

the county judge, the grant of an application should be construed as compliance with statutory requirements although it does not expressly recite that the judge determined chargeability for the patient's support. 31 Atty. Gen. 124.

A county may accept federal aid for its share of cost under 50.07 (2), Stats. 1941, of maintaining indigent resident Indians in a county tuberculosis sanatorium. 31 Atty. Gen. 264.

A person who has resided in this state for 5 years or more in the aggregate prior to his admission to a state or county tuberculosis sanatorium is entitled to free care even though his legal settlement in this state has been lost, and in such case he is a state charge. 37 Atty. Gen. 80.

The cost of streptomycin treatment for a patient in a tuberculosis sanatorium should be handled as other maintenance costs in determining the per capita cost to be used in the annual adjustment between the state and counties pursuant to 50.11, Stats. 1947. This applies also to patients receiving free care under 50.07 (2a). 37 Atty. Gen. 280.

Where fire damages a county tuberculosis sanatorium, the expense of pumping water out of the boiler room, installing piping to a temporary kitchen and laundry, and installing temporary partitions are proper items to be included in computing per capita cost of maintenance of patients; but replacement of privately owned clothing of employes destroyed in the fire is not. 39 Atty. Gen. 55.

50.06 and 50.07, Stats. 1953, apply to hospitals operated and maintained jointly by 2 or more counties. Under 50.07 (2) maintenance of patients includes emergency surgical work. What is emergency surgical work is a medical and surgical question depending upon the particular circumstances. Surgical work of a non-emergency character, not incidental to the treatment for tuberculosis, is to be handled as in other indigent cases. 43 Atty. Gen. 242.

The cost of routine chest surgery for treatment of a tuberculosis patient in a county sanatorium is part of the patient's maintenance. If it is to be furnished at Wisconsin general hospital, the patient should be sent there at the expense of the sanatorium, not discharged from the sanatorium and admitted to Wisconsin general hospital through proceedings before the county judge of the patient's county of legal settlement pursuant to ch. 142. 44 Atty. Gen. 220.

In the computation of charges for the maintenance of patients in state tuberculosis sanatoriums, money expended from the highway appropriation provided in 20.420 (73), Stats. 1955, should not be considered. 44 Atty. Gen. 234.

See note to 48.55, citing 46 Atty. Gen. 240.

See note to 50.09, citing 49 Atty. Gen. 191.

50.05 History: 1939 c. 65, 424; Stats. 1939 s. 50.075; 1957 c. 526 s. 14; Stats. 1957 s. 50.05.

50.06 History: 1919 c. 529; Stats. 1919 s. 50.08; 1949 c. 201; 1951 c. 496; 1953 c. 475; 1955 c. 166; 1957 c. 526 s. 15; Stats. 1957 s. 50.06; 1963 c. 6, 154; 1965 c. 160, 368, 552; 1969 c. 55; 1969 c. 276 s. 582 (3); 1969 c. 366 s. 117 (1) (a).

50.07 History: 1943 c. 326; Stats. 1943 s. 50.095; 1957 c. 526 s. 17; 1957 c. 698; Stats. 1957 s. 50.07; 1969 c. 366 ss. 43, 117 (1) (a).

Under 50.095, Stats. 1945, the board of health has power only to make recommendations as to standards of care and treatment in tuberculosis sanatoria. It may not withhold state aid if sanatoria do not provide adequate standards of care. Under 50.06 (8) the board may withhold state aid and prohibit use of a sanatorium building if it finds a defect in the matter of safety, sanitation, adequacy or fitness. The board's rule-making power under 140.05 (3) does not extend to establishing minimum standards of personnel and facilities in tuberculosis sanatoria. The board may prescribe minimum standards for the guidance of sanatorium officials but is without power to enforce them. 35 Atty. Gen. 29.

50.08 History: 1939 c. 65; Stats. 1939 s. 50.10; 1945 c. 104, 588; 1953 c. 31 s. 45; 1957 c. 526 s. 18; Stats. 1957 s. 50.08.

The county has no claim against the estate of a deceased husband for maintenance of his wife in a county tuberculosis sanatorium, where the wife was committed at public charge and no proceedings have been taken to charge the husband pursuant to 50.10 and 49.11, Stats. 1945. 34 Atty. Gen. 251.

50.09 History: 1943 c. 326; Stats. 1943 s. 50.11; 1945 c. 22, 104, 168; 1947 c. 472; 1953 c. 213; 1957 c. 361; 1957 c. 526 s. 19; 1957 c. 672 s. 41; Stats. 1957 s. 50.09; 1959 c. 266, 555; 1959 c. 659 s. 79; 1963 c. 181; 1969 c. 8, 255; 1969 c. 366 s. 117 (1) (a), (b), (i), (j), (3) (c).

Under 50.09 (3), Stats. 1959, county boards must take affirmative action before 14% may be added to charges for care in county sanatoria. 49 Atty. Gen. 191.

50.095 History: 1963 c. 192; Stats. 1963 s. 50.095.

50.10 History: 1943 c. 326; Stats. 1943 s. 50.12; 1957 c. 526 s. 20; Stats. 1957 s. 50.10; 1969 c. 366 s. 117 (1) (a).

50.11 History: 1943 c. 326; Stats. 1943 s. 50.13; 1953 c. 54; 1957 c. 526 s. 22; Stats. 1957 s. 50.11; 1969 c. 276 s. 603 (5); 1969 c. 366 s. 117 (1) (a).

CHAPTER 51.

State Mental Health Act.

General Comment of Interim Committee, 1947: In recommending this bill to the 1947 Legislature for passage, the Joint Interim Committee on Revision of Public Welfare Laws, appointed pursuant to Jt. Res. No. 72 S., 1945 session, wishes to direct special attention to some of the principal features of the bill:

The committee has consolidated old Chapter 51, entitled "Hospitals and Asylums for the Insane" and old Chapter 52, entitled "Homes for the Feeble-Minded", into new Chapter 51, entitled, "Care of Mentally Ill, Infirm and Deficient Persons", for the reason that the two chapters relate to the same general subject.

The committee has adopted a new terminology in regard to mental ailments and mental institutions which it considers a

marked improvement over the terminology employed at the present time. Thus the term *mentally ill* is used instead of *insane*, *mentally infirm* instead of *senile*, *mentally deficient* instead of *feeble-minded*, *idiotic* or *imbecilic*, *county hospitals* instead of *county asylums* or *county asylums for the insane*. This is done in an effort to eliminate the stigma and taint too often associated with mental cases. The committee has also adopted terms like *conditional release* in place of *parole*, and *patients* instead of *inmates*, avoiding expressions commonly associated with the criminal law. The new terminology probably will not achieve immediate general acceptance, but correct and approved use of words at least should begin in the statutes. The name *county hospital* as applied to our county mental institutions was adopted in order to make uniform the names of all institutions for the mentally ill in the state, following the precedent that our state institutions at Winnebago and Mendota have been called state hospitals for some years.

