

CHAPTER 506

AN ACT to amend 45.30, 46.106 (1), 46.11 (1), 49.15 (1), 49.172 (3), (4) and (6), 51.01, 51.02 (1), (2), (4) and (5) (intro. par.), 51.03 (intro. par.), 51.04 (2), (3) and (4), 51.05 (1) and (3), 51.06 (1), 51.065, 51.07 (1), (2), (3) and (4), 51.09 (1) and (3), 51.10, 51.11 (1), (3), (3a), (4), (5), (7) and (8), 51.125 (1), 51.14, 51.16 (2), 51.19, 51.21 (3) (b), (d) and (e), 51.215 (2), 51.22 (5), 51.30, 51.32, 58.05 (3) and 59.28 (37) of the statutes, relating to the tribunal having the commitment under the mental health act and other commitments.

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

SECTION 1. 45.30 of the statutes is amended to read:

45.30 (1) Whenever it appears that any veteran is eligible for treatment in a United States veterans' facility and commitment is necessary for the proper care and treatment of such veteran, * * * *any court of record* of the county in which the veteran is found * * * may, upon receipt of a certificate of eligibility from the veterans' administration, after adjudging the veteran insane in accordance with law, direct such veteran's commitment to the veterans' administration for hospitalization in a United States veterans' facility. Upon admission to any such facility, the veteran shall be subject to the rules and regulations of the veterans' administration. The chief officer of such facility is vested with the same powers exercised by superintendents of state hospitals for mental diseases within this state with reference to the retention, transfer or parole of the veteran committed. Notice of pending commitment proceedings shall be furnished the person to be committed and his right to appear and defend shall not be denied. The commitment of a veteran to a veterans' facility within this state by a judge of *or* a court of record of another state under a similar provision of law has the same force and effect as if such commitment were made by a * * * *court* of this state. After a veteran has been legally committed to any hospital or asylum for the insane in this state the superintendent of such hospital or asylum in any county having a population of 500,000 or more or the state department of public welfare when the commitment has been made to any other such hospital or asylum upon receipt of a certificate of eligibility from the veterans' administration evidencing the right of such veteran to be admitted to a veterans' facility may transfer such veteran to such facility and the cost of the veteran's transportation, together with that of any necessary attendant, shall be a proper charge against such veteran's care in such institution. After such transfer the powers granted by this section to the superintendent of such veterans' facility shall be applicable. Any veteran transferred as provided in this subsection shall be deemed committed to the veterans' administration pursuant to the original commitment.

(2) Before adjudging a veteran insane in accordance with law, the * * * *court*, upon the receipt of a certificate of eligibility from the veterans' administration, may commit such veteran to a veterans' administration facility to be detained for a reasonable length of time, to be fixed by the * * * *court*, for the purpose of observation. Whenever an application to determine insanity is made in the manner prescribed by s. 51.01, the * * * *court* shall make such inquiry as * * * may * * * be necessary and proper to ascertain whether the alleged insane person is eligible for treatment in a veterans' administration facility, and shall notify the Wisconsin

department of veterans' affairs of the pendency of such action and of the commitment.

SECTION 2. 46.106 (1) of the statutes is amended to read:

46.106 (1) When a person is committed or admitted to a charitable, curative, reformatory or penal institution of the state or of a county (except tuberculosis patients provided for in ch. 50 and ss. 51.27 and 58.06 (2)) the committing or admitting court * * * or board shall determine his legal settlement pursuant to s. 49.10, and certify the same to the superintendent of the institution and to the county clerk of the county of legal settlement. The county of his legal settlement shall be charged with his support as provided by law. If it is found that he does not have a legal settlement in the state, the state shall be charged with his support, and the court * * * or board shall submit a transcript of the testimony taken with respect to legal settlement to the department. Nothing shall prevent a recovery of the actual per capita cost of such maintenance by the department or by the county in counties having a population of 500,000 or more, or prohibit the acceptance by the department of payment of the cost of maintenance, or a part thereof, by such person or anyone in his behalf.

SECTION 3. 46.11 (1) of the statutes is amended to read:

46.11 (1) When an inmate of a state or county institution is lawfully moved from one institution to another by the department, the superintendent of the institution from which he is removed shall notify the committing court * * * of the removal.

SECTION 4. 49.15 (1) of the statutes is amended to read:

49.15 (1) When it appears to the satisfaction of any * * * court of record upon petition that a person is without a home or necessary care or is living in a state of filth and squalor likely to induce disease, * * * *the court*, after affording such person an opportunity to be heard in person or by someone in his behalf, may commit such person to the county home of his county, if there be one therein, otherwise to the county home of some other county, for an indefinite time subject to further order. If the person sought to be committed has a legal settlement, the petition for commitment shall be signed by the relief officer of the municipality of settlement and the cost of care and maintenance shall be a charge against such municipality; but if the person has no legal settlement or the county in which he has settlement operates on the county system of relief the petition shall be signed by the relief officer of the county and the cost of care and maintenance shall be a charge against the county. Any order or process issued by * * * *the court* may be served and such commitment may be made by the petitioning officer.

