

## CHAPTER 51.

## HOSPITALS AND ASYLUMS FOR THE INSANE.

51.01	Application to determine insanity or senility; questionnaire.	51.15	State hospitals for insane.
51.02	Procedure to determine sanity.	51.16	Superintendent's oath and duties; subpoenas on.
51.03	Jury trial.	51.17	Admission of patients.
51.04	Detention, pending the inquiry.	51.18	Fund and clothing on discharge.
51.05	Commitments.	51.19	Child born in hospital.
51.06	Execution of commitment; expenses and fees.	51.20	Record of inmates.
51.07	Fees of judge and examining physicians; costs and expenses of proceedings.	51.21	Central state hospital.
51.08	Maintenance and clothing of inmates.	51.22	Transfer of insane convicts and dangerous patients.
51.09	Confinement of insane paupers.	51.23	General statutes applicable; exceptions; contracts with Milwaukee hospital.
51.10	Voluntary patients in institutions for the insane.	51.234	Paroles from central state hospital.
51.11	Re-examination of persons adjudged insane.	51.235	Wisconsin psychiatric institute.
51.12	Transfer and discharge of patients; insane soldiers; tubercular patients.	51.24	Milwaukee hospital for insane.
51.13	Parole of inmates; leave of absence; presumption of sanity and discharge by lapse of time.	51.25	County asylums.
51.14	Reports to county judge; record.	51.26	Admission of patients; state aid; private patients.
		51.27	Tubercular patients; segregation and separate maintenance; state aid.
		51.28	Burial of deceased inmates.

51.01 Application to determine insanity or senility; questionnaire. (1) Whenever any person within this state shall be believed to be insane or senile, application may be made in the manner prescribed in subsection (2), by any 3 citizens, one of whom is to be the nearest relative or friend available, or a person with whom the person resides, or at whose house he may be, to the judge of the county court or of a district court which is a court of record, or in the absence or disability of such judge to the judge of any court of record acting in his place, for the county in which such person is found, for a judicial inquiry as to his mental condition and for an order of commitment. Provided, however, that when such person shall be a child under the age of 18, such application shall be made to the judge of the juvenile court of the county in which such child is found. A person is "senile" within the meaning of this chapter and chapter 52 when he is of such mental infirmity due to old age that would justify a certification and finding of insanity, and "senility" describes the mental condition of such person. The term "senile ward" when used in this chapter means the senile ward of the county home provided for in section 51.05 (7).

(2) The state department of public welfare and the superintendents of the several hospitals for the insane and colonies and training schools for the feeble-minded and epileptics shall prescribe and prepare the forms of application and voluntary commitment, notices, interrogatories, medical certificate and order for commitments required by law in the commitment of insane, mentally deficient, epileptic persons, inebriates and drug addicts and furnish the same to the respective institutions, which shall be the sole legal forms used in such commitments and admissions. The petition for a hearing and commitment to any such institution shall be attached to and accompany the certificate of the examining physicians. Physicians appointed to examine and report upon or to certify to the mental condition of any such person, must be duly licensed and have had at least 2 years' experience in the practice of their profession, or one year's experience as physician in a hospital for the insane, and shall be registered by the county judge as thus qualified on a list which shall be kept for that purpose in his office. Every certificate of the examining physician shall consist of the following interrogatories and the answers of the examining physicians thereto:

1. Date of examination . . . ., 19...
2. Information furnished by . . . . . of . . . ., Wisconsin, who is a . . . . of the patient.
3. Sex . . . .; Age . . . . years; birthplace of patient . . . .
4. Present place of residence . . . . county of . . . .
5. If not a resident of Wisconsin where is his or her legal residence . . . .
6. Occupation . . . .; single, married, widowed, divorced.
7. Has the patient had previous attacks of mental trouble? . . . . Give dates and duration of each attack . . . .
8. If ever in institution for insane give date, name and location.

9. Was the present attack gradual or sudden in its onset? ....
10. Was it characterized by depression, excitement, destructiveness, suicidal or homicidal tendencies, delusions, hallucinations? ....
11. Has the patient any relatives who are or have been insane? ....
12. If so, state what relationship and whether paternal or maternal.
13. Has the patient had syphilis? .... If so, state extent of treatment.
14. Is the patient subject to epilepsy? .... If so, state duration and frequency of seizures ....
15. Is there any history of severe illness? .... Specify ....
16. Is there any history of severe injury? .... Specify ....
17. To what extent does .... use liquor, drugs ....
18. If a woman: Has she ever borne children? .... How long since the birth of her last child? .... Is she now pregnant? ....
19. State fully present physical condition of patient ....
20. State fully mental condition of patient as observed by you ....
21. State fully the conduct of patient as communicated to you by others ....
22. State fully what the patient said in your presence ....
23. In my opinion the patient has the following dangerous tendencies ....
24. Have you given notice to the patient that application has been made for an examination into his or her mental condition and of the opportunity for a hearing? .... If not state fully your reasons for withholding such notice ....
25. Does the patient desire a hearing in person? ....

We, .... ., M.D., and .... ., M. D., being severally and duly sworn, do severally certify, and each for himself certifies, that we have with care and diligence personally examined .... . now residing or being at .... in the county of ...., and as a result of such examination, hereby certify that (he is insane and a proper subject for custody and treatment in a state or county hospital or asylum as an insane person) (he is senile and a proper subject for custody and treatment in the senile ward in the county home), under the provisions of the statutes.

We have formed this opinion from the history of the case and our examination of the patient as given above.

That the facts stated, and the information contained in this certificate are true to the best of our knowledge and belief.

.... ., M. D.

.... ., M. D.

Severally subscribed and sworn to before me this .... day of ...., 192..

.... .

