

shall before appointing or employing any one to fill such position or place, make an investigation as to the qualifications of said soldier, sailor or marine for such place or position, and if he is a man of good moral character and can perform the duties of said position so applied for by him, as hereinbefore provided, said officer board or person shall appoint said soldier, sailor or marine to such position place or employment. A refusal to allow the preference provided for in this and the next succeeding section to any honorably discharged soldier, sailor or marine, or a reduction of his compensation intended to bring about his resignation or discharge entitles such honorably discharged soldier, sailor or marine to a right of action therefor in any court of competent jurisdiction for damages, and also a remedy for mandamus for righting the wrong.

SEC. 2. Removals. Any person whose rights may be in any way prejudiced contrary to any of the provisions of this section shall be entitled to a writ of mandamus to remedy the wrong. No person holding a position by appointment or employment in the state of Iowa, or in the several counties, cities, or towns, thereof, who is an honorably discharged soldier, sailor or marine having served as such in the union army or navy during the late civil war shall be removed from such position or employment except for incompetency or misconduct shown after a hearing, upon due notice, upon stated charges, and with the right of such employee or appointee to a review by a writ of certiorari. The burden of proving incompetency or misconduct shall rest upon the party alleging the same. Nothing in this act shall be construed to apply to the position of private secretary or deputy of any official or department, or to any person holding a strictly confidential relation to the appointing officer.

SEC. 3. In effect. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Register and Leader, and the Des Moines Daily Capital, newspapers published in Des Moines, Ia.

Approved March 21, A. D., 1904.

I hereby certify that the foregoing act was published in the Des Moines Daily Capital, March 22, 1904, and the Register and Leader, March 23, 1904.

W. B. MARTIN,
Secretary of State.

CHAPTER 10.

SALARY OF ASSISTANT ATTORNEY GENERAL.

H. F. 802.

AN ACT to amend section two hundred and twelve (212) of the code, relating to the salary of the assistant attorney general, and fixing his compensation.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Salary. That section two hundred and twelve (212) of the code be, and the same is hereby, amended by striking out the words "twelve hundred dollars" in the second line thereof, and inserting in lieu thereof the words "eighteen hundred dollars".

Approved March 24, A. D. 1904.

CHAPTER 11.

JUVENILE COURTS.

S. F. 90.

AN ACT enlarging the powers of the district court, and to regulate the treatment and control of dependent, neglected and delinquent children. [Additional to chapter five (5), of title three (III) of the code, relating to the district court.]

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Jurisdiction—"Juvenile court record." The district court is hereby clothed with original and full jurisdiction to hear and determine all

cases coming within the purview of this act, and the proceedings, orders, findings and decisions of said court shall be entered in a book or books to be kept for the purpose and known as the Juvenile Court Record. Said court shall always be open for the transaction of business coming under the purview of this act, but the hearing of any matter requiring notice shall be had only in term time or at such time and place as the judge may appoint.

SEC. 2. Terms defined. This act shall apply only to children under the age of sixteen years, not at the time inmates of a state institution or any industrial school for boys or for girls, or any institution incorporated under the laws of this state, and shall apply to all children of said age, except such as are charged with a commission of offenses punishable under the laws of the state with life imprisonment, or with the penalty of death. For the purpose of this act, the words "dependent children" or "neglected children" shall mean any child who for any reason is destitute or homeless or abandoned; or dependent upon the public for support; or who has not proper parental care or guardianship; or who habitually begs or receives alms; or who is found living in any house of ill fame, or with any vicious or disreputable person; or whose home, by reason of neglect, cruelty or depravity on the part of its parents or guardian or other person in whose care it may be, is an unfit place for such child; and any child under the age of ten years, who is found begging, or giving any public entertainment upon the street for pecuniary gain for self or another; or who accompanies or is used in aid of any person so doing; or who, by reason of other vicious, base or corrupting surroundings, is, in the opinion of the court, within the spirit of this act. The words "delinquent child" shall include any child under the age of sixteen years, who violates any law of this state, or any city or village ordinance; or who is incorrigible; or who knowingly associates with thieves, vicious or immoral persons, or who is growing up in idleness or crime; or who knowingly frequents a house of ill fame; or who patronizes any policy shop or place where any gaming device is, or shall be operated; or who habitually wanders about any railroad yards or tracks, gets upon any moving train or enters any car or engine without lawful authority. The word "child" or "children" may mean one or more children, and the word "parent" or "parents" may be held to mean one or both parents when consistent with the intent of this act. The word "association" shall include any corporation which includes in its purposes the care or disposition of children coming within the meaning of this act.

