

TITLE VII.

Charitable, Curative, Reformatory and Penal Institutions and Agencies.

CHAPTER 46.

PUBLIC WELFARE.

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46.001 Purposes of chapter. The purposes of this chapter are to conserve human resources in Wisconsin; to provide a just and humane program of services to dependent, neglected and illegitimate children; to prevent dependency, mental illness, delinquency, crime and other forms of social maladjustment by a continuous attack on causes; to provide effective aid and services to all persons in need thereof and to assist such persons to achieve or regain self-dependence at the earliest possible date; to provide a just, humane and efficient program for the rehabilitation of juvenile delinquents and other offenders; to avoid duplication and waste of effort and money on the part of public and private agencies; and to co-ordinate and integrate a social welfare program.

46.011 Department of public welfare; definitions. (1) The state department of public welfare consists of a state board of public welfare, a director of public welfare, a deputy director and its officers and employes and institutions.

(2) Unless the context plainly indicates otherwise, in chapters 46 to 58 (except chapter 50) "board" means the state board of public welfare; "department" means the state department of public welfare; "director" means director of public welfare; and "counsel" means the collection and deportation counsel.

46.012 Board of public welfare. (1) **APPOINTMENT, TERM, ELIGIBILITY.** The state board of public welfare consists of 9 members appointed by the governor with the consent of the senate for terms of 6 years. Appointments shall be made on the basis of recognized and demonstrated interest in and knowledge of the problems of public welfare. At least one member shall be appointed on the basis of recognized and demonstrated interest in and knowledge of the problems of mental hygiene; and at least one each on the basis of similar qualifications in the fields of child and youth problems, public assistance and corrections. The latter 4 persons designated in the preceding sentence shall be appointed by the governor from nominations submitted by a panel consisting of the chairman of the state board of health, the state superintendent of public instruction, the president of the

university, the president of the county judges' association of Wisconsin, the chairman of the Wisconsin welfare council and the president of the Wisconsin public welfare association. At least 2 nominations shall be submitted by the panel for each such position. All appointments shall be made without regard to party affiliation or to interest in any special organized group. The governor shall appoint initially 3 to serve for 6 years, 3 to serve for 4 years, 3 to serve for 2 years; terms shall expire on April 1, of the year of expiration. Thereafter, each member shall be appointed and confirmed for 6 years. Vacancies shall be filled by the governor in accordance with the foregoing for the unexpired term by and with the advice of the senate. A majority of the members constitutes a quorum. Each member shall take and file the official oath. The board shall elect a chairman from its own number. The director of public welfare shall serve as a nonvoting ex officio member of the board, and, when matters affecting any division of the department are being considered by the board, the head of that division shall serve for the time as a nonvoting, ex officio member of the board. The board shall make such rules and orders for the regulation of its own proceedings as it shall deem proper.

(2) COMPENSATION. There shall be at least one meeting a month at Madison, for which each member shall receive for his services a per diem of \$25 for time spent at such meetings and a per diem of \$10 for time spent in visiting the institutions under the jurisdiction of the department, but not exceeding \$800 per annum, together with necessary expenses incurred in the performance of his official duties.

History: 1951 c. 323.

Institutions for visiting which members those mentioned in 46.03 (1). 38 Atty. Gen. of the board of public welfare are entitled 492. to per diem under 46.012 (2) include only

46.013 Functions of board. (1) POWERS AND DUTIES. The powers and duties of the board shall be regulatory, advisory and policy-forming and not administrative or executive. The board shall review the internal organization of the department and shall from time to time make reports to the legislature, based upon these studies; the first such report shall be in 1951. The board shall plan for and establish within the department a program of research designed to determine the effectiveness of the treatment, curative and rehabilitative programs of the various institutions and divisions of the department. The board shall make a report to the legislature of its activities and accomplishments before each convening date of the regular session of the legislature. The report shall include specific recommendations for legislation, planned and drafted as a part of an integrated, unified and consistent program to conserve human resources and to correct and prevent social maladjustments. The board may inquire into any matter affecting social welfare and hold hearings and subpoena witnesses and make recommendations to the appropriate agencies, public or private, thereon.

(2) APPOINT DIRECTOR; ELIGIBILITY. The board shall appoint the director of the department for an indefinite term and may, at its discretion, remove him. His appointment shall not be subject to chapter 16 and shall be made on the basis of recognized and demonstrated interest in and knowledge of the problems of public welfare. The board shall consider, among other qualifications, his interest in and knowledge of the treatment phases of public welfare programs. Racial, religious, national or political affiliations shall not be considered in the selection of the director.

(3) CITIZENS' COMMITTEES. The board may from time to time appoint, with the approval of the governor, committees of citizens to advise it on public welfare programs and problems, particularly in the fields of mental health, child welfare, youth control, community services, and corrections. Among other purposes, these committees should seek to advise the board concerning the co-ordination of public and private welfare activities and to promote better understanding among the state, the counties, and municipalities. Committee members shall receive no compensation except reimbursement for necessary travel expense.

History: 1951 c. 97 s. 32; 1951 c. 319 s. 231.

46.014 Director, powers and duties. (1) AUTHORITY. The administrative and executive powers and duties of the department shall be vested in the director, to be administered by him under the statutes and the rules and regulations of the department, and subject to the policies and in accordance with the principles established by the board.

(3) RULES. The director, with the approval of the board, shall establish rules and regulations for administering the department and performing the duties assigned to it.

(4) ORGANIZATION. The details of the departmental organization shall be determined by the director with the approval of the board.

(5) STAFF, CIVIL SERVICE. The director shall appoint the staff necessary for performing the duties of the department, all of whom shall be subject to civil service except heads of divisions.

(6) **DEPUTY DIRECTOR AND HEADS OF DIVISIONS.** The deputy director and the division heads shall be appointed on the basis of recognized interest, administrative and executive ability, training and experience in and a knowledge and understanding of the problems and needs in the fields in which they will respectively operate. The deputy director and the heads of divisions shall be appointed and their salaries fixed by the director with the approval of the board; and may be removed by him for cause, with the approval of the board, after a fair hearing.

(7) **OATH, BOND.** The director shall take the official oath and file a bond in such amount and with such surety as the board directs.

(8) **REPORTS.** The director shall annually and at such other times as the board directs, prepare and file budgets and reports relative to the administration of the department.

(9) **INVENTORIES.** On or before July 1 in each year, the director shall cause full and complete inventories and appraisals to be made of all the property of each institution administered by the department, which shall be recorded and so classified as to show separately the amount, kind and value of such property.

(10) **VISITATION.** The director shall cause each of said institutions to be visited and inspected at least once a month to ascertain whether the officers and employes therein are competent and faithful in the discharge of their duties, all inmates properly cared for and governed, all accounts, books and vouchers properly kept, and all the business affairs properly conducted.

(11) **NORTHERN COLONY ANNEX.** (a) The director, as a temporary measure, shall designate and make available for use by July 1, 1951 at least 2 cottages at the Wisconsin child center as an annex to the northern colony and training school for the care of mentally deficient children under the age of 5 years, to be supervised and operated by the division of mental hygiene.

(b) The director shall admit children to the annex in the following order of priority:

1. Mentally retarded children occupying space or utilizing facilities in public hospitals whose primary purpose is other than mental care and treatment.

2. Mentally retarded children occupying space in private hospitals where the cost of care and treatment is shown by the family to be prohibitive because of limited means.

3. Mentally retarded children presently cared for at home to the detriment of the welfare of normal children of the family.

History: 1951 c. 319 s. 231; 1951 c. 396; 1953 c. 96; 1955 c. 204.

46.015 Department divisions. The department shall be organized to include a deputy director and the following divisions: mental hygiene, corrections, children and youth, public assistance, and business management. The director may, with the approval of the board, allocate and reallocate departmental functions and institutions among these divisions.

History: 1951 c. 245.

46.016 Co-operation with federal government. The department may co-operate with the United States in carrying out federal acts concerning public assistance, social security, child welfare and youth services, mental hygiene and corrections, services for the blind, and in other matters of mutual concern pertaining to public welfare.

History: 1951 c. 245.

46.017 Department, actions, seal. The department may sue and be sued. It shall have a seal with the words "State Department of Public Welfare" and such other design as the department prescribes engraved thereon.

46.02 Offices and supplies. The department shall be provided with office rooms in the capitol and with necessary furniture, stationery, blanks, books, periodicals, printing and other supplies.

46.03 Department, powers and duties. The department shall:

(1) **INSTITUTIONS GOVERNED.** Maintain and govern the Mendota and the Winnebago state hospitals, the central state hospital, the Wisconsin state prison, the Wisconsin state reformatory, the Wisconsin home for women, the Wisconsin school for boys, the Wisconsin school for girls, the Wisconsin workshop for the blind, the Wisconsin child center, the northern, central and the southern colonies and training schools and the diagnostic center.

(2) **SUPERVISION OVER PROPERTY.** Supervise, manage, preserve and care for the buildings, grounds and other property pertaining to said institutions, and promote the objects for which they are established.

(2a) **GIFTS.** The department may accept gifts, grants or donations of money or of property from private sources to be administered by the department for the execution

of its functions. All moneys so received shall be paid into the general fund and are appropriated therefrom as provided in s. 20.670 (46).