(6) The petition of the applicant, the certificate in lunacy of the medical examiners and the adjudication of insanity or senility, and a commitment thereof, whether the question of insanity or senility, is tried before a jury or otherwise, shall be presented at the time of the commitment to the superintendent or person in charge of the institution to which the insane, or senile person is committed. [1933 c. 330; 1939 c. 458, 524; 1943 c. 93, 190]

**Note:** An application for a judicial inquiry as to the mental condition of an allegedly feeble-minded person, which application stated that one of the applicants was the nearest friend available and on its face showed full compliance with the provisions of 51.01 (1) and 52.02 (1), relating to the making of such an application conferred jurisdiction on the judge of the county court. Whether a social worker, stated in the application for a judicial inquiry to be the nearest friend available of the allegedly feeble-minded person, was the nearest friend avail-

able, presented an issue of fact for the judge of the county court to determine, and the evidence sustained his finding in the affirmative on such issue. In re Terrill, 240 W 53, 2 (2d) NW 847.

Term "nearest relative or friend available" in (1) may be construed to mean relative or friend willing as well as physically available, and member of county psychiatric service who signs petition so as to institute proceedings for commitment and treatment may be considered as "friend" for purposes of statute. 28 Atty. Gen. 634.

**51.02 Procedure to determine sanity.** (1) On receipt of such application, the judge may make a summary investigation and shall thereupon:

(a) Dismiss the application if the judge is satisfied from an examination of the application and the petitioners, or from a personal examination of the alleged insane or senile person, that the same is without merit; or

(b) Detain such person as provided in section 51.04 and appoint 2 physicians to examine and observe the patient and make written report of their findings, and if they report that the patient is not insane or senile, the application shall be dismissed, and the patient discharged; or

(c) If the judge concludes from such report, or from personal observation of the patient, or report of a guardian ad litem, or immediately upon the filing of the application, that the patient may be insane or senile, he shall cause notice to be given to the alleged

insane or senile person that application has been made for an inquiry into his mental condition, withholding the names of the applicants if he deems wise, and that a hearing on such application will be held before the judge at a time and place specified in the notice, at which such person can be heard. If it appears from the report of the physicians, or from personal examination by the judge, that the patient has not sufficient mentality to comprehend the notice for hearing, such notice need not be given, and the hearing may be held immediately or as soon as practicable. Unless physicians are appointed under paragraph (b) of this subsection, the judge shall appoint 2 physicians who shall examine the patient, and shall make a written report of their findings to the judge.

(2) If a jury trial be not awarded as provided in section 51.03, the judge may proceed at the time and place specified in such notice, or if such notice be not given because of lack of mentality, then upon the receipt of the physicians' report, make such further investigation as may seem to him necessary and proper, and if he shall be satisfied, from a personal observation of the alleged insane or senile person, and from all the evidence adduced, that said person is insane or senile, he may order him to be committed to a hospital or asylum for the insane or to the senile ward as provided in section 51.05, stating in such order whether or not such order was made without personal notice to the person adjudged insane or senile, and if no notice was given, the reasons in brief for failure to give such notice.

(3) At any stage of such proceeding, the judge may appoint a guardian ad litem, and acquaint him with the time and place of such examination by the physicians. It shall be the duty of such guardian ad litem to personally observe the said alleged insane or senile person, acquaint him of the opportunity for a hearing, and represent him at such hearing unless he procures other counsel. If, however, upon observation of said alleged insane or senile person, the guardian ad litem shall conclude that such hearing would be without advantage to the alleged insane or senile person by reason of his mental condition, then such guardian ad litem shall make and file with the judge a written waiver of such hearing. [1933 c. 330; 1939 c. 458; 1943 c. 190]

**Note:** Physicians' report shall contain statement of reasons for application and finding on merits of reasons. All notices mentioned in (1) to (4) should be given. 22 Atty. Gen. 648. Petitioners in insanity proceedings are not allowed to procure counsel to prosecute case. 24 Atty. Gen. 524.

**51.03 Jury trial.** If a jury trial be demanded by the alleged insane or senile person or by any relative or friend acting in his behalf, before or after commitment, the judge shall direct that a jury be summoned to hear and determine the question whether such person is insane or senile. If such a trial is demanded, the procedure shall be the same as in trials by jury in justices' courts, and the trial shall be in the presence of the alleged insane or senile person and his counsel and immediate friends and the medical witnesses. All other persons shall be excluded. If the jury find such person to be insane or senile, their verdict, which shall be signed by them, shall be in substantially the following form:

STATE OF WISCONSIN, } ss.  
County of ....

We, the undersigned jurors in the case of .... , having heard the evidence in the case, are satisfied that the said .... is a fit person to be sent to a (hospital or asylum for the insane) or (a senile ward of the county home).

If the jury find that the supposed insane or senile person is sane their verdict shall so state, in which case the judge shall forthwith order his discharge. [1943 c. 190; 1943 c. 552 s. 5]

**Note:** An instruction, given on a jury trial in an inquiry into the mental condition of a person previously adjudged insane, that it was necessary that all six jurors sign the verdict agreed on, was erroneous because it was only necessary that five members of the jury agree on their verdict, but, since such instruction was favorable to the subject of the inquiry, he could not complain thereof, and, since the jury's verdict was unanimous, such instruction did not in any event constitute reversible error. In re Hogan, 232 W 521, 287 NW 725.

**51.04 Detention, pending the inquiry.** (1) On the receipt by any such judge of the application or the report of the physicians provided for by section 51.01, such judge may, if in his opinion the public safety requires it, deliver to the sheriff a written order requiring him forthwith to take and confine the alleged insane or senile person in some specified place until the further proceedings provided for by said section can be had or until further order.

(2) The judge may also order the detention of any person whose sanity or senility is being investigated by him, during the investigation and for such reasonable time thereafter as he may deem necessary for proper medical observation to enable him to determine the necessity of committing him.

(3) Such person shall not be confined in any place established for the confinement of criminals or in any county home, and wherever possible shall be confined in a state or county hospital or asylum for the care of the insane. The superintendents of any state or county hospital or asylum for the insane, when requested by the judge, shall receive and care for any such person in such hospital or asylum. The period of such confinement shall not exceed thirty days for proper medical observations and ten days in cases where confinement is essential to the safety of such person, or of any other person or to the maintenance of public peace and safety. [1943 c. 190]

**Note:** Expenses of detention pending sanity hearings are governed as to rates by 51.08 and as to payment by 51.07. Costs and expenses of proceedings include detention. 25 Atty. Gen. 332.

