

TITLE 34

PUBLIC WELFARE; CORRECTIONAL INSTITUTIONS

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Chapter 411

1955 REPLACEMENT PART

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DEFINITIONS

411.010 Definitions. As used in statutes providing for assistance and services to needy persons, unless the context requires otherwise:

(1) "State commission" means the State Public Welfare Commission.

(2) "State department" means the State Public Welfare Commission, the State Public Welfare Administrator, and such other personnel as are employed thereby.

(3) "County commission" means the county public welfare commission.

(4) "County department" means the county public welfare commission and personnel employed thereby.

(5) "General assistance" means assistance or service of any character provided to needy persons not otherwise provided for to the extent of such need and the availability of funds, including medical, surgical and hospital or other remedial care and costs of burials of needy persons.

(6) "Public assistance" means all types of assistance including old-age assistance, aid to dependent children, services for crippled children, child welfare services, aid to the blind, general assistance, aid to the permanently and totally disabled, and such other functions as may be delegated to the state commission by or in accordance with the provisions of federal and state laws.

411.020 to 411.040 [Reserved for expansion]

**PUBLIC ASSISTANCE
ADMINISTRATION**

411.050 State Public Welfare Commission. A State Public Welfare Commission of seven members hereby is created. The members of the state commission shall be appointed by the Governor on the basis of recognized interest in and a knowledge of the field of public welfare, for terms of four years each, one beginning as of July 1, 1940, two beginning as of July 1, 1941, two beginning as of July 1, 1942, and two beginning as of July 1, 1943. Before the expiration of the term of a member of the state commission, the Governor shall appoint his successor to assume his duties on July 1 next following. In case of a vacancy for any cause, the Governor shall make an appointment to be immediately effective for the unexpired term. Any member of the state commission may be removed by the Gover-

nor at any time for cause. The state commission shall select one of its members as chairman and one of its members as secretary. The members shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred by them in the performance of their duties.

411.060 State commission as state agency for public assistance. The state commission shall serve as the state agency in the administration and supervision of the administration of all public assistance programs and promulgate and enforce such rules and regulations as are necessary to assure full local compliance with the terms of federal and state laws.

411.070 State commission shall fix state-wide standards for public assistance. The state commission shall by rules and regulations fix state-wide uniform standards for all public assistance programs and effect uniform observance thereof throughout the state. In establishing state-wide standards for public assistance, the state commission, within the limits of available funds, shall take into consideration all basic requirements for a standard of living compatible with decency and health, including food, shelter, clothing, fuel, public utilities, medical care and other essential items and, upon the basis of investigations of the facts, shall provide budgetary guides for determining minimum costs of meeting such requirements. Rules and regulations made by the state commission are binding on the county departments. [Amended by 1955 c.613 §1]

411.080 State commission shall appoint administrator of state department and fix his compensation. The state commission shall appoint and, unless otherwise provided in ORS 292.317, fix the compensation of an administrator who shall be the executive and administrative officer of the state department.

411.090 State commission shall make reports. The state commission shall make such reports and in such detail in relation to its receipts and disbursements of funds and its actions and transactions at such times as may be required by the Governor and by the Federal Government or any of its agencies.

411.100 State commission shall require information from county departments and conduct investigations in relation thereto. The state commission shall require such

plans, estimates, budgets and other information as it deems advisable to be submitted by the county departments with relation to public assistance and conduct such investigations, inspections or audits as it deems advisable in connection therewith.

411.110 State commission shall review case records of beneficiaries to eliminate ineligibles. The state commission shall review, or cause to be reviewed, the rolls and case records of beneficiaries of public assistance in the respective counties when deemed necessary and advisable for the purpose of eliminating from such rolls all persons for any reason not entitled to the benefits being granted; and for this purpose, the state commission may employ and fix the compensation of such auditors, investigators, attorneys and other persons as it finds necessary and advisable.

411.120 State commission may make expenditures from Public Assistance Fund. The state commission may expend from the money in the Public Assistance Fund in the State Treasury such sums as are required to be expended in the various counties of this state for assistance to needy persons and their dependents, for old-age assistance, for assistance to needy blind persons, for assistance to dependent children, for carrying out the provisions of law for child welfare purposes, and for such purposes as the state commission shall otherwise be authorized to expend funds, including the administration expenses of the state commission and of the county commissions.

411.130 State commission shall make quarterly allocation of funds for each category of public assistance. The state commission, taking into consideration the total amount of funds available for public assistance in Oregon during the biennial period beginning July 1 of each odd-numbered year, the estimated number of beneficiaries in each category thereof, current and estimated costs of essential needs to maintain a standard of living during such period compatible with decency and health and such other matters as it may deem pertinent, shall estimate and allocate the funds available for each category of public assistance on a monthly basis subject to the quarterly revisions. Changes in such allocations, if any, shall be uniform and, as nearly as practicable and considering the above factors, proportionately equal in each such category.

The monthly amounts so found estimated and allocated shall be deemed to be the funds available for each category for public assistance in Oregon.

