

1977 Assembly Bill 505

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CHAPTER 83, Laws of 1977

AN ACT to renumber 227.033; to amend 32.15, 45.35 (5m) (b) and (d), 46.115 (1), 46.12 (title), 46.205, 47.40 (3) (a), 58.05 (title), (1) and (2), 69.06 (5), 69.32 (title), (1), (2) and (3), 75.03 (1), (2) and (3), 75.19, 75.32, 77.54 (22) (e), 97.48 (2), 115.76 (3) (a), 115.77 (3) (b) 1, 118.255 (1) (a), 142.03 (3) (b), 157.06 (1), 245.03 (1), 247.02 (5), 449.01 (1) and 891.45; and to create 227.033 (2) of the statutes, relating to eliminating such words as "insane", "idiot", "senile", "feebleminded", "crippled", "invalids", "deformity" and other terms describing human conditions from the statutes and providing word substitutes.

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

SECTION 1. 32.15 of the statutes is amended to read:

32.15 How title in trustee acquired. In case any title or interest in real estate lawfully required by any person having the power of condemnation is vested in any trustee not authorized to sell, release and convey the same or in any ~~infant, idiot or person of unsound mind~~ minor or person adjudged mentally incompetent, the circuit court may in a summary proceeding authorize and empower such trustee or the general guardian of such ~~infant, idiot or person of unsound mind~~ minor or person adjudged mentally incompetent to sell and convey the same for the purposes required on such terms as may be just. If such ~~infant, idiot or person of unsound mind~~ minor or person adjudged mentally incompetent has no general guardian, the court may appoint

a special guardian for such sale, release or conveyance. The court may require from such trustee, or general or special guardian, such security as it deems proper before any conveyance or release ~~herein~~ authorized in this section is executed. The terms of the same shall be reported to the court on oath. If the court is satisfied that such terms are just to the party interested in such real estate, it shall confirm the report and direct the conveyance or release to be executed. Such conveyance or release shall have the same effect as if executed by one having legal power to sell and convey the land.

SECTION 2. 45.35 (5m) (b) and (d) of the statutes are amended to read:

45.35 (5m) (b) Any child of the veteran under 18 years of age, or if in full attendance at a recognized school of instruction, or of any age if incapable of self-support by reason of mental or physical ~~defects~~ disability. "Child" as used in this section means any natural child, any legally adopted child, any stepchild or child if a member of the veteran's household or any child born out of wedlock if the veteran acknowledges paternity or the same has been otherwise established.

(d) A minor sister or minor brother or a brother or sister of any age if incapable of self-support by reason of mental or physical ~~defects~~ disability.

SECTION 3. 46.115 (1) of the statutes is amended to read:

46.115 (1) The department shall apply to the board of regents of the university of Wisconsin system 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 to any state institution~~, or of any other person committed to the department, who is afflicted with any ~~deformity~~ disability or ailment, which can probably be remedied, or which can be advantageously treated at such hospital, if ~~he~~ the person cannot receive proper care at the institution to which ~~he~~ the person has been committed or to which he or she 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.

SECTION 4. 46.12 (title) of the statutes is amended to read:

46.12 (title) Sterilization.

SECTION 5. 46.205 of the statutes is amended to read:

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~~ disabled 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 from the bonds~~ may be used in the construction or other acquisition ~~thereof of a home~~ 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~~ under the same statutes which would be applicable to the maintenance and operation ~~thereof of the home~~ if it were established in such first county.

SECTION 6. 47.40 (3) (a) of the statutes is amended to read:

47.40 (3) (a) "Handicapped person" means any person who, by reason of a physical or mental ~~defect or infirmity~~ disability, whether congenital or acquired by accident, injury or disease, or any nondisabled person who, by reason of economic, educational, experiential, sociocultural or other deficiency or inadequacy, is or may be expected to be totally or partially incapacitated for remunerative occupation, or who may reasonably be expected to be fit to engage in a remunerative occupation after receiving vocational rehabilitation service.

SECTION 7. 58.05 (title), (1) and (2) of the statutes are amended to read:

58.05 (title) **Private institutions for persons who are mentally ill or retarded.** (1) The articles of organization of any corporation organized under the laws of this state for the establishment and maintenance of any hospital, ~~asylum~~ or other institution for the care, treatment or relief of ~~insane or feeble-minded persons, or both,~~ persons who are mentally ill or retarded may contain provisions authorizing it to receive general, special, permanent or temporary endowments and to secure the repayment of the same in accordance with the terms and conditions upon which they may be made by a mortgage upon its real or personal property, or both, or otherwise, in the manner in such articles provided.

