

[No. 166, A.]

[Published April 13, 1881.]

CHAPTER 297.

AN ACT to amend section two thousand three hundred and fifty-six of the revised statutes, relating to divorce from the bond of matrimony.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Causes of divorce from bonds of matrimony.

SECTION 1. Section two thousand three hundred and fifty-six of the revised statutes, is hereby amended by adding thereto at the end thereof, as the same now reads, the following: 8. When the husband or wife shall have been insane for the space of five years immediately preceding the commencement of the action, and the court shall be satisfied that such insanity is incurable.

When application shall not be granted.

SECTION 2. No divorce shall be granted for the causes specified in section one of this act, unless the plaintiff in such action for divorce shall have been a resident of this state for five years immediately preceding the commencement of such action, nor unless it shall appear affirmatively that the plaintiff has not, by reason of neglect, abuse or otherwise, contributed in any manner to the cause of such insanity, nor unless such incurable insanity shall clearly be ascertained, by the said husband or wife being an inmate of a state insane hospital or asylum for at least two years, or shall have been discharged from such hospital or asylum after such residence therein, as incurable; nor unless it shall be clearly established by the testimony of at least two practicing physicians in good standing, who are informed of the facts and are competent to testify as to the mental condition of the defendant in the action: provided, that when such alleged insane husband or wife is an inmate of such asylum or hospital for the insane, the testimony of the superintendent thereof may be in lieu of that of one of such practicing physicians. Provided further, that the court in which such action is pending, may, at any stage thereof before final judgment, in addition to the proof hereinbefore specified, appoint a commission of not less than two respectable practicing physicians, to be selected by the court on account of their learning and fitness for this duty, who shall carefully examine such alleged incurable insane person, and report, under oath, to the court, their opinion respecting the incurability of such alleged insane person, and such report shall be and become part of the record in the cause,

Court may appoint commission.

and the court shall, upon the reception of such report, give such weight thereto as may seem right and proper.

SECTION 3. In every action for divorce, in pursuance of the provisions of this act, the court may, at any time after rendering judgment therein, revise and alter such judgment, so far as the custody, support and maintenance of said insane person is concerned, and may provide for such maintenance by said plaintiff, out of any property or earning acquired by said plaintiff subsequently as well as previously to said decree of divorce; and the court, making such order for maintenance may, in its discretion, require the plaintiff to give security, to the satisfaction of the court, for the faithful execution of the same, and the court may, in its discretion, as a condition of granting such divorce, require the husband, when he is the plaintiff in such case, to give a bond, in such penal sum and with such sureties, as the court may order, to support and maintain the defendant during her natural life.

Court may reverse or alter judgment.

SECTION 4. In all actions for divorce under the provisions of this act, the summons and complaint shall first be filed in the circuit court of the county in which such action is brought, and shall then be personally served upon the defendant in the action, if within the United States, and if such defendant be an inmate of any such asylum, hospital, or other institution for the care, custody or improvement of insane persons, situate within the United States, a copy of such summons and complaint, shall be served upon the proprietor, manager or superintendent thereof, and if such insane person have a parent or parents, or adult children, living within the United States, a copy of such summons and complaint shall also be personally served upon each such parent or adult child whose residence is known, or can with reasonable diligence be ascertained; and if such alleged insane person shall have no parents or adult child living within the United States, whose residence is known or can with reasonable diligence be ascertained, and shall have any kindred living within the United States, within the fourth degree, computed according to the rules of the civil law, whose residence is known, or can with reasonable diligence be ascertained, then a copy of such summons and complaint shall be served upon at least two such relatives, to be selected by the court, upon a representation of the facts to such court or the presiding judge thereof at chambers, as most likely to see that a proper defense is made by or in behalf of said defend-

Summons and complaint.

ant; and in each and every case where service is required to be made on any person or persons, the summons and complaint shall be personally delivered to each and every person hereinbefore required to be served with the same, wherever such person may be found, and proof of such service may be made by affidavit taken before any notary public, who shall attach thereto his official seal, or before a commissioner of Wisconsin, or a clerk of a court of record: provided, that when any such person so served resides out of the state of Wisconsin, no default shall be taken or proceedings had on the case until forty days after such service.

Court shall appoint guardian.

SECTION 5. In every case under this act the court shall appoint a guardian ad litem, who shall be a respectable and competent attorney of such court, not interested in the said cause on the part of the plaintiff, who shall appear for the said defendant, and diligently protect and care for the rights and interests of said defendant in such cause, and for such service shall be paid such compensation as the court shall deem reasonable, the same to be taxed against and paid by the plaintiff. In case any appearance is made in such cause, by or on behalf of the defendant by any parent, child or relation, such guardian shall be selected and appointed by the court upon due personal notice to such person so appearing, of not less than ten days, and when there shall be no such appearance, such guardian shall be selected by the court from the attorneys thereof, in the manner and for the purposes aforesaid: provided, however, that such guardian shall not be liable for costs in any such action.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved April 2, 1881.

[No. 185, S.]

[Published April 7, 1881.]

CHAPTER 298.

AN ACT relating to the charitable, reformatory and penal institutions of Wisconsin, and to provide for the more efficient supervision and management thereof, and to repeal certain provisions of law relating thereto.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Boards abolished.

SECTION 1. The board of trustees of the Wisconsin state hospital for the insane, the board of trustees of the northern hospital for the insane, the board of di-