

CHAPTER 14.

CONTRIBUTORY DEPENDENCY.

S. F. 344.

AN ACT defining contributory dependency, fixing proceedings in regard thereto, providing for probation of parties guilty thereof subject to such orders as are calculated to remove such contributory dependency and providing for the enforcement of such orders, also providing for a finding of abandonment and for adoption upon such finding, determining the rights of children thus adopted and providing for punishment for enticing away and interfering with children legally placed into institutions and homes; to be additional to chapter five-b (5-b) of title three (III) of the supplement to the code, 1907, and repealing section four thousand seven hundred sixty-one (4761) of the code.

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

SECTION 1. Contributory dependency defined. When any child is found to be dependent or neglected, as defined by section 254-a 14 of the 1907 supplement of the code, the parent, parents, person or other person or persons having the care, custody, or control of such child, or any other person or persons who shall by any act or omission of duty encourage, counsel, or contribute to, the neglect of such child, or who, by reason of wilful neglect of any duty owing by said parent or parents, person or persons to such child, is or are responsible for its neglect or dependency, shall be guilty of contributory dependency, and proceeded against as provided herein.

SEC. 2. Jurisdiction—proceedings—enforcement of decrees. The district court shall have original and exclusive jurisdiction to hear and determine all cases coming within the purview of this act and the proceedings hereunder shall be as in equity and may be included with and be a part of the proceedings in behalf of the child and the court may enforce obedience to its orders in any way in which a court of equity may enforce its orders or decrees.

SEC. 3. Decree—probation bond. Whenever the court upon hearing finds a person guilty of contributory dependency, the court may enter a judgment determining such facts and requiring such person to do or to omit to do any act or acts complained of in the petition; and for the purpose of enforcing its judgment the court, in its discretion may continue the proceedings from time to time and release such person on probation during the period of two years. The court may further, in its discretion, as part of its judgment require such person to enter into a bond to the state of Iowa, with or without surety, in such sum as the court may direct, to comply with the orders of the court.

SEC. 4. Time for bond—enforcement. If the judgment of the court be that the person proceeded against shall execute bonds as provided herein such bond shall be executed within such time as the court may fix; of [if] the person proceeded against should fail within the time fixed to execute such bond, the court shall commit such person to jail, there to remain until he shall give bond or perform the judgment of the court.

SEC. 5. Proceeding on bond—disposition of sum recovered. If the court be satisfied by information or evidence on oath, that at any time during the two years the person proceeded against has violated the terms of the court's order or the terms of said bond, the court may direct the county attorney to institute proceedings on said bond in any court having jurisdiction of the sum fixed in said bond, the sum so recovered on such bond shall be turned over to the chief probation officer to be by him safely kept and expended for the care and maintenance of such child under the direction and discretion of the court.

SEC. 6. Guardian appointed. In case any person found guilty of contributory dependency shall be found to be a spendthrift who is squandering his property or an habitual drunkard, incapable of managing his affairs, the court

shall of its own motion or on application, appoint a guardian as provided by statute who shall, also have the duty to see that such person is employed as much as possible.

SEC. 7. Employment. In case the contributory dependency shall in whole or in part consist in the failure of such person to work when he is physically and mentally able to do so and defendant claims that he cannot find work then the court may appoint some person to find suitable employment for such person, and, if he fails and refuses to work at such employment without reasonable excuse after it has been approved by the court he shall be guilty of contempt and be dealt with accordingly. It shall be the duty of the board of supervisors and of the cities of such counties, whether they be under special charter or not to give preference and precedence to such persons upon the application of such appointee for such work as such counties or cities may have, in case such appointee, after reasonable effort to the satisfaction of the court can find no other work elsewhere. In case defendant claims that he can find work and he does not go to work within a reasonable time to be fixed by the court he shall be guilty of contempt. This statute shall not be interpreted as allowing involuntary servitude but it shall be liberally construed as punishing the party affected as for contempt in case he does not do his parental duty and support his children as the law contemplates that he should do, after he has been ordered by the court to do so and efforts have been made to aid him in so doing. Any person who is able to properly support his children without labor shall not come within the contemplation of this statute. Section 4775a of the supplement to the code is not hereby repealed and the court in its discretion may order prosecution under that statute as provided in section 10 hereof. The costs of such probation including the compensation and expenses of such appointee shall be fixed, taxed, and paid as provided in the next succeeding section.

SEC. 8. Habitual drunkenness. In every case where the contributory dependency consists in whole or in part of habitual drunkenness it shall be the duty of the court to commit such person guilty thereof to the state hospital for inebriates, at Knoxville, or to such other hospital for the cure of inebriates as the state may furnish, and, after his release therefrom, the court shall put him into the care of some person duly appointed as special probation officer who shall aid and assist him toward reform and shall see that he is properly employed. Such probation shall terminate at the end of two years from and after the time of commitment as herein provided, and the provisions in regard to abandonment as set forth in section 12 hereof shall apply. The court shall render a judgment against defendant for the cost of treatment at such hospital for inebriates and the costs of suit and may, in a proper case, allow him to pay the same in such installments as the court may fix during the period of his probation, the county of his residence to pay the same in the first instance. Such special probation officer shall have such compensation as the court may allow which shall be taxed as costs of the case.

