

REVISED LAWS OF HAWAII 1955

IN THREE VOLUMES

VOLUME I—CHAPTERS 1-154

COMPRISING THE STATUTES OF THE TERRITORY
INCLUDING THE ACTS PASSED AT THE REGULAR
SESSION OF 1955 AND SPECIAL SESSION OF 1956,
CONSOLIDATED, REVISED AND ANNOTATED.



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pearing and to be stated in its order, amend or revoke any such license, by an order to take effect within such time after the service thereof upon the licensee as the board shall determine.

This section shall not apply to a general hospital making provision in a pavilion or special wards for the care, nursing and observation or temporary detention of persons alleged to be suffering from mental disorders, or to mental defectives or other incompetent persons, pending examination for commitment to the territorial hospital or an institution licensed as herein provided. [L. 1939, c. 250, pt. of s. 1; R. L. 1945, s. 2581; am. L. 1945, c. 106, s. 1.]

§ 56-2. Chapter 81 applicable to certain institutions. The provisions of chapter 81 with respect to persons with mental disorders, and their commitment, admission, detention, discharge and parole, and appeals to the appeals commission, shall be applicable, insofar as the same may be appropriate, to any such licensed institution for the care and treatment of persons with mental disorders, to the same extent, as nearly as may be, as in the case of the territorial hospital and persons committed or admitted thereto. Wherever in chapter 81, provision is made for commitment or admission to the territorial hospital, such provision shall be deemed to authorize such commitment or admission to any such licensed institution in the same manner, and with the same effect, and subject to the same conditions, as nearly as may be, as in the case of persons committed or admitted to the territorial hospital; provided that such commitment or admission is consented to in writing by the guardian or relative having the custody of the patient and by the medical director of such licensed institution. The medical director of such licensed institution shall have the same authority with respect to the parole and discharge of patients committed or admitted to his institution, as the medical director of the territorial hospital with respect to patients committed or admitted thereto, subject, however, to the approval of the president of the board of health. This chapter shall not be deemed to authorize the commitment of any person charged with or convicted of crime to any such licensed institution. [L. 1939, c. 250, pt. of s. 1; R. L. 1945, s. 2582.]

Note: "Appeals commission" substituted for "psychiatric commission" to conform to § 81-38.

§ 56-3. Chapter 82 applicable to certain institutions. The provisions of chapter 82 with respect to mentally defective persons and their commis-

sion, admission, detention, discharge and parole, shall be applicable, insofar as the same may be appropriate, to any licensed institution for the care of such mentally defective persons, to the same extent, as nearly as may be, as in the case of Waimano Home and persons committed or admitted thereto. Wherever in chapter 82, provision is made for commitment or admission to Waimano Home, such provision shall be deemed to authorize such commitment or admission to any licensed institution mentioned in this section, in the same manner, and with the same effect, and subject to the same conditions, as nearly as may be, as in the case of persons committed or admitted to Waimano Home, provided that such commitment or admission is consented to in writing by the guardian or relative having the custody of the person concerned and by the superintendent of such licensed institution. The superintendent of such institution may, with the approval of the director of institutions, parole or discharge any inmate, if it appears that such inmate will be properly cared for or that his detention is no longer necessary for his own welfare or the safety of the public. [L. 1939, c. 250, pt. of s. 1; R. L. 1945, s. 2583.]

Note: "Mentally defective" substituted for "feeble-minded" to conform to usage in c. 82.

§ 56-4. Rules. The board of health may adopt rules for the conduct of such licensed institutions which shall be, as nearly as may be, similar to applicable rules governing corresponding territorial institutions, but which may require the approval of the president of the board of health to any specified action by such institution. Such rules shall, among other things, require reports concerning patients or inmates of such institutions to be made to the president of the board of health at such times and in such manner as set forth in the rules. [L. 1939, c. 250, pt. of s. 1; R. L. 1945, s. 2584.]

§ 56-5. Penalty. Any person, association or corporation which establishes, maintains or operates an institution for the custody and treatment of persons with mental disorders, or of mental defectives or other incompetent persons, for compensation or hire, without holding a valid unrevoked license therefor under this chapter, and any officer of any association or corporation who participates as such in any such violation of this chapter, shall be fined not more than \$1000, or, in the case of an individual, imprisoned not more than six months, or both. [L. 1939, c. 250, pt. of s. 1; R. L. 1945, s. 2585.]