411.140 County public welfare commissions. A county public welfare commission of seven members, three of whom shall be members of the board of county commissioners or county court, ex officio, hereby is created within each county. The remaining four members shall be appointed by the Governor, on the basis of recognized interest in and knowledge of the field of public welfare, for terms of four years each, one beginning as of July 1, 1940, one beginning as of July 1, 1941, one beginning as of July 1, 1942, and one beginning as of July 1, 1943. Before the expiration of the term of a member of the county commission, the Governor shall appoint his successor to assume his duties on July 1 next following. In case of a vacancy for any cause, the Governor shall make an appointment to be immediately effective for the unexpired term. Any member of the county public welfare commission appointed by the Governor may be removed by the Governor at any time for cause. The Governor shall name the chairman of the county commission.

411.150 Powers and duties of county commissions generally. The county commission shall:

(1) Administer public assistance in the county as authorized by law and subject to the supervision of and the rules and regulations made by the state commission.

(2) Employ such persons as may be necessary for the proper administration of public assistance programs, upon approval of the state commission, in accordance with rules and regulations of the merit system administered by the Department of Civil Service.

(3) Keep such records and accounts and make such reports as the state commission prescribes.

411.160 Contributions by state and counties; administrative costs; payments from federal or state funds. (1) Exclusive of all sums of money contributed by the Federal Government for public assistance and for the expenses of administration of such assistance and aid, the State of Oregon shall contribute 70 percent and the several counties of the state, from funds raised by the taxes provided in ORS 411.170 and

411.180, shall each contribute 30 percent of all sums required to be expended for such purposes in and for such respective counties; provided, however, that all costs of administration of the state and county departments shall be paid from federal funds granted to the State of Oregon for such purpose and from funds of the State of Oregon; provided, further, that if the total of the payments made by any county to the state commission and deposited by it in the State Treasury at any time shall prove less than sufficient to pay the proportionate contributions of such county for public assistance, payments in full of assistance to the person entitled thereto shall nevertheless be made from funds of the Federal Government and of the State of Oregon available for that purpose.

(2) The state commission shall furnish the Secretary of State a list showing the items of administration costs for his allowance and warrant therefor on the State Treasurer on the general plan provided for in ORS 411.230.

411.170 Tax levy by counties; disposition of moneys collected thereunder. For the purpose of raising revenue to pay the share of each county of the expenditures for public assistance, the county court or board of county commissioners of each county shall each year levy a tax of four and one-half mills upon the dollar of the county assessed valuation as equalized by the State Tax Commission of all taxable property within the county as of January 1 of the preceding year. The tax levied for such purposes shall be levied and collected by each county in the same manner as other taxes are levied and collected by the counties. A sum equal to the total amount of the tax so levied, together with all other revenue accruing to the county for public assistance, shall be set aside and deposited in a special fund designated as the county public assistance fund, shall be paid over to the state commission, deposited in the State Treasury and disbursed therefrom in accordance with the provisions of ORS 411.230.

411.180 Levy where part of public assistance may be provided from other sources. If the amount of money necessary to provide the proportionate contribution of any county during any fiscal year for public assistance, as certified to the county court or board of county commissioners thereof by the state

commission, may be provided by other revenues available for such purpose, together with a tax of less than the tax of four and one-half mills provided in ORS 411.170, the county court or board of county commissioners shall levy a tax in an amount sufficient, when added to all other revenues available for such purpose, to provide said certified amount, and no more, in lieu of the maximum levy required by ORS 411.170.

411.190 Estimate by county commission of amount needed for public assistance; review by state; inclusion in budget. Not later than March 1 of each year, each county commission, after making an investigation and upon the basis of the state-wide standards of assistance established by the state commission and the estimated number of persons who will require assistance for the ensuing fiscal year, shall find the amount of money necessary to provide the proportionate contribution of the county for public assistance during such fiscal year and shall immediately transmit its findings to the state commission. The state commission shall review the findings of each county commission and shall, after investigating the facts and upon the basis of its state-wide standards of assistance established pursuant to the Federal Social Security Act and the number of persons who will require assistance and the funds available from other sources, approve or revise and approve the same and shall not later than May 1 of the same year certify such approved or revised and approved findings to the county court or board of county commissioners of each county. The amount so found shall be included in the budget of each county for the ensuing fiscal year; provided that the levy therefor hereby is limited to that which will provide an amount equal to the amount of revenue that would be provided by the levy of the maximum millage specified in ORS 411.170. [Amended by 1955 c.443 §1]

411.200 Adjustment of underpayments and overpayments by county to State Treasury. If the total of the amounts paid by any county to the state commission and deposited by it in the State Treasury during any fiscal year should prove to be more or less than sufficient to pay the proportionate contributions of the county of the sums required to be expended in and for such county for public assistance for all obligations incurred up to and including June 30 of such fiscal year, the resulting overpayment or

underpayment shall be adjusted in the following manner and extent: Any such overpayment shall be returned to such county by the state commission, which shall draw a check or checks in favor of such county for the amount of such overpayment. In the case of any county which has levied for any fiscal year a tax less than the millage specified in ORS 411.170, any underpayment shall be added to the amount found and certified by the state commission to the county court or board of county commissioners as necessary for the proportionate contributions of the county during the next or second succeeding fiscal year and shall be included in the budget and the tax rate of the county for the next or second succeeding fiscal years; provided that in no year shall the tax levied by any county pursuant to this section or ORS 411.170 exceed the maximum millage specified in ORS 411.170.