SEC. 3. Petition in writing. Any reputable person being a resident of the county, having knowledge of a child in his county who appears to be either dependent, neglected or delinquent, may, without fee, file with the clerk of the court having jurisdiction of the matter, a petition in writing, setting forth the facts, verified by affidavit; it shall be sufficient if the affidavit is upon information and belief.

SEC. 4. Summons—trial—statutes applicable—costs—appeals. Upon the filing of the petition the court may cause a summons to issue requiring the person having custody or control of the child or with whom the child may be, to appear with the child at a time and place stated in the summons. The parents of the child, if living, and their residence is known, or its legal guardian, if one there be, or if there is neither parent nor guardian or if his or her residence is not known, then some relative, if there be one and his residence is known, shall be notified of the proceedings, and in any case the judge may appoint some suitable person to act in behalf of the child. If the person summoned as herein provided shall fail to appear or bring the child, without reasonable cause, and abide the order of the court, he may be proceeded against as in case of contempt of court. In case the summons cannot be served or the party served fails to obey the same, and in any case when it shall be made to appear to the court that such summons will be ineffectual, a warrant may issue on the order of the court,

either against the parent or guardian or the person having custody of the child or with whom the child may be, or against the child itself. On the return of the summons or other process, or as soon thereafter as may be, the court shall proceed to hear and dispose of the case in a summary manner, provided, however, that when the child is brought before the court, charged with the commission of a crime, not punishable with imprisonment for life, or the penalty of death, the court may, and if the child, its parent or guardian demands, shall place the child on trial for the commission of such offense. Where the penalty for the offense committed, exceeds a fine of one hundred dollars, or imprisonment for thirty days, the court shall make an examination and in conducting same shall be governed by the provisions of section five thousand two hundred and sixteen (5216), five thousand two hundred and eighteen (5218), five thousand two hundred and nineteen (5219), five thousand two hundred and twenty-one (5221), five thousand two hundred and twenty-two (5222), five thousand two hundred and twenty-three (5223), five thousand two hundred and twenty-four (5224), five thousand two hundred and twenty-five (5225), five thousand two hundred and twenty-six (5226), five thousand two hundred and twenty-seven (5227), and five thousand two hundred and thirty-nine (5239) of the code and shall make certificate, order of discharge or commitment, issue warrant, require undertakings of witnesses and security and commit witnesses as provided by sections five thousand two hundred and twenty-eight (5228) to five thousand two hundred and thirty-five (5235) of the code inclusive. If the child is unable to furnish the required bail, the child may, pending the final disposition of the case, be detained in the possession of the person having charge of the same, or may be kept in a suitable place provided by the city or county authorities. If the crime is not triable on indictment or if it appears on the examination that a public offense has been committed which is not triable on indictment the court may order any peace officer to file an information against the child before him and shall proceed to try the case before a jury of twelve men, selected as in a justice's court. The proceedings, costs and taxation thereof, shall be as provided for trials in the district court and the defendant shall be entitled to his exceptions and right of appeal.

SEC. 5. Discretionary powers of court. When any such boy or girl shall be found guilty of the commission of a crime, not punishable with imprisonment for life, or the penalty of death, the court in its discretion, may, instead of entering judgment of conviction, make order concerning such child in manner as hereinafter provided.

SEC. 6. Probation officers. The court shall have authority to appoint or designate one or more discreet persons of good character to serve as probation officers during the pleasure of the court; said probation officers to receive no compensation from the public treasury. In case a probation officer shall be appointed by any court, it shall be the duty of the clerk of the court, if practicable, to notify the said probation officer in advance when any child is to be brought before the said court; it shall be the duty of said probation officer to make such investigation as may be required by the court; to be present in court in order to represent the interests of the child when the case is heard; to furnish to the court such information and assistance as the judge may require, and to take such charge of any child before and after trial as may be directed by the court.

SEC. 7. Exclusion from court room. The judge of such court shall designate a certain time for the hearing of such cases and is hereby empowered, when tried in a summary manner as provided in section four (4) hereof, to exclude from the court room at such hearing any and all persons that in his opinion, are not necessary for the hearing of the case. The probation officer shall be present at every hearing in the interest of the child.

SEC. 8. Commitment. When any child of the age stated in section two (2), hereof, shall be found to be dependent or neglected, within the meaning

of this act, the court may make an order committing the child to the care of some suitable state institution, or to the care of some reputable citizen of good moral character, or to the care of some industrial school, as provided by law, or to the care of some association willing to receive it, embracing in its objects the purpose of caring for and obtaining homes for dependent and neglected children, which association shall have been accredited as hereinafter provided. The court may, when the health or condition of the child may require it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive it for like purposes without charge.