CHAPTER 57 VITAL STATISTICS

PART I. TERRITORIAL PUBLIC HEALTH STATISTICS ACT

Note: This part is based upon the Unif. Vital Statistics Act.

§ 57-1. Definitions of terms. As used in this part, unless the context otherwise indicates:

(a) "Public health statistics" includes the registration, preparation, transcription, collection, compilation and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths, morbidity, marital status and data incidental thereto.

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(b) "Live birth" is the complete expulsion or extraction from its mother of a product of conception that did, after complete expulsion or extraction from the mother, breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or movement of voluntary muscle, whether or not the umbilical cord was cut or the placenta attached.

(c) "Fetal death" is death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, that did not, after complete separation from the mother, breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or movement of voluntary muscle.

(d) "Dead body" means lifeless human body, or such parts of the human body, or the bones thereof, from the state of which it reasonably may be concluded that death recently occurred.

(e) "Person in charge of interment" means any person who places, or causes to be placed, a stillborn child, or dead body, or ashes, after cremation, in a grave, vault, urn or other receptacle, or otherwise disposes thereof.

(f) "Physician" means a person legally authorized to practice medicine, osteopathy or the science of naturopathy in the Territory. [R. L. 1945, s. 3100.02; add. L. 1949, c. 327, s. 2; am. L. 1951, c. 92, s. 1.]

§ 57-2. Authority and duties of the board of health. The board of health, herein referred to as the board, shall:

(a) Establish a central bureau of public health statistics with suitable offices properly equipped for the safety and preservation of all its official records;

(b) Install a Territory-wide system of public health statistics;

(c) Make and amend, after notice and hearing, necessary regulations, give instructions and prescribe forms for collecting, transcribing, compiling and preserving public health statistics; and

(d) Enforce this part and the regulations made pursuant thereto. [R. L. 1945, s. 3100.03; add. L. 1949, c. 327, s. 3.]

§ 57-3. Publication of regulations. The regulations of the board hereunder shall take effect thirty days after publication. [R. L. 1945, s. 3100.04; add. L. 1949, c. 327, s. 4.]

§ 57-4. Registration districts. The board shall divide the Territory from time to time into public health statistics registration districts, which shall conform to political subdivisions, or combinations thereof, or such other subdivision as the board may deem advisable. [R. L. 1945, s. 3100.05; add. L. 1949, c. 327, s. 5.]

§ 57-5. Appointment of registrar general; qualifications; compensation. The board shall appoint a registrar general of public health statistics, herein referred to as registrar general, who shall be qualified under the civil service laws, and

fix his compensation. [R. L. 1945, s. 3100.06; add. L. 1949, c. 327, s. 6.]

§ 57-6. Duties of registrar general.

(a) The registrar general, under the general supervision of the president of the board of health, shall have charge of the bureau of public health statistics and shall be the custodian of all its files and records, and perform such other duties as the board may prescribe.

(b) He shall enforce this part and the regulations of the board, and shall have supervisory power over the local registrars and deputy local registrars. [R. L. 1945, s. 3100.07; add. L. 1949, c. 327, s. 7.]

§ 57-7. Appointment of local registrars and deputies. The board, on the recommendation of the registrar general, shall appoint local registrars, provided that the county health officer may be designated as local registrar in counties having organized health units. A local registrar with the approval of the registrar general may appoint deputies. Local registrars shall immediately report to the registrar general violations of this part or the regulations of the board. [R. L. 1945, s. 3100.08; add. L. 1949, c. 327, s. 8.]

§ 57-8. Compulsory registration of births. Within the time prescribed by the board, a certificate of every birth shall be filed with the local registrar of the district in which the birth occurred, by the physician, midwife or other legally authorized person in attendance at the birth; or if not so attended, by one of the parents. [R. L. 1945, s. 3100.09; add. L. 1949, c. 327, s. 9.]

§ 57-9. Local registrar to prepare birth certificate.

(a) If neither parent of the newborn child whose birth is unattended as above provided is able to prepare a birth certificate, the local registrar shall secure the necessary information from any person having knowledge of the birth and prepare and file the certificate.

(b) The board shall prescribe the time within which a supplementary report furnishing information omitted on the original certificate may be returned for the purpose of completing the certificate. Certificates of birth completed by a supplementary report shall not be considered as "delayed" or "altered." [R. L. 1945, s. 3100.10; add. L. 1949, c. 327, s. 10.]

