may be transferred to director of social welfare so far as it is concerned with placement and supervision of children from state public school in free, boarding, and adoptive homes, if it can be identified. Op. Atty. Gen. (88A-2), Aug. 20, 1941.

8689-11. Repealer.—Mason's Minnesota Statutes of 1927, Sections 4454, 8689-2, 8689-3, 8689-4, and 8689-5 and Mason's Supplement 1940, Section 8689-1, are hereby repealed. (Act Apr. 9, 1941, c. 159, §6.)