SEC. 9. Guardianship—decree for adoption. In any case where the court shall award a child to the care of any association or individual in accordance with the provisions of this act, the child shall, unless otherwise ordered, become a ward and subject to the guardianship of the association or individual to whose care it is committed. Such association or individual shall have authority to place such child in a family home, with or without indenture, and may be made party to any proceedings for the legal adoption of the child, and may by his or its attorney or agent appear in any court where such proceedings are pending and assent to such adoption. And such assent shall be sufficient to authorize the court to enter the proper order or decree for adoption. Such guardianship shall not include the guardianship of any estate of the child.

SEC. 10. Disposition of child by agreement. It shall be lawful for the parent, parents, guardian or other person having a right to dispose of [a] dependent or neglected child to enter into an agreement with any association or institution incorporated under any public law of this state for the purpose of aiding, caring for or placing in home such children, and being approved as herein provided, for the surrender of such child to such association or institution, to be taken and cared for by such association or institution or put in a family home. Such agreement may contain any and all proper stipulations to that end, and may authorize the association or institution, by its attorney or agent, to appear in any proceeding for the legal adoption of the child and consent to its adoption, and the order of the court made upon such consent shall be binding upon the child and its parents or guardian or other person the same as if such person were personally in court and consented thereto, whether made party to the proceeding or not.

SEC. 11. Optional commitments—parole. In the case of a delinquent child, the court may continue the hearing from time to time, and may commit the child to the care or custody of a probation officer, and may allow said child to remain in its own home subject to the visitation of the probation officer; such child to report to the probation officer as often as may be required, and subject to be returned to the court for further or other proceedings whenever such action may appear to be necessary; or the court may cause the child to be placed in a suitable family home, subject to the friendly supervision of the probation officer and the further order of the court; or it may authorize the child to be boarded out in some suitable family home, in case provision is made by voluntary contribution or otherwise for the payment of the board of such child, until a suitable provision may be made in a home without such payment; or the court may commit such child, if a boy, to an industrial school for boys; or, if a girl, to an industrial school for girls; or the court may commit the child to any institution within the county, incorporated under the laws in this state, that may care for delinquent children, or be provided by a city or county, suitable for the care of such children, or to any state institution which may be established for the care of delinquent boys or girls over the age of ten years. In no case shall a child be committed beyond his or her minority. A child committed to such institution shall be subject to the control of the board of managers thereof, and said board shall have power to parole the child on such conditions as it may

prescribe; and the court shall, on the recommendation of the board, have power to discharge such child from custody whenever, in the judgment of the court, his or her reformation is complete; or the court may commit the child to the care and custody of some association that will receive it, embracing in its objects the care of neglected or dependent children, and that has been duly accredited as hereinafter provided.

SEC. 12. Custody of child. No court or magistrate shall commit a child not yet having reached his seventeenth birthday, to jail or police station, but if such child is unable to give bail it may be committed to the care of the sheriff, police officer, probation officer, or other person, who shall keep such child in some suitable place provided by the city or county, outside the enclosure of any jail or police station. When any child shall be sentenced to confinement in any institution to which adult convicts are sentenced, it shall be unlawful to confine such child in the same yard or enclosure with such adult convicts, or to bring such child into any yard or building in which adult convicts may be present. Any such child, taken before any justice of the peace or police court, in such counties, charged with misdemeanor, shall, together with the case, be at once transferred by said justice of the peace or police court, to said district court and proper order shall be made therefor.

SEC. 13. Support of child. In any case in which the court shall find a child dependent, neglected or delinquent, it may, in the same or subsequent proceedings, upon the parents of said child or either of them, being duly summoned or voluntarily appearing, proceed to inquire into the ability of such parent or parents to support the child or contribute thereto, and if the court shall find such parent or parents able to support the child or contribute to its support, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution or in any way in which a court of equity may enforce its orders or decrees.

SEC. 14. Supervision of institutions—annual reports. The board of control shall designate and approve the institutions and associations to have charge of juveniles under this act and shall have supervision, oversight and right of visitation (by all or any of its members or by such persons as it shall appoint thereto) to all institutions and associations having charge of juveniles under this act, and said court, institutions and associations shall make annual reports in the first fifteen days in January of each year to said board of control. The report of the court shall include the number of juveniles of each sex brought before it, the number for whom homes have been obtained, the number sent to state institutions, and the number under charge of such association.

SEC. 15. Religious belief. The court in committing children shall place them as far as practicable in the care and custody of some individual holding the same religious belief as the parents of said child, or with some association which is controlled by persons of like religious faith with the parents of said child.

SEC. 16. Statutes construed liberally. This act shall be construed liberally to the end that its purpose may be carried out, to wit: that the care, custody and discipline of a child shall approximate as nearly as may be that which should be given by its parents, and in all cases where it can properly be done, the child to be placed in an approved family home and become a member of the family by legal adoption or otherwise.

Approved April 7, A. D. 1904.