§ 57-10. Registration of foundlings; foundling report.

(a) Whoever assumes the custody of a living child of unknown parentage shall immediately report, on a form to be approved by the board, to the local registrar, the following:

- (1) Date and place of finding or assumption of custody;
- (2) Sex;
- (3) Color or race;
- (4) Approximate age of child;
- (5) Name and address of the person or institution.

tution with whom the child has been placed for care;

(6) Name given to the child by the finder or custodian.

(b) The place where the child was found or custody assumed shall be known as the place of birth, and the date of birth shall be determined by approximation.

(c) The foundling report shall constitute the certificate of birth.

(d) If a foundling child is identified and a regular certificate of birth is found or obtained, the report shall be sealed and filed and may be opened only upon order of a court of competent jurisdiction. [R. L. 1945, s. 3100.11; add L. 1949, c. 327, s. 11.]

§ 57-11. Compulsory registration of deaths and fetal deaths. A certificate of every death or fetal death shall be filed with the local registrar of the district in which the death or fetal death occurred, within three days after the death or fetal death occurred, or if the place of death or fetal death is not known, then with the local registrar of the district in which the body is found within twenty-four hours thereafter. In every instance, a certificate shall be filed prior to interment or other disposition of the body. [R. L. 1945, s. 3100.12; add L. 1949, c. 327, s. 12; am. L. 1951, c. 92, s. 2.]

§ 57-12. Filing and preparation of death and fetal death certificates.

(a) The person in charge of interment shall file with the local registrar of the district in which the death or fetal death occurred, or a dead body was found, a certificate of death or fetal death within three days after the occurrence.

(b) In preparing a certificate of death or fetal death the person in charge of interment shall:

(1) Obtain and enter on the certificate the personal data required by the board from the person best qualified to supply them;

(2) Present the certificate of death to the physician last in attendance upon the deceased, or to the coroner, or medical examiner having jurisdiction, who shall thereupon certify the cause of death to his best knowledge and belief; present the certificate of fetal death to the physician, midwife or other person in attendance at the fetal death, who shall certify the fetal death and such medical data pertaining thereto as he can furnish;

(3) Notify immediately the appropriate local registrar, if the death occurred without medical attendance, or if the physician last in attendance fails to sign the death certificate. In such event the local registrar shall inform the local health officer, and refer the case to him for immediate investigation and certification of the cause of death prior to issuing a permit for burial, or other disposition of the body. When the local health officer is not a physician or when there is no such officer, the local registrar may complete the certificate on the basis of information received from relatives of the deceased or others having knowledge of the facts.

If the circumstances of the case suggest that the death or fetal death was caused by other than natural causes, the local registrar shall refer the case to the coroner for investigation and certification. [R. L. 1945, s. 3100.13; add. L. 1949, c. 327, s. 13; am. L. 1951, c. 92, s. 3.]

§ 57-13. Delayed determination of the cause of death. If the cause of death cannot be determined within three days, the certification of its cause may be filed after the prescribed period, but the attending physician, coroner or medical examiner shall notify in writing the local registrar of the district in which the death occurred, of the reason for the delay, in order that a permit for the disposition of the body may be issued. [R. L. 1945, s. 3100.14; add. L. 1949, c. 327, s. 14.]

§ 57-14. Form of certificates. The forms of certificates shall include as a minimum the items required by the respective standard certificates as recommended by the United States Public Health Service, National Office of Vital Statistics, subject to approval and modification by the board. The form and use of such certificates shall be subject to the provisions of sections 57-19, 57-20 and 57-21. [R. L. 1945, s. 3100.15; add. L. 1949, c. 327, s. 15.]

§ 57-15. Evidentiary character of certificates. Certificates filed within thirty days after the time prescribed therefor shall be prima facie evidence of the facts therein stated. Data pertaining to the father of a child are prima facie evidence only if the alleged father is the husband of the mother; if not, the data pertaining to the father of a child are not evidence in any proceeding adverse to the interests of the alleged father, or of his heirs, next of kin, devisees, or other successors in interest, if the paternity is controverted. [R. L. 1945, s. 3100.16; add. L. 1949, c. 327, s. 16.]

§ 57-16. Same as to certified copies.

(a) Subject to the requirements of sections 57-19, 57-20 and 57-21, the registrar general shall, upon request, furnish to any applicant a certified copy of any certificate, or any part thereof.