(3) **TRUSTEE DUTY.** Take and hold in trust (whenever it deems acceptance advantageous) all property transferred to the state to be applied to any specified purpose, use or benefit pertaining to any of the institutions under its control or the inmates thereof, and apply the same in accordance with the trust; and when ordered by the court, act as trustee of funds paid for the support of any child in a proceeding under ss. 52.21 to 52.45.

(4) **EDUCATION AND PREVENTION.** Develop and maintain such programs of education and prevention as it deems proper.

(5) **MENTAL HYGIENE.** (a) Execute the laws relating to the custody, care and treatment of mentally ill, mentally infirm and mentally deficient persons, inebriates and drug addicts. It shall examine all institutions, public and private, authorized to receive and care for such persons, and inquire into the method of government and the management of persons therein, and examine into the condition of buildings, grounds and other property connected with any such institution and into matters relating to its management.

(b) Direct the psychiatric field work, after-care and community supervision and exercise such powers in relation to prevention as the department deems appropriate.

(6) **CORRECTIONS.** (a) Execute the laws relating to the detention, reformation and correction of delinquents.

(b) Supervise the custody and discipline of all prisoners and the maintenance of state penal and correctional institutions and the industries therein.

(c) Administer parole and probation matters.

(d) If requested by the governor, make recommendations as to pardons or commutations of sentence.

(e) Examine all institutions authorized by law to receive and detain witnesses or prisoners or convicted persons and places of juvenile detention, and inquire into their methods and the management of persons therein, and examine the condition of buildings and grounds and other property connected with any such institution and all matters relating to its management.

(f) Direct the after-care of and supervise all delinquents under its jurisdiction and exercise such functions as it deems appropriate for the prevention of crime and delinquency.

(g) Direct the penal and correctional psychiatric service in all correctional and penal institutions, making its services available to those committed to the department as delinquent children or as convicted criminals.

(h) Direct the educational programs in all correctional schools and correctional and penal institutions.

(7) **CHILDREN AND YOUTH.** (a) Promote the enforcement of laws for the protection of mentally deficient, illegitimate, dependent, neglected and delinquent children; and to this end co-operate with juvenile courts and licensed child welfare agencies and institutions (public and private) and take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made.

(b) When notified of the birth or expected birth of an illegitimate child, see to it (through advice and assistance to the mother or independently) that the interests of the child are safeguarded, that steps are taken to establish its paternity and that there is secured for the child (as near as possible) the care, support and education that would be given if legitimate.

(c) Administer the laws relating to child care centers, day nurseries and nursery schools.

(d) Administer the program of youth services as provided in chapter 54. The treatment program provided in sections 54.08 to 54.38 and the treatment and correctional facilities administered by the department for youth, including the Wisconsin school for boys, the Wisconsin school for girls, and the Wisconsin child center, may be allocated to the division for children and youth at the discretion of the board.

(8) **PUBLIC ASSISTANCE.** Administer public assistance, as provided in chapter 49.

(9) **BLIND PERSONS.** Administer the Wisconsin workshop for the blind and perform other functions prescribed in chapter 47.

(10) **TRAINING STAFF.** In its discretion, conduct a training program of in-service training and staff development; and, in co-operation with educational institutions, provide facilities for work experience for students, including subsistence.

(13) **CHARGES.** In compliance with the provisions of the compensation plan established pursuant to s. 16.105 (4) have authority to make and determine charges for meals, living quarters, laundry and other services furnished to employes of the several institutions and members of the employe's family maintained as such. All moneys received

from each and every person for or on account of such services shall be paid within one week after receipt into the general fund and shall be credited to the appropriation provided for this purpose by ch. 20.

(14) **VENDING STANDS.** Pursuant to rules adopted under section 46.014 (3) establish and maintain a revolving fund not exceeding \$10,000 in any of the state institutions administered by the department, for the education, recreation and convenience of the patients, inmates and employes, to be used for the operation of vending stands, reading clubs, musical organizations, religious programs, athletics and similar projects. Such funds are exempt from ss. 20.950 and 20.951, but are subject to audit by the state department of public welfare and the department of state audit in its discretion. This provision is retroactive.

(15) **COMMISSARY.** Pursuant to rules and regulations adopted under section 46.014 (3) the department may, with the approval of the governor and the director of personnel, provide employes in its institutions with laundry, food, housing and necessary furnishings.

(16) **EVACUATION UPON ATTACK.** Plan and provide for the evacuation of inmates of charitable and penal institutions in the case of mass evacuation due to enemy attack and for the mass care of evacuees in public and private facilities and for payment for the use of facilities and supplies.

History: 1951 c. 245, 448, 641; 1953 c. 31, 251, 385; 1955 c. 377, 457, 575.

The state department of public welfare without further legislative action. 40 Atty. Gen. 422.
has no authority to remove the Wisconsin school for boys from its established site See note to 14.68, citing 42 Atty. Gen. 39.

46.04 Diagnostic center; establishment; purposes. (1) There shall be constructed near the Wisconsin general hospital a hospital type building to be known as the "Wisconsin Diagnostic Center" which shall be equipped and serviced for the temporary residence and diagnosis of persons committed to the services or institutions under the jurisdiction of the state department of public welfare, except that those patients committed to the Mendota state hospital and the Winnebago state hospital may be transferred to the diagnostic center only upon recommendation of the superintendent of such hospital and approval of the department director. The department director may also authorize the center to receive any minor for precommitment study upon request of the judge of any juvenile court in which a case is pending. The diagnostic center and its services shall be administered by the state department of public welfare and shall be staffed in its diagnostic services by professionally qualified persons appointed from the teaching staff of the medical school of the university by the dean of the medical school of the university.

(2) The diagnostic center shall be so administered as to furnish a complete physical and mental inventory of an individual committed to the care and custody of the department of public welfare upon referral by the director, thereby assuring placement in the institution best suited to care for the particular case, development of the most effective curative or rehabilitative procedures in such case, and the most effective co-ordination of all the institutional facilities provided by the state. For the purposes of co-ordination between the department of public welfare and the medical school of the university an administrative committee is created to be composed of the president of the university, the chairman of the state board of public welfare, the dean of the medical school, and the director of public welfare.

(3) Liability of a patient or relative under s. 46.10 for care and maintenance at the diagnostic center shall be at the same rate as charged for the institution from which the patient was transferred, and any collections shall be prorated with the county of legal settlement based on such rate. When a patient is transferred directly from the diagnostic center to the Wisconsin general hospital the provisions of s. 46.115 shall apply.

History: 1955 c. 244.

Personnel employed for purpose of administering diagnostic center may be placed on pay roll of department. Professional personnel are appointed by the dean of the medical school from his staff without regard to the provisions of ch. 16. Psychologist, unless he qualifies by training so as to be considered "exceptional medical personnel," cannot be paid from appropriation made by 20.17 (1r), but may be paid under 20.17 (1) (a). 40 Atty. Gen. 14.

46.045 Camp Hayward. The department may establish and operate an institution for indigent male persons to be known as Camp Hayward and located on the Hayward Indian School property acquired or to be acquired from the federal government. The department shall prescribe rules and regulations for admission to and for administration of such camp. The administration of said camp shall be allocated to the division of public assistance.

46.046 Acceptance of certain federal lands. The state department of public welfare, with the approval of the governor, is authorized to accept for the state at all times any lands, buildings, equipment, and other appurtenances thereto, that have now or here-

after may be transferred to the state by virtue of an act of congress, S. 2984, (Public No. 651, 76th Congress) approved June 24, 1940, and to co-operate in carrying out the provisions thereunder. (The state transient camp at Hayward now occupies a part of this property).

46.047 Purchase of lands for medium security prison. The state department of public welfare, with the approval of the governor, is authorized to purchase approximately 150 acres of farm lands adjoining the south boundary of the present property line of the central state hospital or other suitable buildings and lands near the Wisconsin state prison, such lands to be used for the establishment and development (including the construction of buildings) of a medium security prison to be a part of the Wisconsin state prison. The money to be expended for the purchase of such farm lands shall be charged to the revolving appropriation in s. 20.670 (64) of the statutes.

History: 1951 c. 533.

46.048 Central Wisconsin colony and training school. There is established a new institution to be located near the city of Madison and to be known as the central Wisconsin colony and training school. The state department of public welfare, with the approval of the governor, is authorized to purchase lands for a suitable site and to erect and equip such buildings as it deems necessary from funds appropriated for the long-range building program. Such institution when constructed shall be maintained and operated by the department and all laws pertaining to the care of mentally deficient patients shall apply.

History: 1953 c. 385; 1955 c. 457.

46.05 Bonds of employes; police powers; investigation of complaints. (1) The steward of each institution shall execute and file an official bond in such sum and with such sureties as the director prescribes. He shall also require any other officer or other person having the possession or custody of any money or property belonging to the state or any institution under its control or supervision to give an official bond, and from time to time renew the same. The director may require a position bond whenever it appears to him advisable, such position bond to have the same coverage as the official bond.

(2) The warden and the superintendent of all the state charitable, curative, penal and reformatory institutions and of county hospitals and county homes, and such employes under them to whom they delegate police power, may arrest any person within or upon the grounds of such institutions whom they have reason to believe guilty of any offense against the laws or regulations governing the same; may arrest any vagrant or idle person who refuses to leave any such premises; and may take the offender before a magistrate and make complaint against him; and for such purpose they shall possess the powers of constables.

