

No. 71, A.]

[Published May 27, 1943.

CHAPTER 190.

AN ACT to amend 51.01 (1), paragraph following (2) 25, and (6), 51.02, 51.03, 51.04 (1) and (2), 51.06 (1), 51.08, 51.11 (2), (3) and (7), 51.12 (1) and (3), 51.13 (2) and (3), 51.14, 52.02 (1), (2), (zo) and (zp) and (3), and to create 51.05 (7) of the statutes, relating to the commitment of a case of certain mentally infirm aged persons.

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

SECTION 1. 51.01 (1), the paragraph following (2) 25, and (6) of the statutes are amended to read:

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

(2) 25 (next following paragraph) We, _____, M. D., and _____, M. D., being severally and duly sworn, do severally certify, and each for himself certifies, that we have with care and diligence personally examined _____ now residing or being at _____ in the county of _____, and as a result of such examination, hereby certify that (he is insane and a proper subject for custody and treatment in a state or county hospital or

asylum as an insane person) (*he is senile and a proper subject for custody and treatment in the senile ward in the county home*), under the provisions of the statutes.

(6) The petition of the applicant, the certificate in lunacy of the medical examiners and the adjudication of insanity *or senility*, and a commitment thereof, whether the question of insanity *or senility*, is tried before a jury or otherwise, shall be presented at the time of the commitment to the superintendent or person in charge of the institution to which the insane, *or senile* person is committed.

SECTION 2. 51.02 and 51.03 of the statutes are amended to read:

51.02 (1) On receipt of such application, the judge may make a summary investigation and shall thereupon:

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

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

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

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

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

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

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

We, the undersigned jurors in the case of.....,
having heard the evidence in the case, are satisfied that the said

..... is a fit person to be sent to a (hospital or asylum for the insane) or (*a ward of the county home for the senile*).

If the jury find that the supposed insane or *senile* person is sane their verdict shall so state, in which case the judge shall forthwith order his discharge.

SECTION 3. 51.04 (1) and (2) of the statutes are amended to read:

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

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

SECTION 4. 51.05 (7) of the statutes is created to read:

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

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

(c) In section 51.06 (2), section 51.07, section 51.12 (1), (4) and (5) and section 51.28 (1) where the word "insane" appears there is inserted next thereafter the words "or senile" and where the word "insanity" appears there is inserted next thereafter the words "or senility". The revisor of statutes is directed to make the necessary changes in the above provisions so as to effect the changes provided for in this paragraph.

SECTION 5. 51.06 (1) of the statutes is amended to read:

51.06 (1) If any relative or friend of any person committed to any hospital or asylum for the insane or *senile*, being of legal age

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

SECTION 6. 51.08 of the statutes is amended to read:

51.08 (1) For the purpose of settlement with the county the expense of the maintenance, care and treatment of each inmate and the expense of any confinement for medical observation or for public safety in any state hospital or asylum for the insane shall be computed at the rate of \$5.40 per week, and the expense of the maintenance, care and treatment of each inmate and the expense of any confinement for medical observation or for public safety in any county hospital or asylum for the insane *or in any senile ward* shall be computed at the rate of \$4.50 per week. For each such inmate maintained at public charge elsewhere than in the county of his legal settlement the whole rate shall be chargeable to the state and one-half thereof chargeable over by the state against the county, if any, in which such inmate has a legal settlement. For all other such inmates maintained at public charge one-half of said rate shall be chargeable to the state and one-half to the county in which such inmate has a legal settlement. All such charges shall be adjusted as provided in section 46.10, but nothing herein shall prevent the collection of the actual per capita cost of maintenance, or a part thereof by the state * * * *department of public welfare* or by the county in counties having a population of 500,000 or more, pursuant to law.