(b) Copies of the contents of any certificate on file in the bureau of public health statistics or any part thereof, certified by the registrar general shall be considered for all purposes the same as the original, subject to the requirements of sections 57-19, 57-20 and 57-21. [R. L. 1945, s. 3100.17; add. L. 1949, c. 327, s. 17.]

§ 57-17. Fees for certified copies and searches; transcripts for United States Public Health Service, National Office of Vital Statistics; certified copies for veterans and others.

(a) The board shall prescribe the fees, if any, to be paid for certified copies of certificates except that in no case shall the total fee for a certified copy exceed \$1, or for a search of the files and records when no certified copy is made; provided, that the registrar general shall furnish, free of charge, a certified copy of any of said records, or a

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certification of birth, to any veteran of the armed forces of the United States, his wife, any member of the immediate family of a veteran or the next of kin of a deceased veteran, when required for use in connection with a claim based on service in the Armed forces of the United States. Subject to sections 57-19, 57-20 and 57-21, the United States Public Health Service, National Office of Vital Statistics, may obtain transcripts or, without payment of fees, certified copies, provided the Territory is put to no expense in connection therewith.

(b) The registrar general shall keep an account of all fees collected and shall deposit them to the general fund of the Territory. [R. L. 1945, s. 3100.18; add. L. 1949, c. 327, s. 18; am. L. Sp. 1949, c. 34, s. 1.]

§ 57-18. Delayed or altered certificates. A person born in the Territory may file or amend a certificate after the time prescribed, upon submitting such proof as shall be required by the board, except that no certificate of birth may be filed later than one year after birth. [R. L. 1945, s. 3100.19; add. L. 1949, c. 327, s. 19.]

§ 57-19. Procedure concerning delayed and altered certificates.

(a) Certificates accepted subsequent to thirty days after the time prescribed for filing, and certificates which have been altered after being filed with the registrar general, shall contain the date of the delayed filing and the date of the alteration, and be marked distinctly "delayed" or "altered."

(b) A summary statement of the evidence submitted in support of the acceptance for delayed filing or the alteration shall be endorsed on the certificates.

(c) Such evidence shall be kept in a special permanent file. [R. L. 1945, s. 3100.20; add. L. 1949, c. 327, s. 20.]

§ 57-20. Delayed or altered certificate as evidence. The probative value of a "delayed" or "altered" certificate shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence. [R. L. 1945, s. 3100.21; add. L. 1949, c. 327, s. 21.]

§ 57-21. Disclosure of records.

(a) The records and files of the bureau of public health statistics are open to inspection, subject to the provisions of this part and regulations of the board; but it shall be unlawful for any officer or employee of the Territory to disclose data contained in public health statistics records, except as authorized by this part or by the board.

(b) Disclosure of illegitimacy of birth or of information from which any child can be ascertained to be illegitimate may be made only upon order of a court of competent jurisdiction in a case where such information is necessary for the determination of personal or property rights, and then only for such purpose.

(c) The registrar general shall not permit in-

spection of the records, or issue a certified copy of a certificate, or part thereof, unless he is satisfied that the applicant therefor has a direct and tangible interest in the matter recorded, and that the information contained therein is necessary for the determination of personal or property rights.

(d) The board may permit the use of data contained in public health statistical records for research purposes only, but no identifying use thereof shall be made.

(e) Subject to the provisions of this section, the board may direct local registrars to make a return, upon filing of birth, death and fetal death certificates with them, of certain data shown thereon to federal, state, territorial, county or municipal agencies. Payment by such agencies for such services may be made through the registrar general to local registrars as the board shall direct. [R. L. 1945, s. 3100.22; add. L. 1949, c. 327, s. 22.]

§ 57-22. Photostatic or typewritten copies of records. The registrar general is authorized to prepare typewritten or photostatic copies of any records and files in his office, which by reason of age, usage or otherwise are in such condition that they can no longer be conveniently consulted or used without danger of serious injury or destruction thereof, and to certify to the correctness of such copies. Such typewritten or photostatic copies shall be competent evidence in all courts of the Territory with like force and effect as the original. [R. L. 1945, s. 3100.23; add. L. 1949, c. 327, s. 23.]

§ 57-23. Adoption.