411.210 Payment to state of county's share of public assistance. Each county, in paying or contributing its proportionate part of expenditures for public assistance, shall issue its warrant in favor of the state commission for one-quarter of the total of the tax levied and sums set aside by the county for those purposes on or before the first day of each calendar quarter of each fiscal year; provided that the warrant for such contribution for the first calendar quarter of each fiscal year shall be issued as soon after July 1 as possible and in any event not later than July 30.

411.220 Deposit by state commission of moneys received for public assistance purposes; appropriation thereof. (1) The state commission may sell or assign without discount its claim represented by the warrant described in ORS 411.210. The state commission shall deposit in the State Treasury to the credit of the General Fund the amounts realized from payment, balance of assignment of its certain claims against counties or civil subdivisions, and also all the amounts received by it from the United States Government or its agencies or from any other source for public assistance purposes. All such funds, together with any remaining balances of funds received for the purposes of public assistance of any type, hereby are appropriated for expenditure by the state commission for the type of public assistance for which such funds were granted to or received by the state or appropriated by the

state, as the case may be. All the amounts paid by the several counties to the state commission and deposited in the State Treasury hereby are appropriated and shall be applied to the full extent necessary to pay the respective proportionate contributions of the counties of the sums required to be expended in and for each county for public assistance.

(2) The amount of money heretofore or hereafter advanced to any county because of an underpayment of such county's required contribution to public assistance during any current fiscal year, pursuant to law, which shall be repaid to the state during the next or second succeeding fiscal year thereafter, shall be credited to the Public Assistance Fund and hereby is appropriated for public assistance purposes.

(3) All moneys hereafter received from refunds, cancelations or recoveries resulting from public assistance payments made from state funds, as differentiated from federal or county funds, shall be credited to the Public Assistance Fund and hereby are continuously appropriated for the purposes of such fund. [Subsections (2) and (3) enacted as 1953 c.458 §§2 and 4]

411.222 Deposit by state commission of repayments, refunds, cancelations and recoveries of moneys received for public assistance purposes; appropriation thereof. (1) The amount of money heretofore or hereafter advanced to any county because of an underpayment of such county's required contribution to public assistance during any current fiscal year, pursuant to law, which shall be repaid to the state during the next or second succeeding fiscal year thereafter, shall be credited to the Public Assistance Fund and hereby is appropriated for public assistance purposes.

(2) Notwithstanding the provisions of chapter 458, Oregon Laws 1953, or preceding laws, any balance remaining unexpended in the Public Assistance Fund is made available for public assistance purposes as provided by law. All moneys hereafter received from refunds, cancelations or recoveries resulting from public assistance payments made from state funds, as differentiated from federal or county funds, shall be credited to the Public Assistance Fund and hereby are continuously appropriated for the purposes of such fund. [1955 c.380 §§1, 3]

411.230 Payment of claims by Secretary of State. (1) The Secretary of State

shall draw warrants in favor of the state commission for the aggregate amounts of public assistance or refunds to counties duly certified to him by the state commission to be due to any person or county in such amount as may be set forth in such certification. The state commission shall cause to be deposited all warrants received from the Secretary of State in payment of public assistance or refunds to counties in the State Treasury in a suspense checking account for distribution to those entitled thereto and may draw its checks on the State Treasury in favor of the persons, firms, corporations, associations or counties entitled thereto under such rules as it shall promulgate so as to include in single combined payments for specified periods all moneys allotted to particular payees from various sources for said period.

(2) To facilitate and expedite the carrying out of the purposes of this section, the Secretary of State may adopt such further rules and regulations as are necessary for the proper performance of his duties under this section.

411.240 Public Assistance Fund. There hereby is created in the State Treasury a special fund, separate and apart from the General Fund, to be known as the Public Assistance Fund, and said fund hereby is appropriated for the purposes stated in ORS 411.120.

411.245 Revolving fund for state commission. The Secretary of State hereby is authorized and directed to draw his warrant on the State Treasurer payable out of the Public Assistance Fund for the sum of \$350,000 in favor of the State Public Welfare Commission. The amount designated shall be credited to, and is intended to be, a revolving fund which shall be carried with the State Treasurer and which shall be used by the State Public Welfare Commission for the purpose of providing funds to pay current salaries and expenses, emergency public assistance advances and other expenses when it is necessary to make immediate cash payments. Said revolving fund shall be reimbursed by properly supported claims of the State Public Welfare Commission filed with the Secretary of State, and paid in the same manner as other claims against the state are paid. [1953 c.460 §1]

411.250 Unexpended balances of county funds budgeted for other purposes may be spent for public assistance; revision of estimates on budget. (1) The county court or board of county commissioners may expend for public assistance the whole or any part of any unexpended balance of any funds budgeted by the county for any purpose whatsoever.

(2) If at any time in the fiscal year the county court or board of county commissioners is of the opinion that any estimate of funds by it made and budgeted for any purpose is in excess of the actual requirements thereof, it may prepare a new estimate for such purpose. Upon the order of the county court or board of county commissioners duly made and entered, the revised estimate shall be substituted for the estimate as theretofore budgeted; and the amount by which the estimate has been reduced shall immediately constitute an unexpended balance and be available for the purposes and in the manner described in this section.

411.260 Merit system for state and county commission employees. All state commission and county commission employed personnel engaged in the administration of public assistance in compliance with the federal social security laws shall be subject to the merit system prescribed in the State Civil Service Act.