(3) The department shall investigate complaints against any institution under its jurisdiction or against the officers or employes thereof. For that purpose the director and such officers and employes as he authorizes may summon and swear witnesses, take testimony and compel the production of books and papers. The department may, on its own initiative, investigate the affairs of any institution. Any written communication or complaint addressed to the director or the board or any of its members by any inmate, employe or subordinate of any such institution shall be forthwith forwarded unopened to the addressee.

46.06 Lands; condemnation, easements, leases. (1) **CONDEMNATION.** When the department is authorized and desires to acquire land and is unable to agree with the owner upon the terms of purchase, or when such agreement cannot be had without unreasonable delay, the department may condemn the land in the manner prescribed in chapter 32.

(2) **EASEMENTS.** The department may grant easements for the extension of municipal and public utilities onto the lands of the institutions under its jurisdiction, for the purpose of connecting railroads, roads, waterworks, sewers, electric lines and similar facilities, to serve such institutions.

(3) **LEASES.** The department may rent additional lands for the operation of the institutions under its jurisdiction.

46.064 Allowances to inmates. The department may allow as pay to inmates at its institutions not to exceed 10 cents per day and not to exceed 50 cents per calendar week for employment to be paid from the appropriation made by s. 20.670 (31). The department shall prescribe the amount of pay and such reasonable hours, health and other conditions as shall be observed in connection with the employment. The provisions of this section shall not affect any other statutory provision providing for pay to inmates nor shall these provisions act as a limitation on wages paid inmates at the Wisconsin state prison.

History: 1951 c. 451; 1955 c. 385.

46.065 Wages to prisoners; forfeit. The department may provide for assistance of prisoners on their discharge, or for the support of their families while in confinement by the allowance of moderate wages, to be paid from the operation appropriation of the institution in which they are confined. Until the prisoner's final discharge, the funds arising therefrom shall be under the control of the officer in charge of the institution and shall be used for the benefit of the prisoner and his family. Should any prisoner become a fugitive from justice, he thereby forfeits all earnings credited to his account. If he has dependents, the forfeited earnings shall, in the discretion of the department, go to the dependents.

46.066 Freedom of worship; religious ministrations. (1) Subject to reasonable exercise of the privilege, clergymen of all religious faiths shall be given an opportunity to conduct religious services within the state institutions at least once each week, attendance at such services to be voluntary.

(2) Religious ministrations and sacraments according to his faith shall be allowed to every inmate who requests them.

(3) Every inmate who requests it shall have the use of the Bible.

46.07 Property of inmates and probationers; deposit and distribution. (1) PROPERTY DELIVERED TO STEWARD; CREDIT AND DEBIT. All money and other property delivered to an officer or employe of any institution for the benefit of an inmate shall forthwith be delivered to the steward, who shall enter the same upon his books to the credit of the inmate. Such property shall be used only under the direction and with the approval of the superintendent or warden and for the benefit of the inmate. If the money remains uncalled for for one year after his death or departure from the institution, the superintendent shall deposit the same in the general fund. If any inmate leaves property (other than money) uncalled for at an institution for one year, the superintendent shall sell the property, and the proceeds shall be deposited in the general fund. If any person satisfies the department, within 5 years after such deposit, of his right to the deposit, the department shall direct the director of budget and accounts to draw his warrant in favor of the claimant and he shall charge the same to the appropriation made by s. 20.555 (50). This section shall not apply to earnings credited to prisoners under s. 46.065.

(2) PROPERTY DELIVERED TO OFFICER OR EMPLOYEE. (a) All money or other property paid or delivered to a probation officer or employe of the department by or for the benefit of any person on probation or parole shall be immediately transmitted to the department and it shall enter the same upon its books to his credit. Such property shall be used only under the direction of the department.

(b) If he absconds, the money shall be credited to the revolving fund created by section 57.075; and other property if not called for within one year shall be sold by the department and the proceeds shall be credited to said fund.

(c) If any person, within 5 years after such crediting of funds, satisfies the department that he is entitled thereto, the department shall certify the amount thereof to the director of budget and accounts for payment to the claimant from the appropriation made by s. 20.670 (44).

46.08 Audits and estimates of expenditures of institutions. Each month the superintendent of each institution shall prepare and file in duplicate with the department a detailed estimate of the expenditures which will be necessary for each institution during the next month. No liability shall be incurred without such estimate being first made and approved by the department. The department shall fix a time, as often as once in each month, for auditing all accounts and charges against institutions.

46.09 Purchases, bills, audits, payments. (1) STEWARD AS BUSINESS MANAGER. The steward of each institution shall be the local business manager and requisitioning officer, subject to the direction and the rules and regulations of the department, and within the limits of the approved monthly estimates shall purchase (as provided in sections 15.54 to 15.67) all necessary materials and supplies. He shall have the immediate charge of all books, accounts, papers and records relating to its financial management, shall keep detailed accounts of all receipts and expenditures, and shall be responsible for the safekeeping and economical use of all stores and supplies.

(2) BUTTER AND CHEESE. No butter or cheese not made wholly and directly from pure milk or cream, salt and harmless coloring matter shall be used in any of the institutions of the state.

(3) PUBLIC WELFARE INSTITUTIONS PRE-AUDIT; PAYMENTS. Unless otherwise provided by law, no bills shall be incurred in the management of such institutions nor be paid until they have been audited by the public welfare department under the supervision of the department of budget and accounts. All payments shall be made on the

warrant of the director of budget and accounts drawn in accordance with the certificate of the proper designated officer of the public welfare department. All claims and accounts before being certified to the director of budget and accounts by the aforesaid department, shall be verified and approved in the same manner as provided in section 36.10 (2).

46.10 Maintenance of inmates, liability; collection and deportation counsel; collections; court action; recovery. (1) Liability for the maintenance of patients in the institutions specified in this section and the collection and enforcement of such liability is governed exclusively by this section.

(2) Any patient in any charitable or curative institution of the state including the Wisconsin general hospital or of any county or municipality, in which the state is chargeable with all or a part of the patient's maintenance, except tuberculosis patients mentioned in ch. 50 and ss. 51.27 and 58.06 (2), or heretofore or hereafter committed or admitted to any such institution, and his property and estate, including his homestead, or the husband or wife of such patient and their property or estates, including their homesteads, and in the case of a minor child the father or mother of the patient, and their property and estates, including their homesteads, shall be liable for such patient's maintenance not exceeding the actual per capita cost thereof, except as provided in s. 51.22 (2m), and the department may bring action for the enforcement of such liability, except that when it shall be shown that a husband, wife, widow or minors, or an incapacitated person may be lawfully dependent upon such property for their support, the court shall give due regard to this fact and release all or such part of the property and estate from such charge that may be necessary to provide for such persons. The department shall make every reasonable effort to notify the relatives liable as soon as possible after the beginning of the maintenance but such notice or the receipt thereof is not a condition of liability of the relative.

(3) After investigation of the ability to pay of the patient or relative liable for such maintenance, the department shall make collection from the patient or the person who in the opinion of the department under all of the circumstances is best able to pay, giving due regard to relationship and the present needs of the person or of his lawful dependents. However, the liability of relatives for maintenance shall be in the following order: first, the husband or wife of the patient; then, in the case of a minor, the father, and lastly the mother.

(4) Upon the failure of any relative liable for maintenance to make payment or enter into or comply with an agreement for payment, the department may apply to the county court of the county in which the patient resides or has a legal settlement or in which such relative resides for an order to compel payment by such relative. Upon failure to comply with that order, the department may commence an action to recover the amount due.

(5) Upon such application the county court shall hear the allegations and proofs of the parties and shall by order require payment of maintenance by the relative liable therefor, if of sufficient ability, having due regard to the present needs of himself and his lawful dependents. The order shall specify an amount for maintenance to be paid periodically during a specified period or until the further order of the court. Notice of hearing on the application shall be served upon such relative at least 10 days prior to the hearing in the manner of service of a summons in the circuit court. Upon application of any interested party, and upon like notice and procedure, the county court may modify such order. Any party aggrieved by such order or by the judgment of the court may appeal therefrom in the manner provided by law. If an appeal is taken by the department, an undertaking need not be filed.

(6) The per capita cost of maintenance shall be computed by the department. The sworn statement of the superintendent of the institution in which such patient is or was maintained, or of the collection and deportation counsel, or of the director, shall be evidence of such cost, and of the time spent by the patient in the institution.

(7) The department shall administer and enforce this section. It shall appoint an attorney to be designated "collection and deportation counsel" and other necessary assistants. The department may delegate to such counsel such other powers and duties as it deems advisable. He or any of his assistants may administer oaths, take affidavits and testimony, examine public records, subpoena witnesses and the production of books, papers, records, and documents material to any matter of proceeding relating to payments for the cost of maintenance. The department shall encourage agreements or settlements with the patient or the relative liable for his maintenance, having due regard to ability to pay and the present needs of lawful dependents.

(8) The department may:

(a) Appear for the state in any and all collection and deportation matters arising in the several courts, and may commence suit in the name of the department to recover the cost of maintenance against the person liable therefor.

(b) Determine whether any patients are subject to deportation; and on behalf of this state enter into reciprocal agreements with other states for deportation and importation of persons who are public charges, upon such terms as will protect the state's interests and promote mutual amicable relations with other states.

(c) From time to time investigate the financial condition and needs of such patients and of the relatives liable for their maintenance, their ability to presently maintain themselves, the persons legally dependent upon them for support, the protection of the property and investments of patients and relatives from which they derive their living and their care and protection, for the purpose of ascertaining the ability of any patient or of any such relative to make payment in whole or in part for the maintenance of such patients.