(2) Whenever any insane *or senile* person is committed or transferred to any state hospital, or to any hospital, * * * *asylum or senile ward*, in any county other than the county in which he has a legal settlement, he shall, in addition to the maintenance charge, be furnished with all necessary clothing. On his admission this shall not be less than the following: For a male, 3 new shirts, a new and substantial coat, vest, 2 pairs of pantaloons of woolen cloth, 2 undershirts, 2 pairs of drawers, 3 pairs of

socks, a black or dark stock or cravat, 2 pocket handkerchiefs, a good hat or cap, a pair of new boots and shoes and a pair of slippers. For a female, in addition to the same quantity of undergarments, shoes and stockings, there shall be 2 woolen and 2 white petticoats or skirts, 3 good dresses, 2 nightgowns, cloak or shawl and a decent bonnet. Unless such clothing be delivered in good order the superintendent shall not be bound to receive the patient; but he may receive and furnish him with proper clothing; inmates shall also be furnished with necessary dental work, but not to exceed \$35 for each person, emergency surgical work may also be provided for inmates, but before any expenditure is made for dental work, or emergency surgical work, an estimate of the cost shall be made by the visiting physician and the superintendent of the asylum, *or senile ward*, and forwarded to the state * * * *department of public welfare*; if the * * * *department* shall approve such expenditure then the necessary dental work, or emergency surgical work, shall be done. The expense of furnishing all clothing and dental, and emergency surgical work, shall be chargeable to the state, and chargeable over to the county, if any, in which such inmate has a legal settlement, and shall be adjusted as provided in section 46.10, and in addition to the clothing required on admission no county shall be liable for more than \$35 for clothing for any one patient in any one year.

SECTION 7. 51.11 (2), (3), and (7) of the statutes are amended to read:

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

(3) The judge shall thereupon by order appoint 2 physicians, each having the qualifications prescribed by section 51.01, to examine and report to him whether in their opinion the person in whose behalf the petition is made is sane or insane *or senile*;

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

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

SECTION 8. 51.12 (1) and (3) of the statutes are amended to read:

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

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

any inmate of the central state hospital, committed under section 357.11 or 357.13, whose mental condition is believed to be chronic or incurable and who in their opinion could be properly cared for in a county asylum.

SECTION 9. 51.13 (2) and (3) of the statutes are amended to read:

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

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

SECTION 10. 51.14 of the statutes is amended to read:

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

SECTION 11. 52.02 (1), (2), (zo), (zr) and (3) of the statutes are amended to read:

52.02 (1) Except that the rate for the maintenance, care and treatment shall be computed at the rate of \$4.80 per week, sections 51.01 to 51.11 * * * 51.14, 51.16, 51.17 and 51.19 * * * shall govern the examination, commitment and custody of mentally deficient and epileptic persons; but commitments of such persons shall be to one of the institutions named in section

52.01, *except that senile persons may be committed to the senile ward of the county home.* In cases of alleged mental deficiency, the examination may be made by a clinical psychologist and a licensed physician skilled in mental diagnosis; but no person shall be recognized as a clinical psychologist unless he has received the doctorate degree in psychology, with work in neurology and psychiatry, and has had not less than 2 years of successful experience in clinical psychological work.

(2) (zo) Is this person mentally deficient? Is this person epileptic? *Is this person senile as defined in section 51.01 (1)?*

(zr) Do you recommend that this person be committed to an institution for the care, custody and training of mentally deficient and epileptic persons? *Do you recommend that this person be committed to the senile ward in the county home?*

(3) Whenever it shall reasonably appear to the supervisor of any town, city, village or ward in which any mentally deficient, * * * epileptic or senile person resides that the welfare of said person, or of society, requires the commitment of such person as mentally deficient, * * * epileptic or senile, such supervisor shall take measures to have such person brought before the county judge for examination according to law.

Approved May 25, 1943.

No. 114, A.]

[Published May 27, 1943.]

CHAPTER 191.

AN ACT to amend subsection (1) of section 9 of chapter 396, Laws of 1937, relating to the establishment and administration of retirement systems in cities of the first class and providing benefits for employes of such cities and their widows and children.

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

Subsection (1) of section 9 of chapter 396, Laws of 1937 is amended to read:

(Chapter 396, Laws of 1937) (Sections 9) (1) The board shall be the trustees of the several funds of the system and shall have full power in its sole discretion to invest and reinvest, alter and change these funds, and the board shall not be held liable for the