411.270 Administrator may employ and fix compensation of certain personnel. The administrator, subject to the approval of the state commission and in conformity with the State Civil Service Act, may appoint and employ such personnel as may be necessary for the state department and fix the compensation of all assistants and employees of the state and county departments.

411.280 Bonds from persons employed in state and county departments. The state commission shall require such bonds and undertakings from persons employed in the state department and the county departments as in its judgment are necessary, provide and prescribe the conditions thereof and pay the premiums therefor.

411.290 Citizenship and residence requirements for employees of state and county commissions. All persons employed by the state and county commissions shall be citizens of the United States and residents of

the State of Oregon for a period of one year immediately preceding the date of application for employment; provided that in the event qualified applicants are not available, the state commission may, in its discretion, waive such residence requirement.

411.300 Regulations concerning use and custody of records of state and county commissions. (1) The state commission shall make and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state department and county departments. The use of such records, papers, files and communications by any other agency or department of government or person to which they may be furnished shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished.

(2) No rules or regulations shall be made by the State Public Welfare Commission pursuant to subsection (1) of this section which would interfere with the purposes of ORS 411.320 to 411.335. [Amended by 1953 c.500 §12]

411.310 Destruction of old records. The state commission may in its discretion destroy any records and files of the state or county commissions which are not less than four years old.

411.320 Disclosure and use of records limited; contents as a privileged communication. For the protection of applicants for and recipients of public assistance, the State Public Welfare Department and the county public welfare departments shall not disclose or use the contents of any records, files, papers or communications for purposes other than those directly connected with the administration of the public assistance laws of Oregon, and these records, files, papers and communications are considered confidential subject to the rules and regulations of the State Public Welfare Commission, except as otherwise provided in ORS 411.325 to 411.335. In any judicial proceedings, except proceedings directly connected with the administration of public assistance laws, their contents are considered privileged communications. [1953 c.500 §5]

411.325 Monthly report of public assistance recipients by county commissions; public inspection of reports. (1) On or before

the tenth day of every month, each county public welfare commission shall cause to be prepared a complete report showing the names and addresses of all public assistance recipients within the county as of the last day of the preceding month, except children in foster homes or other child-caring institutions, together with the amounts paid to each during the preceding month.

(2) These record books and all information contained therein are hereby authorized to be open to public inspection during the regular office hours of the county public welfare commission, but only as herein provided. [1953 c.500 §6]

411.330 Application to inspect reports; register of persons inspecting reports. (1) Each person requesting to inspect a record book under this Act and qualified to inspect those books under subsection (2) of this section shall complete and sign with his correct name a form substantially similar to the following before obtaining access to the record books:

REQUEST TO INSPECT MONTHLY
RECORDS OF (program)
RECIPIENTS

Date_____

I hereby request permission to inspect the (insert name of county) record of the names of persons receiving (insert type of assistance program) during the month of (insert month). I have read and understand the provisions of ORS 411.320 to 411.335 and subsection (1) of ORS 411.990.

I will not use any information secured from inspection of the welfare record books for commercial or political purposes of any nature.

Name_____

Address_____

(2) The right to examine public welfare records under ORS 411.320 to 411.335 may be exercised by any qualified voter of this state.

(3) A register of persons inspecting the record books shall be maintained by the county public welfare commissions. [1953 c.500 §§7,8]

411.335 Prohibited use of lists or names. Except as otherwise provided in ORS 411.325 and 411.330, no person or agency shall solicit, disclose, receive, make use of, or authorize, knowingly permit, participate in or acquiesce in the use of, any lists or

names for commercial or political purposes of any nature, or for any purpose not directly connected with the administration of the public assistance laws. [1953 c.500 §9]

411.340 to 411.370 [Reserved for expansion]

411.375 Public assistance investigations; power to subpoena, administer oaths, take depositions and fix witness fees. (1) In connection with any public assistance investigation or hearing the administrator of the State Public Welfare Commission or any examiner, referee or other officer duly appointed to conduct the investigation or hearing may by subpoena compel the attendance and testimony of witnesses and the production of books, accounts, documents and other papers, and may administer oaths, take depositions and fix the fees and mileage of witnesses.

(2) The state commission shall provide for defraying the expenses of such investigations or hearings, which may be held in any part of the state. [1955 c.364 §1]

411.380 Petition for enforcement of subpoena issued under ORS 411.375. (1) In case of the refusal of a witness to attend or testify or produce any papers required by such subpoena, the person designated by the subpoena as the person before whom the testimony is to be given or the papers produced, may petition the circuit court in and for the county in which the investigation or hearing is pending for an order directing the witness to attend and testify or produce the papers before the petitioner.

(2) The petition shall allege that due notice was given of the time and place for the attendance of the witness or the production of the papers, that the witness was subpoenaed in the manner prescribed and that the witness failed and refused to attend, to produce the papers required by the subpoena or to answer questions propounded to him in the course of the investigation or hearing. [1955 c.364 §2]

411.385 Court order to show cause issued upon filing of petition for enforcement of subpoena. Upon the filing of such a petition the court shall enter an order, a copy of which shall be served upon the witness, directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and

then and there show cause why he has not attended and testified or produced the papers as required by the subpoena. [1955 c.364 §3]

411.390 Court may compel appearance of witness before petitioner. (1) If at the hearing provided for in ORS 411.385 it is apparent to the court that the subpoena was regularly issued, the court shall thereupon enter an order that the witness appear before the petitioner at a time and place to be fixed in such order, and testify and produce the required papers.