The committee has attempted to make procedures to determine mental condition as informal, and as unlike ordinary court procedure, as possible, in order that afflicted persons may not be made to feel that they are offenders against the law rather than ill persons, or that they are to receive punishment rather than care and treatment. For example, the hearing is held before the judge instead of the court, and may be held in the court room or any other place; and the public is not admitted. The committee also has recommended a number of changes in the detention of afflicted persons pending the hearing, or prior to their commitment, for the purpose of easing as much as possible the mental strain to which they are subjected. No mentally affected person may be detained in any jail or place of confinement for criminals, (1) if the judge has approved some other available place of detention, or (2) unless the patient is violent or dangerous, and it is necessary for his protection and that of the public to confine him in jail. Whenever practicable the patient must be detained in a state or county hospital. If he is put in jail the judge must be immediately notified. The officer, unless otherwise ordered by the judge, must deliver him to the proper institution on the same day that he is committed. All these safeguards are grounded on the idea that the temporary detention of mentally afflicted persons in improper surroundings in many instances is very likely not only to retard recovery, but to do irretrievable harm. Owing to widely different local conditions in the 71 counties of the state, it was felt that no fixed rule as to what is a proper facility for temporary custody of mental patients can be laid down by statute, and that the designation of a proper place in each instance can best be left to the local judge subject to statutory requirements.

To more adequately meet the various situations which arise, the committee has enlarged the methods of admission and commitment of mentally ill patients to institutions. It has, of course, retained the old system of committing acute cases to state hospitals and chronic cases to county hospitals; and patients may also be committed to the Wisconsin Psychiat-

ric Institute established as a department of our state university. The utmost freedom of transfer between institutions by the state department of public welfare is provided for, in order that the one best adapted to the particular case is selected.

The department of public welfare may place any state hospital patient out at board in a private home to receive family care, if it is considered that such a course would benefit the patient. The patient may be conditionally released from the hospital at any time in the discretion of the superintendent. The opportunity for voluntary admissions to hospitals has been increased. A person who believes himself to be suffering from a mental disorder and in need of treatment may, upon the supporting certificate of his physician, personally apply for admission to a hospital without an order or the intervention of the court. A new provision has been added, however, that if at any stage of the examination into his mental condition, at any time prior to commitment, a person prefers to become a voluntary patient, the judge may permit him to do so, whereupon the judge may suspend the hearing or dismiss the proceedings altogether as he thinks best. The committee believes that encouragement of voluntary admissions will tend to increase the persons submitting to treatment who are in need of it. That procedure avoids the need of a formal finding of insanity and an order of commitment by the court which may be a source of future concern to him. A voluntary patient has the same standing as other patients. If he wants to leave before he is cured, opportunity is provided to have him committed prior to his release.

Throughout, the committee has followed the concept that mental disorder is a disease just as much as a physical disorder is a disease; and it has sought to make the laws pertaining to it flexible and adaptable, so as to afford each individual the kind of care and treatment best suited to his particular case.

The committee has enlarged the types of afflicted persons covered by chapter 51, and has also created new classifications of these persons. Worthy of special mention is the fact that insane or mentally ill persons and senile or mentally infirm persons have been divided into two entirely separate classes. At the present time a mentally infirm person may be committed to a county home as senile, but not to a county hospital as senile; and may be committed to a state or county hospital, but only as an insane person. The committee recommends that the law be amended authorizing the commitment of mentally infirm persons as such to state and county hospitals as well as to county homes. It is manifestly unjust to classify as insane the many fine old-age people, who, after living long, useful, respectable lives, because of arteriosclerosis or other misfortune, find themselves in a condition where they are unable to take care of themselves or are incapable of managing their own affairs or frequently are an undue burden at home. Since 1900, the average life span in America has increased about 17 years; and about 9 million Americans are now 65 years old or older. This has markedly increased the prevalence of old-age mental infirmity in our state and country and has cre-

ated a problem with which we must be prepared to deal. Obviously, these people should not be mixed with dementia praecox and such-like patients. There should be separate institutions set up in various sections of the state where they are sure to receive kind and considerate attention and care. Until more of these institutions are provided, either as new institutions or as additions to existing ones, all we can do is to enact laws enabling them to be built and utilized.

Six classes of persons are included in Chapter 51: (1) mentally ill, (2) mentally infirm, (3) mentally deficient, (4) epileptics, (5) inebriates, (6) drug addicts. While they are not strictly speaking mental cases, inebriates and drug addicts have been included in the chapter because of the similarity of procedure between these types of cases and purely mental cases. Methods of commitment and voluntary admission to institutions for treatment and transfers and removals therefrom are important factors in all of these cases.

Application for commitment of alcoholics or drug addicts need not be made exclusively to the county or district judge, as in the case of the mentally diseased, but may be made to the judge of any court of record, so that one court will not be overburdened with this type of case. The committee has also eliminated the present requirement that one of the petitioners must be the inebriate's wife or nearest relative, because of the well-known tendency of so many wives to absorb punishment at the hands of drunken husbands, and to forgive them and give them another chance. Application for commitment may be made by the patient himself or by any 3 reputable citizens; no medical examination is required; but the application must be heard by the judge. The limitations regarding the detention of patients in jail do not apply to inebriates or drug addicts.

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[The committee strongly recommended that jury trials in sanity hearings be abolished. Its statement will be found in the General Comment to ch. 51 in the 1947 Statutes. The provisions for a jury trial were restored by Am. No. 3-S and Am. No. 1-S to Bill 19-S.]

Additional details regarding this bill are to be found in the committee comments immediately following the sections of the bill.

The absence of a note to a section indicates that its meaning is not changed by this bill. [Bill 19-S]

51.001 History: 1947 c. 485; Stats. 1947 s. 51.001; 1963 c. 479; 1965 c. 611; 1969 c. 366 s. 117 (1) (c).

51.005 History: 1955 c. 457; Stats. 1955 s. 51.005.

51.01 History: 1872 c. 176 s. 14, 16; 1874 c. 79; R. S. 1878 s. 593; 1880 c. 266; 1881 c. 202 s. 2; 1883 c. 35 s. 1, 2; 1889 c. 228; Ann. Stats. 1889 s. 593, 593b; 1891 c. 153; 1897 c. 319 s. 1, 2, 4; Stats. 1898 s. 585, 585b; 1901 c. 124 s. 1; Supl. 1906 s. 604u; 1907 c. 660 s. 27; 1911 c. 663 s. 55; 1913 c. 773 s. 24; 1919 c. 347 s. 2 to 4; 1919 c. 679 s. 39; Stats. 1919 s. 51.01; 1927 c. 357 s. 1, 2; 1933 c. 330; 1939 c. 458, 524; 1943 c. 93, 190; 1947 c. 485; 1949 c. 137; 1951 c. 701; 1955 c. 10, 457; 1955 c. 506 s. 6 to 8; 1955 c. 654; 1961 c. 495.

Comment of Interim Committee, 1947: 51.01 is revised. The proposed changes are stated in this note. The definitions of senile ward and senile are omitted as not needed. The provisions in (1) as to the judge of any court of record and court commissioners are new. Mentally deficient and epileptic persons are specifically included. The provision in (2) that the physicians are not to be related or have an interest in patient's property is new. Change has been made in (1) as to who may make the application. Under (3) the power of prescribing forms for proceedings under chapter 51 is limited to the department. Until it prescribes forms, the interrogatories in 51.01, Stats. 1945, and other forms now in use, continue applicable. * * * [Bill 19-S]

Where physicians appointed by the court to inquire into the sanity of a person find and report him to be insane, such finding constitutes conclusive evidence, in an action for malicious prosecution, of the existence of reasonable grounds for the making by a layman of the application for the inquiry, unless the finding can be impeached for fraud or bad faith on the part of the physicians, or for collusion with the petitioners, or for other conduct which deprives their conclusion of the character of a bona fide professional determination. *Bode v. Schmoldt*, 177 W 8, 187 NW 648, 1024.