Alleged insane person may be detained in padded cell located in room within building

which houses county jail in that part thereof where sheriff has his living quarters but which is not used for confinement of criminals. Such place, however, may not be used if it is possible to use state or county institution for insane. 27 Atty. Gen. 169.

**51.05 Commitments.** (1) If the judge or a jury find that the person thus alleged to be insane is a fit subject to be sent to a hospital or asylum for the insane, the judge shall order him to be committed as hereinafter provided.

(2) All commitments from any county, other than from a county having a population of 250,000 or more, of insane persons whose insanity has not become chronic, or insane persons who do not have legal settlement in such county, and all commitments of chronic insane persons from any county not having an asylum for the chronic insane, shall be to the state hospital for the insane in the district of which the county in which the proceedings were had is a part.

(3) If such person has a legal settlement in the county in which the proceedings are had and there is therein a county asylum for the chronic insane, and the judge is satisfied by the examination and proofs that the insanity of such person has become chronic, he may commit such person to such asylum.

(4) If such person has a legal settlement in any county having a population of 250,000 or more, the commitment shall be either to the county hospital for the insane or the county asylum for the chronic insane in such county, in the discretion of the judge, having due regard to the condition of the person committed and the nature of his or her malady. If such person does not have a legal settlement in such county, he shall be committed to the state hospital for the insane in the district of which such county is a part, and the committing judge shall, if possible, ascertain the state, county or other political division in which the person has a legal settlement, which information shall be included in the order of commitment.

(5) No person idiotic from birth shall be committed to either state hospital for the insane; neither shall any person physically infirm or mentally imbecile and not deemed dangerous when at large be committed solely because of such infirmity or imbecility.

(6) Should an insane person who is violent or dangerous, or about to become so, be brought to any hospital or asylum under a commitment which for any reason is void or irregular, the superintendent may detain him for a period not exceeding ten days to permit the procurement of a valid and regular commitment.

(7) (a) County boards of supervisors may provide wards in the county home for the confinement, care and treatment of senile persons. The provisions of section 46.17 shall apply to the constructions, repair and maintenance of such wards.

(b) If the judge or a jury find that a person thus alleged to be senile is a fit subject to be sent to the senile ward in the county home, the judge shall order him to be committed as herein provided. Persons found senile under chapter 52 may also be committed to such ward.

(8) Where an insane person who has no legal settlement in the county in which the proceedings are had has been committed to either the county hospital for the insane or the county asylum for the chronic insane in such county, the judge of the court issuing such commitment may upon application of the district attorney of such county amend the order of commitment by providing for the commitment and transfer of such insane person to the state hospital for the insane in the district of which such county is a part. [1935 c. 336; 1943 c. 190, 402; 1943 c. 552 s. 6]

**51.06 Execution of commitment; expenses and fees.** (1) If any relative or friend of any person committed to any hospital or asylum for the insane or senile ward, being of legal age and competent to perform the duty, shall so request, the warrant for such commitment may be delivered to and executed by him, for which he shall be paid his necessary expenses, not exceeding the fees and expenses now allowed to sheriffs according to law; otherwise it shall be delivered to the sheriff, who, taking such assistants as the court issuing such warrant may deem necessary, shall receive such insane or senile person and convey him to the hospital, asylum or county home. Every female over 10 years of age so committed shall be accompanied by a competent female.

(2) The sheriff shall be allowed the following fees for services performed under this chapter: For arresting and bringing a person alleged to be insane or senile before the judge and subpoenaing witnesses the same fees as are allowed in other cases; for taking an insane or senile person to the hospital or removing one therefrom, \$5 per day, railroad fare and other actual expenses and the actual expenses for the support and transportation of such person and \$3 per day, railroad fare and necessary expenses of such assistants as may be ordered by such judge, vouchers to be rendered for expenses in all cases; witnesses subpoenaed before the judge shall be entitled to the same fees as are allowed by law in other cases before courts of record; said fees and charges to be paid out of the county treasury. [1943 c. 190; 1943 c. 552 s. 7]

#### 51.07 Fees of judge and examining physicians; costs and expenses of proceedings.

(1) The judge, except in Milwaukee county, shall receive a fee of \$5 for the hearing of an application to commit a person alleged to be insane or senile, which fee shall include the making of necessary copies of the order to commit such person and the commitment papers, together with the certificate required by section 51.05 when the insane or senile person is committed to the county asylum or senile ward.

(2) Each of the examining physicians shall receive a fee of \$4 for his examination and certificate, and 10 cents per mile for necessary travel in complying with the requirements of his appointment; and in any contested matter arising under this chapter or in any case where the judge, in his discretion, shall postpone the examination of such person, a fee of \$4 for each day he may be required by the county judge to attend before him on such examination.

(3) All expense of the proceedings, from the presentation of the application to the actual commitment or discharge of the alleged insane or senile person, including a reasonable charge for guardian ad litem, whether such person is a resident or nonresident of the county in which the proceedings are had, shall be allowed by the judge and paid by the county from which such person is committed or discharged, in the same manner as the expenses of a criminal prosecution in a justice's court are allowed and paid.

(4) If the insane or senile person is a resident of any county in this state other than the county from which he was committed, the commitment shall not be invalid for that reason, and the county in which such person resides shall reimburse the county from which he was committed all lawful expenses of the examination and commitment, payment thereof to be enforced in the manner that charges for the maintenance of such persons are enforced. [1939 c. 458; 1943 c. 190; 1943 c. 552 s. 8]

**Note:** County judge who commits A and B on same day on criminal charges and commits C to hospital for insane is entitled to five dollars for commitment of A and B under (2) of 253.15, and to five dollars for committing C to hospital for insane under 51.07 (1). 20 Atty. Gen. 530.

