

## CHAPTER 48.

## CHILD PROTECTION AND REFORMATION.

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**48.01 Definitions; juvenile court; jurisdiction; officers.** (1) As used in this chapter:

(a) The words "neglected child" shall mean any child under the age of eighteen years who is abandoned by his parent, guardian or custodian; or who lacks proper parental care by reason of the fault or habits of the parent, guardian or custodian; or whose parent, guardian or custodian neglects or refuses to provide proper or necessary subsistence, education or other care necessary for the health, morals or well-being of such child; or whose parent, guardian or custodian neglects or refuses to provide the special care made necessary by the mental condition of the child; or who engages in an occupation or is in a situation dangerous to life or limb or injurious to his health or morals; or who is in a home, other than his own, to which the state board of control has refused or is refusing to issue a foster home permit.

(b) The words "dependent child" shall mean any child under the age of eighteen years who is homeless or destitute or without proper support through no fault of his parent, guardian or custodian.

(c) The words "delinquent child" shall mean any child under the age of eighteen years who has violated any law of the state or any county, city, town or village ordinance; or who by reason of being wayward or habitually disobedient, is uncontrolled by his parent, guardian or custodian; or who is habitually truant from school or home; or who habitually so deports himself as to injure or endanger the morals or health of himself or others; or, if below twenty-one years of age, shall unlawfully and carnally know and abuse any female under the age of eighteen years, or assault intending carnal knowledge and abuse.

(2) All courts of record in this state shall have original jurisdiction of all cases of neglected, dependent and delinquent children. The judges of the several courts of record in each county of this state shall at intervals of not less than one year designate one or more of their number whose duty it shall be to hear at such places and times as he or they may set apart for such purposes all such cases; and in case of the absence, sickness or other disability of such judge, he shall designate a judge of any court of record whose duty it shall be to act temporarily in his place. Such court shall be known as the juvenile court. In counties having a population of five hundred thousand or more and containing an entire judicial circuit for which more than one judge is provided by law, a circuit judge thereof shall be designated and act as judge of the juvenile court in said county according to the provisions of section 252.07.

(3) The findings of the juvenile court shall be entered in a book or books or deposited in a file to be kept for that purpose, and the clerk and stenographic reporter of the court so designated shall be respectively the clerk and reporter of such juvenile court, except that in any county containing one or more cities of the first class, the clerk and assistants shall be appointed by the judge of the juvenile court, and such appointments shall be made according to the rules of the county civil service commission. In case of the absence or disability of the clerk of the juvenile court, the judge may deputize one of the assistants in the office of said clerk with full powers to perform the duties of the clerk of said juvenile court during such absence or disability. Such clerk shall take and file the official oath and shall receive such salary as shall be fixed by the county board. The reporter shall attend all sessions of said court, take down in shorthand the testimony taken and proceedings had at such sessions and promptly transcribe the same or parts thereof as directed by the judge, and forthwith file a copy with the clerk of such court, and shall also furnish such other copies as the judge shall order. Whenever the court shall enter an order committing a child to an institution or agency, a transcript of all of the evidence in the case, prepared by the reporter, shall be transmitted by the clerk of the court to such institution or agency, together with a supplementary statement prepared by the court or under its direction, based on information contained in the files of the court in relation to the child so committed, setting forth such facts therein as the court may deem suitable for the guidance of the institution or agency in properly caring for the child committed to its care. A copy of the birth certificate of such child or, if a birth certificate is not obtainable, other documentary evidence satisfactory to the court of the date of birth of such child shall be obtained for inclusion in the supplementary report. Unless the judge shall order otherwise or unless the person concerning whom the proceeding is instituted demands a public hearing or trial, the hearing or trial of all matters relating to dependent, neglected or delinquent children shall be private, and all persons, except the officers of the court, the parties, their witnesses and counsel, shall be excluded therefrom; and the record thereof shall not be open to the public except upon the order of the judge. The court shall hear and determine all cases of children without a jury, unless a jury is demanded. In jury trials the law and rules of practice relating to circuit courts shall govern the selection of jurors and procedure.

(4) Whenever in any county containing one or more cities of the second or third class any court is designated as the juvenile court and there is no clerk of such court other than the register in probate, the judge may appoint, by an instrument in writing filed with the county clerk, a clerk of the juvenile court, who shall be a stenographer and shall perform the duties of clerk and reporter of such court. Such clerk shall take and file the official oath and shall receive such salary as shall be fixed by the county board.

(5) (a) Except as otherwise provided in this paragraph, the juvenile court shall have exclusive original jurisdiction of proceedings under this chapter involving:

1. Delinquency, neglect or dependency of children residing within the county;
2. Voluntary or involuntary transfer of the care, control and custody of children within the county and the termination of parental rights as provided in subsection (7) of section 48.07;
3. Commitment of mentally defective and mentally disordered children under eighteen, the procedure to be pursuant to the provisions of chapters 51 and 52; and
4. Child or children in unlicensed foster homes.

(am) If in any of the cases in paragraph (a) of this subsection either the child or the parent, guardian or custodian is at the time of filing of petition present within some other county, but does not reside therein, the juvenile court of such other county shall have concurrent jurisdiction. In all cases of delinquent children over sixteen years of age, the criminal courts shall have concurrent jurisdiction with the juvenile court. Nothing contained herein shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or when such custody is incidental to the determination of causes pending in such courts.

(b) Whenever the juvenile court shall determine any child to be delinquent, such child shall continue for the purposes of sections 48.01 to 48.28 under the jurisdiction of the court until he becomes twenty-one years of age, unless discharged prior thereto.

(c) Whenever in the hearing of a case of a child alleged to be delinquent, neglected or dependent, it shall appear that an adult has been guilty of contributing to, encouraging or tending to cause by any act or omission, the delinquency, neglect or dependency of the child, the court shall have power to make orders with respect to the conduct of such adult in his relationship to the said child as provided in section 48.08.

(d) Judges of juvenile courts are granted power and authority to commit mentally deficient children under eighteen years of age pursuant to the provisions of chapter 52.

(e) Whenever in the hearing of a case of a child, alleged to be delinquent or neglected, it is made to appear that such child is mentally deficient and that its welfare will be promoted by commitment to either of the institutions named in section 52.01, or to another similar institution, the juvenile court may order a judicial inquiry as to the suspected mental deficiency of said child according to the provisions of chapter 52. The order of the court for such inquiry shall serve in lieu of the application or petition otherwise required by law for such inquiry. [1931 c. 352 s. 2; 1933 c. 428 s. 1, 2; 1933 c. 432 s. 2; *Spl. S. 1933 c. 9; 1937 c. 362; 1939 c. 77, 180, 524*]

**Note:** See note to 310.22, citing *In re Bagley's Guardianship: James v. Roberts*, 203 W 89, 233 NW 563.

Boy seventeen years of age who is charged with burglary may be bound over by justice of peace to circuit court, which court then has jurisdiction to try case instead of juvenile court. 20 Atty. Gen. 333.

Under (5) (a) juvenile court of county other than one in which child has legal settlement may determine legal settlement, but should give notice to county in which such legal settlement is had. 21 Atty. Gen. 643.

Boy over eighteen cannot be adjudged delinquent child. He may be committed to industrial school upon violation of probation based upon delinquency before he was eighteen. 24 Atty. Gen. 103.

Juvenile court has no jurisdiction in case involving crime of minor over eighteen, although child was previously committed as delinquent. 24 Atty. Gen. 754.

Boy committed to industrial school by juvenile court is subject to jurisdiction of

said court until he is twenty-one. 24 Atty. Gen. 808.

Juvenile court has power to order post mortem in interest of justice on application of defendant's attorney even though district attorney and coroner refuse to order such post mortem. 26 Atty. Gen. 335.

Child between ages of sixteen and eighteen years who has committed felony may be proceeded against either as delinquent child under provisions of chapter 48, or in same manner as adult who has committed felony, although sound social policy suggests use of former procedure. 26 Atty. Gen. 546.

Chapter 48 does not authorize juvenile court to commit to the state public school a dependent Indian child who resides on the reservation and who maintains his tribal relations. 28 Atty. Gen. 455.

Under (5) juvenile court of Fond du Lac county may hold Waushara county responsible for care of child temporarily living in Fond du Lac county but who is legally settled in Waushara county. 29 Atty. Gen. 159.

**48.02 Appointment and compensation of probation officer.** (1) In counties whose population is five hundred thousand or over the judge of the juvenile court shall appoint a chief probation officer and as many more probation officers of the juvenile court as shall be fixed by the county board. All such probation officers shall be appointed according to the rules of the county civil service commission. Whenever the county board of such county shall so determine, the office of chief probation officer shall be combined with the office of superintendent of detention home as provided for in subsection (3) of section 48.12 of the statutes.

(2) In counties having less than one hundred fifty thousand population the county board may, in its discretion, provide for the appointment of one or more probation officers; and in case such provision is made the judge of the juvenile court shall appoint such officer or officers to serve in said court. All such probation officers must have the minimum qualifications specified for state probation officers under the civil service law; provided, that this subsection shall not apply to any person who shall have been employed as a probation officer by any county of this state at the time of the taking effect of this section. Such officers may be removed at will during the first six months of their employment and thereafter shall be removed only for the causes specified in subsection (6).

(3) In case of the absence or disability of any of said probation officers for any period of more than three weeks the judge of the juvenile court may designate some competent person, having the qualifications of an original appointee, to act as probation officer during such period.

(4) In counties having less than one hundred fifty thousand population probation officers and temporary substitutes shall receive such annual salary for their services as shall be fixed by the judge of the juvenile court, with the approval of the county board, which shall be payable monthly by the county in which such juvenile court is situated.

(5) The probation officers appointed pursuant to this section shall constitute the probation department of the court. Wherever there is a chief probation officer the probation department shall be under the supervision of the chief probation officer, who shall have the power to perform all the duties of the court, except those reserved to the judge, or to the court after filing of the petition. A reasonable amount for postage, stationery and other necessary expenses shall be allowed to the probation department upon requisition therefor made to the county clerk.