Where plaintiff, a former subject of a judicial inquiry into her mental condition which terminated with a finding that she was not mentally ill, instituted an action for malicious prosecution against the signators to the application, it was plaintiff's burden in order to establish malice to prove that defendants acted from motives of ill will or that their primary purpose was other than the social one of having a determination of the state of plaintiff's mental health. *Yelk v. Seefeldt*, 35 W (2d) 271, 151 NW (2d) 4.

An indigent insane person may be committed to the state hospital for the insane only upon a judicial determination of such person's sanity and upon proper commitment. 15 Atty. Gen. 187.

The words "county in which the patient is found" appearing in 51.01 (1) (a), Stats. 1947, mean the county where the patient is physically present at the time application for examination into his mental condition is made, assuming that his presence is not the result of fraud or duress. 37 Atty. Gen. 305.

Orders of temporary detention under 51.04 (2), Stats. 1947, not in substantial compliance with the official forms prescribed by 51.04 (3) are invalid. 37 Atty. Gen. 549.

Hospitalization of the mentally ill in Wisconsin. *Dix*, 51 MLR 1.

51.02 History: 1897 c. 319 s. 3; Stats. 1898 s. 585a; 1919 c. 347 s. 5; Stats. 1919 s. 51.02; 1933 c. 330; 1939 c. 458; 1943 c. 190; 1945 c. 326; 1947 c. 485; 1951 c. 701; 1953 c. 540; 1955 c. 457, 506; 1955 c. 654 s. 1; 1959 c. 226; 1969 c. 276 s. 591 (3).

Comment of Interim Committee, 1947: 51.02 is revised. The procedure is changed in several respects. * * * Under new (2) it is provided that the judge must personally observe the patient, but the patient's presence at the

hearing is not required. (3) is new but appears to be in accord with present practice. The petitioners may appear at the hearing and the district attorney may appear for them. In re Terrill, 240 W 53. Compensation of the guardian ad litem is omitted because covered by new 51.07 (4). [Bill 19-S]

Commitments of mental cases and epileptics to a state hospital "for observation" under 51.02 (5) (b), 51.03 or 51.04 (3), Stats. 1947, are required to recite all jurisdictional facts, which are specified in the opinion. Where a patient is committed "for observation" under 51.02 (5) (b), 51.03 or 51.04 (3), no treatment should be given without the consent of the patient. 37 Atty. Gen. 139.

Entry of an order for observation under 51.02 (5) (b) does not exhaust the court's jurisdiction; it retains jurisdiction to complete the proceeding by discharge or commitment. An opportunity to be heard should be provided before discharge or commitment on the basis of observation reports, but the patient's personal presence is not necessary if the jurisdictional requirements of this section have been met earlier in the proceeding. 39 Atty. Gen. 318.

The duties imposed upon the district attorney by 51.02 (3), Stats. 1967, do not include the ministerial or clerical functions referred to in ch. 51. 57 Atty. Gen. 122.

The guardian ad litem under the Wisconsin mental health act. Roffa, 34 WBB, No. 4.

51.03 History: 1897 c. 319 s. 4; Stats. 1898 s. 585b; 1919 c. 347 s. 6; Stats. 1919 s. 51.03; 1943 c. 190; 1943 c. 552 s. 5; 1947 c. 485; 1949 c. 86; 1955 c. 457, 506; 1955 c. 654 s. 1.

An instruction, given on a jury trial in an inquiry into the mental condition of a person previously adjudged insane, that it was necessary that all 6 jurors sign the verdict agreed on, was erroneous because it was only necessary that 5 members of the jury agree on their verdict, but, since such instruction was favorable to the subject of the inquiry, he could not complain thereof, and, since the jury's verdict was unanimous, such instruction did not in any event constitute reversible error. In re Hogan, 232 W 521, 287 NW 725.

See note to 51.02, citing 37 Atty. Gen. 139.

51.04 History: 1881 c. 202; Ann. Stats. 1889 s. 593a. sub. 1; 1897 c. 319 s. 13; Stats. 1898 s. 586; 1919 c. 347 s. 7; Stats. 1919 s. 51.04; 1927 c. 23; 1927 c. 357 s. 3; 1943 c. 190; 1947 c. 485; 1951 c. 701; 1955 c. 457, 506, 654; 1961 c. 614.

Expenses of detention pending a sanity hearing are governed as to rates by 51.08 and as to payment by 51.07, Stats. 1935. Costs and expenses of proceedings include detention. 25 Atty. Gen. 332.

See note to 51.02, citing 37 Atty. Gen. 139.

Under 51.04 (2), Stats. 1947, a patient ordered confined for safety pending mental proceedings remains in the custody of the sheriff or other police officer and is not in the custody of the superintendent of the hospital. A patient received under such order may be restrained and held in custody by hospital authorities but may not be treated without consent. Such an order valid on its face protects hospital authorities against suit for false im-

prisonment. Charges for maintenance of the patient will be at the rate specified in 51.08 (1) and collected in the manner prescribed by 46.106. 37 Atty. Gen. 549.

Under 51.04 (3), Stats. 1949, a county judge may commit to a state mental hospital for observation only after receipt of the report of the physicians. Commitment under that subsection without a report of physicians is irregular and the patient may be admitted and detained for not over 10 days under 51.05 (4). Thereafter an application must be made by the superintendent as provided in 51.05 (4), unless a valid commitment is made in the meantime or the patient is discharged. 38 Atty. Gen. 487.

51.05 History: 1872 c. 176 s. 10; 1878 c. 336; R. S. 1878 s. 591; 1881 c. 202; 1889 c. 55; Ann. Stats. 1889 s. 591, 593a, 600a; 1897 c. 319 s. 5, 10, 11, 12; Stats. 1898 s. 584, 585c, 587, 587b; 1901 c. 163 s. 1; Supl. 1906 s. 587; 1909 c. 197; 1919 c. 347 s. 8; Stats. 1919 s. 51.05; 1921 c. 146; 1925 c. 85; 1927 c. 357 s. 3; 1929 c. 322; 1935 c. 336; 1943 c. 190, 402; 1943 c. 552 s. 6; 1947 c. 485; 1951 c. 724; 1953 c. 385; 1955 c. 457, 506; 1955 c. 654 s. 1; 1959 c. 103, 486; 1961 c. 621.

Comment of Interim Committee, 1947: 51.05 gathers types of commitments (except inebriates and drug addicts). (1) comes from old 51.05 (1) and (7) and 52.02 (1). The names of the colonies are shortened by omitting "Wisconsin." The exception in (2) is new. (3) restates old (3) and (4). The provision in (4) to authorize the superintendent to make application under 51.01 for the mental examination of a patient is new. The need for it seems obvious. Of course this provision applies only to patients who have not been legally committed. The word "facility" is used in (5) instead of "ward." The closing sentence of old (7), "Persons found senile under chapter 52 may also be committed to such ward," is covered by new (1). Old (5) and (8) are omitted as not needed. [Bill 19-S]

Legislative Council Note, 1959, with reference to amendments to 46.106 (1), 51.05 (3) and 51.10 (2): The purpose is to provide for initial summary finding of legal settlement by the judge rather than by the court, so as to co-ordinate with administrative correction of erroneous charges under s. 46.106 (4) which is subject to judicial review under s. 46.106 (5). [Bill 15, A]

A determination of the committing judge, under 51.05 (1), Stats. 1919, which amounted to no more than a finding that a decedent was a fit subject to be sent to a state hospital for the insane by reason of an insane delusion which had rendered him quarrelsome and dangerous to be at large, notwithstanding that he had rational intervals when his mind was relieved of fear, was not inconsistent with the existence of mental capacity to acknowledge parenthood. Estate of Schalla, 2 W (2d) 38, 86 NW (2d) 5.