**51.08 Maintenance and clothing of inmates.** (1) For the purpose of settlement with the county, the expense of the maintenance, care and treatment of each inmate and the expense of any confinement for medical observation or for public safety in any state hospital or asylum for the insane shall be computed at the rate of \$5 per week, and the expense of the maintenance, care and treatment of each inmate and the expense of any confinement for medical observation or for public safety in any county hospital or asylum for the insane shall be computed at the rate of \$5 per week. For each such inmate maintained at public charge elsewhere than in the county of his legal settlement the whole rate shall be chargeable to the state and one-half thereof chargeable over by the state against the county, if any, in which such inmate has a legal settlement. For all other such inmates maintained at public charge one-half of said rate shall be chargeable to the state and one-half to the county in which such inmate has a legal settlement. All such charges shall be adjusted as provided in section 46.10, but nothing herein shall prevent the collection of the actual per capita cost of maintenance, or a part thereof by the state department of public welfare or by the county in counties having a population of 500,000 or more, pursuant to law.

(2) Whenever any insane or senile person is committed or transferred to any state hospital, or to any hospital, asylum or senile ward, in any county other than the county in which he has a legal settlement, he shall, in addition to the maintenance charge, be furnished with all necessary clothing. On his admission this shall not be less than the following: For a male, 3 new shirts, a new and substantial coat, vest, 2 pairs of pantaloons of woolen cloth, 2 undershirts, 2 pairs of drawers, 3 pairs of socks, a black or dark stock or cravat, 2 pocket handkerchiefs, a good hat or cap, a pair of new boots and shoes and a pair of slippers. For a female, in addition to the same quantity of undergarments, shoes and stockings, there shall be 2 woolen and 2 white petticoats or skirts, 3 good dresses, 2 nightgowns, cloak or shawl and a decent bonnet. Unless such clothing be delivered in good order the superintendent shall not be bound to receive the patient; but he may receive and furnish him with proper clothing; inmates shall also be furnished with necessary dental

work, but not to exceed \$35 for each person, with necessary glasses not to exceed \$15, with necessary nonsurgical hospital or clinic services for diagnosis, care, X-ray or treatment, and emergency surgical work may also be provided for inmates, but before any expenditure is made for dental work, for necessary glasses, or for necessary nonsurgical hospital or clinic services, or emergency surgical work, an estimate of the cost shall be made by the visiting physician and the superintendent of the asylum, or senile ward, and forwarded to the state department of public welfare; if the department shall approve such expenditure then the necessary dental work, necessary glasses or necessary nonsurgical hospital or clinic services, or emergency surgical work, shall be done as provided. The expense of furnishing all clothing and dental, and emergency surgical work, necessary glasses, or necessary nonsurgical hospital or clinic services, shall be chargeable to the state, and chargeable over to the county, if any, in which such inmate has a legal settlement, and shall be adjusted as provided in section 46.10, and in addition to the clothing required on admission no county shall be liable for more than \$35 for clothing for any one patient in any one year. [1933 c. 140 s. 3; 1933 c. 470 s. 7m, 8; 1935 c. 336, 535; 1939 c. 393; 1943 c. 95, 190, 490, 542]

**Note:** State board of control may charge and collect actual per capita cost of maintenance of patient at state hospital for insane. Interest may be charged upon cost of maintenance, at least from date of demand for payment. (Secs. 49.10 and 51.08, Stats. 1933) 22 Atty. Gen. 164.

**51.09 Confinement of insane paupers.** Whenever it shall appear to the satisfaction of any county judge, by a petition of a majority of the supervisors of any town, of the common council of any city or of the board of trustees of any village, containing a statement of all the facts in the case, that the public safety requires the close custody of any poor insane person having a legal settlement in such town, city or village, such judge shall make and deliver to the sheriff an order in writing requiring him forthwith to take and confine such insane person in some proper place to be therein specified. Such insane person, when so confined, shall be subject to the directions of the said judge and shall receive such care, attention and treatment as such judge shall deem proper and necessary. All expenses incurred in confining, taking care of and maintaining such person, when properly certified to by the county judge, shall be audited by the county board and paid out of the county treasury.

**51.10 Voluntary patients in institutions for the insane.** Any person believing himself to be insane or suffering from mental disorder, may, upon his written application stating his mental condition, supported by the certificate of at least two physicians possessing the qualifications prescribed by section 51.01 (2), based upon personal examination of such person, be admitted as a voluntary patient to any public hospital for the insane in this state in the discretion of the superintendent thereof for treatment. Such persons, if so admitted to either of the state or county hospitals or asylums for the insane, if not indigent shall be required to pay the actual per capita cost of his maintenance. If indigent, the superintendent of the institution shall forward a certified copy of the application to the county judge of the county from which such patient was admitted, who shall investigate the matter of legal settlement and make a legal finding as to the legal settlement and certify same to the superintendent of the institution and the county in which said legal settlement is located shall be chargeable with the person's care pursuant to section 46.10. Otherwise all voluntary patients shall have the same standing and be subject to the same laws, including section 51.12, rules and regulations as regularly committed persons, except that they shall have the right to leave such hospital at any time if in the judgment of the superintendent they are in fit condition, on giving five days' notice to the superintendent of their desire to do so. [1935 c. 336; 1943 c. 275 s. 19]

**51.11 Re-examination of persons adjudged insane or senile.** (1) Except as otherwise provided in sections 51.22, 357.11 and 357.13, any person adjudged insane by any court, tribunal, or officer having lawful authority so to adjudge, or restrained of his liberty because of his alleged insanity, may on his own verified petition or that of his guardian or some relative or friend have a retrial or re-examination of the question whether such person is sane or insane before the judge of any court of record of the county in which such person resides or in which he was adjudged insane.

(2) The petition shall state the facts necessary to show that the judge to whom it is addressed and presented has jurisdiction to retry or re-examine the question of the present mental condition as to sanity or insanity or senility of the person in whose behalf such petition is presented. It shall also state whether such person has a general guardian and if so, the name and residence of such guardian, and whether such person is detained in any hospital or asylum for the insane or in any senile ward, and if so, its name and location and the name of the superintendent thereof.

(3) The judge shall thereupon by order appoint 2 physicians, each having the qualifications prescribed by section 51.01, to examine and report to him whether in their

opinion the person in whose behalf the petition is made is sane or insane or senile; and shall fix the time and place of such examination and cause reasonable notice thereof to be given to the guardian of the person to be examined, if he has a general guardian, and to the superintendent of the hospital or asylum or of the senile ward in which the person is detained, if he is so detained.