(2) Any ~~insane or feeble-minded~~ person who is mentally ill or retarded may, upon the written request of his ~~or her~~ guardian, be committed to any such hospital, ~~asylum~~ or institution in the manner ~~insane persons who are adjudged mentally incompetent~~ are committed to the state hospitals ~~for the insane~~; but the county in which such person resides shall be liable for his ~~or her~~ support, maintenance and treatment only when he ~~or she~~ has been committed upon the request of the county board ~~thereof~~, and such hospital, ~~asylum~~ or institution shall not be required to keep, care for or treat any ~~insane or feeble-minded~~ person who is mentally ill or retarded longer than his ~~or her~~ guardian or friends or the county from which he ~~or she~~ shall have been committed shall defray the expenses of his ~~or her~~ care and treatment. Any person may voluntarily place himself ~~or herself~~ in such hospital, asylum or institution for care and treatment.

SECTION 8. 69.06 (5) of the statutes is amended to read:

69.06 (5) ~~He~~ The state registrar shall at least once each year tabulate and classify all cases of children born with ~~deformity or physical defects~~ disabilities in the state since the preceding tabulation, and shall preserve the same in his ~~or her~~ office. Such tabulations shall be included in the biennial report of the department.

SECTION 9. 69.32 (title), (1), (2) and (3) of the statutes are amended to read:

69.32 (title) **Report of congenital disabilities.** (1) Within 24 hours after the birth of any child with a ~~deformity or physical defect~~ disability, the attending physician or a midwife practicing under s. 448.20, or if there is no physician or midwife in attendance then the parent or guardian of the child, or other responsible person, shall, in addition to and separate from the notice ~~thereof~~ required in the birth certificate, directly notify the department of such ~~deformity or defect~~ disability and shall explain as fully as possible the exact nature ~~thereof~~ of the disability. ~~Said~~ The physician or a midwife practicing under s. 448.20, or parent, guardian, or other responsible person may, in addition to the notice and explanation ~~herein~~ required under this section make such suggestions or recommendations as to the care, treatment or correction of ~~such deformed or defective~~ the disabled person, or give ~~such~~ information with reference ~~thereto as he may deem~~ to the disabled person deemed necessary or helpful.

(2) The reports, notices or explanations of all cases of congenital ~~deformity or physical defect~~ disability provided for by this section shall be treated as confidential to the extent that the name or address of the ~~deformed~~ disabled person shall not be published by any newspaper, magazine or other paper or publication of general or special circulation.

(3) The secretary of the department shall, immediately upon hearing of any case of congenital ~~deformity or physical defect~~ disability give to the division for handicapped children, department of public instruction, the name and address and such other information as may be helpful in the follow-up care program of such children.

SECTION 10. 75.03 (1), (2) and (3) of the statutes are amended to read:

75.03 (1) The lands of minors or any interest they may have acquired in lands prior to or after the sale of said lands sold for taxes may be redeemed at any time before such minors come of age and during one year thereafter if such lands were not sold for

nonpayment of taxes for ~~five~~ 5 or more consecutive years prior to or after such acquisition; but no such redemption shall be construed as redeeming the interest of any other person in such lands. And the lands of ~~idiots and insane~~ persons adjudged mentally incompetent so sold or any interest they may have in the same which they acquired prior to such sale and which were not sold for nonpayment of taxes for ~~five~~ 5 or more consecutive years prior to or after such acquisition, may be redeemed at any time during disability and during one year thereafter, and such redemption shall, in all the cases ~~herein mentioned in this section~~, be made in the manner provided in s. 75.01. The heirs of any such minor who ~~shall die~~ dies after ~~his~~ the minor's title to ~~such~~ the lands shall accrue and before the expiration of the time when, if ~~he~~ the minor had lived, ~~he~~ the minor might have redeemed the ~~same~~ lands, may also, if minors, redeem the interest of ~~such~~ the minor in ~~such~~ the lands within the time in which ~~such~~ the minor could, if living, have redeemed the same; and if not minors they may redeem within one year from the time their title so accrues and within the time in which ~~such~~ the minor could, if living, have redeemed the same.