Under 51.05 (1), (2) and (3), Stats. 1947, mentally infirm (senile) as well as mentally ill (insane) persons may be committed to the state hospitals, if there is no county hospital or the patient has no legal settlement. They may be transferred to other institutions under 51.125. 37 Atty. Gen. 36.

A superintendent's authority to detain up to 10 days a patient received under a void or irregular commitment, pursuant to 51.05 (4), should be exercised only where detention can be justified on grounds of necessity. 37 Atty. Gen. 139.

An order of commitment to a county hospital which finds a patient to be "mentally affected" instead of using statutory terminology, is void. 37 Atty. Gen. 600.

Commitment of mentally defective and mentally disordered children under 18 is governed by the provisions of 51.05, and not by 48.07 (1) (b), Stats. 1949. A juvenile judge has no authority to make commitments of mentally defective and mentally disordered children under 18 to private institutions. 38 Atty. Gen. 615.

51.06 History: Stats. 1945 s. 51.01 (6), 51.06; 1947 c. 485; Stats. 1947 s. 51.06; 1953 c. 260; 1955 c. 457, 506; 1955 c. 654 s. 1; 1959 c. 370.

Comment of Interim Committee, 1947: Old 51.06 (1) is amended to provide that all female patients, regardless of age, shall be accompanied by a woman and that the judge shall prescribe the type of transportation. The provision for sheriff's fees in old (2) is omitted here and is placed in 59.28 (the general sheriff's fee section) by another section of this bill and the witness fee provision of (2) is moved to 51.07 (3). 51.06 (2) is a restatement of old 51.01 (6) without change of meaning other than providing for copies instead of originals. It seems obvious that the county court should retain the original papers. [Bill 19-S]

51.065 History: 1951 c. 453; Stats. 1951 s. 51.065; 1953 c. 385; 1955 c. 506, 654; 1961 c. 497, 614.

51.07 History: 1880 c. 266; 1881 c. 202 s. 2; 1883 c. 35 s. 1; 1889 c. 228; Ann. Stats. 1889 s. 593; 1891 c. 153; 1893 c. 41; 1897 c. 319 s. 7; Stats. 1898 s. 585d; 1903 c. 16 s. 1; Supl. 1906 s. 585d; 1907 c. 80; 1919 c. 347 s. 10; Stats. 1919 s. 51.07; 1939 c. 458; 1943 c. 190; 1943 c. 552 s. 8; 1945 c. 342; 1947 c. 485; 1955 c. 457, 506, 654; 1961 c. 614; 1965 c. 325; 1969 c. 87, 255.

Comment of Interim Committee, 1947: 51.07 is restated to make its meaning clear and complete. (2) is amended to give the judge discretion as to fees and to express plainly the per diems and which county fixes the rate (see 34 Atty. Gen. 276). Old (3) is renumbered (4) and restated without change of meaning. Old (4) is renumbered (5) and is amended to show that reimbursement is for proceedings when the patient is discharged as well as when he is committed and shall ultimately be paid by the county of his legal settlement, and if he has no settlement in this state, the expenses shall be paid by the state; and to show how the item is handled. New (3) is from old 51.06 (2). [Bill 19-S]

A county judge who commits A and B on the same day on criminal charges and commits C to a hospital for the insane is entitled to \$5 for the commitment of A and B under 253.15 and to \$5 for committing C to a hospital for the insane under 51.07 (1), Stats. 1931. 20 Atty. Gen. 530.

In the event a county board acts to establish a fee for a medical examination made in connection with the commitment of persons alleged to be insane or senile at a sum greater than \$4 as provided by 51.07 (2), Stats. 1945, the increased fee could only be paid for examinations made and certificates furnished after the effective date of such action by the county board. 34 Atty. Gen. 276.

Attorney's fees are not included in the expenses of proceedings to be paid by the county under 51.07 (4) and 51.11 (6), Stats. 1947. 37 Atty. Gen. 408.

See note to 45.30, citing 38 Atty. Gen. 292.

Mileage and other expenses of a judge conducting a proceeding under 51.07, Stats. 1953, not expressly provided for therein, may not be included in the expenses provided for in 51.07 (4) and (5). 43 Atty. Gen. 213.

51.075 History: 1967 c. 231; Stats. 1967 s. 51.075.

51.08 History: 1872 c. 176 s. 24; R. S. 1878 s. 596; Stats. 1898 s. 589; 1919 c. 347 s. 11; 1919 c. 462; Stats. 1919 s. 51.08; 1921 c. 146; 1923 c. 439; 1927 c. 51; 1927 c. 537 s. 1; 1927 c. 541 s. 10; 1933 c. 140 s. 3; 1933 c. 470 s. 7m, 8; 1935 c. 336, 535; 1939 c. 393; 1943 c. 95, 190, 490, 542; 1945 c. 33, 244; 1947 c. 485, 508, 602; 1949 c. 465; 1951 c. 688; 1963 c. 479; 1965 c. 659 ss. 23 (2), 24 (10), (11); 1967 c. 43, 323; 1969 c. 55 s. 113; 1969 c. 154 ss. 172, 173, 377; 1969 c. 331.

The computation for expense of patient care and treatment in county mental hospitals under 51.08 (1), Stats. 1957, is to be made by totalling the costs of all county mental hospitals and dividing by the total number of patient weeks. State ex rel. Racine County v. Schmidt, 7 W (2d) 528, 97 NW (2d) 493.

State aid for mental patients maintained at public charge is not authorized for such persons admitted to mental hospitals under void commitments. 37 Atty. Gen. 600.

Per capita cost at a state mental institution must be calculated on the basis of the entire institution and not on the basis of separate buildings and facilities. 38 Atty. Gen. 487.

The increase in rate charged to counties for maintenance of patients at state mental hospitals under 51.08 (1), as made by ch. 688, Laws 1951, became effective August 9, 1951, the day after publication. 40 Atty. Gen. 327.

Audit of records of county hospitals or facilities for the mentally infirm by the department of state audit is mandatory under 51.08 (2). 40 Atty. Gen. 374.

The county of legal settlement is to be charged at the rate of \$5 per week for maintenance of patients in the Wisconsin diagnostic center pursuant to 51.08 (1), Stats. 1955, and any amount collected from a patient or relative is to be prorated with the county on that basis. 44 Atty. Gen. 274.

Children in the legal custody of the department of public welfare who have become patients in mental hospitals under ch. 51, or inmates of the diagnostic center under 46.04, are chargeable to the counties of legal settlement as provided in 51.08 and not 48.55. 47 Atty. Gen. 207.

Per capita cost in county mental institutions may include liability insurance when such insurance is authorized by a county board according to the statutes. 50 Atty. Gen. 127.

51.09 History: 1935 c. 306, 353; Stats. 1935 s. 51.26 (5), (6), 161.28 to 161.30; 1943 c. 93; 1947 c. 485; Stats. 1947 s. 51.09; 1951 c. 605, 701; 1953 c. 61, 353; 1955 c. 180, 506, 654; 1959 c. 473; 1959 c. 659 s. 60; 1961 c. 540; 1963 c. 208.