(4) The petitioner and parties notified and any relative or friend of the person to be examined, may appear at such examination, offer testimony, and be heard. Should the state department of public welfare certify that such superintendent cannot attend such examination without danger of injury to his institution, his deposition may be taken and received pursuant to law.

(5) If such physicians report such person sane and the judge is satisfied that he is sane and no demand for a jury trial is made, the judge shall forthwith cause judgment to be entered to that effect and order his immediate discharge; but if the judge shall direct, or the person examined or his guardian or any of his friends or relatives shall demand, a trial by jury, an order for such trial shall forthwith be entered, and thereupon the procedure shall be, as near as may be, as prescribed in section 51.03. If the judge or jury find that such person is insane, the judge shall order him returned to the hospital or asylum or other place of detention of which he is an inmate; but if at large on parole or leave of absence, he shall be allowed to remain at large, unless the judge is satisfied that it will be unsafe to do so, in which case the judge may order him to be so returned.

(6) All persons who render services in such proceedings shall receive the same compensation as is allowed by law to persons rendering similar services in a judicial inquiry as to the mental condition of a person alleged to be insane, and all expenses of such proceedings shall be allowed, paid and adjusted as provided in section 51.07.

(7) When a proceeding for such retrial or reexamination is not pending in a court of record and a jury trial is not desired by the persons authorized to commence such proceeding, the state department of public welfare acting as a commission in lunacy may, on application, by like procedure determine the sanity or insanity or senility of any such person committed to any hospital or asylum for the insane or senile ward, and its determination shall be recorded in the office of the county judge of the county in which such inmate resides or was adjudged insane or senile, and shall have the same force and effect as though made by such judge. The board may also on or without application, if it has reason to doubt the insanity or senility of any such inmate, request the county judge of the county in which such inmate resides or was adjudged insane or senile to determine his mental condition, pursuant to this section; and it shall be the duty of said judge to do so. [1943 c. 93, 190]

**Note:** A person charged with crime who was committed for insanity at the time of the trial is entitled to a re-examination and a jury trial on the question of sanity, but he is not entitled to be discharged in case the jury should find him sane except upon the order of the court. *State ex rel. Ribansky v. Shaughnessy*, 205 W 136, 236 NW 567.

Under 51.11 (1) jurisdiction to re-examine sanity of inmate of central state hospital who was originally transferred there from penal institution pursuant to 51.22 and whose sentence to such penal institution has expired is

vested in judge of any court of record in county where such insane person resides or in county where department of public welfare adjudged him insane pursuant to 51.22. Court in which insane person was originally sentenced to penal institution does not, as such, have jurisdiction to re-examine his sanity under 51.11 (1). If no such proceeding is pending and no jury trial is desired, department of public welfare may re-examine such person's sanity, pursuant to 51.11 (7). 31 Atty. Gen. 78.

#### 51.12 Transfer and discharge of patients; insane soldiers; tubercular patients.

(1) The state department of public welfare may transfer patients from any state or county hospital or asylum or senile ward to another if in its judgment it is for the best interest of the patient to be so transferred; and whenever in its opinion it would be for the benefit of patients in the state hospitals to remove therefrom any of the chronic insane or senile not chargeable to any county, it may cause their removal to some county hospital or asylum or senile ward. The foregoing provisions shall not apply to any insane or senile soldiers who are now inmates of the Wisconsin Memorial Hospital.

(2) The department may, whenever in its opinion any county has not made provision for the proper care of its acute or chronic insane, direct the removal of either class thereof to the asylum of some other county, or to any county possessing suitable accommodations for them; and such removal shall be made at the expense of the county in which such persons reside. Any county whose asylum can accommodate a larger number of chronic insane than are resident therein may receive such insane persons.

(3) Whenever, by a fair trial, it shall have become reasonably certain that any patient in either state hospital is incurably insane, and such patient is retained to the exclusion of others whose cases are of a more hopeful character, the department may transfer him to some county asylum or senile ward authorized by law to receive such patients. The department may, with the approval of the committing court, transfer to any county asylum, any inmate of the central state hospital, committed under section 357.11 or 357.13,

whose mental condition is believed to be chronic or incurable and who in their opinion could be properly cared for in a county asylum.

(4) If the relatives or friends of any patient in either state hospital shall ask the discharge of such patient, before such patient has recovered from insanity or senility, the department may, in its discretion, discharge such patient, and may require such relatives or friends or either of them to give a bond to be executed to the state of Wisconsin, in such sum and with such sureties as it may deem proper, conditioned for the safe-keeping of such patient.

(5) Whenever it shall be brought to the notice of the department that any insane or senile person within the state is legally entitled to receive care and support in the national hospital for insane soldiers, it shall take proper measures to procure his admission to said hospital and to transport him there.

(7) The department shall make provision for the segregation, care and treatment of tubercular insane patients in the state and northern hospitals for the insane, and for that purpose may set apart one ward for male patients, and one ward for female patients, in said hospitals and equip said wards for the care and treatment of such patients. Said board shall transfer from any other parts of the said institutions any tubercular patients who are liable to spread the disease or whose association with other patients is dangerous to them. [1935 c. 336; 1941 c. 170; 1943 s. 93, 190; 1943 c. 552 s. 9]

**Note:** Custody and supervision by department of mental hygiene would not be lost if department, acting under 51.12 (3), transfers to county asylum person sentenced to life imprisonment who was subsequently transferred to Winnebago state hospital by board of control acting as commission in lunacy. 51.13 (2) would not apply and county institution would receive patient subject to 51.23 (3) and 51.22. 28 Atty. Gen. 193.

**51.13 Parole of inmates; leave of absence; presumption of sanity and discharge by lapse of time.** (1) Each superintendent of the state and northern hospitals for the insane and the Milwaukee county hospital for the insane may permit any inmate in his hospital to go at large on parole, if in his opinion it is safe and proper to do so. Whenever within two years after granting such parole it becomes unsafe or improper to allow such persons to remain longer at large, the superintendent shall require his return to the hospital, unless such person shall have been adjudged sane by competent authority.

