

venereal disease, who refuses to take treatment, may be committed to a public institution for treatment. 11 Atty. Gen. 644.

Information obtained by a physician who is a local health officer in his capacity as such officer in making examination under 143.07 (2) is not privileged under 325.21, there being no relationship of physician and patient. 28 Atty. Gen. 307.

In compelling physical examination under 143.07 (2), a local health officer who is a physician should obtain authorization from the state board of health or a state health officer. What constitutes "reasonably suspected case" under this section depends upon facts and circumstances, the statute permitting exercise of discretion in absence of malicious, arbitrary or unreasonable action. 28 Atty. Gen. 307.

**143.075 History:** 1907 c. 156; 1909 c. 41; Stats. 1911 s. 4590n; 1925 c. 4; Stats. 1925 s. 351.39; 1955 c. 696 s. 293; Stats. 1955 s. 143.075.

**143.08 History:** 1923 c. 112; 1923 c. 449 s. 24; Stats. 1923 s. 143.08; 1969 c. 366 s. 117 (1) (a).

**143.085 History:** 1947 c. 574; Stats. 1947 s. 143.085.

**143.09 History:** 1917 c. 235; Stats. 1917 s. 1417m sub. 11; Spl. S. 1918 c. 9; 1919 c. 331; 1921 c. 152; 1921 c. 422 s. 47; 1923 c. 448 s. 18; 1923 c. 449 s. 13; Stats. 1923 s. 143.09; 1947 c. 574.

**143.10 History:** 1881 c. 168 s. 4; Ann. Stats. 1889 s. 4608d; Stats. 1898 s. 4608d; 1907 c. 209; 1925 c. 4; Stats. 1925 s. 352.48; 1927 c. 473 s. 57; Stats. 1927 s. 143.10.

On civil liability for causing exposure to an infectious or contagious disease see *Kliegel v. Aitken*, 94 W 432, 69 NW 67.

**143.11 History:** R. S. 1858 c. 30 s. 3; R. S. 1878 s. 4608; Stats. 1898 s. 4608; 1925 c. 4; Stats. 1925 s. 352.47; 1927 c. 473 s. 56; Stats. 1927 s. 143.11; 1949 c. 265; 1969 c. 366.

Where a resolution of a local board of health provided that its violation shall be punished under this section, such violation was a misdemeanor. *Stoltman v. Lake*, 124 W 462, 102 NW 920.

**143.12 History:** 1911 c. 44; Stats. 1911 s. 1408a to 1408d; 1917 c. 53, 97; 1917 c. 578 s. 2; 1917 c. 671 s. 38; 1917 c. 677 s. 10; Stats. 1917 s. 40.70; 1927 c. 425 s. 105; Stats. 1927 s. 143.12; 1969 c. 366 s. 117 (1) (a), (b).

**143.13 History:** 1907 c. 113; Stats. 1911 s. 1413L to 1413n; 1917 c. 578 s. 2; Stats. 1917 s. 40.71; 1921 c. 372; 1927 c. 425 s. 106; Stats. 1927 s. 143.13; 1935 c. 98; 1969 c. 366 s. 117 (1) (b).

See note to 143.02, citing *State ex rel. Adams v. Burdige*, 95 W 390, 70 NW 347.

A local board of health may prohibit attendance of children at private and parochial schools unless vaccinated, during an epidemic of smallpox. 4 Atty. Gen. 383.

The city, not the county, must provide free vaccination of pupils in the county training school, if smallpox is present in the city when the order of the local board of health is made. 12 Atty. Gen. 65.

**143.14 History:** 1935 c. 129; Stats. 1935 s. 143.14; 1969 c. 336 s. 176; 1969 c. 366 s. 117 (1) (a).

**143.15 History:** 1951 c. 418; Stats. 1951 s. 143.15; 1969 c. 366 s. 117 (1) (a).

**143.16 History:** 1957 c. 393; Stats. 1957 s. 143.16; 1959 c. 176; 1961 c. 416; 1969 c. 366 s. 117 (1) (a).

Neither teachers nor employes, full time or part time, employed by local boards of vocational and adult education under 41.15 (6) and 41.17 (1) are required to take periodic health examination under the provisions of ch. 393, Laws 1957, which repealed and recreated 40.30 (10m) (a) and created 143.16, Stats. 1957. 46 Atty. Gen. 253.

**143.17 History:** 1961 c. 416; Stats. 1961 s. 143.17; 1963 c. 79; 1969 c. 276 ss. 602 (1), 603 (1); 1969 c. 366 s. 117 (1) (a).