(d) After due regard to the case and to a wife, husband and minor children who are lawfully dependent on the property for support, compromise or waive the whole or any portion of any claim which the state and county may have for cost of maintenance.

(e) Make agreements with relatives liable therefor, or who may be willing to assume the cost of maintenance of any patient, providing for the payment of such costs at a specified rate or amount.

(f) Make adjustment and settlement with the several counties for their proper share of all moneys collected.

(9) Any person who wilfully testifies falsely as to any material matter in an investigation or proceeding under this section shall be guilty of perjury. Banks, insurance companies, savings and loan associations, brokers and fiduciaries, upon request of the department, shall furnish in writing and duly certified, full information regarding the property, earnings or income or any funds deposited to the credit of or owing to such patient or any person legally responsible for the maintenance of such patient. Such certified statement shall be admissible in evidence in any action or proceeding to compel payment for the maintenance of such patient, and shall be evidence of the facts therein stated, provided a copy of such statement be served upon the party sought to be charged not less than 3 days before the hearing.

(10) The department shall make all reasonable and proper efforts to collect all claims for maintenance, to keep payments current, and to periodically review all unpaid claims.

(11) In any action to recover maintenance, the statute of limitations may be pleaded in defense.

(12) The district attorney or his assistants in counties having a population of 500,000 or more shall, in matters pertaining to the recovery of the cost of maintenance of inmates in county and state institutions having a legal settlement in such county, have the same authority as granted in this section to the state department of public welfare.

(13) This section does not impair any rights or liability existing prior to the effective date of this section.

History: 1951 c. 507; 1953 c. 514; 1955 c. 305.

A husband has no common-law obligation to support a wife committed to a state institution for the insane; his statutory liability in such case is not governed by 247.095, relating to actions to compel support by husbands, but is governed by 46.10 (2), (3), making the husband conditionally liable to the state for the cost of the wife's maintenance in a state institution, but not imposing liability by the husband to his wife or to any other party; hence, the husband is not liable over to the wife's separate estate for amounts which her guardian has paid to the state as the result of collection proceedings brought by the state under 46.10. *Steffenson v. Steffenson*, 259 W 51, 47 NW (2d) 445.

There is no liability on the father of a mentally deficient minor child for the maintenance of such child in a public institution, except as such liability flows from this sec-

tion. Parents become liable for the maintenance of a minor child in a public institution for the mentally deficient as soon as and from the time when the child enters the institution, if committed after July 30, 1943. [The question of liability for maintenance furnished prior to that date is not passed on.] The state did not waive its claim against a father for the cost of maintenance and hospitalization of a mentally deficient minor child in a public institution from July 31, 1943, by failing to commence proceedings therefor in the county court until 8 years after such date. *Derouin v. State Dept. of Public Welfare*, 262 W 559, 55 NW (2d) 871.

Parents are liable for care of children in the Wisconsin child center only if made so by some express statutory provision, or by judgment or agreement entered pursuant to statute. 39 Atty. Gen. 470.

46.105 Wisconsin general hospital accounts; collection. The department shall make all reasonable and proper efforts, including court actions, to collect all delinquent special rate or pay accounts at the Wisconsin general hospital. All moneys collected shall be deposited weekly with the state treasurer who shall credit 15 per cent thereof to the appropriation made by s. 20.670 (41), and the balance thereof to the appropriation made by s. 20.830 (61).

History: 1955 c. 385.

46.106 Maintenance of inmates; settlements between state and counties. (1) When a person is committed or admitted to a charitable, curative, reformatory or penal institution of the state or of a county (except tuberculosis patients provided for in ch. 50 and ss. 51.27 and 58.06 (2)) the committing or admitting court or board shall determine

his legal settlement pursuant to s. 49.10, and certify the same to the superintendent of the institution and to the county clerk of the county of legal settlement. The county of his legal settlement shall be charged with his support as provided by law. If it is found that he does not have a legal settlement in the state, the state shall be charged with his support, and the court or board shall submit a transcript of the testimony taken with respect to legal settlement to the department. Nothing shall prevent a recovery of the actual per capita cost of such maintenance by the department or by the county in counties having a population of 500,000 or more, or prohibit the acceptance by the department of payment of the cost of maintenance, or a part thereof, by such person or anyone in his behalf.

(2) STATEMENT OF COUNTY LIABILITY. On July 1 in each year the department shall prepare a statement of the amounts due from the several counties to the state for the maintenance, care and treatment of inmates at public charge in state and county charitable, curative, reformatory and penal institutions for the preceding fiscal year and shall give the name of every inmate in each state institution whose support is partly chargeable to some county, and the name of every inmate in each county institution whose support is wholly chargeable in the first instance to the state and partly chargeable over to some county; and the legal settlement of each inmate, the number of weeks for which support is charged, the amount due the county for maintenance, and the amount due to the state from the county, itemized as to board, clothing, dental, burial, surgical and transfer. The department shall file such statement with the director of budget and accounts, and mail a duplicate to the clerk of each county charged. Thereupon the director shall charge to the several counties the amounts so due, which amounts shall be certified by the secretary of state, upon information certified to him by the director, and levied, collected and paid into the state treasury as a special charge, at the same time as the state taxes. The amount so paid into the state treasury on account of care of patients in county hospitals shall be apportioned and paid to the counties to which it is due, from time to time, in the proportion that the total collections from all counties for the care of such patients bear to the total charges against all counties for such care. The director of budget and accounts shall make the first apportionment and payment on April 1, in each year, covering collections to and including March 22. The collections made after March 22 and through August 20 shall be apportioned and paid on September 1 following, and the final payment shall be made on December 1.

(3) STATEMENT OF COUNTY CLAIMS. On July 1 in each year the officer in charge of each county charitable, curative, reformatory and penal institution shall prepare a statement of the amount due from the state to the county for the maintenance, care and treatment of inmates at public charge on forms supplied by the department. Such statement shall cover the preceding fiscal year and shall give the name of each inmate whose support is partly or wholly chargeable to the state; and his legal settlement, the number of weeks for which support is charged and the amount due to the county from the state, itemized as to board, clothing, dental, burial, surgical and transfer. Said statement shall be verified by the officer making it and certified by the trustees of the institution to the department, and a duplicate thereof shall be forwarded to the county clerk. The department shall credit the county with the amount due the county for any recovery of maintenance and shall certify said statement to the director of budget and accounts, who shall pay the aggregate amount found due each county as provided in subsection (2).

(4) RELIEF FROM ERRONEOUS CHARGES TO COUNTY OR STATE. When the state or a county feels that the cost of the care of an inmate or patient is improperly charged to it, the matter may be determined by the department after a hearing. The department may on its own motion order a hearing if the charge is against the state. If it is against a county the district attorney for the county may apply in writing to the department for a hearing. The application shall designate the county to which the inmate is chargeable, or if it be claimed that he is chargeable to the state, it shall so state. The department shall give reasonable notice to the parties interested of the time and place they may be heard. The application may be supported by affidavits and other proper evidence. If upon the hearing the department grants the relief asked for, it shall order a proper charge against the county chargeable, or against the state; and the inmate's support shall be charged accordingly.

(5) REVIEW UNDER CHAPTER 227. The order of the department shall be subject to review as provided in chapter 227. Upon entry of final judgment the department shall make the proper charge or credit or both and certify the same to the director of budget and accounts.

(6) CORRECTION OF ERRONEOUS CHARGES. Any error in the accounts between the state and a county for the support of any inmate in any such institution, or in the amount certified to a county as due and to be assessed upon it on account of such support, when cer-

tified by the department, shall be corrected by the director of budget and accounts by a proper charge or credit or both on the next state tax.

History: 1953 c. 270; 1955 c. 506.

The collection and deportation counsel may be authorized by the department of public welfare under (1), to receive and distribute moneys received for the care of children housed in the Wisconsin child center or placed in foster homes by the staff of such institution, 39 Atty. Gen. 470.

(1), to collect from the county of legal settlement for the maintenance of persons sentenced to its county jail. 44 Atty. Gen. 87.

Failure to furnish the certification or transcript required by (1) does not prevent the county of legal settlement from being liable for institutional charges. 44 Atty. Gen. 87.

A county does not have a right, under

46.11 Transfer of inmates. (1) When an inmate of a state or county institution is lawfully moved from one institution to another by the department, the superintendent of the institution from which he is removed shall notify the committing court of the removal.

(2) The department may designate in the removal order a person to make the transfer. The person designated shall receive no compensation, but shall be paid his necessary traveling expenses and those of the inmate and of any necessary assistant, to be adjusted by the department and charged to the current expense fund of the institution from which the removal is made as part of the inmate's maintenance costs. This amendment (1947) shall be effective as of July 1, 1946.

History: 1955 c. 506.

46.115 Sick inmates; transfer to state hospital; treatment. (1) The department shall apply to the board of regents of the university for the admission to the Wisconsin general hospital of any inmate of any state institution under the department, or of any person committed to or applying for admission thereto, or of any other person committed to the department, who is afflicted with any deformity or ailment, which can probably be remedied, or which can be advantageously treated at such hospital, if he cannot receive proper care at the institution to which he has been committed or to which he has applied for admission. The application shall be accompanied by the report of the physician of such institution or of a physician appointed by the department, in the same form as reports of physicians for the admission of patients to the hospital.