SECTION 5. 49.172 (3), (4) and (6) of the statutes is amended to read:

49.172 (3) When it appears to the satisfaction of the county * * * *court* of the county in which an infirmary is located, upon petition for commitment, that a person meets the standards set forth in sub. (1), * * * *it* may, after affording such person an opportunity to be heard in person or by someone on his behalf, commit him to a county infirmary. The power to commit includes persons who entered an infirmary voluntarily. The * * * *court* may also, on petition and after a hearing, order the discharge of any patient, upon a showing that he is no longer in need of infirmary care, or that he can be adequately cared for elsewhere.

(4) The board of trustees on receipt of an application for voluntary admission, or the county * * * *court* on the filing of a petition for commitment, shall appoint a person licensed to practice medicine and

surgery in this state to examine personally the applicant or the subject of the petition and to advise the board or * * * court whether such person meets the standard prescribed by sub. (1) (a).

(6) The county * * * court in the case of a commitment, and the board of trustees in the case of a voluntary admission, shall pass on the economic status of the patient at the time of commitment or admission, and in all cases in which the patient has legal settlement in another county shall notify the county of legal settlement of the fact of such commitment or admission.

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

51.01 (1) APPLICATION TO COURT. (a) Written application for the mental examination of any person (herein called "patient") believed to be mentally ill, mentally infirm or mentally deficient or epileptic, and for his commitment, may be made to the county or district * * * court of the county in which the patient is found, by at least 3 adult residents of the state, one of whom must be a person with whom the patient resides or at whose home he may be or a parent, child, spouse, brother, sister or friend of the patient, or the sheriff or a police officer or public welfare or health officer. However, if the patient is under 18 years of age, the application shall be made to the * * * juvenile court of the county in which such minor is found.

(b) If the *judge of the county* * * * court or the district * * * court is not available, the * * * application may be made to any court of record of the county * * * . * * *

(2) (a) On receipt of the application the * * * court shall appoint 2 duly licensed reputable physicians to personally examine the patient, one of whom, if available, must have had 2 years' practice of his profession or one year of practice in a hospital for the mentally ill, and who are so registered by the * * * court on a list kept in * * * the clerk's office, and neither of whom is related by blood or marriage to the patient or has any interest in his property. The * * * court may, by attachment for the person of the patient, compel him to submit to the examination of the physicians at a specified time and place.

(b) The examining physicians shall personally observe and examine the patient and satisfy themselves as to his mental condition and report the result to the * * * court, in writing, at the earliest possible time or the time fixed by the * * * court.

SECTION 7. 51.01 (3) of the statutes, as amended by chapter 10, laws of 1955, is amended to read:

51.01 (3) The department shall prescribe forms for the orderly administration of ch. 51 and furnish such forms to the county * * * courts and to the several institutions. A substantial compliance with prescribed forms is sufficient.

SECTION 8. 51.01 (4) of the statutes is amended to read:

51.01 (4) The examining physicians, as part of their report, shall make and file substantially the following affidavit:

We, ----- and -----, the examining physicians, being severally sworn, do certify that we have with care personally examined [insert name of person examined] now at ----- in said county, and as a result of such examination we hereby certify that he is mentally ill and a proper subject for custody and treatment [or, he is mentally infirm, or mentally deficient, or epileptic, and a proper subject for custody and treatment; or, he is not mentally ill or infirm or deficient or epileptic]; that our opinion is based upon the history of his case and our examination of him; that the facts stated and the information con-

tained in this certificate and our report are true to the best of our knowledge and belief. We informed the patient that he was examined by us as to his mental condition, pursuant to an application made therefor, and of his right to be heard by the * * * court.

SECTION 9. 51.02 (1), (2), (4) and (5) (intro. par.) of the statutes are amended to read:

51.02 (1) (a) On receipt of the application or of the report of the examining physicians, the * * * court shall appoint a time and place for hearing the application and shall cause notice thereof to be served upon the patient in the manner prescribed in s. 262.08 (1), (2) or (3), which notice shall state that application has been made for an examination into his mental condition (withholding the names of the applicants) and that such application will be heard at the time and place named in the notice; but if it appears to the satisfaction of the * * * court that the notice would be injurious or without advantage to the patient by reason of his mental condition, the service of notice may be omitted. The * * * court may, in * * * its discretion, cause notice to be given to such other persons as * * * it deems advisable. If the notice is served the * * * court may proceed to hold the hearing at the time and place specified therein; or, if it is dispensed with, at any time. The * * * court may, by attachment for the person of the patient, cause him to be brought before the * * * court for the hearing.