(6) Any probation officer or his substitute may be removed by the judge of the juvenile court for incompetence, or wilful or habitual neglect to perform the duties of his office, or for some other good cause; provided, that in counties to which sections 16.31 to 16.44 are applicable, removal shall be made only in accordance with these sections. [1931 c. 352 s. 2; 1931 c. 356]

**48.03 Duties of probation officers.** It shall be the duty of the probation department to make such investigations and exercise such discretionary powers as the court may direct, to keep a written record of such investigations and to submit the same to the judge. Upon the placing of any person on probation, the probation department shall, under the

direction of the court, prescribe the conditions of probation and shall instruct such person regarding the same. Such department shall keep informed concerning the conduct and condition of each person on probation under its supervision and shall report thereon to the judge as he may direct. Each probation officer shall use all suitable methods to aid persons on probation and to bring about improvement in their conduct and condition. The probation department shall keep full records of its work and shall keep accurate and complete accounts of money collected from persons under its supervision, shall give receipts therefor and make reports thereon as the judge may direct. For the purposes of sections 48.01 to 48.12, probation officers receiving salaries shall have the powers of police officers and deputy sheriffs.

**48.04 Special probation officers; referees.** (1) If deemed advisable, the juvenile court of any county may appoint one or more persons to serve, without compensation, as special probation officers during the pleasure of the court. Such special probation officers shall, under the direction of the court, perform the same duties as salaried probation officers in any case assigned to them, but shall not be vested with police powers.

(2) The court may appoint a suitable person to act as a referee of the juvenile court to hear cases coming within the provisions of sections 48.01 to 48.07 and duly referred as hereinafter provided. In any case in which a jury is demanded the hearing shall be before the court. Such referee shall hold office during the pleasure of the court. The hearing of any case may be referred to such referee by a suitable order of the court. Any case so referred shall be heard in the first instance by such referee in the manner provided for the hearing of cases by the court. In all cases coming before the referee the procedure shall comply with the requirements of and conform to the procedure provided for the hearing of such cases by the court. Upon the conclusion of the hearing in each case the referee shall file with the court all papers relating to the case together with, if so required by the court, his conclusions and recommendations in writing. Such conclusions and recommendations to the extent and in the form confirmed by order of the court, shall become the judgment of the court; provided, that no child shall be committed to an institution without review of the evidence by the court. A hearing by the court shall also be accorded in all other cases in which any person, or the parent or guardian of any child whose case has been heard by a referee, files a request for a further hearing within ten days after the referee has filed his conclusions and recommendations. A referee appointed pursuant to this subsection shall receive such compensation as shall be fixed by the county board.

**48.05 Children not to be sent to the county home.** No child under sixteen years of age shall be sent as a poor person to any county home for support and care; but the county superintendents or other officers having the care of the poor shall bring all such cases, when brought to their notice, into the juvenile court in the manner provided in section 48.06.

**48.06 Petition; summons; warrant; release of children.** (1) Whenever any person gives to the juvenile court information tending to show that a child is neglected, dependent or delinquent, or that such child has committed any act or has pursued a course of conduct which if found true would make him a delinquent child, the court shall make preliminary inquiry to determine whether the public interests or the interests of the child require that formal jurisdiction should be acquired, and may authorize a petition to be filed. The petition shall be verified under oath, alleging briefly the facts which bring said child within the definitions of a neglected, dependent or delinquent child. The person making such petition shall suffer no personal risk greater than when the proceeding is upon warrant, providing said petition is made in good faith. The petition shall also state the name, age and residence (1) of the child, and the name and residence (2) of his parents, (3) of his legal guardian if there be one, (4) of the person or persons having custody or control of the child, or (5) of the nearest known relative if no parent or guardian can be found. If any of these facts are not known or cannot be ascertained by the petitioner the petition shall so state.

(2) After a petition shall have been filed and after such further investigation as the court may direct, unless the parties hereinafter named shall voluntarily appear, the court shall issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated; provided, however, that whenever a proceeding involves dependency, neglect, or application for termination of parental rights, if the court is satisfied that the child is within the jurisdiction of the court, the presence in court of such child may be waived by the court with the consent of the parents, guardian or custodian of such child or children. If the person so summoned shall be other than the parent or guardian of the child, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed, at least twenty-four hours before the hearing. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

(3) Service of summons shall be made personally by the delivery of a copy thereof to the persons summoned; provided, that if the judge is satisfied that it is impracticable personally to serve such summons or the notice to the parent or guardian provided for in subsection (2), he may make an order providing for the service of such summons or notice by registered mail addressed to their last known addresses or by publication thereof, or both, as he may direct. Service of summons, process or notice pursuant to sections 48.01 to 48.12, may be made by any suitable person under the direction of the court. The judge may authorize the payment of necessary traveling expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the provisions of sections 48.01 to 48.12, and such expenses when approved by the judge shall be a charge upon the county.

(4) If any person summoned shall fail without reasonable cause to appear, he may be proceeded against for contempt of court. In case the summons cannot be served or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual a *capias* may be issued for the parent, or guardian, or for the child.

(5) Whenever any officer takes a child into custody, he shall, unless it is impracticable or has been otherwise ordered by the court, accept the written promise of the parent, guardian or custodian to be responsible for the presence of such 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 the place of detention designated by the court, and the officer taking him shall immediately notify the court and shall file a petition as provided in subsection (1) of this section, when directed to do so by the court.

(6) In the case of any child ordered or taken into custody by a probation or police officer and pending the final disposition of the case, the child may be released in the custody of a parent, guardian or custodian, or of a probation officer or other person appointed by the court, to be brought before the court at the time designated. When not so released, such child, pending the hearing of the case, shall be detained in such place of detention as shall be designated by the court, subject to further order. Provided, that any child under eighteen years of age against whom a petition has been filed or who is being detained pending the filing of a petition may, in the discretion of the chief probation officer or of the judge of the juvenile court, be permitted to give bond or security in such reasonable sum as may be fixed by such officer or judge as will assure the presence of such child at any hearing or proceeding.

(7) Nothing in this section shall be construed as forbidding any peace officer, police officer or probation officer from immediately taking into custody any child who is found violating any law or ordinance, or who is reasonably believed to be a fugitive from his parents or his guardian, or from justice, or whose surroundings are such as to endanger his health, morals or welfare, unless immediate action is taken; provided, that in every such case the officer taking any child under sixteen years of age into custody shall immediately report such fact to the court and the case shall then be proceeded with as provided in sections 48.01 to 48.12. [1939 c. 524]

**Note:** The institution of a juvenile delinquency proceeding under chapter 48, maliciously and without probable cause, by complaining in writing to a juvenile court that a schoolboy is a delinquent child in that he had caused a disturbance in the school, had defaced the building, had sent threatening letters to the teachers, and is incor-

rigible, is ground for an action for malicious prosecution. *Lueptow v. Schraeder*, 226 W 437, 277 NW 124.

Regular witness fees may be paid to witnesses in juvenile court and also to person summoned to bring child into court; but no per diem for bringing child to court is allowed. 22 Atty. Gen. 190.

**48.07 Judgment; modifications; additional proceedings; appeal.** (1) If the court shall find that the child is delinquent, neglected or dependent, it may:

(a) Place the child on probation or under supervision in his own home or in the custody of a relative or other fit person, upon such terms as the court shall determine; or

(b) Commit the child to a suitable public institution or to a suitable child welfare agency licensed by the state board of control and authorized to care for children or to place them in suitable family homes. The terms and duration of such commitments, other than to the industrial school for boys or to the industrial school for girls, shall in each case be fixed by the court, subject to modification by the court on its own motion or otherwise; provided that the court upon application before commitment may consider the wishes of the parent, guardian or custodian in the selection of a suitable institution or agency; or

(c) Make such further disposition as the court may deem to be for the best interests of the child.

(d) In any case involving a male minor between eighteen and twenty-one years of age where the criminal court shall have waived jurisdiction in favor of the juvenile court as provided in paragraph (a) of subsection (5) of section 48.01 the court may place such

minor on probation, as provided in this section, until twenty-five years of age or commit him to such institution and for such term as he might have been committed to by the criminal court.

(2) Every order made under this section shall be based on a finding of fact, entered of record.

(2a) Upon the discovery of additional evidence which raises a question as to the advisability of the commitment made in any case in any juvenile court, the parent, guardian or next friend of the child so committed may at any time petition the court for a rehearing and if the court deems such rehearing advisable, it may again hear the case and make such disposition thereof as is in the best interests of the child.

(3) No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of a crime in any court, except as provided in section 48.11. The disposition of a child or any evidence given in the juvenile court shall not be admissible as evidence against the child in any case or proceeding in any other court, nor shall such disposition or evidence disqualify a child in any future civil service examination, appointment or application. No costs shall be assessed against nor fines imposed upon any child in the juvenile court.

(4) It is declared to be the intent of this chapter that each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the state; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents.

(5) A parent, guardian or next friend of any child who has been temporarily committed by the court to the custody of a county home for dependent children or a private institution, or agency, or to a person, or such institution, agency or person, may at any time file with the court a verified petition for the release or transfer of such child and a modification of the order of commitment, stating therein the reasons for such modification. If upon examination of the petition and after giving the institution, agency or person having the temporary custody of the child an opportunity to reply, if the petition was filed by some other person, the court is of the opinion that an investigation should be had, it may, upon due notice to all concerned, proceed to hear the facts and determine the question at issue. The court may thereupon order that such child be restored to the custody of its parent or guardian or be retained in the custody of the institution, agency or person and may direct such institution, agency or person to make such other arrangements for the child's care and welfare as the circumstances of the case may require, or the court may make a further order or commitment.

(6) (a) Whenever a child is committed by the court to custody other than that of his parent and no provision is otherwise made by law for the support of such child, compensation for the care of such child, when approved by order of the court, shall be a charge upon the county, except in counties maintaining a county home for dependent children. In counties in which such a home is being maintained, the county board may authorize the payment for care of children in private homes or private institutions and fix the maximum rate to be paid thereof. But the court may, after giving a parent a reasonable opportunity to be heard, adjudge that such parent shall pay in such manner as the court may direct such sum as will cover in whole or in part the support of such child, and if such parent shall wilfully fail or refuse to pay such sum he may be proceeded against as for contempt of court.