(a) In case of the adoption of any person born in the Territory, the bureau of public health statistics, upon receipt of a properly certified copy of the adoption decree, or certified abstract thereof on a form approved by the board, shall prepare a supplementary certificate in the name of the adopted person, as fixed or changed by the decree, and seal and file the original certificate of birth with said certified copy attached thereto.

(b) Any certified copy of final decree of adoption, or abstract thereof, of persons born in the Territory, rendered by courts of other states and territories subject to the jurisdiction of the United States, shall be considered properly certified when attested by the clerk of the court in which it was rendered with the seal of the court annexed, if there be a seal, together with a certificate of the presiding judge, chancellor or magistrate that such attestation is in due form.

(c) If no original certificate of birth shall be on file with the bureau of public health statistics, the registrar general may require such evidence as he deems necessary to establish the facts of birth before preparing a supplementary certificate in the new name of the adopted person, provided, that no such certificate shall be filed unless it shall be satisfactorily established that the adopted person was born in the Territory.

(d) Such sealed documents may be opened by

the registrar general only by an order of a court of record. Upon receipt of a certified copy of a court order setting aside a decree of adoption, the registrar general shall restore the original certificate to its original place in the files. [R. L. 1945, s. 3100.24; add. L. 1949, c. 327, s. 24.]

§ 57-24. Legitimation.

(a) All children born out of wedlock, irrespective of the marriage of either parent to another, become legitimate on the marriage of the parents with each other and are entitled to the same rights as those born in wedlock and shall take their father's name as a family name, and a Christian name suitable to their sex. Such child or children or the parents thereof may petition the registrar general to issue a new certificate of birth in the new name of the legitimated child, and the registrar general is directed to issue such new certificate of birth upon being satisfied that such child or children has or have been legitimated.

(b) The evidence upon which the new certificate is made, and the original certificate, shall be sealed and filed and may be opened only upon order of a court of record. [R. L. 1945, s. 3100.25; add. L. 1949, c. 327, s. 25.]

Legitimacy or illegitimacy fixed at birth and cannot be changed by subsequent legislation, 3 H. 459; 4 H. 548. Prior to amendment of Act 71, L. 1907, children of adulterous intercourse not legitimated by subsequent marriage of parents, 4 H. 292; 17 H. 45, 415, aff. 210 U. S. 149.

Child begotten and born out of wedlock even though legitimated by statute on marriage of parents, is not "lawfully begotten child" within meaning of will, 14 H. 271. Presumption of legitimacy is not conclusive, but rebuttable, 30 H. 574. Legitimation by subsequent marriage, 29 H. 258, aff. 16 F. 2d 273.

§ 57-25. Other persons required to make records. Persons in charge of institutions for care or correction or for treatment of disease, injury or childbirth shall record and report all statistical data required by this part relating to their inmates or patients. [R. L. 1945, s. 3100.26; add. L. 1949, c. 327, s. 26.]

§ 57-26. Permit for removal, burial or other disposition of body. When a death or fetal death occurs or a dead body is found, the body shall not be disposed of or removed from the registration district until a permit has been issued by the local registrar, except that if the dead fetus is less than sixteen weeks of gestation, no permit shall be required. [R. L. 1945, s. 3100.27; add. L. 1949, c. 327, s. 27; am. L. 1951, c. 92, s. 4.]

§ 57-27. Foreign permit for removal, burial or other disposition of body. When the death or fetal death occurs outside this Territory and the body is accompanied by a permit for burial, removal or other disposition issued in accordance with the law and regulations in force where the death or fetal death occurred, such permit shall authorize the transportation of the body into or through this Territory, but before the burial, cremation or other disposal of the body within this Territory, the permit shall be endorsed by the local registrar who shall keep a record thereof.

[R. L. 1945, s. 3100.28; add. L. 1949, c. 327, s. 28; am. L. 1951, c. 92, s. 5.]

§ 57-28. Prerequisite for permit. No permit under section 57-26 shall be issued until a certificate of death or fetal death, as far as it can be completed under the circumstances of the case, has been filed and until all the regulations of the board in respect to the issuance of such permit have been complied with. [R. L. 1945, s. 3100.29; add. L. 1949, c. 327, s. 29; am. L. 1951, c. 92, s. 5.]

§ 57-29. Marriages, reported by whom. It shall be the duty of every person, legally authorized to perform the marriage ceremony, to immediately report every marriage ceremony, performed by him, to the registrar of the district in which such marriage takes place, setting forth all facts required to be stated in a standard certificate of marriage, the form and contents of which shall be prescribed by the board. [R. L. 1945, s. 3100.30; add. L. 1949, c. 327, s. 30.]