Comment of Interim Committee, 1947: 51.09 (1) is a consolidation of 51.26 (5) and part of (6). It changes the law as to who may make the application and eliminates the specific provision for 3-day notice. The provision for committing to the hospital of an adjoining county is omitted. It is not practical or equitable and is probably not used. There is no such provision as to other types of patients. The judge is given discretion as to notifying relatives. The provision as to the finding of legal settlement is new. So is the last sentence of (1). 51.04 applies to inebriates and drug addicts but not the restriction as to confinement in jail (except in case of acute illness). (2) is from 51.26 (6) and 161.28. The term of commitment is changed. At present the commitment of an inebriate is for "such period * * * as * * * may seem necessary for curing the malady * * * or for such * * * time as * * * the superintendent and attending physician" think he is cured. The proposed commitment is without express time limit. It is till the superintendent thinks the patient is able to care for himself, i. e., no longer needs hospitalization. 161.28 provides for a commitment of drug addicts for not less than 6 months or until cured but not more than 12 months. A uniform provision for rehearing is added. (3) is new. 161.30 contained a provision for voluntary admission of addicts, from which new (3) varies considerably. (4) is new. It provides for conditional release in the same manner as for the mentally ill. (5) is substantially like 161.29. Chapter 161 is entitled "Uniform Narcotic Drug Act." Secs. 161.28 to 161.30 are not part of that act and are, for more logical arrangement, placed in 51.09. The punishment feature of 161.28 is moved to new 348.35 by this bill. [Bill 19-S]

Under 51.09, Stats. 1947, drug addicts and inebriates may not be committed "for observation" nor may they be committed for a specified period of time. 37 Atty. Gen. 139.

Under 51.09 (1) inebriates and drug addicts from any county may be committed to the county hospital or to the Winnebago or Mendota state hospital. 37 Atty. Gen. 265.

Numerous questions arising under 51.09 are considered in 37 Atty. Gen. 274.

A transient not residing in the county cannot be committed as an inebriate pursuant to 51.09. Under 51.09 (1), relating to involuntary commitments, the patient may be only temporarily residing in the county, but under 51.09 (3), relating to voluntary commitments, he must be a permanent resident. 45 Atty. Gen. 281.

51.10 History: 1897 c. 319 s. 8; Stats. 1898 s. 587a; 1911 c. 526; 1919 c. 347 s. 13; Stats. 1919 s. 51.10; 1927 c. 357 s. 4; 1935 c. 336; 1943 c. 275 s. 19; 1945 c. 340; 1947 c. 485; 1955 c. 457, 506, 654; 1959 c. 103; 1969 c. 492.

Comment of Interim Committee, 1947: The requirement of legal settlement is changed simply to "Any resident adult of this state." "Or incompetent" is inserted in (1) and a "spouse" is added to those who may apply for

admission of a minor. Under (2) the superintendent is required to send a copy of the application to the judge whether the patient is indigent or not, and the judge makes a finding in every case as to legal settlement and certifies it to the superintendent. The provision as to the patient leaving the hospital is changed and the superintendent is authorized to apply for his commitment. (3), as to non-resident patients, is a new provision. (4) is new and permits the person under consideration to "sign himself in" as a voluntary patient and gives the judge power to suspend the proceedings. [Bill 19-S]

Legislative Council Note, 1959, with reference to amendments to 46.106 (1), 51.05 (3) and 51.10 (2): The purpose is to provide for initial summary finding of legal settlement by the judge rather than by the court, so as to co-ordinate with administrative correction of erroneous charges under s. 46.106 (4) which is subject to judicial review under s. 46.106 (5). [Bill 15-A]

Under 51.10, Stats. 1921, voluntary patients in the Wisconsin psychiatric institute may be discharged without the parole fixed by law for the insane. 11 Atty. Gen. 70.

Under 51.10 the superintendent of the northern hospital for the insane has a broad discretion as to when a voluntary patient may leave the institution. He is not obliged to release a patient when 5 days' notice is given, if in his judgment the patient should remain longer. 11 Atty. Gen. 823.

Questions arising under 51.10 are considered in 37 Atty. Gen. 276.

51.11 History: 1881 c. 202; 1889 c. 55; Ann. Stats. 1889 s. 593a, 600a; 1897 c. 319 s. 11, 12; Stats. 1898 s. 587; 1901 c. 163 s. 1; Supl. 1906 s. 587; 1909 c. 197; 1919 c. 347 s. 14; Stats. 1919 s. 51.11; 1943 c. 93, 190; 1947 c. 485; 1955 c. 457, 506; 1955 c. 654 s. 1; 1969 c. 255 s. 65.

Comment of Interim Committee, 1947: * * * Two physicians are provided for, the same as in original commitments. The county of re-examination in (1) and at the end of (7) is that from which the patient was committed or in which he is detained. The provisions for notice and report to the hospital in (3a) and (4) are new. (8) is a new provision to place a limit on repeated reexaminations. * * * [Bill 19-S]

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

Under sec. 587, Stats. 1915, county judges have jurisdiction and control of proceedings for reexamination of persons committed to state hospitals, and the superintendent of the hospital cannot retake such person where he thinks such proceedings are unduly delayed. 5 Atty. Gen. 302.

The expense of rehearing as to continued insanity of a person committed to a state hospital for the insane is to be charged to and paid for by the county from which the patient was committed in the same manner as the ex-

pense of the original hearing. 14 Atty. Gen. 550.

A judge has no jurisdiction to order the discharge of a mental patient, inebriate or drug addict except on reexamination under 51.11, Stats. 1947. A patient committed "for observation" may be discharged on an order of the judge reciting reasons therefor. 37 Atty. Gen. 139.

See note to 51.07, citing 37 Atty. Gen. 408.

The word "detained" in 51.11, Stats. 1951, means: (a) Where the patient remains in the institution to which he is committed, the county in which the institution is located is the county in which he is detained. (b) Where the patient is transferred to another institution, the county in which that institution is located is the county in which he is detained. (c) Where the patient receives a conditional release or a temporary discharge from a state institution, the county where that institution is located is the county in which he is detained. 40 Atty. Gen. 169.

51.12 History: Stats. 1945 s. 51.12, 52.02 (4); 1947 c. 485; Stats. 1947 s. 51.12; 1955 c. 457; 1959 c. 273; 1961 c. 188; 1965 c. 374; 1969 c. 255 s. 65; 1969 c. 276 s. 591 (3); 1969 c. 392 s. 87 (23).

Comment of Interim Committee, 1947: (1), (2) and (3) are generalized, so as to give broader authority to the department for transferring patients. Old (4) is omitted. It provided for release of a patient on the giving of a bond by relatives or friends for his safekeeping. New 51.12 (4) provides both for discharge of recovered patients and those who have not recovered but whose discharge is proper. Old (7) is made 51.27 (1) by Section 42 of this bill. (6) is a restatement of 52.02 (4), without change of meaning. The veterans' affairs department wishes the information under (7) for their records. [Bill 19-S]

Where patients committed to state or county hospitals are transferred to another such hospital, the state department of public welfare may require that copies of commitment papers, including legal settlement determinations, accompany patients. 47 Atty. Gen. 160.

51.125 History: 1947 c. 485; Stats. 1947 s. 51.125; 1955 c. 506.

Comment of Interim Committee, 1947: 51.125 is a new section and is for better placement of patients. It covers cases where the original placement was mistaken and where a change in the patient's condition makes it advisable to transfer him. It is an omnibus provision. [Bill 19-S]

Persons committed to the central state hospital under 957.11 and 957.13, Stats. 1955, may be transferred pursuant to 51.125, since that section is not excepted from the provisions of 51.21 (4). 45 Atty. Gen. 273.