(2) The superintendent of any county asylum or senile ward may, upon the written recommendation of the visiting physician thereof, allow any of its inmates to go therefrom on leave of absence for such time and under such conditions as such physician may direct.

(3) Upon the expiration of 2 years from the time of granting such parole or such leave of absence the authority of the superintendent to require the return to the hospital or asylum or senile ward of the person paroled or granted leave shall end, and the presumption of insanity or senility against such person because of the original adjudication that he was insane or senile shall cease, and until a new adjudication to the contrary, he shall be presumed sane the same as though his sanity had been established by a judicial determination. [1943 c. 190]

**Note:** Superintendent of county asylum has authority under 51.13 (2) to grant leave of absence to insane person transferred to such asylum from central state hospital, when such person was originally transferred to central state hospital from prison pursuant to 51.22, but only after such person's prison term has expired. 28 Atty. Gen. 193 distinguished. 30 Atty. Gen. 103.

**51.14 Reports to county judge; record.** Whenever any person is committed to any hospital or asylum for the insane or senile ward from any county other than the county where he has a legal settlement, the superintendent of such hospital or asylum or senile ward shall immediately notify the county judge of the county in which such person has a legal settlement of the fact of such commitment. Said superintendent shall also notify such judge of the fact whenever any such inmate dies, is discharged, transferred to any other institution, escapes, is paroled or granted leave of absence, or returns from such parole or leave. The county judge shall keep a record of the facts so reported. [1943 c. 190; 1943 c. 552 s. 10]

**51.15 State hospitals for insane.** (1) The hospital for the insane located near the city of Madison shall be known as the "Mendota State Hospital" and the hospital for the insane located near the city of Oshkosh shall be known as the "Winnebago State Hospital." Whenever in the statutes or in any session law the terms "Wisconsin State Hospital for the Insane" or "Northern Hospital for the Insane" are used, referring to the state hospitals herein, said terms shall be understood and construed to refer to the "Mendota State Hospital" and "Winnebago State Hospital," respectively.

(2) The governor and the state department of public welfare shall constitute a special department who shall divide the state by counties into 2 districts, all the insane persons from one district to be sent to the hospital near Madison, all from the other to the hospital near Oshkosh; and from time to time shall change the bounds of these districts as may be necessary, arranging them in reference to the number of insane persons supposed

to be in them, the capacity of the hospitals and the convenience of access to them. [1935 c. 9; 1943 c. 93]

**51.16 Superintendent's oath and duties; subpoenas on.** (1) The superintendent of each said hospital shall take and file the official oath, and shall devote all his time and attention to his official duties.

(2) The superintendent shall not be compelled to obey the subpoena of any court in any case, civil or criminal, if he shall file with the magistrate or clerk his affidavit that to obey the same would be seriously detrimental and hazardous to the welfare of the hospital under his charge, except when an accusation of murder is to be tried; nor in such case unless the judge shall make a special order therefor, and the subpoena, with a memorandum thereof indorsed thereon, be served one week before the time when he shall be required to appear; but no superintendent shall be entitled in any case to make and file such affidavit, who shall, upon tender of the usual fees of witnesses in courts of record, refuse to be present and to give his deposition at his office, usual place of business, or usual place of abode; and any superintendent so present and giving his deposition who shall be detained four hours from the time fixed for the taking thereof or from the time to which the taking of the same may have been adjourned may make affidavit that further detention would be seriously detrimental or hazardous to the welfare of the persons or business in his charge whereupon the officer before whom such deposition is being given shall adjourn further proceedings thereon to a future day.

**51.17 Admission of patients.** (1) Patients shall be admitted into said hospitals from the several counties as provided in sections 51.05, 51.08, 51.10 and 51.15.

(2) The relatives, friends, or guardian of any patient may pay for his maintenance and clothing, or any part thereof, and the account of such patient shall be credited with any sums so paid; and they may provide him with special care or a special attendant as may be agreed upon with the superintendent upon payment quarterly in advance of the charges and expenses thereof. [1935 c. 336]

**51.18 Fund and clothing on discharge.** When any patient is discharged from either of said hospitals as cured the superintendent shall furnish him with suitable clothing and a sum of money not exceeding twenty dollars, unless otherwise supplied, all of which shall be charged to the county, if any, of which such patient is a resident.

**51.19 Child born in hospital.** If any patient shall give birth to a living child while such patient is an inmate of either hospital and has not been such for more than nine months, such child shall be immediately removed from the hospital by her friends or by the county in which the patient resided when admitted. The superintendent shall notify the county judge to make such removal, and if such child be not immediately thereafter removed he shall make suitable provision for its care and comfort, and charge all expenses thereof to such county, to be adjusted as provided in section 46.10.

**51.20 Record of inmates.** The superintendent of each state hospital for the insane shall cause to be kept a daily record of each inmate, and shall on the first Monday of each month report to the department such information as it may require, showing:

(1) The name, age, residence and date of admission of each person received as an inmate of the hospital during the next preceding month, with a brief statement of his or her mental and physical condition and form of insanity, and name and residence of the guardian or person chargeable for the support of such inmate.

(2) The name, age and residence of each inmate discharged or removed during such month, the condition of each at such time, the reason for each discharge or removal and the place to which each inmate was sent or taken.

(3) The name, age and residence of each inmate who died during the preceding month, the immediate cause of death and the disposition made of the body.

(4) A statement of any unusual restraint or confinement to which any inmate was subjected during such month and the necessity therefor.

(5) The name and particular service required of each person discharged from or who quit his employment during such month, with the reasons for his discharge and the date thereof or of his voluntary retirement from service. [1943 c. 93]

**51.21 Central state hospital.** (1) The hospital for the criminal insane, located at Waupun is hereby designated the "Central State Hospital."