(b) Except as otherwise provided in paragraph (a) of this subsection, a licensed child welfare agency into whose care and custody a child has been committed by a juvenile court shall be entitled to recover from the county chargeable for the support of such child, a reasonable sum to be agreed upon by the juvenile court and such agency, for his care and maintenance in an institution and not exceeding seven dollars per week if boarded in a family home, less in either case any amounts received pursuant to paragraph (a) of this subsection. Such amounts shall be payable as are other claims against the county and an amount sufficient to pay all such claims shall be appropriated annually by the county.

(7) (a) Whenever in the course of a proceeding instituted under sections 48.01 to 48.07 or otherwise, it shall appear to the court that the person or child welfare agency (other than a parent) having the care, control and custody of such child is not fitted therefor or that the parents of a child have abandoned such child or have substantially and continuously or repeatedly refused or being financially able have neglected to give such child parental care and protection, the court shall have jurisdiction to transfer the permanent care, control and custody of such child to some other person, agency or insti-

tution and in the exercise of such jurisdiction the court may terminate all rights of the parents with reference to such child, and also may appoint a guardian for the person of such child. Such transfer of the permanent care, control or custody of a child or termination of the rights of the parents with reference to a child shall be made only after a hearing before the court and the court shall cause notice of the time, place and purpose of such hearing to be served on the parents of the such child personally at least ten days prior to the date of hearing or if to the satisfaction of the court personal service cannot be obtained, then by publication thereof in a newspaper in the county once a week for three weeks prior to the date of hearing. In case of any minor parent the court shall appoint a guardian ad litem therefor in the manner provided for appointment of guardians ad litem in the county court. Such guardian ad litem shall be an attorney admitted to practice in this state.

(b) If a child is abandoned or neglected by one parent only the rights of such parent with reference to such child may be terminated as provided in paragraph (a), without affecting the rights of the other parent.

(c) Upon the application of the parents or of the surviving parent of any child, or the mother of an illegitimate child, the court may order the transfer of the permanent care, control and custody of such child, and if it appears wise, the termination of all the rights of a parent or the parents with reference to such child, provided the court after a hearing finds such transfer or termination to be in the best interests of the child.

(d) Every order of a court of record transferring the permanent care, control and custody of a child or terminating the rights of the parents or of a parent with reference to a child shall be in writing and shall recite all jurisdictional facts. Every such order shall be valid and conclusive and binding on all persons and in all proceedings after two years from the date of entry thereof; provided, however, that where such order was entered prior to July 1, 1940, the two-year limitation period above set forth shall be construed to mean within two years from and after July 1, 1940.

(8) In any case where a child is found, determined or adjudged by the juvenile court to be dependent, neglected or delinquent or in case of the transfer of the permanent control, care and custody of a child or the termination of the rights of a parent or the parents with reference to such child, appeal may be taken to the circuit court of the same county or if the circuit judge is the judge of the juvenile court, directly to the supreme court. In the case of an appeal to the circuit court the appellant shall have a new trial which shall be without a jury unless a jury is demanded. Such appeal may be taken within forty days from the date of said finding, determination, or judgment in the manner in which appeals are taken from judgments in civil actions. No undertaking shall be required on such appeal. The finding, determination or judgment of said juvenile court shall stand, pending the determination of such appeal but the circuit or supreme court may, upon application and in its discretion, stay said finding, determination or judgment pending such appeal, upon the giving of a suitable bond for the care and maintenance of such child in wholesome and proper surroundings to be approved by the court. Where such a stay has been granted by a circuit court, said circuit court shall hear such appeal within sixty days.

(9) All placements of children made under this section in foster homes, as defined in section 48.38, with the exception of placements made by the judge of the juvenile court for temporary care of less than 30 days, are subject to the provisions of this section 48.38 relating to foster homes. [1931 c. 352 s. 2; 1933 c. 380; 1935 c. 455; 1939 c. 77, 524; 1941 c. 259]

**Note:** Functions of the state board of control under ch. 48, Stats., were transferred to the state department of public welfare by ch. 435, Laws 1939; see sections 58.36 and 58.37.

The board of control has no appeal from an order of the juvenile court releasing a minor who was committed by that court. That is the sole question decided in the case cited below. The court discussed the children's code. In re Willard, 225 W 553, 275 NW 537.

Support of child found to be dependent by juvenile court who has legal settlement in another county may be recovered from the county or municipality in which said child has legal settlement. 19 Atty. Gen. 441.

Expense of service by publication in proceeding involving neglected, dependent or delinquent child must be paid by county. 20 Atty. Gen. 702.

Neglected or dependent child, when sentenced by county court to institution for boys, becomes county charge under (6) (a) and (b). 20 Atty. Gen. 1246.

Authority to change commitment of delinquent child from time to time until twenty-one, authorizes commitment to industrial home of delinquent child at any time until it is twenty-one. Board of control may transfer delinquent child of over eighteen from industrial school to state reformatory or industrial home for women. 21 Atty. Gen. 267.

Court may commit to state public school child having no legal settlement in any county. In such case cost of child's support must be borne by state. 22 Atty. Gen. 312; 23 Atty. Gen. 118.

Termination of parental rights without proper notice is without jurisdiction and action may be brought to set same aside. 24 Atty. Gen. 133.

After court has taken jurisdiction of dependent child but has not terminated parental rights nor permanently committed child, new petition for adoption is not necessary; but notice should be given to parents. 24 Atty. Gen. 195.

Illegitimate child committed to state

public school may be returned to mother when she is competent to care for such child and its best interests would thereby be promoted. 25 Atty. Gen. 574.

Child whose mother has been legally deprived of its custody but whose father refuses to relinquish his parental rights may be placed in exclusive control of county juvenile court under this section where father is imprisoned for life. However, father is not to be considered as having abandoned child. 25 Atty. Gen. 577.

Guardian ad litem required by (7) must be attorney if proceedings are before county judge, but not if before circuit judge. 26 Atty. Gen. 272.

Juvenile court may commit child who has been found delinquent and who is mentally deficient to southern Wisconsin colony and training school. 27 Atty. Gen. 240.

Under chapter 48 jurisdiction of juvenile courts ceases and therefore county liability ceases when "neglected" or "delinquent" child reaches 18 years of age and when "dependent" child reaches 16 except in excepted cases where jurisdiction and therefore county liability either must be or may be extended until child reaches 21. 28 Atty. Gen. 7.

#### 48.08 Adults contributing to the delinquency, neglect or dependency of children.

No order to any adult pursuant to paragraph (c) of subsection (5) of section 48.01 shall be entered by any juvenile court until such adult shall have been afforded an opportunity to be heard upon the charges against him and the contemplated order of the court. The court shall cause notice of the time, place and purpose of such hearing to be served on such adult personally at least ten days prior to the date of hearing. The procedure in such cases shall, as far as practicable, be the same as in other cases in the juvenile court, and shall otherwise be the procedure followed in courts of equity. The power of the court to issue orders governing the relationship of any adult to a child, where such adult has been guilty of contributing to, encouraging or tending to cause the delinquency, neglect or dependency of such child, shall include the power to determine the ability of such adult to provide for the maintenance or care of such child and to direct when, how and where money for such maintenance or care shall be paid. Any adult who shall fail to comply with any order issued by a juvenile court pursuant to this section and paragraph (c) of subsection (5) of section 48.01 may be proceeded against as for contempt of court, and if the conduct of such adult involves a criminal offense, he may be proceeded against under the criminal law.

**48.09 Commitments; transfer of inmates.** (1) Whenever in the opinion of the state board of control it shall be for the best interest of a child committed to the industrial school for boys or the industrial school for girls that such child should become an inmate of the state public school, said board may make the necessary order transferring such child to the state public school.

(2) Whenever in the opinion of the board of control it shall be for the best interest of a child committed to the state public school that such child become an inmate of the industrial school for boys or the industrial school for girls, that board may cause such child to be transferred to such industrial school. Any child so transferred to an industrial school or the parent, guardian or next friend of any such child may have the action of the board of control in ordering such transfer reviewed by the court making original commitment of said child, on filing a petition in said court and after notice to the board of control in such manner as the court may direct.

**48.10 Physical and mental examination and care.** (1) The court may cause any person coming under its jurisdiction to be examined by a physician, psychiatrist or clinical psychologist as defined in section 52.02, appointed by the court, in order that the condition of such person may be given due consideration in the disposition of the case. The expenses of such examination, when approved by the court, shall be paid by the county. In counties maintaining an examination service by one or more physicians, psychiatrists and clinical psychologists such county service shall be used for the purposes of this subsection.

(2) The governing authority of any county home for dependent children may require as a condition of commitment of any child to said home that such physical and mental examination shall be made and such information furnished as shall be deemed necessary for the proper care of such child as well as of other children in said home.

(3) Whenever a child concerning whom a petition has been filed appears to the court to be in need of special care and treatment a suitable order may be made upon the parent, guardian or custodian to provide such care and treatment for such child in a hospital or otherwise. If such parent, guardian or custodian fails to provide such care the court may, after due notice, enter an order therefor, and the expenses thereof, when approved by the court, shall be a charge upon the county; but the court may adjudge that the person or persons having the duty under the law to support such child pay part or all of the expenses of such treatment.

**48.11 Delinquent children under sixteen, juvenile court to try.** When any child under sixteen years of age is taken into custody with or without warrant, charged with the violation of any law of this state, or the violation of any county, town, city or village ordinance, such child shall, instead of being taken before a justice of the peace or police magistrate, be taken directly before the juvenile court; and in any such case the court may

proceed to hear and dispose of the case in the same manner as if the child had been brought before the court upon petition as provided in section 48.06; but in any case a petition shall be filed and the court shall require notice to be given and investigation to be made and may adjourn the hearing from time to time for this purpose.