§ 57-30. Issuance of licenses, reported by whom. It shall be the duty of every person, legally authorized to grant licenses to marry, to immediately report the issuance of every marriage license to the registrar of the district in which the license is issued, setting forth all facts required to be stated in such manner and on such form as the board may prescribe. [R. L. 1945, s. 3100.31; add. L. 1949, c. 327, s. 31.]

§ 57-31. Transmittal of certificates to registrar general. Local registrars shall transmit all certificates filed with them to the registrar general in accordance with regulations of the board. [R. L. 1945, s. 3100.32; add. L. 1949, c. 327, s. 32.]

§ 57-32. Registration of divorces and annulments. Before any decree of divorce or annulment of marriage is signed, the person applying therefor shall prepare a certificate, on a form to be approved by the board, and file it with the clerk of the court. The certificate shall contain such items of information as are recommended by the National Office of Vital Statistics and approved by the board. Within ten days after the final decree of divorce or annulment of marriage is granted, the clerk of the court shall endorse upon the certificate the date of the decree and shall forward the certificate to the registrar general. [R. L. 1945, s. 3100.32-A; add. L. 1951, c. 62, s. 1.]

§ 57-33. Penalties.

(a) Except where a different penalty is provided in this part, any person who violates any of the provisions of this part, or neglects or refuses to perform any of the duties imposed upon him by this part, shall be fined not more than \$100.

(b) Any person who wilfully makes or alters any certificate or certified copy thereof provided for in this part except in accordance with the provisions of this part, shall be fined not more than

\$1,000 or both

(c) accepts disposition of this [L. 1949, c. 327, s. 24.]

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\$1,000, or imprisoned not more than six months, or both.

(c) Any person, who knowingly transports, or accepts for transportation, interment or other disposition, a dead body without an accompanying permit issued in accordance with the provisions of this part, shall be fined not more than \$500. [L. 1949, c. 327, s. 33.]

PART II. CERTIFICATES OF HAWAIIAN BIRTH

§ 57-40. **Issuance; procedure.** The secretary of the Territory may, whenever satisfied that any person was born within the Territory, cause to be issued to such person a certificate showing such fact; provided, that such person has attained the age of one year. The secretary, with the approval of the governor, may make such regulations respecting the form of application and certificates, the method of proof, kind of evidence and time, place and manner of hearing, and all other matters and circumstances connected with such application, proof and hearing, as to him may appear necessary, and such regulations, when so approved and made in accordance with sections 7-28 to 7-41, shall have the force of law. The secretary shall furnish the form of such applications and certificates. All applications shall be by sworn petition, in which the party shall set forth the facts upon which the application rests.

The secretary of the Territory, or his secretary, or such other person as he may designate and appoint from his office, may examine, under oath, any applicant or person cognizant of the facts regarding any application, and for that purpose he may administer oaths, subpoena and compel the attendance of witnesses and the production of books and papers, punish for contempts and, generally, exercise the same authority with regard to his special jurisdiction as is, by law, conferred on district magistrates. [L. 1911, c. 96, s. 1; am. L. 1923, c. 246, s. 1; R. L. 1925, s. 196; am. L. 1927, c. 202, s. 1; R. L. 1935, s. 7610; R. L. 1945, s. 12910; am. L. 1951, c. 132, s. 1.]

§ 57-41. **Special fund.** There is appropriated from the general revenues of the Territory the sum of \$3,500, which shall, together with the fees accruing under section 57-42, constitute a special fund for the payment of all expenses incurred in the execution of the provisions of this part; provided, upon proof furnished by any claimant satisfactory to the secretary of the Territory of the ownership of any part of the fund transferred to the special fund by Act 21 of the Session Laws of 1937, the secretary may reimburse the claimant the amount of his deposit from any monies in the special fund. [L. 1933, c. 206, s. 1; R. L. 1935, s. 7613; am. L. 1937, c. 21; R. L. 1945, s. 12913.]