(2) The said institution shall be used for the custody, care, and special treatment of insane persons committed thereto pursuant to sections 51.22, 357.11 and 357.13. [1941 c. 48]

**51.22 Transfer of insane convicts and dangerous patients.** The department of public welfare, acting as a commission in lunacy, as provided in section 51.11, may adjudge any prisoner in the state prison, the Wisconsin prison for women, the state reformatory, the industrial home for women, any county jail or in the Milwaukee house of

correction to be insane or feeble-minded, and may, with the approval of the governor, remove him to the central state hospital or to one of the homes for the feeble-minded. Said department may likewise transfer to said hospital any insane or feeble-minded person confined in any state or county hospital, or asylum for the insane, or colonies for feeble-minded and epileptic or feeble-minded who, because of suicidal or homicidal tendencies, is dangerous to himself or others. When a prisoner thus removed recovers his reason before the expiration of his sentence he shall, by order of the department, be returned to the prison from whence he was taken. [1941 c. 48; 1943 c. 57]

#### 51.233 General statutes applicable; exceptions; contracts with Milwaukee hospital.

(1) The provisions of all statutes relating to state hospitals for the insane, except subsections (1), (2), (4) and (5) of section 51.12 are applicable to the central state hospital. Section 51.13 and subsection (3) of section 52.03 are applicable only for inmates whose prison term or sentence has expired.

(2) With the approval of the governor the department of public welfare may contract, at a price not exceeding \$4.25 per week for each person, with the governing authority in charge of any hospital for mental diseases in any county having a population of 250,000, for the care and maintenance of persons who have been committed to the central state hospital, pursuant to law; and when any such person shall be transferred to such hospital he shall be cared for and maintained under such rules and regulations as may be prescribed by said department of public welfare. All such persons shall be subject to the statutes governing inmates of the central state hospital.

(3) All persons required by law to be committed or transferred to the central state hospital, but remaining or confined in any other state hospital because sufficient provision has not been made for their care and treatment at said central state hospital, shall be subject to the statutes governing inmates of the said central state hospital. [1941 c. 48, 170; 1943 c. 275 s. 20]

**Note:** Board of control may charge county hospital for insane. Such charge may be for all time spent in central state hospital. 23 Atty. Gen. 9.

**51.234 Paroles from central state hospital.** (1) Whenever in the judgment of the superintendent of the central state hospital any inmate found to be insane or feeble-minded and committed under the provisions of sections 357.11 and 357.13, and who has not made such recovery as would warrant his return to the court as provided in said sections but who is in a condition to be paroled under supervision, said superintendent shall report the name of such inmate, with a statement of his reasons for his judgment that such inmate should be paroled, to the court which committed such inmate and to the department of public welfare. If the court does not file objection to the parole of such inmate within 60 days of the date of said report the superintendent may parole such inmate to a relative, legal guardian or other person. In the designation of a parole guardian the person selected shall, where possible, be of the same religious faith as the parents of such inmate. At any time during such parole, upon evidence satisfactory to said superintendent or to the department of public welfare, such inmate shall be returned to the central state hospital. Every such parole guardian shall report the physical, moral and mental condition of the inmate to such superintendent, either in person or in writing, as often and as fully as may be required by the rules and regulations of the department of public welfare, and in case of failure so to report on request the inmate shall be returned to the central state hospital. At all times during the parole the inmate shall be accessible to said superintendent or any agent he may designate. The central state hospital shall not be liable in any manner for such patient while on parole. Such liability shall devolve upon the parole guardian of said inmate.

(2) In the event that the court from which said inmate was committed shall object to the parole of such inmate such objections shall be in writing and shall be filed with the superintendent. If notwithstanding such objection said superintendent is of the opinion that such inmate should be paroled he may refer the objections to the state department of public welfare, and said department after full investigation, if in its judgment the facts warrant, may order such parole upon the conditions prescribed in this section. [1933 c. 264; 1941 c. 48, 170; 1943 c. 93]

**Note:** Inmate paroled from central state hospital for insane under 51.234, is not automatically released after expiration of two-year parole period. Committing court retains jurisdiction to determine sanity or insanity of inmate committed to central state hospital for insane pursuant to 357.13 (4). 27 Atty. Gen. 229.  
Liability of parole guardian of inmate of central state hospital for insane paroled under this section discussed. 30 Atty. Gen. 114.

**51.235 Wisconsin psychiatric institute.** (1) The psychiatric institute at Mendota is hereby designated as the "Wisconsin Psychiatric Institute."

(2) The provisions of the statutes relating to the commitment, custody, transfer, parole, and discharge of insane persons in state hospitals for the insane are hereby made

applicable to the Wisconsin psychiatric institute, which is hereby authorized to admit any duly committed insane person from any county in the state.

**51.24 Milwaukee hospital for insane.** (1) Any county having a population of two hundred and fifty thousand may, pursuant to section 46.17, establish and maintain a hospital for mental diseases, for the detention and care of drug addicts, inebriate persons and persons adjudged or alleged to be insane pursuant to law and whose insanity has not become chronic. Such hospital shall be governed pursuant to section 46.21.

(2) The state shall compensate every such county for all insane persons maintained at public cost at its hospital for mental diseases, commencing July 1, 1933, at the rate of four dollars and eighty cents per week for each acute insane person and two dollars and ten cents per week for each chronic insane person. The first period of computation for such compensation shall be for the six months period ending December 31, 1923, and each succeeding period of computation for such compensation shall be each succeeding six months next after the expiration of said first six months period.

(3) The number of weeks that each insane person has been so maintained during each period of computation, shall be ascertained; and the state department of public welfare of Wisconsin shall determine the number of weeks that acute patients have been maintained and the number of weeks that chronic insane patients have been maintained in said institutions, and the compensation for the maintenance of such patients shall be based upon the determination made by said department.

(4) The governing authority of each such hospital shall, as soon as practicable after the expiration of each such period of computation, prepare a statement giving the name of each insane person maintained at public cost at said hospital during the next preceding period of computation and the number of weeks he or she has been maintained during said period, also showing the aggregate of such weeks for all insane persons so maintained during said period and the amount of compensation to be made by the state to said county therefor, at the rates and upon the basis above fixed by said department, which statement shall be verified by said superintendent and approved by the board of administration in charge of said hospital as correct and true in all respects and delivered to the state department of public welfare.