## CHAPTER 144.

### Water, Ice, Sewage and Refuse.

**144.01 History:** 1919 c. 447 s. 2; Stats. 1919 s. 1407m—1 (1); 1923 c. 448 s. 19; Stats. 1923 s. 144.01; 1927 c. 264 ss. 2, 3; Stats. 1927 s. 144.01, 144.51; 1949 c. 603; 1963 c. 306; 1965 c. 614 ss. 33, 34, 43, 44, 57 (5); Stats. 1965 s. 144.01; 1969 c. 276.

**144.02 History:** 1913 c. 568 s. 1, 2; 1913 c. 773 s. 81; Stats. 1913 s. 1407m; 1923 c. 448 s. 19; Stats. 1923 s. 144.02; 1965 c. 614 ss. 35, 57 (1).

**144.023 History:** 1965 c. 614; Stats. 1965 s. 144.023; 1967 c. 211 s. 18; 1969 c. 276.

**144.025 History:** 1965 c. 614; Stats. 1965 s. 144.025; 1967 c. 226, 260; 1969 c. 276 ss. 460, 461, 588 (6); 1969 c. 366 s. 117 (2) (a).

**Editor's Note:** Ch. 614, Laws 1965, repealed various provisions of ch. 144, Stats. 1965, which conferred authority and imposed duties upon the state board of health and the committee on water pollution in relation to the control of pollution of the public waters of the state.

On exercises of police power see notes to sec. 1, art. I; on legislative power generally and on delegation of power see notes to sec. 1, art. IV; on municipal home rule see notes to sec. 3, art. XI; and on navigable waters, harbors and navigation see notes to various sections of ch. 30.

While plans and specifications approved by the state board of health included the location of the sewage disposal plant of the defendant village, and the matter of location may have been within the scope of the board's approval, it was not within the competency of the board to foreclose a judicial determination of whether by reason of location the plant would be a nuisance per se. *Hasslinger v. Hartland*, 234 W 201, 290 NW 647.

Under ch. 144, Stats. 1937, the state board of health and the state committee on water pollution may order that the municipality prescribe its own plan for abating the water pollution evil complained of, but where there is an entire lack of co-operation and an active opposition on the part of the municipality the

board and the committee are empowered to prescribe definitely what shall be done. State ex rel. Martin v. Juneau, 238 W 564, 300 NW 187.

Under the provisions of 144.05 (1), Stats. 1947, as amended, and of 144.53 (1), (5) and 144.536, the committee in ordering the Madison metropolitan sewerage district to submit plans for eliminating the discharge of sewage effluent from its plant into certain lakes, or other plans which would accomplish substantially the same results in eliminating nuisance conditions on such lakes, was not required to make a specific finding that the effluent created a nuisance or damaged health or property but, in any event, the committee's finding that the effluent discharged by the district contributed substantially to the growth of algae of the type that created objectionable conditions in such lakes was a sufficient finding as to the existence of nuisance conditions. A further finding that the removal or diversion of such effluent from such lakes would diminish the objectionable conditions by reducing the frequency and intensity of algal blooms in such lakes was sufficient without stating the exact extent to which they would be reduced. Madison Met. Sewerage Dist. v. Committee, 260 W 229, 50 NW (2d) 424.

The amount of expense which may be involved on the part of a sewerage district, in order to comply with an order of the state committee on water pollution requiring the district to divert its sewage effluent from a certain lake or to provide advance treatment of the effluent, so as to eliminate nuisance conditions for which the effluent is in large part responsible, is a matter for legislative concern and not for the courts. Madison Met. Sewerage Dist. v. Committee, 260 W 229, 50 NW (2d) 424.

See note to 60.18, on town board acting as village board, citing Fond du Lac v. Empire, 273 W 333, 77 NW (2d) 699.

On interstate agreements to abate water pollution see 40 Atty. Gen. 43.

The state board of health has no power under 144.03 (1) and (3), Stats. 1955, to apportion underground waters among adjoining landowners. Its control over high-capacity wells is limited under 144.03 (6), (7) and (8) to those situations where the availability of water to a public utility furnishing water to the public is adversely affected. 44 Atty. Gen. 69.

On the power to establish water-quality criteria for surface waters see 54 Atty. Gen. 148.

Legal aspects of thermal pollution. Jost, 1969 WLR 253.

Beneficial use of water in a riparian jurisdiction. Waite, 1969 WLR 864.

**144.03 History:** 1965 c. 614; Stats. 1965 s. 144.03; 1969 c. 154; 1969 c. 366 s. 117 (2) (a); 1969 c. 451.

**144.04 History:** 1919 c. 447 s. 2; Stats. 1919 s. 1407m—1 (4), (7), (10); 1923 c. 448 s. 20; Stats. 1923 s. 144.04; 1965 c. 614 s. 57 (1); 1969 c. 208, 392.

A finding that the proposed facility is structurally sound so as to accomplish its purpose is necessary for valid approval where such soundness is challenged by an opposing party. The approval of the plans is subject to judi-

cial review under 227.15 and 227.16. Norway v. State Board of Health, 32 W (2d) 362, 145 NW (2d) 790.