§ 57-42. **Fees.** Fees shall be charged in connection with the issuance of such certificates as follows: for the filing of each application for a certificate, \$5; for every certified copy of a certificate, \$1, and, in addition, 50 cents for each

one hundred words or portion thereof contained in such certificate; provided, that such fees shall not be charged in connection with the issuance of such certificates to children under the age of sixteen years who are permanent inmates of homes or institutions in the Territory which are supported in whole or in part by public charity or taxation. All such fees collected shall be paid into the special fund created by section 57-41. [L. 1911, c. 96, s. 4; am. L. 1921, c. 30, s. 1; am. L. 1923, c. 246, s. 2; R. L. 1925, s. 199; R. L. 1935, s. 7614; am. L. 1935, c. 149, s. 1; R. L. 1945, s. 12914.]

§ 57-43. **Certificates of prima facie evidence.** Any certificate of Hawaiian birth heretofore issued under or by virtue of any law of the Territory, or which may be issued in conformity with the provisions of this part, shall be prima facie evidence of the facts therein stated. [L. 1911, c. 96, s. 3; R. L. 1925, s. 198; R. L. 1935, s. 7612; R. L. 1945, s. 12912.]

4 U. S. D. C. Haw. 258. Certificate not controlling upon U. S. immigration officials re admission of Chinese, 217 Fed. 48; 35 Op. Att. Gen. 69; see also same op. re powers of secretary of labor.

ALIENS

See notes to Org. Act, §§ 4, 100, 101.

Aliens, immigration. Power to regulate, power of Congress, 245 Fed. 392; 290 Fed. 769; affidavits not equivalent of passport, 8 F. 2d 940.

Exclusion or expulsion presumptions and burden of proof, burden on alien, 25 F. 2d 574 (cert. denied 49 S. Ct. 19); presumption, favorable decision Board of Special Inquiry, 29 F. 2d 500; 30 F. 2d 516; 49 F. 2d 24; 49 F. 2d 19. For managing house of prostitution, 287 U. S. 341. Counterfeiting, 289 U. S. 422. Error to deny time for depositions, 33 F. 2d 236. Lack of certificate of identity may support deportation, 36 F. 2d 563. Reentry, see 284 U. S. 279. Recommendation of trial judge against deportation, 74 F. 2d 379.

Weight and sufficiency of evidence, 23 F. 2d 789; 25 F. 2d 574; 29 F. 2d 108; 29 F. 2d 500. See, 273 U. S. 103. Finding of Board only prima facie evidence, 30 F. 2d 65. Evidence of fraud held insufficient, favorable decision of Board sufficient unless fraud or act justifying deportation be shown, 30 F. 2d 516; 31 F. 2d 738. On habeas corpus proceedings, 82 F. 2d 83; 92 F. 2d 700. See 74 F. 2d 172; 77 F. 2d 497; 78 F. 2d 612; 88 F. 2d 27.

Admissibility of evidence, departure records affecting others taken in absence of defendant not admissible, 49 F. 2d 24. Weight and sufficiency of evidence, erroneously admitting others not ground for deporting defendant, 31 F. 2d 738; 31 F. 2d 740. Fraud, 33 F. 2d 236; fraud must be pleaded, 63 F. 2d 375; 63 F. 2d 377. Statements of defendant, 36 F. 2d 563. Fraud must be alleged, 63 F. 2d 375, 377.

Immigration Act Feb. 20, 1907, am. by Act of Mar. 26, 1910, re deportation for connection with prostitution construed, 199 F. 750; 39 F. 492; acquittal of criminal charge no bar, 257 F. 732. General immigration laws, temporary absence, 160 F. 842; 217 F. 49; 217 F. 50; 260 F. 144.

Perjury justifies deportation, 278 F. 694, (cert. denied, 259 U. S. 583). Waiver of defects, 239 F. 492. Liability of vessel, owner, master, negligence, 125 F. 596, reversed 197 U. S. 442. Not on insurer, 141 F. 9; but see (1923) 290 F. 769.

Naturalization, declaration of intention, 162 F. 469. Japanese cannot be naturalized, 268 U. S. 402. Foreign born child, father's residence, see, 274 U. S. 657. Oath of allegiance, bearing arms, 283 U. S. 605 and 636.

Procedure, bill of exceptions, 53 F. 2d 637 and 638. Time, 64 F. 2d 954 (28 U. S. C. A. §§ 230, 464). Person claiming American citizenship but who has never resided in U. S. is not entitled to judicial hearing, except for denial of fair hearing amounting to manifest abuse of discretion, 273 U. S. 352.

Alien seaman, hospital treatment, 269 U. S. 304. Returning on round trip, see 287 U. S. 129.