(5) The department of public welfare shall attach to said statement its certificate showing the number of weeks' maintenance furnished to acute insane patients and the number of weeks' maintenance furnished to chronic insane patients, which shall be filed with the secretary of state, who shall draw his warrant for the aggregate amount of compensation specified in said certificate and deliver said warrant to the state treasurer who shall thereupon pay the amount of said warrant to said county.

(6) No such county shall be entitled to such credit or any compensation whatever from the state for the care of any person who has not been duly adjudged to be insane and properly committed as such, nor for the care of any insane person whose support is not properly a public charge. [1933 c. 140 s. 3; 1943 c. 93]

**Note:** Expense of transferring to proper county by board of control persons committed to county hospital for mental diseases who are found to have legal settlement in some other county may not be included in legal six months' bill as submitted under this section and paid out of appropriation provided by 20.18 (2) (b). 22 Atty. Gen. 329.

**51.25 County asylums.** Every county may, pursuant to section 46.17, establish a county asylum for the chronic insane for the detention and care of persons adjudged or alleged to be insane pursuant to law; and in connection therewith a separate hospital or pavilion for the care of the chronic insane who are affected by pulmonary tuberculosis. In counties whose population is two hundred and fifty thousand or more such institution shall be governed pursuant to section 46.21. In all other counties it shall be governed pursuant to sections 46.18, 46.19 and 46.20; but the trustees shall, in addition to the superintendent, appoint a visiting physician of said asylum; and they shall receive the same compensation for their services as is allowed members of the county board.

**51.26 Admission of patients; state aid; private patients.** (1) Upon completion of the building for such asylum patients may be admitted thereto as provided in sections 51.05, 51.08 and 51.10, and as hereinafter provided, subject to all statutes relating to the supervision of the insane by the state department of public welfare.

(2) The trustees may transfer to and receive into said asylum all inmates of the state institutions for the insane who are residents of said county and held as chronic or incurable, all insane inmates of the county home thereof, all inebriate persons committed to the county home, or drug addicts committed to the county home, and persons adjudged to be insane according to law, resident in said county and who may be lawfully committed to said asylum.

(3) The trustees may receive into said asylum, any inebriate or insane person resident in any other county in the state, not admitted to either of the state hospitals, and such person shall be subject to the provisions of law governing inebriates and insane persons

resident in the county in which such asylum is located; but the cost of maintaining such inebriate or insane person shall be adjusted on the basis prescribed in section 51.08.

(4) The trustees may receive into said asylum, for care and treatment at private charge, any inebriate person and any person adjudged to be insane according to the laws of this state, but without extra expense to the state or the county in which the asylum is located.

(5) The trustees or the board of trustees provided for in section 46.21 may file an application with the county judge praying the transfer of any inebriate person or drug addict in said county home or hospital for mental diseases to the state hospital for the insane at Mendota or Winnebago. Upon receipt of such application the county judge shall fix a time for hearing said matter and shall notify one of the nearest relatives of such inebriate person or drug addict, if any of such relatives can be located within the state, at least eight days before such hearing by personal service or by registered mail, and may also give due notice to any known nonresident relative, and upon such hearing shall proceed summarily to make inquiry as to the reasons for such application. If in his opinion the best interests of society or for the patient require such transfer, the court may by an order of commitment transfer said patient from the county home to the state hospital for the insane at Mendota or Winnebago.

(6) Whenever it shall be made to appear to the satisfaction of any judge of a court of record, by a petition of three citizens, one of whom shall be the wife or nearest relative, if available in the county, otherwise by a poor commissioner or officer having charge of poor relief, that any resident of the county, or person temporarily residing therein, is an inebriate or drug addict, as defined in section 49.07, such judge shall by order fix a time for hearing such petition on three days' personal notice to the person so afflicted, and require him to appear at such hearing, and summarily hear the evidence and witnesses in support of such petition. At such hearing if the court shall find upon sufficient evidence that such person is an inebriate or drug addict, and requires confinement or treatment, or that it is necessary for the protection of himself or the public or his family or relatives that he be committed to some institution, he may be committed by such court to the county asylum for the insane of such county, except that in counties having a population of five hundred thousand or more such commitment shall be to the hospital for mental diseases, or of an adjoining or adjacent county, or some state hospital for the insane, for such period of time as to the court may seem necessary for curing the malady with which he may be suffering, or for such period of time as in the judgment of the superintendent and attending physician in charge of such institution it may be necessary to retain him to recover and be able to take care of himself. [1935 c. 353; 1943 c. 93]

**51.27 Tubercular patients; segregation and separate maintenance; state aid.** (1) Whenever any county has erected a separate hospital or pavilion for chronic tubercular insane, the state department of public welfare may transfer thereto such chronic insane persons as it may be satisfied are afflicted with pulmonary tuberculosis to such a degree as to render them carriers or spreaders of that disease.

(2) In lieu of the rates prescribed by section 51.08, the state shall be chargeable at the rate of \$6 per week for each such patient resident in the county which maintains said hospital, and \$10 per week for each other patient; and of the latter rate \$5 for each such patient shall be chargeable over to the county, if any, of which such patient is a resident. All such charges shall be adjusted as provided in section 46.10. [1943 c. 93]

**51.28 Burial of deceased inmates.** (1) Whenever a patient in any county asylum for the insane, or senile ward, whose maintenance is chargeable to the state or to any other county, shall die, the superintendent shall immediately notify one or more of the relatives or friends of the deceased of the fact, if such notification be possible by ordinary means; and if such relatives or friends cannot be so notified or will not make provision for the burial of the deceased (and if the body be not claimed as provided in section 155.02) the superintendent shall provide for the decent and proper burial of his remains.

(2) The reasonable and proper expenses of such notification and burial services, not exceeding in the aggregate \$75, shall be chargeable to the state and chargeable over to the county of legal settlement or to the state if it be a state-at-large case and adjusted as provided in section 46.10. [1943 c. 44, 190; 1943 c. 552 s. 11]

**51.30** [Repealed by 1935 c. 336]