**144.045 History:** 1965 c. 195; 1965 c. 614 s. 57 (1); Stats. 1965 s. 144.045.

**144.05 History:** 1917 c. 430; Stats. 1917 s. 1407—1; 1921 c. 422 s. 46; Stats. 1921 s. 1407—2; 1923 c. 448 s. 21; Stats. 1923 s. 144.05; 1943 c. 69; 1949 c. 435; 1965 c. 532.

See notes to sec. 1, art. I, on equality and on exercises of the police power, note to sec. 12, art. I, on impairment of contracts, and note to 66.20, on metropolitan sewerage districts, citing Madison Met. Sewerage Dist. v. Committee, 260 W 229, 50 NW (2d) 424.

144.05 (2), so far as providing that an owner of land through which a sewage drain is constructed may apply to the circuit court to determine the damages, applies only to damages resulting from the acquisition of right of way, and does not purport to prohibit an action for damages, or otherwise, as to any nuisance which may be created and established. Stearns v. State Committee on Water Pollution, 274 W 101, 79 NW (2d) 241.

The fact that the original use of a drain across plaintiff's land was permissive does not prevent the application of the limitation of action under 144.05 (2), nor does it matter who constructed the drain. Chrislaw v. Clinton, 23 W (2d) 206, 127 NW (2d) 221.

144.05 (2) applies not only where waste is discharged into preexisting drains or ditches or into drains or ditches prepared to receive it, but also to situations where waste is allowed to flow over the surface where it makes its own channel. Chrislaw v. Clinton, 29 W (2d) 549, 139 NW (2d) 568.

**144.06 History:** 1917 c. 283; Stats. 1917 s. 1418a—1; 1919 c. 223; 1923 c. 448 s. 21; Stats. 1923 s. 144.06; 1951 c. 560; 1965 c. 58.

On plumbing see notes to various sections of ch. 145.

See note to 61.34, citing Voss v. Lenerz, 256 W 183, 40 NW (2d) 519.

The words "building used for human habitation" in 144.06, Stats. 1933, include buildings such as stores and other places of business where human beings are in need of sewerage facilities and waterworks. 22 Atty. Gen. 923.

See note to 62.11 (5), citing 39 Atty. Gen. 499.

**144.07 History:** 1919 c. 510; Stats. 1919 s. 1407m—1 (14) to (16); 1923 c. 448 s. 22; Stats. 1923 s. 144.07; 1935 c. 460; 1943 c. 375 s. 54; 1945 c. 156, 268, 511; 1947 c. 362 s. 2; 1949 c. 262 s. 4; 1955 c. 82; 1957 c. 60 s. 34; 1963 c. 290; 1965 c. 614 ss. 39, 57 (1), (3); 1969 c. 276 s. 588 (6).

The procedure provided by ch. 67 is to be followed for issuing bonds for the construction of a joint system under 144.07 (4), Stats. 1935. Behnke v. Neenah, 221 W 411, 266 NW 781.

A joint sewerage commission created under 144.07 (4), Stats. 1939, is required to obtain advance approval of operation and maintenance expenses from the governing bodies of the municipalities involved under 144.07 (4) (d). Within its budget so approved it may hire and fix compensation of employes and purchase materials. It has authority to determine proportionate amounts of expenses to be

paid by respective municipalities. Its determination is final unless one of the municipalities appeals to the circuit court under 144.07 (4) (f). 30 Atty. Gen. 1.

Where either of 2 cities operating a joint sewerage commission under 144.07, Stats. 1941, fails to approve the commission's annual budget, the commission will be without funds and cannot operate the sewage system and disposal plant. 30 Atty. Gen. 468.

**144.09 History:** 1911 c. 412 s. 2; 1911 c. 664 s. 65; Stats. 1911 s. 1407m—6; 1919 c. 447 s. 2; Stats. 1919 s. 1407m—1 (9), 1407m—6; 1923 c. 448 s. 24; Stats. 1923 s. 144.09; 1965 c. 614 s. 57 (1); 1969 c. 276.

**144.10 History:** 1919 c. 447 s. 2; Stats. 1919 s. 1407m—2, 1407m—3; 1923 c. 448 s. 25; Stats. 1923 s. 144.10; 1943 c. 375 s. 55; 1945 c. 511; 1959 c. 510; 1965 c. 614 s. 57 (1); 1969 c. 276 s. 588 (6).

In an action to compel a city to comply with orders of the state board of health and the state committee on water pollution, requiring the city to provide for a sewage treatment system so as to prevent objectionable water pollution conditions, the city, having failed to avail itself of the remedies provided by 144.10 and 144.56, Stats. 1937, for a review of such orders, was foreclosed from raising any questions except as to the validity of ch. 144, and as to whether the board and the committee acted within the powers conferred on them by statute. State ex rel. Martin v. Juneau, 238 W 564, 300 NW 187. See also Superior v. Committee on Water Pollution, 263 W 23, 56 NW (2d) 501.