(2) Failure by the witness to comply with an order made pursuant to subsection (1) of this section shall be dealt with as for contempt of court. [1955 c.364 §4]

411.395 and 411.400 [Reserved for expansion]

FUNDS FOR PUBLIC ASSISTANCE FROM SOURCES OTHER THAN TAXATION

411.410 Investigation of financial condition of relatives of applicant for public assistance. Upon receipt of an application for public assistance, each county commission, in addition to duties otherwise imposed and acting without unnecessary delay and with diligence, shall investigate the facts relating to the income and financial condition of the applicant's living husband, wife, father, mother, son or daughter or any or all of them. In making such investigation the county commission and its duly authorized agents may require statements under oath from the applicants and from any such person whose income and financial condition is at issue. A report containing the results of such investigation shall be promptly made to the state commission.

411.420 Determination of liability of relative. Upon receipt of the report of the investigation referred to in ORS 411.410, the state commission may make such further investigation of the matter as it may deem necessary to ascertain the facts in relation thereto and shall make a determination of the liability of each living relative of the applicant in the classes mentioned in ORS 411.410 for contribution to the applicant's support in accordance with the relatives' contribution scale established by ORS 411.425. In determining the ability to contribute, the financial circumstances of such

relatives shall be given due consideration and in unusual cases a contribution of less than the amount fixed in the relatives' contribution scale may be made as the state commission may deem justifiable.

tives for monthly contributions; "needy person" defined. (1) The living relatives of any needy person named in ORS 411.410 are hereby made jointly and severally liable to such needy person for monthly contributions of money in accordance with the following scale:

411.425 Liability of needy person's rela-

RELATIVES' CONTRIBUTION SCALE

Gross annual income of responsible relatives in one family in dollars	Number of persons dependent upon income									
	1	2	3	4	5	6	7	8	9	10
MONTHLY PAYMENTS REQUIRED										
Under 2,700	0	0	0	0	0	0	0	0	0	0
2,700 through 2,999.99	10	0	0	0	0	0	0	0	0	0
3,000 through 3,499.99	20	0	0	0	0	0	0	0	0	0
3,500 through 3,999.99	30	0	0	0	0	0	0	0	0	0
4,000 through 4,499.99	40	20	0	0	0	0	0	0	0	0
4,500 through 4,999.99	55	40	20	10	0	0	0	0	0	0
5,000 through 5,499.99	65	50	35	20	0	0	0	0	0	0
5,500 through 5,999.99	75	60	50	30	20	10	0	0	0	0
6,000 through 6,499.99	85	70	60	40	30	20	10	0	0	0
6,500 through 6,999.99	100	80	70	50	40	30	20	10	0	0
7,000 through 7,499.99	Total Cost	95	80	65	50	40	30	20	10	0
7,500 through 7,999.99	Total Cost	105	95	75	65	55	45	35	25	15
8,000 through 8,499.99	Total Cost	Total Cost	105	85	75	65	55	45	35	25
8,500 through 8,999.99	Total Cost	Total Cost	115	100	85	75	65	55	45	45
9,000 through 9,499.99	Total Cost	Total Cost	Total Cost	110	95	90	75	65	55	50
9,500 through 9,999.99	Total Cost	Total Cost	Total Cost	120	110	100	90	80	70	60
10,000 through 10,499.99	Total Cost	Total Cost	Total Cost	Total Cost	120	110	100	90	80	70
10,500 through 10,999.99	Total Cost	Total Cost	Total Cost	Total Cost	130	120	110	100	90	80
11,000 and up	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	130	120	110	100	90

(2) For the purposes of ORS 411.410 to 411.470:

(a) A needy person is one who is eligible for public assistance under the laws of the state.

(b) "Gross annual income" means the adjusted gross income plus federal income tax deductions of the relative, as determined by the state income tax return filed during the current year or, if such return has not been filed or is not available in the files of the State Tax Commission, the return filed for the preceding year. A separate income tax return shall constitute prima facie evidence of the gross income and number of dependents of the individual making it; a joint income tax return of husband and wife shall

constitute prima facie evidence of the gross income and number of dependents of the husband or wife, or both.

(c) "Total cost" means the total amount of public assistance of any type furnished by the State Public Welfare Department or the county public welfare departments to a needy person for a given period.

(3) When any living relative contributes under this Act he may compel contribution from any other living relative or relatives liable under this Act. [1953 c.361 §3; 1955 c.501 §1]

NOTE: The Legislative Counsel has not undertaken, pursuant to ORS 173.160, to substitute for the words "this Act," in subsection (3) above, references to ORS sections.