(2) The redemption of lands or any interest ~~therein in the lands~~ of minors, ~~idiots or insane or~~ persons adjudged mentally incompetent, which they acquired prior or subsequent to the date of sale of the lands and which lands were sold for nonpayment of taxes for 5 or more consecutive years, prior to or after such acquisition, shall be made in the manner provided in s. 75.01.

(3) When the purchaser of such lands at tax sale or the owner of tax certificates ~~thereon of such lands~~ is the owner and holder of delinquent tax certificates issued upon tax sales for 5 or more years, and the time for issuance of a deed upon any of such certificates has not expired, the owner and holder of such certificates may foreclose by action ~~pursuant to section under s. 75.19~~; or a tax deed may be issued to ~~him~~ the owner as provided by this chapter and ~~he~~ the owner may foreclose any right of redemption or interest of any minor, ~~idiot or insane or~~ person adjudged mentally incompetent by separate action ~~pursuant to section under s. 75.19~~, which ~~he~~ the owner may also do if the tax deed was issued prior to the effective date of this amendment. In such action the minor, ~~idiot or insane or~~ person adjudged mentally incompetent must appear by guardian ad litem as provided by law, and ~~his~~ the guardian, if ~~he~~ the person has one, shall be joined as a party defendant. This subsection as amended in 1945 is retroactive January 1, 1946. The postponement of the effective date of the retroactive provision is to afford an opportunity to all persons having an interest in lands affected to redeem such lands from the lien of tax certificates prior to such effective date.

SECTION 11. 75.19 of the statutes is amended to read:

75.19 Foreclosure of certificates. The holder of any tax certificate may, at ~~his~~ the holder's option, in lieu of taking a tax deed, at any time after 5 years as to tax certificates which antedate 1945, 4 years and 6 months for the 1945 tax certificates, 4 years for the 1946 tax certificates, 3 years and 6 months for the 1947 tax certificates, and thereafter 3 years from the date of such certificate, and before ~~he~~ the holder would be debarred from demanding a tax deed ~~thereon~~, foreclose the same by action as in a case of a mortgage upon real estate. The holder of any tax certificate may in any case involving the right of redemption or interest of any minor, ~~idiot or insane or~~ person adjudged mentally incompetent, after a tax deed has been issued as provided in ~~chapter 75~~ this chapter, foreclose the right of redemption or interest of ~~such~~ the minor, ~~idiot or insane or~~ person adjudged mentally incompetent. In such action ~~such~~ the minor, ~~idiot or insane or~~ person adjudged mentally incompetent must appear by guardian ad litem, and ~~his~~ the person's general guardian, if ~~he~~ the person has one, shall be joined as a party defendant. All the laws and rules of practice relating to the foreclosure of mortgages, as to the persons necessary and proper to be made parties, as to pleading and evidence, the judgment of foreclosure and sale under foreclosure, the right of the plaintiff to be subrogated to the benefits of all liens upon the premises ~~by him~~ necessarily satisfied by the plaintiff in order to save the lien of ~~his~~ the plaintiff's

certificate, the right of the defendants or any of them, to redeem the premises at any time before sale, and as to costs and disbursements, including the necessary expenses for an abstract of title, shall, so far as they are applicable, prevail in such actions; provided, that when costs are allowed to the plaintiff, such costs, exclusive of disbursements, shall be discretionary with the court, but shall not exceed the amount of the face of the certificate or certificates embraced in such action, and such costs when allowed, shall be an additional lien upon the property described in such certificates, provided further, that the defendant may in all cases within the time limited by law for answering the complaint, execute and deliver to the plaintiff or ~~his~~ the plaintiff's attorney a quitclaim deed of the lands described in the complaint, conveying all the right, title and interest of ~~such~~ the defendant at the time of the commencement of the suit; or may, within such time, either after having delivered such deed or without such delivery, answer disclaiming any title to the lands in question at the time of the commencement of the suit, in either of which cases the plaintiff shall not recover costs personally against any ~~such~~ defendant who quitclaims ~~as aforesaid~~ under this section or who shall establish such disclaimer upon the trial of such action. The plaintiff in such action may include in one action, all the certificates ~~he~~ the plaintiff holds upon the same tract of land; and the sale in such actions shall be conducted, certificates ~~thereon~~ made and filed, the report made and confirmed and a deed ~~thereon~~ executed and delivered, in like manner and with like effect as in the case of actions for foreclosure of mortgages.