51.13 History: 1885 c. 168, 172; Ann. Stats. 1889s. 604nn sub. 3, 604o sub. 1; 1897 c. 319 s. 11; Stats. 1898 s. 587c, 604p; 1899 c. 327 s. 1; 1901 c. 77 s. 1; Supl. 1906 s. 587c; 1919 c. 347 s. 17; Stats. 1919 s. 51.13; 1943 c. 190; 1947 c. 485; 1955 c. 457; 1961 c. 621; 1965 c. 616; 1969 c. 255 s. 65.

Comment of Interim Committee, 1947: The

term of parole is changed from 2 years to one year, and (1) is made to refer to Milwaukee county hospitals rather than only one hospital. The last sentence of (1) is new. "Conditional release" is substituted for "parole." Exceptions are added to (2). The clause regarding civil rights in (3) is new. [Bill 19-S]

An inmate of a county asylum, who is out on parole without the written recommendation of the visiting physician, will not have the presumption of insanity removed after parole. 3 Atty. Gen. 425.

See note to 51.21, citing 27 Atty. Gen. 229.

The presumption of competence may be rebutted by proper proof. 39 Atty. Gen. 227.

51.135 History: 1965 c. 616; Stats. 1965 s. 51.135.

51.14 History: 1885 c. 168, 172; Ann. Stats. 1889 s. 604nn sub. 3; Ann. Stats. 1889 s. 604o sub. 1; Stats. 1898 s. 604p; 1919 c. 347 s. 18; Stats. 1919 s. 51.14; 1927 c. 537 s. 1; 1943 c. 190; 1943 c. 552 s. 10; 1947 c. 485; 1955 c. 506; 1965 c. 415.

51.15 History: 1872 c. 176 s. 1, 28; R. S. 1878 s. 580, 587; Stats. 1898 s. 580, 581; 1919 c. 347 s. 20; Stats. 1919 s. 51.15; 1935 c. 9; 1943 c. 93; 1947 c. 485.

Comment of Interim Committee, 1947: 51.15 is restated without change of meaning except that the department is substituted for "the governor and the state department of public welfare" and the provision about the district to which patients are sent is omitted because it is covered by 51.05 (2). [Bill 19-S]

51.16 History: 1872 c. 176 s. 6, 7; R. S. 1878 s. 588; 1882 c. 151; Ann. Stats. 1889 s. 588; Stats. 1898 s. 582; 1919 c. 347 s. 21; Stats. 1919 s. 51.16; 1947 c. 485; 1955 c. 506; 1969 c. 255 s. 64.

51.17 History: Stats. 1945 s. 51.17, 51.26 (4); 1947 c. 485; Stats. 1947 s. 51.17; 1955 c. 457.

Comment of Interim Committee, 1947: Old 51.17 (1) is omitted because not needed. 51.17 (2) and 51.26 (4) are made 51.17 and generalized to include all types of patients and all state or county institutions. Provision is made for monthly instead of quarterly payments. [Bill 19-S]

51.18 History: 1945 c. 250; Stats. 1945 s. 51.18; 1947 c. 485; Stats. 1947 s. 51.18; 1955 c. 566; 1957 c. 299; 1963 c. 479.

Comment of Interim Committee, 1947: 51.134 is renumbered 51.18 and is restated without change of meaning. [Bill 19-S]

State hospital patients maintained in boarding homes under 51.18, Stats. 1951, are patients in an institution for mental diseases within the meaning of the definitions of aid to the blind in 49.18, of old-age assistance in 49.20 (2) and of aid to the totally and permanently disabled in 49.61 (1m). 41 Atty. Gen. 247.

51.18 is not applicable to patients held at the central state hospital pursuant to 51.21 (3) (a), 957.11, and 957.13. 46 Atty. Gen. 43.

51.18 (2) does not place a statutory limitation upon cost of family-home care for pa-

tients of county mental institutions, but leaves the question of such cost to county authorities. 47 Atty. Gen. 25.

51.19 History: 1872 c. 176 s. 21; R. S. 1878 s. 597; Stats. 1898 s. 590; 1919 c. 347 s. 24; Stats. 1919 s. 51.19; 1947 c. 485; 1955 c. 506.

Comment of Interim Committee, 1947: County hospitals and state colonies are added. The provision as to the length of time the mother has been in the hospital is omitted. "The juvenile judge of the county in which the institution is located" is substituted for "the county judge," and a petition is required rather than notice. The county of legal settlement is substituted for residence. * * * The last sentence is new. [Bill 19-S]

51.20 History: 1881 c. 298; 1885 c. 56; Ann. Stats. 1889 s. 567a sub. 17; Stats. 1898 s. 561q; 1919 c. 347 s. 25; Stats. 1919 s. 51.20; 1943 c. 93; 1947 c. 485.

Comment of Interim Committee, 1947: Enumeration of details as to records and reports is omitted. Present department requirements go further than the statute. [Bill 19-S]

The daily record of a patient at the northern hospital for the insane, required to be kept, is admissible in evidence to show the mental characteristics of the patient while at the hospital in any judicial proceedings where the facts in that regard are material. *Hempton v. State*, 111 W 127, 86 NW 596.

51.21 History: Stats. 1945 s. 51.21, 51.22, 51.225, 51.23, 51.234; 1947 c. 485; Stats. 1947 s. 51.21; 1949 c. 541; 1953 c. 66, 139, 385; 1955 c. 457, 506, 561; 1955 c. 654 s. 1; 1959 c. 113; 1961 c. 621; 1965 c. 616; 1969 c. 255 s. 65.

Comment of Interim Committee, 1947: 51.21 is renumbered (1) and restated without change of meaning. 51.22 is renumbered (2) and restated without change of meaning. 51.225 is renumbered 51.21 (3) and is revised. The provision for a jury trial is omitted. Mentally infirm persons are specifically included. The county jail is added to the list of institutions covered. The procedure under 51.01 and new 51.21 should be practically identical and the procedure under the latter is by reference to 51.01. The judge is given power to proceed to a hearing even though the medical report indicates that the patient is not ill or infirm. Old 51.23 (1) and (3) are renumbered 51.21 (4) and (5) and restated without change of meaning, except that the reference to 51.13 under new (4) is restricted to 51.13 (1) and (3). Old 51.23 (2) is omitted. It provides for contracts with the Milwaukee county hospital at not over \$4.25 per week. Old 51.234 (1) is renumbered 51.21 (6). It specifies the conditions of the parole and old (2) provides that in certain cases the parole may be granted even if the court objects. These provisions are omitted, and also the unusual provision in old (1) that the parole guardian shall be of the same religious faith as the parents of the inmate. The section is amended to provide that the approval of the department is required for paroles and that paroles are subject to the regulations of the department. [Bill 19-S]

A committing court retains jurisdiction to determine the mental condition of a person committed to the central state hospital pur-

suant to 357.13, Stats. 1937. The provisions of 51.13 relating to discharge by lapse of time do not apply to paroles under 51.234, Stats. 1937. 27 Atty. Gen. 229.

As to liability of parole guardian of an inmate of the central state hospital for the insane see 30 Atty. Gen. 114.