(b) The * * * court shall determine whether the patient is a war veteran. If he is, the * * * court shall promptly notify the state department of veterans' affairs, and in the event of commitment, * * * it shall notify the nearest U.S. veterans' administration facility of the commitment.

(2) At the hearing any party in interest may examine the physicians and other witnesses, on oath, before the * * * court and may offer evidence. At the opening of the hearing the judge shall state to the patient, if present, in simple, nontechnical language the purpose of the examination and his right to be heard and to protest and oppose the proceedings and his commitment; but where it is apparent to the judge that the mentality of the patient is such that he would not understand, he may omit such statement. The hearing may be had in the court room or elsewhere and shall be open only to persons in interest and their attorneys and witnesses. Before making * * * the court's decision the judge shall personally observe the patient.

(4) At any stage of the proceedings, the * * * court may, if * * * it determines that the best interest of the patient requires it, appoint a guardian ad litem for him.

(5) (intro. par.) COURT'S DECISION. At the conclusion of the hearing the * * * court may:

SECTION 10. 51.03 (intro. par.) of the statutes is amended to read:

51.03 (intro. par.) If a jury is demanded by the alleged mentally ill, infirm, deficient or epileptic patient or by a relative or friend in his behalf, before commitment, the * * * court shall direct that a jury of 6 be * * * drawn to determine the mental condition of the patient. The procedure shall be substantially like a jury trial in a civil action * * *. The judge may instruct the jurors in the law. No verdict shall be valid or received unless agreed to and signed by at least 5 of the jurors. At the time of ordering a jury to be summoned, the * * * court shall fix the date of the hearing, which date shall be not less than 30 days nor more than 40 days after the demand for a jury is made. In the meantime the

* * * *court* may order the patient temporarily detained in a designated public institution, until the date of hearing, for observation. The * * * *court* shall submit to the jury the following form of verdict:

STATE OF WISCONSIN }
----- County } ss

Members of the Jury:

SECTION 11. 51.04 (2), (3) and (4) of the statutes are amended to read:

51.04 (2) If it appears from the application for his mental examination or otherwise that safety requires it, the * * * *court* may order the sheriff or other police officer who has such person in custody to confine him in a designated place for a specified time, not exceeding 10 days.

(3) Upon receipt of the report of the physicians the * * * *court* may order his detention in a designated institution for a stated period not exceeding 30 days. Upon the application of the superintendent of the institution or any interested person the * * * *court* may extend the detention period, but the temporary detention shall not exceed 90 days in all.

(4) No patient shall be detained in any jail or other place of confinement for criminals unless there is no other place of detention available which has been approved by the * * * *court*, or unless the patient is violent or dangerous and it is necessary to confine him in jail. If the patient is jailed, the officer shall immediately notify * * * *any court specified in s. 51.01 having a judge available.*

SECTION 12. 51.05 (1) and (3) of the statutes are amended to read:

51.05 (1) If the * * * *court* or jury finds that the patient is mentally ill or infirm and should be sent to a hospital for the mentally ill or infirm, the * * * *court* shall commit him to a hospital, stating in the commitment whether the notice specified in s. 51.02 was served, and if not, the reasons. If the * * * *court* or a jury finds that the patient is mentally infirm, commitment may be to the facility mentioned in sub. (5). If it is found that the patient is mentally deficient or epileptic and should be committed, the commitment shall be to the northern colony and training school, the central colony and training school or the southern colony and training school.

(3) If the patient has a legal settlement in a county which has a county hospital and the * * * *court* is satisfied that the mental illness or infirmity of the patient is chronic, * * * *it* may commit him to the county hospital. If he has a legal settlement in a county having a population of 500,000, the commitment shall be to any of the county's hospitals for mental diseases, having due regard to the condition of the patient and the nature of his malady. If the patient has no legal settlement he shall be committed to a state hospital. The * * * *court* shall, in a summary manner, ascertain the place of the patient's legal settlement. The * * * *court's* finding shall be included in the order of commitment.

SECTION 13. 51.06 (1) of the statutes is amended to read:

51.06 (1) The sheriff and such assistants as the * * * *court* deems necessary shall execute the commitment; but if any competent relative or friend of any patient so requests, the commitment may be delivered to and executed by him. For such execution he shall be entitled to his necessary expenses, not exceeding the fees and expenses allowed to sheriffs. The officer, unless otherwise ordered by the * * * *court*, shall on the day that a patient is adjudged mentally ill or infirm or deficient or epileptic, deliver him to the proper institution. Every female patient

transported to a hospital shall be accompanied by a competent woman. The * * * *court* shall prescribe the kind of transportation to be used.