**Note:** In cases of delinquent children between ages of sixteen and eighteen juvenile courts as well as other courts have jurisdiction. Penalties imposed by courts other than juvenile courts in case of children between sixteen and eighteen are same as those imposed on adult criminals. 20 Atty. Gen. 978.

**48.12 Detention and confinement of children.** (1) No child under eighteen years of age shall be placed in or committed by the juvenile court to any prison, jail, lockup, police station or in any other place where such child can come into communication with any adult convicted of crime or under arrest and charged with crime; provided, that a child sixteen years of age or older, whose habits or conduct are such as to constitute a menace to other children, may, by order of the juvenile court, be detained in a jail or other place of detention for adults, but in a room or ward entirely separate and apart from adults confined therein.

(2) Provision shall be made by the county board for the temporary detention of children in one of the following ways: (a) In a detention home which shall be conducted as an agency of the court; (b) the court may arrange for the boarding of such children temporarily in a private home in the custody of some fit person, subject to the supervision of the court; (c) the court may arrange with any incorporated institution or agency, maintaining a suitable place of detention for children, that such institution or agency shall receive for temporary care children within the jurisdiction of the court.

(3) (a) A detention home established as an agency of the court shall be furnished and conducted, as far as possible, as a family home in charge of a superintendent. The judge may appoint a superintendent and other necessary personnel for the personal care and education of the children in such home, subject to civil service regulations in counties having civil service. In counties having a population of five hundred thousand or over, the office of superintendent of the detention home shall be combined with that of chief probation officer of the juvenile court as provided for in subsection (1) of section 48.02 of the statutes whenever the county board of such county shall so determine.

(b) The salaries of such personnel and also the salaries of other necessary employes appointed by the county board shall be fixed and paid in the same manner as the salaries of other county employes. The necessary expenses incurred in maintaining such detention home shall be paid by the county. In case the court shall arrange for the boarding of children temporarily detained in private homes or institutions, a reasonable sum to be fixed by the court for the board of such children shall be paid by the county. [1931 c. 356]

**48.13 Board of visitation.** The judge of the juvenile court may appoint a board of six reputable inhabitants, who will serve without compensation, to constitute a board of visitation, whose duty it shall be to visit as often as once a year, all institutions, societies and associations receiving children committed thereto by said court; said visits shall be made by not less than two of the members of the board, who shall go together or make a joint report; the said board of visitors shall report to the court from time to time the condition of the children received by or in charge of such associations, and institutions, and shall make an annual report to the state board of control in such form as the board may prescribe. The county board may at its discretion, make appropriations for the payment of the actual necessary expenses incurred by the visitors in the discharge of their official duties.

**48.14 Industrial schools.** The Wisconsin industrial school for boys, shall be the place of confinement and instruction of all male delinquent children and the Wisconsin industrial school for girls, of all female delinquent children, who are committed to these institutions pursuant to section 48.07, but no child under twelve years of age shall be committed to either of these institutions by the juvenile court.

**Note:** Boy sentenced to industrial school that he be sentenced according to law. 19 for boys before he is twelve years of age Atty. Gen. 1.  
should be returned to court with request

**48.15 Commitment to industrial schools.** Any child, under the age of eighteen, convicted of a criminal offense may, in the discretion of the judge or magistrate before whom the case is tried, be committed to one of the industrial schools of this state instead of to the state prison, state reformatory, industrial home for women, house of correction, county jail or police station, as the case may be. All commitments of such children and of delinquent children to any industrial school shall be to the age of twenty-one years or until paroled in accordance with paragraph (b) of subsection (2) of section 48.16.

**Note:** Child under age of eighteen when convicted of criminal offense may be sentenced to industrial school, although sentence is made by trial court after child has passed age of eighteen. 19 Atty. Gen. 613; 20 Atty. Gen. 943.  
Child under age of eighteen, when convicted of criminal offense, may be committed

to industrial school for boys after he has passed age of eighteen. 21 Atty. Gen. 1016.

Commitment of boy until he became eighteen years of age after this section was amended to require all commitments to time when minor is twenty-one years of age is valid for matter which arose prior to amend-

ment, for 370.04 saves penalty in this case. 22 Atty. Gen. 77.

Indian boys found guilty of misdemeanor in local Indian court cannot be committed to and accepted by Wisconsin industrial school for boys. 26 Atty. Gen. 25.

**48.16 Removal or discharge of inmates; restoration to parents.** (1) The state board of control is hereby clothed with the sole authority to discharge any child or children from either of said industrial schools who shall have been legally committed thereto, subject to the power of the governor to grant pardons, and it may return any such child to the court, justice or other authority which ordered or directed its commitment, when in its judgment such child is an improper subject for its care and management or shall be found incorrigible, whose continuance in the school it may deem prejudicial to the management and discipline thereof, or who, for any other cause, in its judgment, ought to be removed therefrom; and in such case said court, justice or other authority shall have power and is hereby required to proceed as might have been done if the commitment had not been ordered to such school.

(2) (a) The board may restore any child duly committed to either of said schools to the care of its parents or guardians before the expiration of its term of commitment if in its judgment such action is in the best interest of such child.

(b) The board of control may parole any child committed to the industrial school for boys or the industrial school for girls, whenever it is satisfied that such action is for the best interests of such child. Every such paroled child shall remain in the legal custody of the said board until twenty-one years of age and may be returned to the institution from which paroled, in the manner provided in subsection (3) of section 57.06, or if then seventeen years of age or more in the case of boys or eighteen years of age or more in the case of girls may be transferred to the state reformatory or industrial home for women, as provided in subsection (3) of section 54.07.

**Note:** The provisions of sections 48.15 and 48.16, that all commitments of delinquent children to industrial schools shall be to the age of twenty-one, unless paroled, are not changed by other provisions of the children's

code so as to give the juvenile court jurisdiction to release from an industrial school a child committed to it by the court. In re Willard, 225 W 553, 275 NW 537, 225 W 562, 275 NW 541.

**48.17 Instruction and maintenance; escapes; fees.** (1) The state board of control shall cause the children committed to either of said industrial schools to be placed at such employments and to be instructed in such branches of useful knowledge as shall be suited to their years and capacities. The superintendent of each said school shall charge to each of the several counties, in a book provided by him for that purpose, the sum of two and one-half dollars per week for the care and maintenance of each child in said schools from each of such counties; and the cost of the original commitment of all persons to said school shall be chargeable to the county from which the person committed thereto is sent; and said superintendent shall procure the return of any person escaping therefrom; and any justice of the peace, marshal or constable, upon information of such escape, shall return any such fugitive as above mentioned.

(2) When any sheriff or other officer or other person appointed by the board shall execute a commitment to any state industrial school he shall be entitled to receive therefor from the proper county his actual and necessary expenses and the further sum of five dollars, and no more, for each day while necessarily engaged in executing such commitment.

**48.18 Reports and record as to liability of counties.** (1) The superintendents of the Wisconsin industrial school for boys and the Wisconsin industrial school for girls, respectively, and the managers of every other industrial school which has the right to claim compensation from any county for the support of inmates therein, shall, on the first day of July in each year, report to the juvenile court of each county the names of all children in such school during the preceding year whose support is chargeable to the county, with the date when each was received and the date when each ceased to be an inmate thereof, whether by death, escape, final discharge, binding out or otherwise, with such other information as may show the extent to which the county is liable.

(2) Each juvenile court judge shall record in a book all the information obtained pursuant to this section and similar information as to commitments made by himself and his predecessors in office, so far as the same are in force.

**48.19 State public school.** The object of the state public school shall be to care for and educate physically, intellectually, vocationally and morally such dependent or neglected children as may be placed therein until such times as temporary or permanent homes can be procured in good families for those who are eligible for such placing.

**48.20 Children entitled to admission; return; homes; fees and expenses.** (1) The board of control shall admit to said school dependent and neglected children under sixteen

years of age, but no child who is feeble-minded, insane or epileptic shall be committed to said school, and if committed shall be returned to the county from which committed.

(2) Children received into the school, unless sent therefrom as hereinafter provided, may in the discretion of the board be retained until they are twenty-one years of age. Any child received may at any time after its admission be transferred by the board to some other more appropriate institution.

(3) Every three months the superintendent of said state public school shall report in writing to the board of control the names of the inmates remaining in the school, together with such data as will acquaint the board with the reason why each child has not been placed in a home as well as such additional information as the board may desire regarding the changes occurring during the preceding three months.

(4) One-half of the net cost of caring for a child committed to the state public school shall be paid by the county of his legal settlement pursuant to section 46.10. The county shall also be chargeable with the compensation paid to any person for taking any child to the state public school. The compensation paid to any person for taking any child to the state public school, shall not exceed the sum of five dollars per day and the necessary expenses, and no charge shall be made for more than one person escorting each child. No person other than a competent woman shall be employed as such escort for any child under three years of age, or for any girl.

**Note:** County from which child is committed to state public school and in which it has legal settlement is to be charged at rate of one-half of net costs of caring for child in that institution instead of four dol-

lars per week as provided in 48.07. 19 Atty. Gen. 6.

Orphan child who has no one to care for him may be sent to state public school at Sparta. 20 Atty. Gen. 161.

**48.21 Crippled children.** (1) In addition to the classes of children received at the state public school pursuant to section 48.20, there shall also be received any children under twenty-one years of age, residents of this state, who are crippled or deformed in body; provided said crippled or deformed conditions are amenable to cure or amelioration by surgical or other means. All existing provisions of law for the commitment, care, disposition, control and discharge of the inmates of said school, and all restrictions upon their admission, except as otherwise provided in this section, shall apply to such crippled or deformed children.

(2) The board of control shall engage and fix the salaries of additional physicians, surgeons, nurses, teachers and other employes necessary to carry out the provisions of this section, and shall equip such school with the necessary appliances, material, equipment and facilities therefor.

(4) The board shall, whenever suitable and reasonable arrangements can be made, transfer any child designated in subsection (1) of this section, or cause any such child to be committed, to some other appropriate hospital in the state wherein such treatment, surgical assistance and care may be given.

