

No. 452, S.]

[Published July 5, 1945.]

**CHAPTER 393.**

AN ACT to amend 51.22 and to create 51.225 of the statutes, relating to removal of insane, mentally deficient and epileptic prisoners.

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

SECTION 1. 51.22 of the statutes is amended to read:

51.22 \* \* \* *The department of public welfare may \* \* \* transfer to said hospital any insane or feeble-minded person confined in any state or county hospital, or asylum for the insane, or colonies for feeble-minded and epileptic or feeble-minded where his or the public welfare requires his safekeeping, or who, because of suicidal or homicidal tendencies, is dangerous to himself or others or because of other tendencies dangerous to life or property and may likewise transfer said person back to the institution from whence he came when in their judgment he has recovered sufficiently to warrant such return.* \* \* \*

SECTION 2. 51.225 of the statutes is created to read:

51.225 REMOVAL OF INSANE, MENTALLY DEFICIENT AND EPILEPTIC PRISONERS. (1) Whenever the physician of any state prison, home for women, state reformatory, or psychiatrist of the state department of public welfare shall report in writing to the warden or other officer in charge thereof that any prisoner confined therein is, in his opinion, insane, mentally deficient, or epileptic, such warden or other officer shall make written report to the state department of public welfare who shall have authority to order the transfer and removal of such prisoner, if male to the central state hospital or if a female prisoner to the Winnebago state hospital and to further order the return of such prisoner in the event the department is satisfied that he has recovered from his mental condition prior to the expiration of his term. The superintendent of the central state hospital or Winnebago state hospital, as the case may be, shall receive such prisoner and shall within a reasonable time before the expiration of his sentence make written application to the judge of the county court where the institution is so located for a judicial inquiry as to the prisoner's mental condition. Upon receipt of said application, the judge of said court shall appoint 2 qualified examiners

as under section 51.01 (2) other than a physician connected with the prison, reformatory, home for women, central state hospital or Winnebago state hospital, who shall make written report to the judge of their findings on the forms prescribed in chapters 51 or 52. If the findings of the examiners do not indicate the prisoner is insane, mentally deficient or epileptic, the judge shall dismiss the application and order the superintendent of the central state hospital or Winnebago state hospital to return the prisoner to the institution from which he was transferred if his term has not expired and if his term has expired the judge shall order his immediate discharge.

(2) If the judge concludes from the examiner's report that the prisoner is insane, mentally deficient or epileptic, he shall cause notice to be given to the prisoner that application has been made for inquiry into his mental condition, 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 prisoner can be heard. If it appears from the report of the examiners that the prisoner has not sufficient mentality to comprehend the notice for hearing or for any other reason the judge deems it necessary, a guardian ad litem shall be appointed and such notice given to him. It shall be the duty of such guardian ad litem to personally observe the prisoner, acquaint him of the opportunity for a hearing and represent him at such hearing unless he procures other counsel. If, however, from observation of said prisoner, the guardian ad litem shall conclude that such hearing would be without advantage to the prisoner by reason of his mental condition, then such guardian ad litem shall make and file with the judge a written waiver of such hearing.

(3) If a jury trial be not awarded, the judge may proceed at the time and place specified in such notice, or, if such notice is waived by the guardian ad litem, then at any time thereafter, and if he shall be satisfied from all the evidence adduced that said prisoner is insane, mentally deficient, or epileptic, he shall so find and order him to be confined in the central hospital or, if a female, in the Winnebago state hospital.

(4) If a jury trial be demanded by the prisoner or by his counsel, or guardian ad litem, the judge shall direct that a jury be summoned to hear and determine the question whether such prisoner is insane, mentally deficient or epileptic. If such a trial by jury 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 prisoner and his counsel and immediate friends and medical witnesses. All other persons shall be excluded. If the jury find such person to be insane, mentally deficient or epileptic, their verdict, which shall be signed by them, shall be in substantially the following form:

State of Wisconsin }  
 . . . . . County } ss

We, the undersigned jurors in the case of . . . . ., having heard the evidence in the case, are satisfied that the said . . . . ., is (insane, mentally deficient, or epileptic) and should be confined at the central state hospital. Upon such verdict being rendered, the judge shall order the prisoner, if a male, to be confined in the central state hospital or, if a female, in the Winnebago state hospital.

If the jury find that the prisoner is not insane, mentally deficient or epileptic, their verdict shall so state, in which case the judge shall forthwith order the superintendent of the central state hospital, or the Winnebago state hospital, as the case may be, to return the prisoner to the institution from which he was transferred if his term has not expired and if his term has expired the judge shall order his immediate discharge.

(5) The provisions of section 51.07 relating to fees and costs shall have application.

(6) When any prisoner is found insane, mentally deficient or epileptic, and ordered to be confined at the central state hospital or in the Winnebago state hospital, the superintendent of such institution shall receive such prisoner and retain him until he is legally discharged or removed therefrom.

(7) The provisions of section 51.11 relating to reexamination shall have application to any such prisoner found to be insane, mentally deficient or epileptic except that application shall be made to the court from which such finding was made. If any such prisoner shall by such rehearing be found not to be insane, mentally deficient or epileptic before the expiration of the term for which he was committed to the prison, reformatory or home for women, he shall be ordered returned to such institution to serve the remainder of his sentence. The time spent at the central state hospital or at Winnebago state hospital shall be included as part of the sentence already served. Should he be found not to be insane, mentally deficient or epileptic after ex-

piration of his prison sentence he shall forthwith be discharged.

(8) Should such prisoner remain at the central state hospital or Winnebago state hospital after expiration of his prison term, he shall be subject to the same laws as any other insane, mentally deficient or epileptic person and if insane can be transferred or paroled under the provisions of sections 51.12 and 51.13 or if mentally deficient or epileptic can be discharged as other persons under section 52.03.

Approved June 29, 1945.

No. 497, S.]

[Published July 5, 1945.]

#### CHAPTER 394.

AN ACT to amend 20.43 (1) (b) of the statutes, relating to the salary of the secretary of the state board of health, and making an appropriation.

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

20.43 (1) (b) of the statutes is amended to read:

20.43 (1) (b) To the secretary an annual salary not to exceed \* \* \* \$7,500 as fixed by the board.

Approved June 29, 1945.

No. 33, A.]

[Published July 5, 1945.]

#### CHAPTER 395.

AN ACT to appropriate certain sums of money to Paul L. Hofmeister and Elmer B. Lindh, deputy oil inspectors, to compensate them for damages sustained to their clothing on or about April 7, 1944 while engaged in fighting fire which threatened to destroy the state oil inspection station No. 9 located south of Kenosha on highway No. 41.

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

There is appropriated from the appropriation made in section 20.056 of the statutes to Paul L. Hofmeister, the sum of \$10, and to Elmer B. Lindh, the sum of \$11, as compensation in full for all damages sustained to their clothing on or about April 7, 1944