(2) The cost of treatment shall be at the rate charged the county for county patients, and shall be chargeable one-half to the institution and one-half to the state. The department may pay out of such operation fund to the institution the necessary traveling expenses, including the expenses for an attendant when needed. Payments for the treatment of such patients are to be made by the department to the university for the portion chargeable to the operation fund of the institution; and the portion chargeable to the state shall be certified and paid as provided in section 142.08 (1).

This section applies to parolees from state penal institutions, and to those persons committed to the department of public welfare who are entitled to maintenance at public cost. It does not apply to persons placed on probation to the department. 42 Atty. Gen. 202.

46.12 Sterilization of defectives. (1) The department may appoint a surgeon and a psychiatrist, of recognized ability, as experts, who (in conjunction with the superintendents of the state and county institutions who have charge of criminal, mentally ill and mentally deficient persons) shall examine inmates and patients of such institutions as to their mental and physical condition.

(2) The department may submit to the experts and to the superintendent the name of inmates or patients they desire examined, and the experts and the superintendent shall meet, take evidence and examine into the mental and physical condition of the named inmates or patients and report thereon to the department.

(3) If the experts and superintendent unanimously find that procreation is inadvisable the department may authorize an operation for the prevention of procreation.

(4) Before such operation, the department shall give at least 30 days' notice in writing to the husband or wife, parent or guardian of the inmate or patient, if known, and if unknown, to the person with whom such inmate or patient last resided.

(5) The experts shall receive as compensation \$10 per day and expenses for the days consumed in the performance of their duties.

(6) The record made upon the examination shall be filed in the department; and semiannually after the operation, the superintendent of the institution where such inmate or patient is confined shall report to the department his condition.

(7) The department shall state in its biennial report the number of operations performed under this section and the result of the operations.

History: 1955 c. 457, 534.

46.13 Wassermann tests. The department may arrange with the state laboratory of hygiene to secure the Wassermann test for any person confined in any state or county institution.

History: 1953 c. 54.

46.14 Reports of state institutions. (1) **MONTHLY.** The officer in charge of each state institution under the control of the department shall report monthly to the department, an itemized statement of all receipts and disbursements, and of the daily number of inmates, officers, teachers and employes, and of the wages paid to each.

(2) **BIENNIAL.** On July 1 in each even-numbered year such officer shall report to the department, covering the preceding biennial fiscal term, a summarized statement of the management of every department of the institution and of all receipts and disbursements, and such other information as may be required by the department.

46.15 Biennial report of department to governor. On or before December 1 in each even-numbered year the department shall report to the governor its proceedings during the preceding biennial fiscal term, with such recommendations as it deems fit respecting the subjects in its charge or under its supervision; and a financial statement of its operations; a summary of the results of its visits, inspections and investigations and of all statistical information collected by it, properly tabulated; and a concise statement showing the condition of said institution.

46.16 General supervision and inspection by department. (1) **GENERALLY.** The department shall investigate and supervise all the charitable, curative, reformatory and penal institutions, including county infirmaries of every county and municipality (except tuberculosis sanatoriums); all detention homes for children and all industrial schools, hospitals, asylums and institutions, organized for the purpose set forth in section 58.01, and familiarize itself with all the circumstances affecting their management and usefulness.

(2) **CHILD WELFARE AGENCIES; FOSTER HOMES; CHILD CARE CENTERS; DAY NURSERIES; NURSERY SCHOOLS.** It may license and revoke licenses of and exercise supervision over all child welfare agencies and the placement of children in foster homes, and grant permits to foster homes, child care centers, day nurseries and nursery schools. In the discharge of this duty it may inspect the records of child welfare agencies, child care centers, day nurseries, nursery schools and visit all institutions conducted by them and all foster homes in which children are placed.

(3) **COUNTY HOMES, POOR RELIEF.** It shall visit the county homes and ascertain the number of each sex and the number of mentally ill, mentally deficient, deaf or blind persons, and children supported in each, at what cost and under what circumstances affecting their health, comfort, morals and education; collect statistics of the cost of support, and other important facts, of the poor relieved at public expense outside of county homes; and collect information as to the adequacy and efficiency of existing laws for the support and relief of the poor, and the causes of pauperism in the state.

(4) **PRISONS.** It shall visit all places in which persons convicted or suspected of crime or mentally ill persons are confined, and ascertain their arrangement for the separation of the hardened criminals from juvenile offenders and persons suspected of crime or detained as witnesses; collect statistics concerning the inmates, their treatment, employment and reformation; and collect information of other facts and considerations affecting the increase or decrease of crime and mental illness.

(5) **INSPECTIONS.** It shall inquire into the methods of treatment, instruction, government and management of inmates of the institutions mentioned in this section; the conduct of their trustees, managers, directors, superintendents and other officers and employes; the condition of the buildings, grounds and all other property pertaining to said institutions, and all other matters pertaining to their usefulness and management; and recommend to the officers in charge such changes and additional provisions as it deems proper.

(6) **FREQUENCY OF INSPECTIONS.** It shall inspect and investigate each institution annually, or oftener; and, when directed by the governor, it shall make special investigation into its management, or anything connected therewith, and report to him the testimony taken, the facts found and conclusions thereon.

(7) **ENFORCEMENT BY ATTORNEY GENERAL AND DISTRICT ATTORNEYS.** Upon request of the department, the attorney general or the district attorney of the proper county shall aid in any investigation, inspection, hearing or trial had under the provisions of this chapter, or those sections of ch. 48 relating to powers of the department, and shall institute and prosecute all necessary actions or proceedings for the enforcement of such provisions and for the punishment of violations of the same. The attorney general or district

attorney so requested shall report or confer with the department regarding the request, within 30 days after the receipt of such request.

(8) **OPPORTUNITY TO INSPECT.** All trustees, managers, directors, superintendents and other officers or employes of such institutions shall at all times afford to every member of the department and its agents, unrestrained facility for inspection of and free access to all parts of the buildings and grounds and to all books and papers of such institutions; and shall give, either verbally or in writing, such information as the department requires; and if any person offends against this requirement he shall forfeit not less than \$10 nor more than \$100.

(9) **TESTIMONIAL POWER; EXPENSES.** The director or any person delegated by him may administer oaths and take testimony; and may cause depositions to be taken. All expenses of the investigations, including fees of officers and witnesses, shall be charged to the appropriation for the department.

(10) **STATISTICS TO BE FURNISHED.** Wherever the department is required to collect statistics, the person or agency shall furnish the required statistics on request.

History: 1951 c. 724; 1953 c. 69.

46.17 County buildings; establishment, approval, inspection. (1) The department shall fix reasonable standards and regulations for the design, construction, repair and maintenance of county homes, county infirmaries, county hospitals, houses of correction, workhouses, reforestation camps maintained under s. 56.07, jails and lockups, and juvenile detention homes, with respect to their adequacy and fitness for the needs which they are to serve.

(2) The selection and purchase of the site, and the plans, specifications and erection of buildings for such institutions shall be subject to the approval of the department.

(3) Before any such building is occupied, and semiannually thereafter, the department shall inspect it with respect to safety, sanitation, adequacy and fitness, and report to the authorities conducting the institution any deficiency found, and order the necessary work to correct it or a new building. If within 6 months thereafter such work is not commenced, or not completed within a reasonable period thereafter, to the satisfaction of the department, it shall suspend the allowance of state aid for, and prohibit the use of such building until said order is complied with.

History: 1951 c. 242, 724; 1953 c. 61.

See note to 49.14, citing 43 Atty. Gen. 338.

46.18 Trustees of county institutions. (1) **TRUSTEES.** Every county home, infirmary, hospital, tuberculosis hospital or sanatorium, or similar institution, house of correction or workhouse, established by any county whose population is less than 500,000, shall (subject to regulations approved by the county board) be managed by 3 trustees, electors of the county, elected by ballot by the county board. Six months before completion of the buildings for any such institution the county board shall elect 3 trustees whose terms shall begin at once and end, respectively, on the first Monday of the second, third and fourth January next thereafter. At its annual meeting in every subsequent year (and prior to January next) the county board shall elect one trustee for a term of 3 years to begin on the first Monday of January next thereafter. Any vacancy shall be filled for the unexpired term by the county board; but the county chairman may appoint a trustee to fill such vacancy until the county board acts.

(2) **ELIGIBILITY.** No member of the county board shall serve as a trustee during the term for which he was elected. No trustee shall have any other lucrative office or employment in the county government; nor be eligible, during the term for which he was elected, to the office of superintendent of the institution in his charge with the exception of a pension and relief board member.

(3) **REMOVAL OF TRUSTEE.** Any trustee may be removed from office for misconduct or neglect, by a two-thirds vote of the county board, on due notice in writing and hearing of the charges against him.

(4) **OATH OF OFFICE, BOND, EXPENSES, PAY.** Each trustee shall take and file the official oath and execute and file an official bond to the county, in the amount determined by the county board, and the sufficiency of the sureties shall be approved by the chairman of the board. Each trustee shall be reimbursed his traveling expenses necessarily incurred in the discharge of his duties, and shall receive the compensation fixed by the county board, unless otherwise provided by law.

(5) **OFFICERS.** The trustees shall elect a president. The superintendent of the institution shall be ex officio secretary.

(6) **MONTHLY AUDIT; SUITS.** At least once each month the trustees shall audit all claims against the county incurred on behalf of said institutions, when presented to them

verified under oath by the claimant or his agent and, when allowed, the president and secretary shall certify such claims to the county clerk who shall thereupon issue county orders for their payment. The trustees may sue and defend in the name of the county any cause for action involving the interest of said institution and may employ counsel for that purpose. All receipts on account of said institutions shall be paid into the county treasury within one week after receipt.