**Note:** One-half of cost of caring for a child committed under 48.31 should be charged to county of his legal settlement. 19 Atty. Gen. 550.

**48.22 Instruction; guardianship; binding out; adoption.** (1) The children in the state public school shall receive substantially the same education as other children of like age and capacity who attend the public schools of this state and shall have proper physical, vocational and moral training. It shall be the duty of the department of public instruction to inspect the educational work of this school and to assist the state board of control in developing this work in compliance with this subsection.

(2) The state board of control is the legal guardian of all children permanently committed to the state public school. It may place them in families under the same conditions as are prescribed for licensed child welfare agencies, and make written contracts with responsible and suitable persons for keeping them during their minority, providing therein for their education in the public schools where they may reside, for teaching them some useful occupation, and for their kind and proper treatment as members of the families in which they are placed.

(3) The board may consent to the adoption of any such child by any person or persons in the manner provided by law; and such consent given in writing shall have the same force and effect as if given by the parent or parents of such child. Such consent shall be in duplicate, one copy to be filed with the secretary of the board and the other delivered to the county court in which the proceedings for adoption are taken. On the consummation of such proceedings the guardianship of said board over the child shall cease.

(4) Said board may appoint, to serve during its pleasure, one or more agents of the state public school; who shall investigate all applications to take any such children by adoption or otherwise and the persons who make the same. As often and at such times as shall be directed by the board, each such agent shall visit any or all children placed

in charge of any person by said board, inquire into and investigate the condition of such children, and thereupon report to said board. Each such agent, while acting as such, shall be paid his necessary traveling expenses which shall be charged against the appropriation for said school.

**Note:** Board of control is made legal guardian of all children committed to state public school and cannot be supplanted by new guardian on petition of minor after he has attained age of fourteen years. 19 Atty. Gen. 2.

**48.23 School record.** The board shall provide and keep in said school a record in which shall be entered the information received from the juvenile court at the time of commitment and in addition thereto the date of reception and all available data regarding the antecedents and former environment of the child. Such record shall include the results of a physical and psychological examination of the child, by a competent physician and clinical psychologist and, when necessity therefor is indicated, by a psychiatrist. As complete a record as possible of each child shall also be kept and continued during the guardianship of the board, which shall include full information regarding every agreement for the placement of such child.

**48.24 to 48.27** [*Repealed by 1929 c. 439 s. 1*]

**48.28 Commitment and custody of children.** (1) The board of trustees of any existing county home for dependent children may receive into its charge and under its control by commitment, or by transfer of custody as provided in subsection (7) of section 48.07 any neglected or dependent child under eighteen years of age residing in the county, but no child who is blind, deaf, crippled, feeble-minded, insane or epileptic shall be committed to said home for dependent children.

(2) The board of trustees of such home for dependent children may place such children in suitable homes in this state upon written contracts for family care in the same manner as licensed child welfare agencies are authorized to do. Such home is hereby constituted the legal guardian of all children whose permanent care, custody and control has been transferred to it as provided in subsection (7) of section 48.07, and may consent in the courts of this state to the adoption of any such child by any person in the manner provided by law; and such consent given in writing shall have the same force and effect as if given by the parents of such child. Such written consent shall be given in duplicate, and one copy shall be filed with the secretary of said trustees, and the other delivered to the county court in which the proceedings for adoption are taken to be there filed. On the consummation of such proceedings, the custody of said trustees over the child adopted shall cease. It shall be the duty of the court making the order of adoption to transmit a certified copy of such order to the trustees of the institution from which such child was received.

(4) It shall be the duty of the court before whom such child is presented to procure a full statement as near as possible setting forth all facts, showing why such child or children should be committed to such home for dependent children. Such statement shall give the exact name or names, age or ages of said child or children, when and where born, full name of both parents, their family history in reference to tuberculosis, syphilis, insanity, and epilepsy, whether living or dead, their present residence, their previous residence, their financial condition, the name and residence of their nearest relatives, and whether they are able or not to support said child or children. The said statement must show whether such child or children are dependent upon their respective county for support.

(5) If the judge shall find as the result of such examination that such child is dependent or neglected, he shall cause it to be examined by the county physician if there be one, and if there is none, by a respectable practicing physician. Such physician shall certify in writing that he is of the opinion that the child examined by him is of sound mind and is not affected by any chronic or contagious disease and ascertain whether there is or has been any tuberculosis, syphilis, insanity, or epilepsy, and had not been exposed to any contagious disease within fifteen days previous to the examination, and verify such opinion by his affidavit, which shall be attached thereto and filed in the judge's office. A certified copy of such finding and a statement of the facts ascertained as aforesaid, with a copy of the certificate of the physician shall be delivered with the child at such home for dependent children. [1939 c. 524]

**48.29 County children's boards; organization; personnel.** (1) The county board of any county whose population is less than two hundred fifty thousand may by resolution establish a county children's board for such county and may thereafter discontinue such board by vote of a majority of all of its members at any regular meeting or at any special meeting called for this purpose.

(2) The county children's board shall consist of five members, at least two of whom shall be women, and all of whom shall be residents of the county, selected annually to hold office until the first Monday of January next succeeding and until their successors shall

have been selected and shall have qualified. One of the members of said board shall be the chairman of the county board. One other member shall be appointed by the judge of the juvenile court. Two members, at least one of whom shall be a woman, shall be appointed by the state board of control. The fifth member shall be elected by the other four members at the first meeting of the board in each calendar year. Any vacancy shall be filled by the same body which selected the member whose position is vacant.

(3) The county children's board shall organize by the election of a chairman, vice chairman and secretary from its own membership. Regular meetings shall be held at least once each month, unless otherwise determined, at a time and place fixed by the board. Special meetings shall be held upon call of the chairman or of any three members.

(4) The county children's board may discharge its duties through its own members or may employ personnel for this purpose. The compensation of any person so employed shall be fixed by the county board of supervisors. Two or more county children's boards may combine in the employment of personnel and share the services and divide the cost upon some agreed basis.

(5) Persons who are applicants for employment by county children's boards in positions involving other than purely clerical and stenographic duties shall have the minimum qualifications specified for probation officers employed by counties having a population of less than one hundred and fifty thousand.

(6) The members of the county children's board shall receive no compensation for their services, but shall be reimbursed their actual and necessary expenses incurred in the discharge of their duties. Such expenses shall be payable monthly, after being audited and approved by the finance committee of the county board or other committee or officer designated by the county board.

(7) The county board shall annually appropriate to the county children's board an amount it deems advisable for the payment of the expenses of members, the salaries and expenses of personnel, and other administrative expenses. It may also make an appropriation to the county children's board for the purchase of clothing, payment for medical services, expense of boarding, and other special aid to children.

**48.30 County children's boards; powers and duties.** It shall be the duty of the county children's board and it shall have power and authority:

(1) To investigate the conditions surrounding mentally defective, dependent, neglected, delinquent and illegitimate children within the county and to take every reasonable action within its power to secure for them the full benefit of all laws enacted for their benefit. This duty shall be discharged in co-operation with the juvenile court and with the public officers or boards legally responsible for the administration and enforcement of these laws. The county children's board may also avail itself of the co-operation of any individual or private agency or organization interested in the social welfare of children in such county;

(2) To administer and expend such amounts as may be necessary out of any moneys which may be appropriated to it by the county board or donated by individuals or private organizations for the purchase of clothing, payment for medical services, expense of boarding, and other special aid to children within the county;

(3) Upon request of the judge of the court administering aid to dependent children within the county, to investigate applications for aid to dependent children and to supervise the expenditures of such aid;

(4) Upon the request of the judge of the juvenile court, to investigate the home environment and other factors in the life of any child brought to the attention of the court for alleged dependency, neglect or delinquency, and to assume guidance and supervision of any child placed on probation by such court;

(5) Upon request of the state board of control and under its direction, to assume the oversight of any juvenile under parole from or otherwise subject to the supervision of any state institution;

(6) To make such reports to the state board of control as it may request upon any matter or situation within the county concerning any child in which said board is interested;

(7) When so directed by the county board, to administer any other county funds appropriated for the welfare of necessitous persons, either independently or in co-operation with some other board or officer;

(8) To make an annual report to the county board at its November meeting upon its work during the year, including an account of all moneys received and expended by it or under its direction and including also its recommendations, if any, for the improvement of the laws enacted for the social welfare and protection of children or of their administration. A copy of this report shall be furnished at the same time to the state board of control.

**Note:** County children's board is not authorized to expend moneys appropriated to it by county to assist girl nineteen years of age to attend high school. 20 Atty. Gen. 293.

County children's board may be given control of administration of poor relief and

its work may be co-ordinated with administration of aid to dependent children, soldiers' and sailors' relief, blind and deaf pensions and old-age assistance. Statutory administrative machinery may not be wholly dispensed with. 21 Atty. Gen. 498.

**48.31 County children's boards; duties of the board of control.** The state board of control is empowered to assist counties in the organization of county children's boards. It shall advise with and assist such boards in developing efficient methods and standards in the discharge of their duties and shall prescribe the record forms to be used in their work. It shall also prescribe the statistical data which shall be included in the annual reports of such boards and shall compile and publish statistics upon the number, cost of support, and other important facts relating to the children under their care or supervision.

**48.32 Child welfare services.** The juvenile department of the board of control, jointly with the United States Children's Bureau, shall prepare plans for extending and strengthening, especially in predominantly rural areas, child welfare services in conformity with the federal social security act. [1935 c. 555]

**48.33 Aid to dependent children.** (1) If any person shall have knowledge that any dependent child as defined in this section is dependent upon the public for proper support or that the interest of the public requires that such child be granted aid, such person may bring any such fact to the notice of a judge of a juvenile court or of a county court of the county in which such child has a legal settlement.

(2) The said judge shall make or cause to be made an investigation and examination of the circumstances of such child, which shall include a visit to the home of such child, before the granting of aid. A report upon such investigation, examination and visit shall be made in writing and become a part of the record in such case. To assist in making such investigations, examinations and visits, the judge may designate a probation officer, if there be one in the county, or may call upon the county children's board, if such board has been organized in the county.