SEC. 9. No exemptions—order of court as execution. In case no guardian is appointed and the person found guilty of contributory dependency fails to apply a sufficient sum for the benefit of his family and it be deemed necessary by the court to levy upon any of his property, including wages, for the benefit of the family, he shall not have the benefit of any exemptions as provided by statute except such as are provided for an unmarried person. In such cases nothing further shall be necessary than the service of a copy of the order of the court which shall serve the purposes of an execution and it may also take the place of a notice of garnishment and any property belonging to or debt owing such person shall be paid into court on or before a time to be fixed by the court to be expended in such manner as the court may direct and in case the person so garnished fails to turn over as herein provided or there is any

dispute in regard to the matter such person may be summoned to appear before the court out of which the order issued at a time for hearing to be fixed by the court and a hearing may be had and judgment entered as may be proper in the premises. The principal defendant shall be given such notice of the proceedings as the court may direct.

SEC. 10. Criminal proceedings not prevented. Nothing in this act shall be construed to be in conflict with, or to prevent proceedings under any statute of the state against any person for the commission of any act for which such person may be proceeded against as provided herein and upon the hearing of any case herein the court in its discretion may order and direct the county attorney to take any and all needful steps to prosecute such person in accordance with the laws of the state concerning the commission of crimes.

SEC. 11. Disposition of child during probation of adult. When children are allowed to remain in the custody of such person as is found guilty of contributory dependency the court may prescribe such conditions as seem most calculated to remove the cause of such dependency and neglect and in case the court deems it for the best interests of the child to remove it from its home until the conditions of the probation have been complied with and the court is satisfied that such compliance will continue then the court may place the same in the care and custody of the juvenile detention home, wherever such is authorized, or of such other suitable institution provided for by the juvenile court to act for such time during minority, as the court may deem fit, and the court at any time thereafter may set aside, change, or modify such order.

SEC. 12. Abandonment. A person guilty of contributory dependency shall fully comply with all of the orders of the court within such time as the court may fix to be not more than one (1) year and shall continue to comply with such order thereafter for such period as will make the full term of two years from and after the judgment establishing contributory dependency and, in case he fails to do so, the court may, in its discretion, declare the child or children whose parent he is, to be abandoned children, and, in case any person who has been adjudged guilty of contributory dependency and who has been ordered to pay for the support of such child departs from the jurisdiction of the court rendering such judgment and allows such support to remain unpaid for six months without excuse satisfactory to such court such child or children whose support he has been ordered to pay may in the discretion of the court by [be] adjudged to be abandoned, the making of such payments shall not prevent the finding and judgment of abandonment after two years in case there are other orders of court which have not been complied with as hereinbefore provided. In case both parents are living and neither one has been relieved of its duty and both are guilty of contributory dependency both shall be proceeded against at the same time.

SEC. 13. Disposal of abandoned children—adoption. In case at the end of two years a child is declared to be abandoned by both of its parents as provided by the preceding section the court may order the clerk of the district court to sign papers for its adoption or it may be turned over to some home finding association, approved by the board of control, or to the soldiers' orphans' home at Davenport, Iowa, with power to adopt such child out and to execute papers of adoption.

SEC. 14. Inheritance. Any adoption as provided by preceding section shall not prevent or cut off any inheritance he might be entitled to from his rightful or adoptive parents adjudged guilty of contributory dependency as hereinbefore provided in accordance with the laws of descent of this state; such inheritance to be in addition to that to which he may be entitled by virtue of the adoption hereunder and no will to the contrary shall be valid.

SEC. 15. General. In every cause in the juvenile court the court shall investigate whether every person responsible for the care, custody, maintenance, education, medical treatment and discipline of the child or children involved is doing his full duty by such child or children and, in case the court finds that the parents, or other persons in loco parentis are not doing their duties the court shall try all lawful and proper means under this act to make them do so, giving them aid and assistance in case it be deemed necessary. The court may declare a child abandoned by one parent while it may not be by the other. In case the parents are divorced and the one having the custody is adjudged to have abandoned the child then the ability and propriety of the other parent shall be considered.

SEC. 16. Enticing away child—penalty. If any person lead, take, decoy or entice away any child placed in any family home or institution as provided by law, from such family home or institution having the lawful charge thereof or shall interfere in any way with the peaceful possession and control of such child by such family or institution, he shall be imprisoned in the penitentiary not more than ten (10) years, or be fined not exceeding one thousand dollars (\$1000.00) or punished by both such fine and imprisonment, and section four thousand seven hundred and sixty-one (4761) of the code is hereby repealed.

SEC. 17. Liberally construed. This act shall be liberally construed in favor of the state for the purpose of the protection of the child from neglect, or omission of parental duty toward the child by its parents, or other persons standing in loco parentis, and further to protect the child from the effects of the improper conduct or acts of any person which may cause, encourage or contribute to the dependency and neglect of such child, although such person is in no way related to such child.

Approved April 15, A. D. 1909.

CHAPTER 15.

SUPERIOR COURTS.

H. F. 440.

AN ACT to amend section two hundred sixty (260) of the code relating to superior courts.

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

SECTION 1. Jurisdiction over inebriates or dipsomaniacs. That section two hundred sixty (260) of the code be and the same is hereby amended by adding thereto the following:

“Superior courts shall have original concurrent jurisdiction with the district courts of the state of Iowa in all matters pertaining to the detention and treatment of dipsomaniacs, inebriates and those addicted to the excessive use of narcotics, as provided in title XII, chapter 2-a of the supplement to the code, 1907, and the same proceeding shall be held so far as applicable. Wherever the words ‘district judge,’ ‘district court’ or ‘judge of the district court’ appear in title XII, chapter 2-a the same shall be construed to apply to the superior courts or the judge thereof to the same extent that the same applies to the district court or the judge thereof.”

SEC. 2. 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 Des Moines Capital, newspapers published in Des Moines, Iowa.

Approved April 15, A. D. 1909.

I hereby certify that the foregoing act was published in the Register and Leader and Des Moines Capital April 19, A. D. 1909.

W. C. HAYWARD,
Secretary of State.