SECTION 12. 75.32 of the statutes is amended to read:

75.32 Taxation and sale of lands held by counties. Real property upon which the county holds any certificate of tax sale shall continue liable to taxation and to sale for unpaid taxes, and the county shall be the exclusive purchaser at the sale; but when a tax deed shall be issued to the county and it shall hold tax certificates of sale unredeemed on the same property for two successive years subsequent to the date of the sale on which such deed shall issue, including certificates of sale made prior to the passage of these statutes, such property shall thereafter be exempt from taxation until the same is sold by the county. The county clerk shall annually, before ~~the first day of~~ June 1, furnish to the assessors of each town a list of the lands in such town exempt under this section. Nothing in this section shall be so construed as to apply to lands owned by minors, ~~idiots or insane persons or persons adjudged mentally incompetent.~~

SECTION 13. 77.54 (22) (e) of the statutes is amended to read:

77.54 (22) (e) Crutches and wheelchairs for the use of ~~invalids and crippled~~ persons who are ill or disabled.

SECTION 14. 97.48 (2) of the statutes is amended to read:

97.48 (2) This section does not prohibit the manufacture or sale of proprietary foods containing milk or skim milk to which have been added any fat or oil other than milk fat when such foods are clearly labeled to show their composition and the fact that they are to be sold exclusively for use as directed by physicians ~~for the feeding of~~ invalids and children.

SECTION 15. 115.76 (3) (a) of the statutes is amended to read:

115.76 (3) (a) Physical, ~~crippling~~ or orthopedic disability.

SECTION 16. 115.77 (3) (b) 1 of the statutes is amended to read:

115.77 (3) (b) 1. Provision of facilities for diagnosis through orthopedic field clinics and for aftercare for children who are ~~crippled~~ orthopedically disabled or who are suffering from conditions which lead to ~~crippling~~ orthopedic disabilities. Such responsibility shall be for those facilities not provided through hospitals, by private physicians or through private organizations. The division shall approve applications and arrange for orthopedic hospital care when state aid is granted for any part of the

cost. This paragraph shall be administered in accordance with requirements of the federal social security act.

SECTION 17. 118.255 (1) (a) of the statutes is amended to read:

118.255 (1) (a) Under this section “physical or mental health treatment services” means treatment for physical, ~~crippling~~ or orthopedic disability, developmental disability, emotional disturbance, hearing impairment, visual disability, speech or language disability; and includes itinerant services such as evaluative and diagnostic services.

SECTION 18. 142.03 (3) (b) of the statutes is amended to read:

142.03 (3) (b) A ~~crippled~~ physically disabled person for the purpose of this chapter means one who has some physical ~~defect~~ disability such as affections of the joints, affections of the bones, disturbances of the neuromuscular mechanism, congenital ~~deformities~~ disabilities, static and other acquired ~~deformities~~ disabilities, that may be corrected or improved by orthopedic surgery or other special surgical and medical care.

SECTION 19. 157.06 (1) of the statutes is amended to read:

157.06 (1) No cemetery shall be laid out or used for burial purposes, except such as are now in use, and except those which are hereafter organized, maintained and operated by towns, villages and cities, by churches, by fraternal and benevolent societies, by incorporated colleges of religious orders and by cemetery associations incorporated under this chapter. No such cemetery shall be established or located a) within recorded plat of a city or village, or recorded addition thereto, and within a mile of a building in any such plat, b) outside such a plat and within 200 rods of an inhabited dwelling in such a plat, without the consent of the municipal authorities, c) within 15 rods of a habitable dwelling, public building, watering place, or schoolhouse, but this clause shall not apply to the use for cemetery purposes of lands already owned for an extension to an existing cemetery and included within the same description, nor d) within 200 rods of the institutions for the deaf or hard of hearing persons, for the blind, the hospitals for the ~~insane~~ mentally ill and retarded persons, the Ethan Allen school, the centers for the developmentally disabled or the state reformatory, without the consent of the state agency having jurisdiction over such institutions; except that a) an existing cemetery in a village may be extended or enlarged within or beyond the village limits with the consent of the village board and the owners of any building within 15 rods of the addition; b) an existing cemetery in a city of the 3rd or 4th class may be extended and enlarged with the consent of the department of health and social services and of the council; provided, that damages may also be allowed to owners of land adjoining that taken for cemetery purposes; c) an incorporated college of a religious order in a city of the 4th class may, with the consent of the council, establish a private cemetery on land owned by the college for the interment of members of the order in such city, but not within 50 rods of a private dwelling or building without the consent of the owner; d) a cemetery established within an incorporated village before April 30, 1887, within 100 feet of the outer lines of the plat of such village, may be extended to the outer boundary of such plat with the consent of the village board, and e) a cemetery established before said date may be enlarged subject only to the conditions of s. 157.05. Violation of this section creates a nuisance which may be enjoined at the suit of anyone.