A county hospital superintendent does not have authority under 51.21 (6), Stats. 1947, to recommend parole of a patient transferred from the central or Winnebago state hospital. The superintendent of the central or Winnebago state hospital must exercise his judgment and cannot delegate said function. If the superintendent of a county hospital believes that such patient is fit for release under supervision, he should be transferred back to the central or Winnebago state hospital for observation by its superintendent to determine whether he will recommend such parole. 37 Atty. Gen. 26.

The superintendent of the central state hospital has authority under (4) to grant temporary discharges to mentally deficient inmates who have been transferred to the hospital from the state prison, but may do so only after their prison sentences have expired. 37 Atty. Gen. 182.

Guards at the central state hospital may use deadly force to prevent the escape of inmates who are charged with felonies. But a mental hospital, though required to use ordinary care to prevent the escape of patients, may not use deadly force if the patient is not charged with a felony. Employees of such hospitals have the right of self-defense, but must take account of the character of the attacking inmate and the special duty owed to him. 39 Atty. Gen. 2.

The superintendent of the central or Winnebago state hospital may change the parole supervisor of paroled patient without first obtaining approval of the committing court. 39 Atty. Gen. 588.

Patients held only pursuant to ch. 51, not charged with crime or sentenced, may not be paroled under 51.21 (6), Stats. 1955, nor may patients be so paroled who have been removed to the state hospital pursuant to 51.21 (3) (a). The parole of eligible patients for supervision without the state is not authorized. 45 Atty. Gen. 97.

See note to 51.18, citing 46 Atty. Gen. 43.

See note to 51.12, citing 47 Atty. Gen. 160.

Equal protection and commitment of the insane in Wisconsin. *Wilcox*, 50 MLR 120.

Hospitalization of the mentally ill in Wisconsin. *Dix*, 51 MLR 1.

51.215 History: 1947 c. 485; Stats. 1947 s. 51.215; 1955 c. 506.

Comment of Interim Committee, 1947: 51.215 is a new and needed provision for the transfer of mentally ill persons from the industrial schools to state hospitals, and for the further disposition of such cases. [Bill 19-S]

See note to 51.12, citing 47 Atty. Gen. 160.

51.22 History: Stats. 1917 s. 573j-1, 573j-2, 573k, 573o, 573r; 1919 c. 85 s. 2, 6; 1927 c. 178; Stats. 1927 s. 52.01, 52.03; 1941 c. 74; 1943 c. 93; 1945 c. 487; 1947 c. 485 s. 35, 36; 1947 c. 540; Stats. 1947 s. 51.22; 1951 c. 279, 507; 1953

c. 385; 1955 c. 199, 457, 506, 654; 1957 c. 645; 1959 c. 518; 1961 c. 181; 1965 c. 664; 1967 c. 120.

Comment of Interim Committee, 1947: 52.01 is renumbered 51.22 (1) and (2) and restated without change of meaning. "Mentally deficient" (as defined in 51.001) is used instead of "feeble-minded." 52.03 is restated with minor changes of meaning. It is made part of 51.22 for better arrangement. Old 52.03 (1) is covered by the department's power to make regulations, and it is omitted. The power of transfer is broadened and provision is made for both temporary and permanent discharges. Old 52.03 (4) and (5) are omitted because covered by new 51.125, transfers for better placement. [Bill 19-S]

A person committed to the northern colony and training school and later transferred to the Milwaukee county asylum from which she was given a leave of absence under 51.13 (2), Stats. 1945, is not automatically presumed competent upon lapse of time. Such person is considered on "temporary discharge" and may be required by superintendent to return to county hospital without new commitment, even though patient has been at large for over 5 years, since such patient has not been granted a permanent discharge under (5). 40 Atty. Gen. 214.

51.225 History: 1963 c. 487; Stats. 1963 s. 51.225.

51.23 History: 1927 c. 178; Stats. 1927 s. 52.02 (1), (2); 1933 c. 140 s. 3; 1943 c. 93, 190; 1947 c. 485, 602; Stats. 1947 s. 51.23; 1953 c. 519; 1955 c. 457.

Comment of Interim Committee, 1947: 51.23 is from old 52.02. The definition of clinical psychologist has been changed somewhat. By consolidating chapters 51 and 52 and making the procedure for handling the mentally ill apply to the mentally deficient, the need of special procedure for the latter is eliminated. Old 52.02 (3) is repealed by this bill and old (4) is renumbered 51.12 (6). [Bill 19-S]

51.235 History: 1921 c. 145; Stats. 1921 s. 51.235; 1947 c. 485; 1969 c. 276 s. 603 (6).

Comment of Interim Committee, 1947: 51.235 is restated without change in meaning. The psychiatric institute statute is 36.227. [Bill 19-S]

51.24 History: 1901 c. 423; Supl. 1906 s. 604v; 1913 c. 162; 1913 c. 772 s. 73; 1917 c. 14 s. 28; 1919 c. 347 s. 33; Stats. 1919 s. 51.24; 1919 c. 462, 552; 1923 c. 439; 1927 c. 422; 1927 c. 541 s. 11; 1933 c. 140 s. 3; 1943 c. 93; 1945 c. 244; 1947 c. 9 s. 31; 1947 c. 485; 1949 c. 576; 1951 c. 381, 688; 1959 c. 659 s. 79; 1961 c. 101, 394, 621; 1963 c. 479; 1965 c. 659 ss. 23 (2), 24 (10), (11); 1967 c. 43; 1969 c. 154; 1969 c. 366 ss. 44, 117 (1) (c).

Comment of Interim Committee, 1947: (1) is restated without change except that the population figure is made 500,000 (the usual figure) instead of 250,000; (2) is amended to reimburse Milwaukee county for persons mentioned in (1) (so as to include drug addicts and inebriates) instead of only for insane patients. The rest of the section is restated without change of meaning. [Bill 19-S]

A partial payment recovered by Milwaukee

county in full settlement of its claim for maintenance of a patient in its hospital for the insane may be allocated proportionately over the whole period of maintenance so as to reduce proportionately the state aid to be allowed for the entire period. One making voluntary partial payments for such maintenance may specify that it should apply on current rather than past items. 34 Atty. Gen. 232.

Where additions or wings for the use of mental and tubercular patients are constructed at a county general hospital, state aids are payable under 51.24 (2) and 50.07 (3), Stats. 1949, if the management and actual control of the additional units are vested not in the county general hospital but with the hospital for mental diseases and the tuberculosis sanatorium. 38 Atty. Gen. 298.

The rate of state aid to Milwaukee county for caring for acute mental cases, under 51.24 (2), as recreated by ch. 688, Laws 1951, is discussed in 40 Atty. Gen. 327.

See note to 51.08, citing 50 Atty. Gen. 127.

51.25 History: Stats. 1945 s. 51.25, 51.26 (1), (2), (3); 1947 c. 485 s. 40, 41; Stats. 1947 s. 51.25; 1959 c. 604; 1963 c. 479.