(3) The proceedings provided for by this section may include one or more children, all of whom may be named in the same notice and order of the judge thereon.

(4) After such investigation and report the judge may, as the best interest of such child requires, grant aid to the person having the care and custody of such child.

(5) Such aid shall be granted only upon the following conditions:

(a) There must be one or more dependent children living with the person charged with their care and custody and dependent upon the public for proper support and who are under the age of sixteen; provided, that the court in its discretion may also grant aid for the support of minor children over sixteen, but in such cases the county shall not be entitled to any federal aid.

(b) Such child must have a legal settlement in the county in which application is made for aid; but such child may, with the approval of the court, reside and be cared for outside of the county while receiving aid. For the purposes of this section, the receipt of public aid during the year next preceding by the family of any child shall not bar such child from having a legal settlement in the county.

(c) In cases in which all other conditions for granting aid shall be satisfied but in which the child does not have a legal settlement in the county in which application for aid is made, such aid shall be granted, nevertheless, but only with the approval of the state pension department; provided, that the person having the care of said child has lived in this state for a period of one year next preceding the application for such aid. The entire amount paid from county funds as aid in such cases shall be recoverable from the state out of the appropriation made by law. Such aid shall not operate to prevent the gaining of a legal settlement within the county, and shall be chargeable to the state only until the child shall have acquired such legal settlement and in no event longer than one year from the date of the first payment.

(d) Aid shall be granted to the mother or stepmother of a dependent child who is dependent upon the public for proper support if such mother or stepmother is without a husband, or the wife of a husband who is incapacitated for gainful work by mental or physical disability, likely to continue for at least one year in the opinion of a competent physician, or the wife of a husband who has been sentenced to a penal institution for a period of at least one year, or the wife of a husband who has continuously deserted her for one or more years, if the husband has been legally charged with abandonment for a period of one year, or if the mother or stepmother has been divorced from her husband for a period of at least one year and unable through use of the provisions of law to compel her former husband to support the child for whom aid is sought.

(e) The person having the care and custody of such children must be a fit and proper person to have the custody and care of the dependent children and the period of aid must be likely to continue longer than one year.

(f) The ownership by a person having the care and custody of any dependent child of a homestead shall not prevent the granting of aid under the provisions of this section if the total cost of maintenance of said homestead does not exceed the rental which the family would be obliged to pay for living quarters.

(6) The aid granted shall be sufficient to enable the person having the care and custody of such children to care properly for the children. The amount to be granted shall be determined by a budget for each family in which all possible income as well as expenses shall be considered. Such family budget shall be based on a standard budget, including the mother or stepmother or other person who may be found eligible to receive aid under subsection (7), which shall be worked out annually by the judge of the court administering such aid and the county board or a committee of the board designated by it; provided, that if the county board shall not take action in such matter such standard budget shall be worked out by the judge alone. Medical and dental aid may be granted to minor children, the mother or the incapacitated father, as necessary. In the case of the death of a minor child, not to exceed one hundred dollars shall be allowed to cover the burial expenses of such child. Aid pursuant to this section shall be the only form of public assistance granted to the family for the benefit of such child, except medical and dental aid, and no aid shall continue longer than one year without reinvestigation. This subsection shall not be construed to prohibit such forms of public assistance as may legitimately accrue directly to persons other than the beneficiaries of this section who may reside in the same household.

(7) Aid may be granted to a woman relative of the degrees of kinship specified in subsection (12), (other than the mother or stepmother) who cares for a child dependent upon the public for proper support, living with such woman in a family home under an arrangement which is likely to continue for at least one year, and also to a father or other male relative of the specified degrees of kinship who is physically incapacitated for gainful employment but capable of caring for a dependent child in his home. Such aid shall be granted in the same manner, in the same amounts and under the same conditions as to a mother or stepmother. Whenever better provisions, public or private, can be made for the care of such dependent child, aid shall not be granted under the provisions of this section, and, if previously granted, shall be discontinued.

(8) The person receiving aid under the provisions of this section shall file monthly with the judge of the juvenile or county court of the proper county a statement showing the expenditures of all moneys received in the family income. The judge may require the mother to do such remunerative work as in his judgment she can do without detriment to her health or the neglect of her children or her home, and may prescribe the hours during which the mother may work outside of her home.

(9) The county board of each county shall annually appropriate a sum of money sufficient to carry out the provisions of this section. Upon the orders of the judge of the court having jurisdiction, the county treasurer shall pay out the amounts ordered to be paid as aid, under the provisions of this section.

(11) (a) Monthly the county treasurer and county pension administrator shall certify under oath to the state pension department at such time and in such manner as the department may prescribe, the claim of the county for state and federal reimbursement for aid under this section and section 48.331, and setting forth separately the amount of aid paid in cases under paragraph (c) of subsection (5), the amount paid in cases for which no state or federal aid is recoverable, and the amount paid in all other cases.

(b) If the state pension department shall be satisfied that the amount claimed is correct and that the aid allowed in such county has been granted in compliance with the requirements of this section, it shall certify to the secretary of state the entire amount paid by such county as aid in cases under paragraph (c) of subsection (5) and one-third of the amount paid in other cases plus a proportionate part of the funds received from the federal government as aid for dependent children; provided, that if the total amount due to counties under this section (exclusive of subsection (5)) and section 48.331 shall be more than three times the amount appropriated from state funds for aid to dependent children, the state pension department shall prorate the sum remaining after the payment in full of all claims under paragraph (c) of subsection (5) among the various counties according to the amounts due them. To facilitate prompt reimbursement the certification of the state pension department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month or months of current or prior fiscal years may be made and included in subsequent certifications. The secretary of state shall draw his warrant forthwith for reimbursement to the respective counties in accordance with the certification of the state pension department. In determining the amount available for distribution to the counties, one-half of the annual appropriation

from state funds shall be allotted to each half year.

(12) A "dependent child" as this term is used in this section is a child under the age of sixteen who has been 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 who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt in place of residence maintained by one or more such relatives as his or their own home.

(13) Where the head of a family is a war veteran and is hospitalized or institutionalized because of physical or mental disabilities in a county other than that of his legal residence or settlement at time of admission, aid shall be granted to the dependent child or children of such veteran by the county wherein the head of the family had his legal residence or settlement at the time of admission so long as he remains hospitalized or institutionalized. [1931 c. 76; 1931 c. 352 s. 2; Spl. S. 1931 c. 2; 1933 c. 160 s. 2; 1933 c. 458; 1935 c. 282, 554; 1937 c. 283; 1939 c. 110, 200]

**Note:** Under ch. 435, Laws 1939, the state pension department has been superseded by the state department of public welfare; see sections 58.36 and 58.37.

Aid may be granted under (5) (c) where family has moved from another state into this state and has not yet gained a legal settlement. 19 Atty. Gen. 3.

Aid may be granted under (5) (b) if family has resided one year in county, although it has received public aid during said year. 19 Atty. Gen. 4.

Claims for state aid on account of payments made by counties under (5) (c) have priority. After payment of such claims in full any sum remaining in appropriation is prorated among counties in proportion to state aid due them for amounts paid by them in all other cases. 19 Atty. Gen. 47.

Juvenile court may grant relief where mother having custody of children is unable to support them upon amount awarded for such support in divorce action, husband being financially unable to pay more. 19 Atty. Gen. 184.

Aid may be given to illegitimate child after marriage of mother to one other than father of child if such child is in custody of grandmother and all conditions of statute are present. 20 Atty. Gen. 62.

Pension of mother or stepmother of children receiving aid may continue after she remarries if her husband is incapacitated for gainful work. 20 Atty. Gen. 80.

Mother may receive aid when her husband is legally charged with year's abandonment. 20 Atty. Gen. 237.

Blind pension granted under 47.08 is form of "public assistance" within meaning of (6). 20 Atty. Gen. 552.

Woman receiving mothers' pension from one municipality may gain legal settlement in another municipality. 22 Atty. Gen. 140.

County board has no authority to appoint or compensate committee to investigate claims made by those seeking aid for dependent children under this section. 22 Atty. Gen. 336.

Woman residing in county for period of one year while receiving mothers' pension acquires legal settlement. 22 Atty. Gen. 593.

Where custody of children is granted to mother by divorce decree their legal settlement is still that of father if he has one within state for purposes of mothers' pension. 22 Atty. Gen. 680.

Aid may be granted to woman for support of her children if she is divorced for a period of at least one year; if divorce was granted in Wisconsin she must have availed herself of provisions of law and divorce judgment to compel husband to support her and must have failed. 22 Atty. Gen. 769.

Fact that veteran receives thirty dollars each month from federal government and is committed to sanatorium does not disqualify his wife from receiving mothers' pension if she is otherwise qualified to receive it. 22 Atty. Gen. 772.

Children may obtain legal settlement although during the year they were receiving aid for dependent children. 23 Atty. Gen. 796.

Aid to dependent children may be granted for support of minor child over sixteen. 25 Atty. Gen. 68.

Application for aid to dependent child must be filed in county in which child has

legal settlement. (5) (c) applies only where child has no legal settlement in this state. Child cannot gain settlement for aid purposes if parent has settlement in this state. If parent has no settlement in this state child may gain settlement for aid purposes in accordance with 49.02, excepting that receipt of public aid by parent does not bar child from gaining such settlement. Such aid may be granted although incapacitated father is living with family, but allowance for care of father cannot be included. For aid purposes settlement of child follows that of father although he is in prison or institution, and although divorced and custody of child given to mother. 25 Atty. Gen. 470.

State pension board may review denial of aid to minor child over sixteen, but reviewing power in such case is very limited. 25 Atty. Gen. 505.

Term "dependent children" as used in (12) includes children under sixteen who attend boarding school while mother works and who return home only when school is not in session. This statute includes also children who are left with certain specified relatives while mother is at work. 26 Atty. Gen. 133.

Under 48.33 (5) (b) county agency administering aid to dependent children has discretion to determine whether child may receive aid when living in county other than county of legal settlement. Such determination is reviewable to limited extent by state pension department under 49.50 (4). 26 Atty. Gen. 180.