411.428 Liability of relative does not cut off assistance; consent of recipient to recover from relative. The liability of a relative to contribute to the support of a recipient of public assistance established by ORS 411.425 is not grounds for denying or discontinuing public assistance to any person. However, by accepting such public assistance, the recipient thereof shall be deemed to consent to the recovery of an amount equal thereto from any responsible living relative by the state commission, as provided in ORS 411.470. [Formerly 411.440]

411.430 [Repealed by 1953 c.361 §19]

411.434 Needy person has cause of action against relatives for support. Each needy person in Oregon has a cause of action at law against any living relative or relatives referred to in ORS 411.410 for the monthly contribution to his support established by ORS 411.420 and 411.425. In any such action at law, judgment may be entered for all accumulated contributions for which defendant is liable under ORS 411.425. [Formerly 411.450; amended by 1955 c.501 §2]

411.438 State commission is subrogated to right to prosecute needy person's cause of action. The state commission shall be subrogated to the right of each needy person who is a recipient of public assistance in this state to prosecute an action at law arising under ORS 411.434 against any living relative of such recipient. [Formerly 411.460]

411.440 [Renumbered 411.428]

411.442 Notice to relative of contribution due; hearing of relative's objections. (1) After having made a determination of liability of a relative pursuant to ORS 411.410 to 411.438, the State Public Welfare Commission may, in lieu of bringing an action at law on a theory of subrogation under ORS 411.438, give notice to the responsible relative that a contribution pursuant to the scale provided in ORS 411.425 is due and payable to the commission for aid given to the needy person and that the relative may appear for a hearing on objections to his financial responsibility at a time and place, in the county where the relative resides, as specified by the commission.

(2) The hearing shall be held before the commission or an examiner or referee appointed by the commission. The relative sought to be held responsible shall be given

notice of the hearing by registered letter or personal service at least 10 days prior to the hearing. [1953 c.361 §§4,5]

411.444 Decision of commission after hearing; notice to relative. If the evidence at the hearing under ORS 411.442 or, in case the relative fails to appear at the hearing, the evidence pursuant to any investigation under ORS 411.410 and 411.420, does not disclose sufficient reason why, in the opinion of the commission, the relative should not be held responsible in accordance with the contribution scale in ORS 411.425, the State Public Welfare Commission shall notify the relative of its final decision within 10 days after making such decision. [1953 c.361 §6]

411.446 Appeal of commission's decision to circuit court and Supreme Court. (1) Any relative affected by a final decision under ORS 411.444 may, within 30 days after the mailing of notice by the commission, appeal the final decision of the commission by petition to the circuit court of the county in which he resides. A copy of such petition for appeal shall be served upon the administrator of the State Public Welfare Department. Thereafter the appeal shall proceed as a suit in equity in which the State Public Welfare Commission shall be the defendant.

(2) Either party to the appeal may appeal from the decision of the circuit court to the Supreme Court in the manner provided by law for a suit in equity. [1953 c.361 §7]

411.448 Issuance of warrant by commission to collect contribution; filing; entry in judgment docket. (1) If the relative fails to appeal a final decision of the commission within the time specified in ORS 411.446 or if the court, on appeal, decides in favor of the commission, the State Public Welfare Commission may issue a warrant under its hand and directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the relative found within his county, for the payment of the amount of the contribution and the cost of executing the warrant, and to return such warrant to the commission and pay to it the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant.

(2) The sheriff shall, not later than five days after the receipt of the warrant, file

with the clerk of his county a copy thereof. Thereupon, the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the relative mentioned in the warrant, and in appropriate columns the amount of the contribution due or portion thereof for which the warrant is issued and the date when such copy is filed. [1953 c.361 §8]

411.450 [Renumbered 411.434]

411.452 Lien of warrant; execution of warrant; effect of return of warrant unsatisfied. (1) The amount of a warrant docketed under ORS 411.448 shall become a lien upon the title to and interest in real property or personal property of the relative against whom it is issued in the same manner as a judgment duly docketed in the office of the county clerk. The sheriff shall then proceed upon the warrant in all respects, with like effect and in the same manner provided by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be added to and collected as a part of the warrant liability.

(2) If a warrant is returned not satisfied in full, the commission shall have the same remedies to enforce the claim for contributions against the relative as if the people of the state had recovered judgment against the relative for the amount of the contribution. [1953 c.361 §9]

411.454 Release of lien when sale of property would not satisfy lien in whole or in part. (1) Any person having a lien upon or any interest in real estate against which the amount of the warrant provided for in ORS 411.448 has become a lien, notice of which has been recorded in accordance with the laws of this state prior to the filing of the warrant, may request the commission in writing to release the real estate from the lien of the warrant.

(2) If, upon such request, the commission finds that a sale of the property would not result in satisfaction of the contributions due in whole or in part, the commission shall execute a release of the lien as to such property and such release shall be conclusive evidence of the extinguishment of the lien as to that property.