Comment of Interim Committee, 1947: Hospitals or facilities for other patients besides chronic insane are provided for. "Facility" is substituted for "pavilion". The trustees now appoint the physician. This is changed so that the superintendent, with the approval of the trustees, appoints the physician. * * * Old 51.26 tells who may be admitted to county hospitals. It goes without saying that patients who are legally committed may be admitted. 51.05, 51.08, 51.09, 51.10 and 51.12 provide for the commitment or transfer of patients to county hospitals. That undoubtedly implies that the patients *may* be admitted there. It implies that some of them *shall* be admitted. Most of 51.26 (1), (2) and (3) is therefore omitted. 51.25 (2) is from old 51.26 (3). 51.26 (4) is made part of new 51.17 and 51.26 (5) and (6) are moved to new 51.09. [Bill 19-S]

51.26 History: 1963 c. 479; Stats. 1963 s. 51.26; 1969 c. 154; 1969 c. 366 s. 117 (1)(c), (3) (b).

51.27 History: Stats. 1945 s. 51.12 (7), 51.27 (1), (2); 1947 c. 485 s. 42 to 44; 1947 c. 508, 602; Stats. 1947 s. 51.27; Stats. 1949 c. 466; 1951 c. 449; 1953 c. 649; 1955 c. 224, 457; 1957 c. 26, 672; 1969 c. 55; 1969 c. 366 s. 117 (1)(c).

Comment of Interim Committee, 1947: 51.12 (7) is renumbered 51.27 (1) and restated with no change in meaning. 51.27 (1) and (2) are renumbered (2). It provides for transfers of tuberculous mental cases to the Douglas county sanatorium for such patients. "Legal settlement" is substituted for "residence" * * * [Bill 19-S]

See note to 51.12, citing 47 Atty. Gen. 160.
See note to 51.08, citing 50 Atty. Gen. 127.

51.30 History: 1947 c. 485; Stats. 1947 s. 51.30; 1955 c. 506.

51.31 History: 1947 c. 485; Stats. 1947 s. 51.31; 1955 c. 457.

Comment of Interim Committee, 1947: 51.31

is an omnibus provision to make sure that chapter 51 extends to the mentally infirm and mentally deficient and epileptics. [Bill 19-S]

51.32 History: 1947 c. 485; Stats. 1947 s. 51.32; 1955 c. 506.

Comment of Interim Committee, 1947: 51.32 is new. * * * [Bill 19-S]

51.33 History: 1965 c. 616; Stats. 1965 s. 51.33.

51.35 History: 1947 c. 485; Stats. 1947 s. 51.35.

Comment of Interim Committee, 1947: 51.35 is new. (1) is an adaptation of the Illinois statute. [Bill 19-S]

51.35 (1), Stats. 1963, providing for the unexamined forwarding of communications from patients in public mental hospitals to "licensed attorneys" means attorneys licensed to practice in Wisconsin. 53 Atty. Gen. 135.

51.36 History: 1959 c. 317, 618; Stats. 1959 s. 51.36; 1965 c. 631; 1969 c. 154; 1969 c. 366 s. 117(1)(c), (h), (3)(a), (4).

For discussion of provisions of 20.670 (24) and 51.36, Stats. 1959, regarding appropriation of county funds, as well as state grants-in-aid, see 48 Atty. Gen. 267.

See note to 51.08, citing 50 Atty. Gen. 127.

51.37 History: 1961 c. 394; Stats. 1961 s. 51.37; 1969 c. 366 ss. 45, 117(3)(a).

51.38 History: 1961 c. 591, 622, 635; Stats. 1961 s. 51.38; 1969 c. 154; 1969 c. 366 s. 117(1)(c), (h), (3)(a), (4).

51.39 History: 1965 c. 176; 1965 c. 433 s. 121; Stats. 1965 s. 51.39; 1967 c. 291 s. 14.

51.40 History: 1967 c. 43; Stats. 1967 s. 51.40; 1969 c. 154, 332, 452.

51.50 History: 1949 c. 86; Stats. 1949 s. 51.50.

51.75 History: 1965 c. 611; Stats. 1965 s. 51.75.

51.76 History: 1965 c. 611; Stats. 1965 s. 51.76; 1969 c. 366 s. 117(3)(a).

51.77 History: 1965 c. 611; Stats. 1965 s. 51.77; 1967 c. 26; 1969 c. 336 s. 176.

51.78 History: 1965 c. 611; Stats. 1965 s. 51.78.

51.79 History: 1965 c. 611; Stats. 1965 s. 51.79.

51.80 History: 1965 c. 611; Stats. 1965 s. 51.80.

51.81 History: 1919 c. 277; Stats. 1919 s. 4854—1; 1925 c. 4; Stats. 1925 s. 365.01; 1955 c. 660 s. 13; Stats. 1955 s. 965.01; 1969 c. 255 s. 61; Stats. 1969 s. 51.81.

Editor's Note: For foreign decisions construing the "Uniform Extradition of Persons of Unsound Mind Act" see Uniform Acts, Annotated.

51.82 History: 1919 c. 277; Stats. 1919 s. 4854—2; 1925 c. 4; Stats. 1925 s. 365.02; 1955

c. 660 s. 13; Stats. 1955 s. 965.02; 1969 c. 255 s. 61; Stats. 1969 s. 51.82.

51.83 History: 1919 c. 277; Stats. 1919 s. 4854—3; 1925 c. 4; Stats. 1925 s. 365.03; 1955 c. 660 s. 13; Stats. 1955 s. 965.03; 1969 c. 255 s. 61; Stats. 1969 s. 51.83.

51.84 History: 1919 c. 277; Stats. 1919 s. 4854—4; 1925 c. 4; Stats. 1925 s. 365.04; 1955 c. 660 s. 13; Stats. 1955 s. 965.04; 1969 c. 255 s. 61; Stats. 1969 s. 51.84.

51.85 History: 1919 c. 277; Stats. 1919 s. 4854—5; 1925 c. 4; Stats. 1925 s. 365.05; 1955 c. 660 s. 13; Stats. 1955 s. 965.05; 1969 c. 255 s. 61; Stats. 1969 s. 51.85.

CHAPTER 52.

Support of Dependents.

52.01 History: 1945 c. 585; Stats. 1945 s. 49.07; 1953 c. 31 s. 2 to 5; 1953 c. 275; Stats. 1953 s. 52.01; 1957 c. 187; 1963 c. 580.

Revisor's Note, 1967: Senate Bill No. 7, which became Ch. 9, Laws of 1967, contained the following note:

"NOTE: This change in language is in conformity with the definition in Title 42 USC 606 (b). Public Law 87-543 (1962) ss. 104 (a) (3) (D), 156 (b) substituted 'aid to families with dependent children' for 'aid to dependent children.'

It is unclear whether this amendment will change the result in the case *In re Spigner* (1965) 26 Wis. (2d) 190. However, it could be argued that a change in language relatively soon after this decision was for the purpose of changing the results in this case. The court held in *In re Spigner* that the director of public welfare of Milwaukee county could not collect from the father, as a responsible relative under s. 52.01, any portion of ADC payment made to his daughter, since the daughter's child was the 'dependent person' on which the payments were based."

After the divorce of parents the father's duty of maintenance of minor children remains as before, in the absence of any decree on the subject, especially if their custody is not taken from him. *Zilley v. Dunwiddie*, 98 W 428, 74 NW 126.

1502 et seq., Stats. 1898, are prospective in character and do not allow a town to relieve a pauper and afterwards recover the amount expended from the proper relative, but contemplate that the supervisors upon failure of the relative to maintain the pauper may apply to the county judge to fix the manner and amount of the relief to be given by the relative, and upon a failure to comply with that order they may recover the amounts unpaid. *Saxville v. Bartlett*, 126 W 655, 105 NW 1052.

A son being legally bound to relieve and support his father if the latter should so dissipate his property as to be unable to maintain himself, may appeal from an order denying his petition to appoint a guardian for the father. *Merrill v. Merrill*, 134 W 395, 114 NW 784.

There is no jurisdiction to enforce, upon the application of town officers, the support of poor persons by relatives, in counties that