To qualify for aid for dependent children under (5) (d), it is not necessary that mother's husband be totally incapacitated, but it is sufficient if his incapacity affects his ability properly to support child. Under (7) child living with collateral female relative is qualified to receive aid regardless of whether such relative meets requirements of (5) (d); and child living with collateral male relative is qualified to receive aid regardless of whether such relative is incapacitated. 26 Atty. Gen. 289.

Mothers' pension is for aid of children and not for relatives described in (12) and if child is living with any of such relatives and meets all other conditions, such pension may be granted. 26 Atty. Gen. 304.

To legally charge abandonment so as to entitle wife to aid under 48.33 (5) (b), warrant should be issued for arrest of husband in accordance with 361.02. 26 Atty. Gen. 490.

Construction of term "legal settlement" in 23 Atty. Gen. 796 is adhered to. Construction placed thereon in 25 Atty. Gen. 470 is overruled. 27 Atty. Gen. 285.

County pension agency may not require as condition precedent to granting of aid to dependent children under this section that applicant contract to reimburse county or convey or pledge present or future property for such reimbursement. This does not preclude placing of funds in escrow or joint account to be used for future needs of beneficiary where county pension agency is otherwise free to deny aid until such funds are exhausted. 28 Atty. Gen. 135.

Aid to dependent children may be granted under (5) (d) where the father, who has been sentenced to a penal institution for a period of at least one year is either placed on probation or paroled. To qualify for aid

in such cases the children must also be dependent upon the public for proper support. 28 Atty. Gen. 419.

Defendant in action under 247.095 is not "legally charged with abandonment" in meaning of 48.33 (5) (d), since term "charged with crime" applies only to criminal proceedings. 29 Atty. Gen. 89.

(13) does not create liability for aid to dependent children of veterans not otherwise eligible for aid under (5). 29 Atty. Gen. 417.

**48.331 Maternity aid.** Aid shall also be granted to the mother of a child during the period extending from six months before to six months after the birth of the child, if her financial circumstances are such as to deprive either the mother or child of proper care. Such aid shall be governed in all respects by the provisions of section 48.33, except that the aid allowed under this section may be given in the form of supplies, nursing, medical or other assistance in lieu of money.

**Note:** Maternity aid may be granted, even though such aid is not likely to continue for period of one year. 27 Atty. Gen. 256.

For purposes of mothers' pension law, receipt of public aid by family of child in whose behalf application is made during year preceding application does not bar child from having legal settlement in county in which application is made, notwithstanding provisions of 49.02. Section 48.33 controls. 49.03 does not apply in administration of aid to dependent children. 30 Atty. Gen. 9.

See note to 49.50, citing 30 Atty. Gen. 71.

Commencement of bastardy proceedings is not condition precedent to granting aid to unwed mother under this section. 27 Atty. Gen. 258.

**48.34 Earnings of self-supporting minors.** During any time when, by reason of abandonment, drunkenness or profligacy, a parent of a minor shall neglect or refuse to provide for his support, or for his support and education, the earnings of such minor shall be his sole property as against such parent or any creditor of such parent.

**48.35 Child welfare agencies.** (1) The term "child welfare agency" as used in sections 48.35 to 48.42 is defined as any person, firm, association or corporation, and any private institution which receives for control, care and maintenance, with or without transfer of custody, for more than seventy-five days in any consecutive twelve months' period at any one time more than four children under eighteen years of age unattended by their parents or guardians, but not counting, in the case of an individual, children related to such person, for the purpose of providing such children with care and maintenance or of placing them in foster homes whether for gain or otherwise. This term shall not apply to any boarding school which is essentially and primarily engaged in educational work. The term "related" as used in said sections is defined to include adoption or consanguinity within the sixth degree of kindred computed according to the civil law with the person referred to or his or her spouse.

(2) Any child welfare agency licensed to do so by the state board of control may receive children of the classes, ages and sex described in the license issued to it who are lawfully committed thereto or placed in the charge or control thereof and shall have and maintain the care, custody and control of such children until transferred or committed to other legal custody or control. When licensed to do so a child welfare agency may also place children in foster homes during their minority.

(3) Any child welfare agency may contract with any parent, guardian, or other person for the care and maintenance of any child.

(4) Every child welfare agency shall cause all children of school age in its care to be instructed in such branches of useful knowledge as may be suited to their respective years and capacities.

(5) Every child welfare agency shall provide reasonable accommodations for any authorized clergyman of recognized standing to give moral and religious instruction to any child in its care according to the religious belief of the child or that of his natural or adoptive parents. [1931 c. 352 s. 2; 1939 c. 524]

**48.36 Permanent care, custody and guardianship of children and placement in foster homes.** (1) Any child welfare agency, when licensed to do so by the state board of control, may assume the care, custody and guardianship of the person of any child during the period of its minority, upon an order of a competent court to this effect.

(2) Whenever a child welfare agency shall have been given the permanent care, custody and guardianship of any child pursuant to an order of a competent court and the rights of the parents of such child shall have been terminated by an order of a competent court, it may give consent to the adoption of such child pursuant to the statutes regulating adoption proceedings. It may also provide for the care of any such child as a member of a family otherwise than by adoption through a written agreement which shall clearly state the terms of the custody granted to the person or persons receiving the child and shall provide for the proper care, education and maintenance of such child during its minority. A permit as provided in section 48.38 shall be required of the person receiving any such child. Such child welfare agency shall keep and maintain careful supervision of all children so placed for care, except of those children who have been legally adopted, and its officers and agents shall visit all such homes and families as often as may be necessary to keep informed as to the condition and welfare of such children.

(3) Any child so placed with any person may be taken from such person whenever the child welfare agency which has so placed such child shall become satisfied that such child is subjected to vicious or harmful influences, or lacks wise or considerate care or attention, or that his welfare requires such action.

(4) No child welfare agency shall in any case charge or receive from the persons legally adopting any child any compensation therefor except the actual expense of taking such child to the home of such person; and in no case shall any person legally adopting any such child demand from such agency any compensation for the care, clothing or medical attendance of such child if it shall be returned to the agency. [1931 c. 352 s. 2]

**Note:** District attorney is under no duty to initiate adoption proceedings arising under this section nor to prepare necessary papers in such proceedings. 28 Atty. Gen. 272.

**48.37 Licenses; records; reports.** (1) No person, other than the parent or legal guardian, and no firm, association or corporation, and no private institution shall place, assist, or arrange for the placement of any child in the control and care of any person, with or without contract or agreement, or place such child for adoption, other than a licensed child welfare agency.

(2) Every child welfare agency must be licensed annually by the state board of control. Application for such license shall be made in such form as the board shall prescribe and upon forms to be furnished by the board. The applicant may furnish to the board of control the names and addresses of any persons who by reason of their official position have an interest in said application and such persons shall be consulted by the board. Before issuing such license the board shall satisfy itself that the applicant is in all respects qualified to receive children for the purpose of providing them with care and maintenance or of placing them in foster homes.

(3) Each license issued shall specify in general terms the kind of child welfare work the licensee is authorized to undertake, the ages and sex of children that may be received and the number of the same, and the territory within which said licensee, with due regard to its facilities for service, may place and supervise children, and whether such licensee is authorized to select foster homes for children and to issue permits to the same as provided in section 48.38. All such licenses shall expire on the first Tuesday in June, shall not be transferable, and may be revoked by the state board of control as provided in section 48.39.

(4) Each child welfare agency shall keep such records regarding each child in its control and care as the state board of control shall prescribe and shall report to said board whenever called for, such facts as it may require with reference to such children, upon blanks to be furnished by the board. If the board shall at any time determine that any child is placed in an improper home, or is subjected to vicious or harmful influences, or lacks wise or considerate care or attention or that such child's welfare requires such action, it may order the person with whom such child has been placed to transfer the child to a proper home, or otherwise remedy said improper conditions, and if such transfer is not made or such conditions are not remedied within a reasonable time, but not exceeding thirty days, the board may take charge of and make suitable provision for the child. [1939 c. 524]

**48.38 Permits to foster homes.** (1) The term "foster home" as used in sections 48.35 to 48.42 shall mean the place of residence of any person or persons who receive therein a child or children under fourteen years of age for control, care and maintenance, with or without transfer of custody; provided

(a) That any of such children are not related to such person or persons or either of them, and

(b) That the parents (natural or adoptive) or guardians of such children are not resident in the same home. No more than four children may be placed in a foster home unless all are in the relationship to each other of brother or sister.

(2) No person shall conduct or maintain a foster home without first having obtained a permit to do so from the state board of control or from a licensed child welfare agency designated to issue such permits by the state board of control. Such permits shall not be issued for a longer period than one year.

(3) When designated so to do by the state board of control, a licensed child welfare agency may, after investigation and upon terms prescribed by said board and subject to the inspection and approval of said board, issue permits to conduct foster homes to persons applying therefor.

(4) Every foster home shall be under the supervision of the licensed child welfare agency, if any, which issued a permit to it and of the state board of control or of some person or agency designated by such board. The board of control shall adopt and enforce rules and regulations for the conduct of all foster homes to which it shall issue permits directly. [1931 c. 352 s. 2; 1939 c. 524]

**Note:** Permits to foster homes issued by board of control or child welfare agencies are not limited in statute as to time; board of control may prescribe time when permit shall expire. 19 Atty. Gen. 237. Summer camp operated during vacation period primarily for recreation purposes is not subject to provisions of this section. 29 Atty. Gen. 340.

**48.39 Revocation of licenses to child welfare agencies and permits to foster homes.**

(1) The state board of control may revoke any license of a child welfare agency in case the licensee shall have substantially and wilfully violated any provision of this chapter or the provisions of such license or because such licensee is no longer qualified to receive children for the purpose of providing them with care and maintenance or placing them in foster homes.

(2) The state board of control may revoke or refuse to renew any permit for a foster home, after written notice to the holder of such permit stating the grounds for such proposed revocation or refusal of renewal, in case the person to whom the same is granted shall have violated any provision of this chapter or the provisions of such permit, or because a child in such foster home is being subjected to vicious or harmful influence or lacks wise or considerate care or attention.