(7) FISCAL YEAR. The fiscal year of each institution shall commence July 1 and end June 30 of the following year.

(8) BOOKKEEPING. The department shall formulate a system of keeping the books, accounts and records, and shall furnish blanks for reports, and reports shall be made accordingly.

(9) REPORTS; ACCOUNTS. The trustees shall install a system of accounting and reporting, under the supervision of the department, and shall conduct its business in conformity therewith; and the department may from time to time audit the books, records, documents, accounts and transactions of each institution.

(10) ANNUAL REPORT. On July 1 of each year the trustees shall prepare a report for the preceding fiscal year and shall transmit a copy to the department, a copy to the county clerk, and keep a copy on file at the institution. Such report shall be accompanied by an inventory of all properties on hand on the last day of the fiscal year, an estimate of the receipts and expenditures for the current fiscal year, and the reports of the superintendent and visiting physician, of the institution.

(11) COUNTY APPROPRIATION. The county board shall annually appropriate for operation and maintenance of each such institution not less than the amount of state aid estimated by the trustees to accrue to said institution; or such lesser sum as may be estimated by the trustees to be necessary for operation and maintenance.

(12) EX OFFICIO DUTIES. The county board may provide that the trustees of any institution shall be the trustees of any other institution. The county board may provide that the county park commission be, ex officio, the trustees of the county workhouse.

(13) BUILDING RESERVE FUND. The county board shall maintain as a segregated cash reserve the 2 per cent charge authorized by section 15.22 (12) (j). It may from time to time appropriate from such reserve sums to be expended solely for the enlargement, modernization or replacement of such infirmary and its equipment.

History: 1951 c. 724.

The management of a county hospital by the trustees is subject to the regulation of the county board. A rule of that board giving the supervision of repairs of county institutions to an institution committee of the board gives that committee the right to let contracts for repairs caused by wind damage. 39 Atty. Gen. 330.

If a farm is maintained in connection with a county hospital under 46.18 and 46.19, the county board may not remove the farm from the jurisdiction of the superintendent of the hospital or from the application of statutory provisions governing operation of the hospital. 41 Atty. Gen. 162.

Trustees of the tuberculosis sanatorium may not care for non-tuberculous aged patients on a per capita cost basis, nor rent the portion of the building occupied by such aged persons to the trustees of the county home for the aged. 43 Atty. Gen. 338.

Under (1), if a portion of a county tuberculosis sanatorium is to be used as a unit of the county home for the aged, the county board must transfer jurisdiction for that portion and equipment from the trustees for the sanatorium to the trustees for the home for the aged. 43 Atty. Gen. 338.

46.19 Officers and employes of county institutions. (1) The trustees shall appoint a superintendent of each institution and may remove him at pleasure.

(2) The trustees shall prescribe the duties of the superintendent. He shall execute and file an official bond with sureties approved by the trustees.

(3) Subject to the approval of the trustees, the superintendent shall appoint and prescribe the duties of necessary additional officers and employes of the institution, and may remove them at his discretion, subject to the county civil service law.

(4) The salaries of the superintendent, visiting physician and all necessary additional officers and employes shall be fixed by the county board.

See note to Art. VI, sec. 4, citing 39 Atty. Gen. 543.

46.20 Joint county institutions. (1) Any 2 or more counties may jointly, by majority vote of all the members of each county board, provide for a county home, infirmary, hospital, tuberculosis hospital or sanatorium, or similar institution, house of correction or workhouse or juvenile detention home, which shall be established, maintained and operated pursuant to all the statutes relating to the establishment, maintenance and operation of similar institutions, respectively, by any single county whose population is less than 250,000, except as otherwise provided in this section; and in all respects, except as herein specified, each such institution shall be the county institution of each of the counties so joining.

(2) The county board of each such county shall elect 3 of its members to represent the county in a joint committee to select the site, anywhere within either of said counties,

and prepare the plans and specifications of the buildings, for such institution; and said joint committee shall be vested with all functions, relative to the establishment of such institution, possessed by the county board relative to like county institutions.

(3) Upon approval of the site, plans and specifications, as provided in section 50.06 as to tuberculosis sanatoriums and section 46.17, as to other institutions the joint committee shall report to the several county boards the estimated cost of said site and buildings, and the amount thereof chargeable to each county on the basis set forth in paragraph (a) of subsection (6), appending to each report a copy of the plans and specifications and all matter relating to said site and buildings; and if the said report shall be approved by each county board, the joint committee shall purchase said site and cause said buildings to be erected in accordance with the plans and specifications.

(4) The functions of the joint committee shall terminate upon completion of said buildings; and the board of trustees thereupon elected shall be composed of 2 electors from each county when 2 counties join, and of one elector from each county in all other cases; which trustees, except those elected at first elections, shall hold during terms of 4 years in the former case, and as many years as there are counties joining in the other cases. Trustees elected at first elections shall hold for terms beginning at once and so ending that the terms of one member only will expire on the first Monday of each succeeding January, beginning with January of the second year thereafter; which terms shall be allotted to the respective trustees at their first meeting. The county board of each county joining shall at an annual meeting elect a successor to any trustee from such county whose term will expire on the first Monday of the next following January. The trustees shall have the qualifications and functions and be subject to the limitations and restrictions of trustees elected pursuant to section 46.18. They shall be reimbursed their traveling expenses necessarily incurred in the discharge of their functions, and shall receive compensation similar to that of the trustees, respectively, of like county institutions; and if the county board is empowered to fix the latter, the compensation of the joint trustees shall be fixed by joint action of the county boards.

(5) All receipts on account of such institution shall be paid into the treasury of the county in which said institution is located.

(6) Prior to the election of the trustees the joint committee, and thereafter the board of trustees, shall audit all claims against said counties on account of such institution; and all such claims shall, in the first instance, be certified to and paid by the county in which said institution is located, subject to apportionment and adjustment among the several counties as follows:

(a) All expenditures for the site, buildings, furniture, equipment, and permanent improvements, after deducting all receipts therefor except county appropriations, shall immediately upon payment be apportioned by the clerk of the county in which the institution is located and certified to the clerks of the other counties, on the basis of the percentage which the valuation of the taxable property in each county bears to the valuation of the aggregate taxable property in all said counties, as determined pursuant to section 70.57.

(b) All expenditures for repairs, maintenance, and operation, after deducting all receipts therefor except county appropriations, shall be so apportioned for each month, on the first day of the next succeeding month, on the basis of the percentage which the aggregate cost of keeping the inmates at public charge from each such county bears to the aggregate cost of keeping the inmates at public charge from all such counties, adopting as the unit of cost the total average cost per capita per week of keeping all the inmates, at public charge and otherwise, in said institution.

(c) Immediately upon receipt of such certified apportionment each such other county shall pay over to the county in which said institution is located its proportion of said expense.

(7) (a) If any net profit shall arise from the operation of said institution it shall be apportioned among the several counties on the basis prescribed in paragraph (b) of subsection (6); and the county in which said institution is located shall pay over to the other counties, respectively, their proportions of such profit.

(b) The board of trustees shall maintain as a segregated cash reserve the 2 per cent charge authorized by section 15.22 (12) (j). It may from time to time appropriate from such reserve sums to be expended solely for the enlargement, modernization or replacement of such infirmary and its equipment.

(8) The trustees shall transmit one copy of their annual report of the tuberculosis sanatorium to the state board of health; and one copy of the report of other county institutions to the department, one copy to the clerk of each joint county, and shall file one copy at the institution. It shall be itemized with respect to the several counties and shall, in addition to the requirements of section 46.18 (7) to (10), include an itemized statement showing the amounts of the receipts and profits credited and expenditures charged to the

several counties for the past fiscal year, and an estimate of such amounts for the ensuing fiscal year; and each county board shall provide for meeting its estimated share of said expenditures.

(9) At any time after the organization of any such institution, any additional county or counties may join in the support and conduct thereof upon payment of such equitable proportion of the original cost of its establishment, and any joint county may withdraw upon such terms, as may be agreed upon among the county boards of the counties interested; and thereupon the board of trustees of such institution shall be reorganized, in such manner as may be determined by the county boards of the participating counties, to conform to the provisions of subsection (4).

(10) Any county or counties maintaining a tuberculosis sanatorium may convey said property or any part thereof or any interest therein to any other county or counties upon such terms and conditions as the respective county boards thereof shall agree by a majority vote of all the members of each of said county boards.

History: 1951 c. 724; 1955 c. 575.

46.205 County home in adjoining county. The county board of any county may by a majority vote of all of its members provide for a home for the aged, senile and physically infirm in an adjoining county and all bonds heretofore issued for the construction or other acquisition of such a home in any county or an adjoining county are hereby validated and the proceeds thereof may be used in the construction or other acquisition thereof in such any county or an adjoining county. When any county shall establish such home in an adjoining county it shall be maintained and operated pursuant to the same statutes which would be applicable to the maintenance and operation thereof if it were established in such first county.