(3) If the commission fails to act upon

a request for release of lien under this section within 60 days from the date of such request, any person having a lien upon or interest in the property against which the warrant has become a lien may make the commission a party to any proceeding brought to enforce any interest in or lien upon such real property, and the determination of the court in such proceeding shall be conclusive and binding upon the commission and the State of Oregon. [1953 c.361 §10]

411.456 Release of lien in other cases. In addition to the release of lien provided for in ORS 411.454, the commission may execute releases in the following cases which releases shall be conclusive evidence of the extinguishment of the lien:

(1) If the commission finds that the liability for the amount of the contribution, together with all costs in respect thereof has been satisfied; or

(2) If the commission finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such contribution and the amount of all prior liens upon such property; or

(3) If there is furnished to the commission a bond, in such form and with such security as the commission may deem sufficient, conditioned upon the payment of the amount of the warrant, together with all interest in respect thereof, within 60 days after the issuance of such release; or

(4) If there is paid to the commission in partial satisfaction of the amount of the warrant an amount not less than the value, as determined by the commission, of the interest of the State of Oregon in the part of the property to be so discharged. In determining such value, the commission shall give consideration to the fair market value of the part of the property to be so discharged and to such liens thereon as have priority to the lien of the State of Oregon. [1953 c.361 §11]

411.458 Compromise agreements with relatives. ORS 411.425 and 411.442 to 411.466 shall not be construed to prevent the State Public Welfare Commission from entering into a compromise agreement with the responsible relative at any state of a proceeding under ORS 411.442 to 411.466. [1953 c.361 §12]

411.460 [Renumbered 411.438]

411.462 Certificate of relative's yearly income and number of dependents by State Tax Commission. (1) Whenever it appears necessary to the commission in any proceeding under ORS 411.410 to 411.470, or when the commission has reason to believe that the affidavit of financial condition of a relative under ORS 411.410 was not made in good faith, the commission may make a written request to the State Tax Commission, asking for a certification of the gross yearly income of the relative, as defined in ORS 411.425. The request shall contain the name and address of the taxpayer and of the taxpayer's spouse and the name of the needy person and his relationship to the taxpayer.

(2) The State Tax Commission shall then certify to the State Public Welfare Commission the gross yearly income of the named taxpayer, as shown by the taxpayer's return filed during the current year, or, if such return is not available, the return for the preceding year. The State Tax Commission shall also, if the request so states, certify the names of all persons whom the taxpayer has claimed as dependents in computing his adjusted gross income. The certificate of the State Tax Commission shall be prima facie evidence of the truth of the facts asserted therein. [1953 c.361 §13]

411.464 Proceeding against one relative not to preclude action against others. A proceeding under ORS 411.410 to 411.470 against any relative of a needy person is not an exclusive remedy of the commission and does not preclude the commission from taking action against any other relatives believed to be financially able, if full recovery of contributions cannot be made from any one relative. [1953 c.361 §15]

411.466 Remedy of ORS 411.442 to 411.466 as additional remedy. ORS 411.442 to 411.466 is intended to be a remedy for collection of contributions from responsible relatives of needy persons additional to or as an alternative for the action provided in ORS 411.434; 411.438 and 411.470. [1953 c.361 §16]

411.470 Distribution of amount recovered from relative of recipient of public assistance. The state commission may, either in its own name or in the name of the recipient of public assistance to whose right of action it has been subrogated, commence and prosecute to final conclusion such legal

proceedings as may be deemed necessary for the amount of the relatives' required contribution established by ORS 411.425. From the amount collected as a result of such legal proceedings or as a result of a warrant proceeding under ORS 411.442 to 411.458, the state commission shall deduct the full amount previously paid as public assistance under the laws of this state and the remainder thereof, after deducting the costs of any proceeding, shall be delivered to the recipient. The amount of any previously paid public assistance recovered in any proceeding shall be distributed by the state commission to the United States Government, the county and to the Public Assistance Fund, as their interests may appear. The state commission may request the legal services of the Attorney General in the prosecution of any action under this section or ORS 411.442 to 411.466. [Amended by 1953 c.361 §19]

411.480 Estate of deceased person liable for aid received from counties; relatives not relieved from obligation of support. (1) Except as otherwise provided by ORS 413.200, the estate of every deceased person who during his or her lifetime received aid from or whose burial expenses have been paid by any county, other than aid received as old age assistance or pursuant to ORS 419.054, 444.120 or 444.220, is liable for the actual cost of such aid so rendered or the actual expenses of such burial. The county shall have a just and valid claim against such estate therefor.

(2) Nothing in this section relieves the parents, children, brothers or sisters of any poor person from their obligation to support such person, or prevents the county court from recovering for such support.

411.490 Manner of approval and payment of county claims against estate. All claims of the type mentioned in ORS 411.480 shall be itemized and verified by the county clerk and presented by him to the administrator or executor of the estate. The claims shall be approved and paid by the administrator or executor in the manner and in the order of preference provided by law for approval and payment of claims and charges against estates of deceased persons.

411.500 Disposition of money received by county from estate. All moneys received under ORS 411.490 shall be receipted for by the county clerk and turned over by him to

the county treasurer, who shall credit the same to the general fund of the county.

411.510 Disposition of reimbursements for public assistance granted. All sums of money recovered by or paid to the state or county commissions as reimbursement for funds granted for public assistance shall be paid to the state and to the counties as their interests may appear, shall be credited to the Public Assistance Fund of the state and the proper public assistance funds of the counties and may be expended for public assistance purposes in accordance with ORS 411.060 to 411.110, 411.150, 411.250 and 411.710 to 411.730; provided, that the United States Government is entitled to a share of any amount so received as its interest may appear, which shall be promptly paid to the United States Government.

411.520 Acceptance and disbursement of gifts for support of certain persons. The state commission and county commissions may accept funds, money or other valuable things from relatives, corporations or interested persons or organizations for the care and support of needy persons and may expend the same for the care and support of the individual or individuals for whom the money was paid. Funds accruing thereunder shall be deposited with the State Treasurer in a special account and shall be disbursed in accordance with ORS 411.060 to 411.110, 411.150, 411.250 and 411.710 to 411.730.