**144.12 History:** 1919 c. 447 s. 2; Stats. 1919 s. 1407m—1 (12); 1923 c. 448 s. 27; Stats. 1923 s. 144.12.

**144.14 History:** 1963 c. 434; Stats. 1963 s. 144.14; 1965 c. 614 s. 57 (1); 1969 c. 276 s. 588 (6); 1969 c. 392 s. 87 (21).

**144.21 History:** 1965 c. 614; Stats. 1965 s. 144.21; 1967 c. 96; 1967 c. 291 s. 14; 1969 c. 55 s. 113; 1969 c. 241; 1969 c. 276 ss. 588 (6), (13), 590 (1); 1969 c. 353; 1969 c. 424 s. 27.

See notes to sec. 1, art. IV, sec. 4, art. VIII, sec. 10, art. VIII, and sec. 3, art. XI, citing State ex rel. La Follette v. Reuter, 33 W (2d) 384, 147 NW (2d) 304.

**144.26 History:** 1965 c. 614; Stats. 1965 s. 144.26; 1967 c. 291 s. 14; 1969 c. 154, 276.

On navigable waters, harbors and navigation see notes to various sections of ch. 30.

144.26, Stats. 1967, has for its purpose insuring that the department of natural resources, when passing on an application for a dredging permit under 30.20 (2), will give consideration, as a major factor, to any effect on water quality and increase of water pollution which the granting of a permit might engender. Reuter v. Dept. of Nat. Resources, 43 W (2d) 272, 168 NW (2d) 860.

**144.30 History:** 1967 c. 83; Stats. 1967 s. 144.30.

**144.31 History:** 1967 c. 83; Stats. 1967 s. 144.31.

Legal aspects of air pollution control and

proposed state legislation for such control. De-logu, 1969 WLR 884.

**144.32 History:** 1967 c. 83; Stats. 1967 s. 144.32.

**144.33 History:** 1967 c. 83; Stats. 1967 s. 144.33.

**144.34 History:** 1967 c. 83; Stats. 1967 s. 144.34.

**144.35 History:** 1967 c. 83; Stats. 1967 s. 144.35.

**144.36 History:** 1967 c. 83; Stats. 1967 s. 144.36.

**144.37 History:** 1967 c. 83; Stats. 1967 s. 144.37; 1969 c. 276.

**144.38 History:** 1967 c. 83; Stats. 1967 s. 144.38.

**144.39 History:** 1967 c. 83; Stats. 1967 s. 144.39.

**144.40 History:** 1967 c. 83; Stats. 1967 s. 144.40; 1969 c. 276.

**144.41 History:** 1967 c. 83; Stats. 1967 s. 144.41; 1969 c. 276.

**144.415 History:** 1967 c. 83; Stats. 1967 s. 144.415.

**144.42 History:** 1967 c. 83; Stats. 1967 s. 144.42.

**144.43 History:** 1967 c. 83; Stats. 1967 s. 144.43.

**144.44 History:** 1967 c. 83; Stats. 1967 s. 144.44.

**144.45 History:** 1967 c. 83; Stats. 1967 s. 144.45.

**144.46 History:** 1967 c. 83; Stats. 1967 s. 144.46.

**144.536 History:** 1949 c. 603; Stats. 1949 s. 144.536; 1965 c. 614; 1967 c. 291 s. 14; 1969 c. 276.

**144.537 History:** 1949 c. 603; Stats. 1949 s. 144.537; 1965 c. 614; 1967 c. 83; 1969 c. 276.

**144.55 History:** 1927 c. 264 s. 2; Stats. 1927 s. 144.55; 1965 c. 614; 1969 c. 276.

**144.555 History:** 1965 c. 447; 1965 c. 614 s. 57 (2); Stats. 1965 s. 144.555.

**144.56 History:** 1927 c. 264 s. 2; Stats. 1927 s. 144.56; 1943 c. 375 s. 56; 1949 c. 603; 1965 c. 614 ss. 52, 57 (2); 1967 c. 226; 1969 c. 276 s. 588 (6).

See note to 144.10, citing State ex rel. Martin v. Juneau, 238 W 564, 300 NW 187.

Review under 144.56, Stats. 1949, must be sought before applying for judicial review under ch. 227. 38 Atty. Gen. 368.

**144.57 History:** 1927 c. 264 s. 2; Stats. 1927 s. 144.57; 1945 c. 94; 1949 c. 603; 1965 c. 614.

**144.76 History:** 1965 c. 575; Stats. 1965 s. 109.13; 1967 c. 211; Stats. 1967 s. 144.76; 1969 c. 138, 154, 276, 392.