46.206 Welfare services; supervisory functions of state department. (1) The department shall supervise the administration of old-age assistance, aid to dependent children, aid to the blind and aid to totally and permanently disabled persons. The department shall submit to the federal authorities state plans for the administration of these forms of public assistance in such form and containing such information as the federal authorities require and shall comply with all requirements prescribed to insure the correctness. All records of the department and all county records relating to these forms of public assistance shall be open to inspection, at all reasonable hours, by authorized representatives of the federal government. All county records relating to the administration of these forms of public assistance shall be open to inspection at all reasonable hours by authorized representatives of the department. The department may at any time audit all county records relating to the administration of these forms of assistance and may also at any time conduct administrative reviews of county departments of public welfare created by ss. 49.51 (2) (a) and 46.22. Whenever the department conducts such audit or administrative review in a county it shall furnish a copy of the audit or administrative review report to the chairman of the county board, to the county clerk, to the chairman of the county board of public welfare, and to the director of the county department of public welfare, of such county.

(2) The county administration of all laws relating to old-age assistance, aid to dependent children, aid to the blind and aid to totally and permanently disabled persons shall be vested in the officers and agencies designated in the statutes.

(3) The use of the words "county agency" in any statute relating to old-age assistance, aid to dependent children, aid to the blind, and aid to totally and permanently disabled persons means the county department of public welfare as created by s. 49.51 (2) (a) or 46.22 (1), provided that the provisions of this subsection shall not deprive the juvenile court of any authority it otherwise has under the law.

History: 1953 c. 513.

46.21 County board of public welfare in populous counties. (1) **APPOINTMENT; ORGANIZATION; COMPENSATION.** (a) In each county having a population of 500,000 there is created a board of 5 members which shall be known as the county board of public welfare, hereinafter referred to as the board. The county board of supervisors by a majority vote of the members-elect thereof shall choose 4 of such members from among the electors of the county, and one member from the membership of said county board of supervisors. All members shall hold office for the term of 4 years. Appointments shall be made on the basis of recognized and demonstrated interest in and knowledge of the problems of public welfare. The present members of the board of public welfare of any such county appointed and acting at the effective date of this act (July 1, 1947) shall continue to hold office until the expiration of their terms, their successors thereafter each to be appointed for the term of 4 years as hereinbefore provided. A majority of the board shall constitute a quorum for the exercise of the power and the authority conferred upon it, and

each member of the board shall take and file an official oath, and shall execute and file an official bond with sureties approved and in a reasonable sum fixed by such county board of supervisors.

(b) Each member of the board shall receive as compensation for his services such sum as the county board of supervisors shall provide, to be paid as other county officers are paid, provided that the member chosen from the county board shall receive a reasonable compensation to be fixed by the county board in addition to his regular salary.

(c) Said board shall annually elect a chairman, vice chairman and secretary. The vice chairman shall serve in the absence of the chairman. The secretary shall be responsible for the minutes of every meeting of said board. The county board shall provide said board with suitable quarters for the transaction of its business.

(2) DUTIES AND RESPONSIBILITIES OF THE BOARD. (a) Such board shall be charged with supervising the operation, maintenance and improvement in each county, by the director of institutions and departments, of the county hospital, dispensary-emergency unit of said hospital, guidance clinic, infirmary, home for children, county asylum, hospital for mental diseases, tuberculosis hospital, department of public welfare created by section 49.51 (2) (a), county agent's department, farm, service departments, and such other institutions and departments as may be placed under the jurisdiction of the board of public welfare by the county board of supervisors, and all buildings and land used in connection with any or all of such institutions. The powers and duties of the board shall be advisory and policy forming only, and not administrative or executive. Such board shall be without authority to adopt policy changes that would increase expenditures beyond budget limitations for the fiscal year, as fixed by the county board of supervisors. Proposed policy changes shall, in all instances, be presented to the director and the finance committee of the county board at the time the department's budget for the ensuing year is being considered.

(b) The hospitals and sanitariums of the county shall be devoted to hospital service and the treatment of such persons who would otherwise be unable to secure the same. Such hospitals and sanitariums may be utilized for such instruction of medical students, physicians and nurses and for such scientific and clinical research as will promote the welfare of the patients, and assist the application of science to the alleviation of human suffering. The board of public welfare is empowered, subject to the approval of the county board of supervisors, to make such arrangements with the medical school of the University of Wisconsin or any other duly accredited medical colleges and medical societies for teaching and research in such institutions as in their judgment will best promote the foregoing hospital aims.

(c) The board shall appoint a director of institutions and departments pursuant to sections 16.31 to 16.44. Such appointment shall be made on the basis of recognized and demonstrated public interest in and knowledge of the problems of public welfare, and with due regard to training, experience, executive and administrative ability and efficiency, and general qualifications and fitness for performing the duties of the office. Such director shall file an official oath and bond in such sum as shall be fixed by the county board of supervisors. Upon request of the board of public welfare, the county board of supervisors may create one or 2 positions of deputy director of institutions and departments.

(d) Provisions shall be made in the organization of the office of director for the devolution of his authority in the case of his temporary absence, illness or other disability to act.

(e) The county may pay a reasonable fee and the actual travel expense of persons called into consultation by the board as to matters within the field of public welfare.

(g) The board shall establish such rules and regulations as may be necessary for the management and operation of the county institutions and departments mentioned in section 46.21 (2) (a).

(h) Rules and regulations adopted by and policies established by such board of public welfare shall be subject to change by the county board of supervisors, but only by a two-thirds vote of the members-elect thereof.

(3) DUTIES AND RESPONSIBILITIES OF THE DIRECTOR. (a) All of the administrative and executive powers and duties of managing, operating, maintaining and improving the several institutions and departments, specified in subsection (2) (a) of this section and such other institutions and departments as may be placed under the jurisdiction of such board of public welfare and director by the county board of supervisors, shall be vested in such director, to be administered by him under the rules promulgated and subject to the policies and in accordance with the principles established by such county board of public welfare.

(b) Contracts and purchases of the director shall be subject to an inspection either

by the proper committee of the county board of supervisors or such other agency as such county board of supervisors may select, provided, that nothing herein contained shall preclude the setting up of a central purchasing department for all county purchases, if so determined by such board of supervisors.

(4) DEPARTMENT HEADS, OFFICERS AND EMPLOYEES. (a) The director shall appoint, pursuant to sections 16.31 to 16.44, and subject to the approval of the county welfare board, department heads who shall, under the direction of said director, have the care and management respectively of the several institutions and departments specified in subsection (2) (a) and such others as may be placed under the jurisdiction of said director and board by the county board of supervisors. Upon recommendation of the director, approved by the board, the county board of supervisors may place more than one institution or department under the management and direction of one department head. The board may prefer charges against the director of institutions and departments or any officer or employe in any of the county institutions and departments under its jurisdiction and for that purpose shall be deemed an appointing power within the language of section 16.38.

(b) Each such department head shall take and file his official oath and execute and file an official bond with the sureties approved and in such sum as shall be fixed by the county board of supervisors.

(c) Each of such department heads shall, subject to the approval of said director, have power to appoint, discipline and remove, under the provisions of sections 16.31 to 16.44 all officers and employes in his department. Such department heads may at any time present communications to the board upon any matter through the director who shall present such communications to the board at its next meeting thereafter.

(5) ADMISSION OF INMATES FOR PAY. (a) Any resident of this state, not indigent, may be received into the infirmary, to be treated, cared for, and maintained upon such terms and conditions and at such rate of pay as may be established by the board; but indigent and destitute persons shall have preference in admission to and care in such institution.

(b) Sections 49.08, 52.01 and 52.03 shall govern the support and maintenance of persons in any of the institutions in charge of said director.

(6) REPORTS; APPROPRIATIONS; EXPENDITURES. (a) On the first day of July of each year, or within 30 days thereafter, said director shall render an annual report together with the reports of the department heads, including an itemized statement of receipts and disbursements for the preceding calendar year. Such director shall maintain the uniform system of books, accounts, records and reports prescribed by the state department of public welfare, conforming in all respects with the provisions of section 46.18 (7) to (10).

(b) The county board shall make sufficient appropriation annually for the support, maintenance, salaries, repairs and improvements to said institutions; and such appropriations so made shall be used for such purposes and subject to the order of such director in such manner as the regulations of the board of public welfare shall provide; but neither the director nor such board shall incur any expense nor make any contract for new buildings or additions to present buildings, or for the purchase of land, without first being authorized so to do by the county board, nor until the county board has appropriated or provided for the money to defray such expense.

(c) Notwithstanding any other provisions of the statutes, expenditures chargeable to appropriations of the county board of public welfare shall be made upon certified vouchers, certified voucher schedules, and certified public assistance rolls of the director of institutions and departments to the county clerk. The county board of supervisors may by ordinance permit said director to delegate his authority to make such certifications to persons under his jurisdiction holding positions designated in such ordinance. The county clerk shall issue county orders upon the county treasurer in payment of such certified instruments, provided that a single county order in favor of the county treasurer may be issued for the total amount authorized on a public assistance roll, in which case the county treasurer shall make individual payments by bank checks to parties listed on such public assistance rolls, provided further that the county board may by ordinance adopt a different method of making disbursements consistent with sound accounting and auditing procedure.

(7) CLINICS. The director is hereby empowered to establish and conduct clinics in connection with the county hospital, subject to such rules and regulations as the board of public welfare may prescribe.

(8) POWERS OF BOARD; EMERGENCY HOSPITAL. The board of public welfare, as aforesaid, upon authorization of the county board, shall have and exercise the following additional powers:

(a) To establish and maintain a public health and medical dispensary and conduct same as may be proper and necessary for the preservation of the public health and the prevention of disease in such county.