411.530 Acceptance and disbursement of gifts for public assistance. The state commission and county commissions may accept from persons, corporations and organizations contributions or gifts in cash or otherwise which shall be disbursed in the same manner as the money appropriated for public assistance purposes; provided, however, that the donor of such gifts may stipulate the manner in which such gifts shall be expended.

411.540 to 411.600 [Reserved for expansion]

MISCELLANEOUS PROVISIONS RELATING TO PUBLIC ASSISTANCE

411.610 Indorsement by others of public assistance checks payable to deceased recipient; disposition of proceeds. Any check issued by the state commission to a recipient of public assistance who subsequently dies may be indorsed in the name of the deceased

by the surviving spouse or a next of kin. The person making such indorsement shall receive the proceeds thereof and apply them upon debts and funeral expenses of the deceased.

411.620 Recovery of fraudulently obtained public assistance. (1) The state commission has a right of suit or action against any person who fraudulently has obtained public assistance or has aided any person to obtain public assistance in violation of ORS 411.630. In such suit or action the state commission may recover the amount of public assistance so obtained by fraud, with interest thereon, out of any property or interest therein belonging to the defendant in such action or to his estate.

(2) Excepting as to bona fide purchasers for value, the state commission has a right to institute a suit or action to set aside the transfer, gift or other disposition of any property of any person made for the purpose of aiding such person to obtain public assistance to which he is not entitled and to recover out of such property the amount of public assistance so obtained through fraud, together with interest thereon.

411.630 Unlawfully obtaining public assistance. (1) No person shall by means of any false representation or fraudulent device knowingly obtain or attempt to obtain any public assistance to which he is not entitled as provided by law.

(2) No person shall transfer, conceal or dispose of money or property with the intent to conceal his ineligibility for public assistance.

(3) No person shall knowingly aid or abet any person to violate any provision of this section.

(4) No person shall receive, possess or conceal any money or property of an applicant for, or recipient of, public assistance, with the intent to conceal the ineligibility of such applicant or recipient to receive public assistance.

411.640 to 411.700 [Reserved for expansion]

GENERAL ASSISTANCE

411.710 Basis for granting general assistance. General assistance shall be granted in accordance with the rules and regulations of the state commission and on the basis of need, taking into account the income, re-

sources and maintenance available to the individual from whatever source derived and his necessary expenditures and the conditions existing in each case.

411.720 Residence required of applicants for general assistance. (1) No person shall be eligible for general assistance unless he has lived within the county for a period of one year, and within the state for a period of three years, preceding the date of application for general assistance; except that in unusual or emergency cases, if an applicant for general assistance has not lived within the state and county for such required period, the county department may return the applicant to his state or county of legal settlement or may, in its discretion and in accordance with rules and regulations of the state commission, provide general assistance.

(2) Casual absence from the county or state shall not be deemed as not living in the county.

(3) Any person absent from the State of Oregon for one year shall lose settlement in the state and any person absent from the county for one year shall lose settlement in the county for the purposes of this section.

(4) Nothing contained in this section shall affect public welfare programs financed in whole or in part from funds granted to the State of Oregon by the United States Government.

411.730 Application for general assistance; determination of eligibility and amount of grant. The county commission shall receive and ascertain the facts supporting all applications for general assistance, and shall determine in accordance with the rules and regulations of the state commission the eligibility for and the amount of the assistance which any person shall receive. [Amended by 1955 c.613 §2]

411.740 State commission shall supervise general assistance administration. The state commission shall administer and supervise through the department the administration of general assistance by the county departments and it shall prescribe the form of and supply to the county departments all blank applications, reports, affidavits and

such other forms as the state department deems advisable.

411.750 State commission shall cooperate with Federal Government in providing general assistance. The state commission shall cooperate with the United States Government, departments and agencies of the State of Oregon and the counties of the state in providing general assistance, either direct relief, work relief, medical and hospital care or other services for needy persons and shall receive, disburse or distribute all sums of money, commodities and other properties from the United States Government, departments or agencies of the State of Oregon and counties of the state for assistance purposes for needy persons.

411.760 Assistance grants are inalienable. All moneys granted under the provisions of ORS 411.060, 411.070, 411.150 and 411.710 to 411.730 shall be inalienable by any assignment or transfer and shall be exempt from garnishment, levy or execution under the laws of this state.

411.770 [Repealed by 1953 c.500 §12]

411.780 to 411.980 [Reserved for expansion]

PENALTIES

411.990 Penalties. (1) Violation of ORS 411.320 to 411.335 is punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 60 days, or by both.

(2) Any person who makes, renders, signs or verifies any false or fraudulent statement, or supplies any false or fraudulent information with intent to evade any requirement of ORS 411.410 to 411.425 or any lawful requirement of the commission thereunder is guilty of a misdemeanor.

(3) Violation of any provision of ORS 411.630 is punishable upon conviction by a fine not to exceed \$1,000 or by imprisonment in the county jail not to exceed one year, or both, or by imprisonment in the penitentiary not to exceed three years. [Subsection (2) enacted as 1955 c.501 §3; subsection (3) enacted as 1953 c.500 §10]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