SECTION 20. 227.033 of the statutes is renumbered 227.033 (1).

SECTION 21. 227.033 (2) of the statutes is created to read:

227.033 (2) No rule may use any term removed from the statutes by chapter (this act), laws of 1977.

SECTION 22. 245.03 (1) of the statutes is amended to read:

245.03 (1) No marriage shall be contracted while either of the parties has a husband or wife living, nor between persons who are nearer of kin than second cousins ~~excepting except~~ that marriage may be contracted between first cousins where the female has attained the age of 55 years. Relationship under this section shall be computed by the rule of the civil law, whether the parties to the marriage are of the half or of the whole blood. A marriage may not be contracted if either party has such want of understanding as renders him or her incapable of assenting to marriage ~~whether by reason of insanity, idiocy or other causes.~~

SECTION 23. 247.02 (5) of the statutes is amended to read:

247.02 (5) Such want of understanding as renders either party incapable of assenting to marriage, ~~whether by reason of insanity, idiocy or other causes,~~ at the suit of the other, or at the suit of a guardian of the ~~insane or~~ person adjudged mentally incompetent person, or of the ~~insane or incompetent~~ person adjudged mentally incompetent on regaining reason, unless such ~~insane or incompetent~~ person, after regaining reason, has confirmed the marriage; ~~provided that where the,~~ but if the mentally competent party ~~compos mentis~~ is the applicant, such party was ignorant of the other's ~~insanity or mental incompetency~~ at the time of the marriage, and has not confirmed it subsequent to such person's having gained or regained reason.

SECTION 24. 449.01 (1) of the statutes is amended to read:

449.01 (1) OPTOMETRY. The practice of optometry is defined as ~~follows: The~~ the employment of any means other than drugs to determine the visual efficiency of human eyes or the measurement of the powers or ~~defects~~ impairment of vision; the furnishing, using or employment of any means or device designed or calculated to aid in the selection or fitting of spectacles or eyeglasses; and the adaptation of lenses, prisms and mechanical therapy to aid the vision of any person.

SECTION 25. 891.45 of the statutes is amended to read:

891.45 Presumption of employment connected disease. In any proceeding involving the application by a municipal ~~fireman~~ fire fighter or his or her beneficiary for disability or death benefits under s. 66.191 or any pension or retirement system applicable to ~~firemen~~ fire fighters, where at the time of death or filing of application for disability benefits the deceased or disabled ~~fireman~~ fire fighter had served a total of 5 years as a ~~fireman~~ fire fighter and a qualifying medical examination given prior to the time of his or her joining the department showed no evidence of heart or respiratory ~~defect~~ impairment or disease, and where the disability or death is found to be caused by heart or respiratory ~~defect~~ impairment or disease, such finding shall be presumptive evidence that such ~~defect~~ impairment or disease was caused by such employment.

SECTION 26. **Word changes.** (1) Wherever the term "crippled" appears in the following sections of the statutes, the term "physically disabled" is substituted: 20.255 (1) (mo), 77.54 (22) (a), 142.01 (1) and 142.03 (1), (2) and (3) (a) and (c).

(2) Wherever the term "crippled" appears in the following sections of the statutes, the term "orthopedically disabled" is substituted: 115.77 (3) (b) 2 and 115.88 (4).

(3) Wherever the term "deformed" appears in the following sections of the statutes, the term "disabled" is substituted: 70.11 (4m).

(4) Wherever the term "deformity" appears in the following sections of the statutes, the term "disability" is substituted: 140.24 (1).

(5) Wherever the term "defective" appears in the following sections of the statutes, the term "retarded" is substituted: 46.22 (5) (g), 48.48 (1) and 48.57 (1) (a).

(6) Wherever the term "defective" appears in the following sections of the statutes, the term "impaired" is substituted: 66.01 (14).