(3) No license to a child welfare agency shall be revoked or renewal denied unless the holder of such license is given written notice of the grounds for such proposed revocation or refusal of renewal, a public hearing upon at least thirty days' written notice, and opportunity thereat to present testimony and to confront witnesses. Such notice shall be given by personal service thereof on the holder of such license at the address in such license specified. Such hearing shall be held in the county in which the applicant or licensee resides unless the holder of such license consents to a hearing at some other place.

(4) No order of revocation or refusal of renewal shall become effective until the final determination of any proceeding for the judicial review thereof. No proceeding to review the order of the state board of control, refusing to grant or revoking a license, shall be entertained, unless commenced within one month after service upon the applicant or agency of a copy of the order of the board. Such proceedings for review shall be brought in the circuit court of the county in which the applicant or agency resides or is located and, if any interested party so requests, by formal written motion ex parte, the court shall order the trial to be de novo. Appeal may be taken within thirty days from the determination of the circuit court to the supreme court. No undertaking of any kind shall be required for costs in any such proceeding or appeal. [1931 c. 352 s. 2; 1939 c. 524]

**48.40 Violations.** (1) Whenever the state board of control shall be advised or shall have reason to believe that any person, firm, corporation, association or private institution, is conducting or acting as a child welfare agency in this state without being licensed as in this chapter provided, or is in any way, directly or indirectly, offering to place any child or holding himself or itself out as being able to place or dispose of children in any manner, it shall make an investigation to ascertain the facts. If it finds that such person, firm, corporation, association or private institution is so acting without a license, it may either issue a license upon application therefor, or may cause a prosecution to be instituted under the provisions of section 48.41.

(2) Whenever the state board of control shall be advised or shall have reason to believe that any person in this state is conducting or maintaining a foster home without having a permit therefor, as in this chapter provided, it shall make an investigation to ascertain the facts and take necessary steps to protect the children in such foster home either by issuing a permit pursuant to section 48.38 or by removing said children. The state board of control may also cause a prosecution to be instituted against such person under the provisions of section 48.41. [1939 c. 524]

**48.41 Penalties.** (1) Any person who shall act as a child welfare agency without a license as provided in this chapter or who shall violate any of the provisions of the statutes relating to the organization, conduct and operations of child welfare agencies, or who in any way, directly or indirectly, offers to place or dispose of any child or hold himself out as being able to place or dispose of children in any manner whatsoever, shall upon conviction thereof be punished by a fine of not less than ten nor more than five hundred dollars or by imprisonment in the county jail for not more than one year, and said term of imprisonment in case of an association or a corporation may be imposed upon its officers who participated in said violation.

(2) Any person who shall conduct or maintain a foster home without having a permit to do so as provided by section 48.38 shall upon conviction thereof be punished by a fine of not less than ten nor more than two hundred dollars, or by imprisonment in the county jail for not more than sixty days. [1939 c. 524]

**Note:** Man and wife who have child in their home not their own, thus conducting foster home, may be prosecuted under (2) for maintaining foster home without per-

mit. An action may be maintained to secure possession or custody of child. 19 Atty. Gen. 192.

**48.42 Importation and exportation of children.** (1) No person shall bring, or cause to be brought, or send, or cause to be sent, into this state or take, or cause to be taken, or send, or cause to be sent, out of this state any child for the purpose of placing such child in a foster home or of procuring his adoption, without first obtaining the consent

of the state board of control; but this section shall not apply to a resident who brings a child into the state for adoption in his own family, nor to a parent or guardian who takes or sends a child outside of the state for placement in a foster home.

(2) Such consent by the state board of control shall be given only upon the following conditions:

(a) Any person who brings or sends children into this state for the purpose of placing such children in foster homes or of procuring their adoption must file with the board a bond to the state of Wisconsin, approved by the board, in the penal sum of one thousand dollars, conditioned that he will not bring or send into this state any child who is incorrigible or unsound of mind or body and that he will remove any such child who becomes a public charge or who, in the opinion of the board, becomes a menace to the community prior to his adoption or becoming of legal age, and conditioned further that all placements shall be made under the same conditions as placements may be made by licensed child welfare agencies. The board of control may waive the bond herein provided for, whenever in the opinion of said board such waiver is warranted. This paragraph shall not apply to child welfare agencies licensed in this state and no bond shall be required from such agencies.

(b) Before any child is brought or sent into this state or taken from or sent out of this state for placement in a foster home, the person bringing, taking or sending such child must obtain a certificate from the state board of control that such home is a suitable home for such child.

(c) The person bringing, taking or sending such child into or out of this state, shall make a report to the state board of control, at least once each year and at such other times as the board may require, as to the location and well-being of such child, until he shall be eighteen years of age or until he shall be legally adopted.

(3) The state board of control shall have power and authority to make all necessary rules and regulations for the enforcement of this section, not in conflict therewith, and all persons bringing, taking or sending children into or out of this state shall comply with all such rules and regulations. [1939 c. 524]

**48.43 Maternity hospitals; licenses.** (1) The term "maternity hospital" as used in sections 48.43 to 48.47 is defined as a place in which any person, firm, association or corporation receives, treats or cares for more than one woman within a period of six months because of pregnancy or in childbirth or within two weeks after childbirth, but not counting in case of an individual, women related to such person or his or her spouse by consanguinity within the sixth degree of kindred computed according to the civil law.

(2) The person or persons conducting any such maternity hospital shall obtain an annual license from the state board of health, and no person conducting a maternity hospital shall receive a woman because of pregnancy or in childbirth or within two weeks after childbirth, without first obtaining such license. Such license shall not be transferable and shall expire on the thirty-first day of December of the year for which issued unless sooner revoked by the state board of health.

(3) Each such license shall state the name and address of the licensee, the specific location of the premises used and the number of women and infants that may be cared for or treated therein at any one time. No greater number of women or infants shall be lodged or cared for at any one time in any maternity hospital than is authorized by the license and no premises shall be used other than those authorized by the license. A record of licenses issued shall be kept by the state board of health.

(4) No license for a maternity hospital shall be renewed unless the person licensed to conduct the same shall have faithfully observed all of the provisions of sections 48.43 to 48.46 and the rules and regulations of the state board of health issued thereunder. Before renewing any such license the state board of health shall secure from the state board of control a certification that the licensee has complied with all requirements of sections 48.44 to 48.46.

**48.44 Application for license; supervision; records.** (1) No license for a maternity hospital shall be granted without an investigation as in this section provided. Whenever application for a license is made for a maternity hospital, the state board of health shall forthwith give notice of such application to the local health officer. The local health officer shall make such investigation of such application for license as he shall deem necessary and shall then make his recommendation to the state board of health regarding granting of such license. If within a reasonable time, but not exceeding thirty days, the local health officer has not made a recommendation to the state board of health upon any application for a license to conduct a maternity hospital the state board of health shall make the necessary investigation. The investigation of any application for a license to conduct a maternity hospital shall include an inquiry as to the number of cubic feet of air space available for each patient, the facilities for ventilation and the admission of sunlight to the rooms used for the care of mothers and their infants. No license shall be issued unless the

state board of health is satisfied that the physical equipment of the place to be used as a maternity hospital is adequate for the proper care of mothers and infants. The state board of health and the local health officer shall keep informed of the nature and reputation of every such maternity hospital and shall visit and inspect the same as often as they deem necessary and for such purposes shall at all reasonable hours be given free and unrestricted access to every part thereof. The members and authorized agents of the state board of control shall have access to such records as maternity hospitals are required to maintain under this section, and they shall be furnished with any information which they may require and which is in possession of such hospitals or the persons conducting the same and which is in relation to the welfare of the children of unmarried mothers.

(2) Each license shall specify in general terms the kind of maternity hospital which the license covers. The state board of health shall make such general rules and regulations for the various kinds of maternity hospitals as shall be necessary to effect the purposes of sections 48.43 to 48.45.

(3) The state board of health with the approval of the state board of control shall prescribe forms for the registration and record of women cared for in pregnancy or in childbirth or within two weeks after childbirth in maternity hospitals. Every maternity hospital shall maintain a complete record of every such patient and her infant on the forms so prescribed, which record shall be kept in the office of such maternity hospital.

(4) No person connected with a maternity hospital shall directly or indirectly disclose the contents of its records as such, except in a judicial proceeding where the same is material or for the information of the state board of health, the state board of control, or the local health officer. Nothing herein shall be construed to limit or modify the provisions of section 325.21.

**48.45 Conduct of maternity hospitals.** (1) No person conducting or in any way connected with the conduct of any maternity hospital shall in any way directly or indirectly offer to dispose of any child or hold himself out as being able to dispose of children in any manner.

(2) Whenever any woman is received in a maternity hospital because of pregnancy or in childbirth or within two weeks after childbirth, such hospital shall use due diligence to ascertain whether such patient is married; and, if there is reason to believe that her child is or will be when born an illegitimate child, such hospital shall report to the state board of control within twenty-four hours, by registered mail, the presence of such woman.

**48.46 Revocation of licenses.** (1) The state board of health may revoke the license for any maternity hospital if the persons licensed to conduct the same shall have violated any provision of sections 48.43 to 48.46 or any of the rules and regulations of the state board of health issued thereunder or the provisions of such license.

(2) No license for a maternity hospital shall be revoked unless the holders of such license shall have notice in writing of the grounds for such proposed revocation, a public hearing upon at least ten days' written notice, and opportunity thereat to present testimony and to confront witnesses. Such notice may be given either by personal service thereof or by mailing the same by registered mail to the holder of such license at the address therein specified.

**48.47 Penalties.** Any person, firm, association or corporation found guilty of violating any of the provisions of sections 48.42 to 48.45 shall be punished by a fine of not less than ten nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year, and said term of imprisonment in case of an association or corporation may be imposed upon its officers who participated in said violation. [1931 c. 352 s. 2]

**48.50** [Renumbered 41.01 (4m) (e) by 1939 c. 231]