(b) To establish and maintain in connection with such county hospital an emergency unit or department for the treatment, subject to such rules and regulations as may be prescribed by such board of public welfare, of persons in said county who may meet with accidents or be suddenly afflicted with illness not contagious; provided that medical care and treatment shall only be furnished in such unit or department until such time as the patient may be safely removed to another hospital or to his place of abode, or regularly admitted to said county hospital.

(c) To establish and maintain in connection with the institutions and departments under the control of such board, a training school for nurses and to purchase and take over all property, and to assume all obligations, and to conduct any training school now operated in connection with said institutions or departments or any of them.

(d) To establish and maintain in connection with or separate from the county hospital a unit or department for the treatment, subject to such rules and regulations as may be prescribed by said board of public welfare, of persons in said county who may be afflicted with contagious diseases.

History: 1951 c. 314; 1953 c. 31.

46.22 County public welfare department. (1) In every county having a population of less than 500,000 there is hereby created a county department of public welfare. Such county department shall consist of a county board of public welfare, a county director of public welfare, and necessary personnel; provided that in any county where aid to the blind, aid to dependent children, old-age assistance or aid to totally and permanently disabled persons are on January 1, 1954 being administered by the county judge pursuant to s. 49.51 (1) of the 1951 statutes, the county board may continue to authorize the county judge to administer such assistance and may fix his compensation therefor. In addition the county board may at any time authorize the county judge to administer child welfare services in the manner provided in sub. (5) (g). All rules and regulations relating to personnel under his administration on said date shall continue in effect until the county board acts to place the administration of these aids in a department other than under the county judge or until the department changes such rules and regulations pursuant to s. 49.50 (2).

(2) The county board of public welfare shall consist of a board of 3, 5 or 7 residents of the county (as determined by the county board of supervisors) elected by the county board of supervisors or appointed by the chairman of said county board, in accordance with the rules and regulations of said board. The members of such county board of public welfare shall be elected or appointed either from members of the county board of supervisors or from the county at large, or both, on the basis of knowledge and interest in public welfare and shall hold office for a term fixed by the county board of supervisors. The members of the county board of public welfare shall receive such compensation as shall be fixed by the county board of supervisors. The county board of public welfare shall:

(a) At the first meeting of such board, elect from their number, a chairman, a secretary, and such other officers as they deem necessary. Vacancies in such offices shall be filled for the unexpired terms. The chairman shall preside at all meetings when present, and shall countersign all actions taken by the board. In case of the absence of a chairman for any meeting the members present shall choose a temporary chairman.

(b) Appoint a county director of public welfare subject to the provisions of s. 49.50 (2) to (5) and the rules and regulations promulgated thereunder.

(c) Supervise the working of the county department of public welfare and shall be a policy-making body determining the broad outlines and principles governing the administration of the functions, duties and powers assigned to said department under s. 46.22 (4) and (5).

(d) Whenever it determines that there is a need therefor, appoint committees consisting of residents of the county, which committee shall advise with the board on any matters for which they are created, but members of such committees shall serve without compensation.

(e) Consult with the county director of public welfare concerning the preparation of the annual budget, the annual report of the operation of the county department of public welfare and the appointment of necessary personnel.

(3) The county director of public welfare shall serve as the executive and administrative officer of the county department of public welfare. In consultation and agreement with the county board of public welfare he shall prepare and submit to the county board of supervisors an annual budget of all funds necessary for the county department, and

shall prepare annually a full report of the operations and administration of the department. He shall recommend to the county board of public welfare the appointment and fixing of salaries of employes necessary to administer the functions of the department, subject to the provisions of sub. (6) and s. 49.50 (2) to (5) and the rules and regulations promulgated thereunder.

(4) The county department of public welfare shall have the following functions, duties and powers in accordance with the rules and regulations promulgated by the state department of public welfare and subject to the supervision of said state department of public welfare:

(a) To administer aid to the needy blind under s. 49.18.

(b) To administer aid to dependent children under s. 49.19.

(c) To administer old-age assistance under ss. 49.20 to 49.38.

(d) To administer aid to totally and permanently disabled persons under s. 49.61.

(e) To maintain administrative and reporting relationships with all pertinent state departments.

(f) To make investigations which relate to welfare services upon request by the state department of public welfare.

(g) To administer relief to needy Indians under s. 49.046 when appointed by the department under such section.

(5) The county board of supervisors may provide that the county department of public welfare shall, in addition to exercising the mandatory functions, duties, and powers as provided in sub. (4), have any or all of the following functions, duties and powers and such other welfare functions as may be delegated to it by such county board of supervisors:

(a) Make investigations in co-operation with the court, institution superintendent, district attorney and other agencies and officials operating in the welfare field regarding admissions to and release (or conditional release) from the following county and state institutions:

1. County institutions. County infirmary, home, hospital (for mental diseases, tuberculosis or otherwise) or asylum.

2. State institutions. Mendota state hospital, Winnebago state hospital, Wisconsin general hospital, Wisconsin orthopedic hospital for children, southern colony and training school, central colony and training school, northern colony and training school, central state hospital, Wisconsin school for boys, and Wisconsin school for girls.

(am) The provisions of par. (a) shall not be construed to authorize the county department of public welfare to make investigations regarding admission to or release from the Wisconsin state prison, the Wisconsin state reformatory, the Wisconsin home for women, county houses of correction, jails, detention homes or reforestation camps.

(b) Administer relief under ss. 49.02 and 49.03 in the event that the county administers relief under those sections.

(c) Make investigations which are provided for under s. 48.88 (2) (a), if the court having jurisdiction so directs.

(d) Perform the duties and functions prescribed in s. 48.08 when requested to do so by the juvenile judge of the county.

(e) To furnish services to families or persons other than the granting of financial or material aid where such services may prevent such families or persons from becoming public charges or restore them to a condition of self-support.

(f) To make certification or referral of eligibles for state or federal works or other assistance programs, eligibility for which is based on need, when designated to perform such certification or referral services, and to certify eligibility for and distribute surplus commodities and foodstuffs.

(g) To administer child welfare services including services to children who are mentally defective, dependent, neglected, delinquent, or illegitimate, and to other children who are in need of such services. In administering child welfare services the county agency shall be governed by the following:

1. The county agency may avail itself of the co-operation of any individual or private agency or organization interested in the social welfare of children in such county.

2. The county agency shall administer and expend such amounts as may be necessary out of any moneys which may be appropriated for child welfare purposes by the county board or donated by individuals or private organizations.

3. Upon the request of the judge of the juvenile court, the county agency shall investigate the home environment and other factors in the life of any child brought to the attention of the court for alleged dependency, neglect, or delinquency, and to assume guidance and supervision of any child placed on probation by such court.

4. Upon the request of the state department of public welfare and under its direction,

the county agency shall assume the oversight of any juvenile under parole from or otherwise subject to the supervision of any state institution.

5. The county agency shall have the powers and duties specified in s. 48.57.

(gm) The authority given to the county department of public welfare under par. (g) to function as an authorized child welfare agency shall not be interpreted as excluding agencies licensed pursuant to s. 48.60 from also exercising such functions.

(6) The provisions of s. 49.50 (2) to (5) shall be applicable to the county department of public welfare created by this section. Such merit system status as any county employe may have on January 1, 1954 shall not be deemed changed or interrupted by the provisions hereof; provided that any county agency employe performing children's services on said date becoming subject to the provisions of s. 49.50 (2) to (5) shall be admitted to a merit system examination pursuant to s. 49.50 (2) to (5) regardless of the minimum qualifications established for such position.

(7) The county department of public welfare and all county officers and employes performing any duties in connection with the administration of aid to the blind, old-age assistance, aid to dependent children, and aid to totally and permanently disabled persons shall observe all rules and regulations promulgated by the department pursuant to s. 49.50 (2) and shall keep such records and furnish such reports as the department requires in relation to their performance of such duties.

History: 1953 c. 513, 631; 1955 c. 10, 504, 653.

See note to 48.56, citing 43 Atty. Gen. 295.

46.37 Certain water and sewerage service in Winnebago county. The state department of public welfare as a member of the tri-institutional Winnebago state hospital, Winnebago county asylum and Sunny View sanatorium sewer agreement in Winnebago county is authorized to furnish and charge for water and sewage services to business and dwelling units located in the privately owned area lying west of the Winnebago state hospital and bounded on the west by the railroad properties and on the north, east and south by the grounds of the Winnebago state hospital, together with such dwelling or other units as now exist or as may be erected on the railroad and state owned property adjacent to this area.

46.50 State mental health authority. In order to promote co-ordination and efficient development of mental health services by the state and by municipalities in the state, the department of public welfare is declared to be the state mental health authority of Wisconsin and as such is authorized to receive federal grants in aid and to co-operate with the federal government in promoting the extension of such services.

46.51 Interdepartmental commission on mental health. (1) An interdepartmental commission on mental health is hereby created and is herewith referred to as the "commission."

(2) The commission shall be composed of the director of the department of public welfare, the state health officer, the superintendent of the department of public instruction or persons designated by these officials; plus one member of the board of public welfare elected by that board and one member of the board of health elected by that board, all of whom shall serve without additional compensation. The commission shall elect one of its members as chairman.

(3) The commission shall meet at the call of its chairman, but not less than once each fiscal year, for the purpose of reviewing the needs and resources for mental health services in the state, to make recommendations concerning such services to the legislature or to any department administering such services and to determine the allocation of federal grants in aid received by the state pursuant to the authority given in section 46.50.