Wives and children Chinese merchant, 268 U. S. 336.
Effect of immigration bureau's finding of citizenship followed by 12 yrs.' residence, 85 F. 2d 327.
Re inference from failure to call witnesses, 85 F. 2d 327.

§ 57-44. **Perjury.** Any applicant or any person, who gives or offers any false testimony, oral

or written, under oath, in support or respect of any application for a certificate under the provisions of section 57-40, shall be deemed guilty of perjury and shall be punishable accordingly. [L. 1911, c. 96, s. 2; R. L. 1925, s. 197; R. L. 1935, s. 7611; R. L. 1945, s. 12911.]

CHAPTER 58 BARBERING, PRACTICE OF

§ 58-1. **Definitions.** For the purpose of this chapter:

(a) Practice of barbering means any combination of the following practices for remuneration: shaving, cutting, trimming, singeing, shampooing, arranging, dressing, curling or waving (other than permanent waving) the hair or beard or applying tonics or other preparation thereto; massaging, cleansing or applying oils, creams, lotions or other preparation to the face, scalp or neck, either by hand or by mechanical appliances; provided that nothing in this chapter shall be construed as applicable to those persons licensed under chapter 59 to practice the occupations named therein;

(b) Barber shop embraces any establishment or place of business wherein the practice of barbering is engaged or carried on;

(c) Apprentice is a person who is engaged in learning or acquiring within a barbering establishment or school, and while learning assists in, any of the practices mentioned herein under the immediate direction and supervision of a barber or instructor;

(d) Barber is a person, not an apprentice, who engages in and follows any of such practices;

(e) Board means the board of barbers created under this chapter. [R. L. 1945, s. 2025.01; add. L. 1947, c. 194, s. 1.]

§ 58-2. **Certificate of registration required.**

(a) It shall be unlawful for any person in the Territory to engage in the practice of barbering for compensation unless he has first obtained a certificate of registration.

(b) It shall be unlawful for any person to operate a barber shop in the Territory unless he has first registered such barber shop. [R. L. 1945, s. 2025.02; add. L. 1947, c. 194, s. 2.]

§ 58-3. **Creation of territorial board.** There shall be a territorial board of barbers consisting of five members who shall be appointed and may be removed by the governor in the manner prescribed in section 80 of the Organic Act. The members shall be citizens of the Territory and each member must have practiced barbering in the Territory for at least five consecutive years immediately preceding his appointment. Three of the members of the board shall be residents of Oahu, and two shall be residents of the outside islands. Each member shall serve for a term of four years, and until his successor is appointed and qualified, except in the case of the first board

whose members shall serve one, two, three, four and five years, respectively, and shall take the oath provided for public officers. Vacancies shall be filled by the governor for the unexpired portion of any term. [R. L. 1945, s. 2025.03; add. L. 1947, c. 194, s. 3.]

§ 58-4. **Organization of the board. Powers and duties.** (a) The board shall have a president, secretary and treasurer who shall be elected annually from among its members. The offices of secretary and treasurer may be filled by the same member, as the board may determine. The president and secretary may administer oaths.

(b) The secretary shall receive an annual salary to be fixed by the board, not exceeding \$600 and his necessary expenses actually incurred in the performance of his duties. He shall not be subject to the classification law or be a member of the employees' retirement system of the Territory.

(c) The board shall meet in Honolulu on the second Tuesday in January and July of each year and at such other times and places as the board may direct. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its government and have a seal with which to authenticate its acts.

(d) The board shall keep a record of its proceedings. It shall keep a register of applicants for certificates showing the name of the applicant, the name and location of his place of occupation or business and whether the applicant has been granted or refused a certificate. The books and records of the board shall be prima facie evidence of matters therein contained and shall constitute public records. Originals of all records, correspondence and other documents shall be deposited with the archives at Honolulu within six months after the close of each fiscal year. [R. L. 1945, s. 2025.04; add. L. 1947, c. 194, s. 4; am. L. 1951, c. 264, s. 2.]

§ 58-5. **Powers and duties of the board.** (a) The board may give examinations for the issuance of certificates of registration to practice barbering; grant, revoke or suspend such certificates; establish rules and regulations governing the practice of barbering which upon approval by the governor shall have the force and effect of law; and make rules and regulations concerning the administration of the board.

(b) The board may suspend or revoke a cer-

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