SECTION 14. 51.065 of the statutes is amended to read:

51.065 (1) In all cases of mental deficiency which have been definitely and conclusively established by 2 physicians licensed in Wisconsin specializing preferably in pediatric or psychiatric medicine, whose opinions concur with regard to said mental deficiency, the physicians may, upon receiving a written request from the parents or surviving parent or general guardian of such person, issue a report on a form furnished by the * * * *court*, which report shall have appended to it the affidavit of the physicians that they have personally examined the patient; that in their opinion he is mentally deficient and a proper subject for custody and treatment; that the parents or surviving parent or general guardian of such person have requested in writing that he be committed to the southern or northern colony and training school.

(2) The report of the 2 examining physicians shall contain a recommendation that the mentally deficient person be committed to the northern, central or southern colony and training school, and shall be forwarded by the physicians to the * * * *county court* of the county in which the patient is found, and in Milwaukee county to the district * * * *court*. In the case of minors under the age of 18 years * * *, the report and recommendation of the examining physicians shall be forwarded to the * * * juvenile court.

(3) The * * * *court* to whom said report and recommendation is forwarded may enter same in the records of his court and may issue an order of commitment of the patient to the superintendent of the southern, the central or the northern colony and training school, which order will authorize the admission of the mentally deficient patient to the specified colony and training school forthwith upon issuance. In all cases in which a parent supervises the person alleged to be mentally deficient, the court may, and in cases in which neither parent supervises, but there is a duly appointed general guardian, the court shall appoint a guardian ad litem in advance of making any entry in the court records, and in advance of issuing an order of commitment.

SECTION 15. 51.07 (1), (2), (3) and (4) of the statutes are amended to read:

51.07 (1) Except in Milwaukee county, the judge shall receive a fee of \$5 for *holding court* on the hearing of an application for commitment and all matters and papers connected therewith.

(2) Unless previously fixed by the county board of the county in which the examination is held, the examining physician shall receive a fee of not less than \$4 nor more than \$10, as fixed by the * * * *court*, for each day that he is required to attend, and 10 cents per mile for necessary travel.

(3) Witnesses subpoenaed before the * * * *court* shall be entitled to the same fees as witnesses * * * *subpoenaed before the court in other cases*. Such fees and charges shall be paid by the county.

(4) Expenses of the proceedings, from the presentation of the application to the commitment or discharge of the patient, including a reasonable charge for a guardian ad litem, shall be allowed by the * * * *court* and paid by the county from which the patient is committed or discharged, in the manner that the expenses of a criminal prosecution in justice court are paid, as provided in s. 59.77.

SECTION 16. 51.09 (1) and (3) of the statutes are amended to read:

51.09 (1) If it appears to any * * * *court* of record, by an application of 3 reputable adult residents of the county, that a resident of the

county or person temporarily residing therein is an inebriate or addicted to the use of narcotic drugs or barbiturates and in need of confinement or treatment, the * * * court shall fix a time and place for hearing the application, on reasonable personal notice to the person in question, requiring him to appear at the hearing, and shall summarily hear the evidence. The * * * court may * * * cause notice to be given to such other persons as * * * it deems advisable. The * * * court may, by attachment for the person, require the sheriff or other police officer to take the alleged inebriate or drug addict into custody, detain him pending the hearing (but not to exceed 3 days) and bring him before the * * * court at the hearing. The * * * court may require notice to be given to known relatives of the person. At such hearing if the * * * court finds that such person is an inebriate or a drug addict, and requires confinement or treatment, or that it is necessary for the protection of himself or the public or his relatives that he be committed, he may be committed to the county hospital or to Winnebago or Mendota state hospital or, in counties having a population of 500,000 or more to the hospital ward of the house of correction of such county. At the hearing the * * * court shall determine the person's legal settlement, and the county of such settlement shall be liable over for his maintenance and treatment. The provisions against detaining patients in jails shall not apply to inebriates or drug addicts except in case of acute illness.

(3) Any adult resident of this state who believes himself to be an inebriate or a drug addict may make a signed application to * * * a court of record of the county where he resides to be committed to a hospital. His application must be accompanied by the certificate of a resident physician of the county that confinement and treatment of the applicant are advisable for his health and for the public welfare. The * * * court may act summarily upon the application and may take testimony. If * * * it finds that the applicant satisfies the conditions of this section, * * * it shall commit him as * * * it would had there been an application under sub. (1), including a finding as to legal settlement.

SECTION 17. 51.10 of the statutes is amended to read:

51.10 (1) Any resident adult of this state, believing himself to be suffering from any mental disorder, upon his written application stating his condition, supported by the certificate of his physician, based upon personal examination, may be admitted as a voluntary patient to any suitable state or county institution without an order of the * * * court and in the discretion of the superintendent. Any resident minor or incompetent may be admitted upon application signed by parent, spouse or legal guardian, supported by a like certificate.

(2) The superintendent shall forward to the county * * * court of the patient's residence a copy of his application. The * * * court shall determine the patient's legal settlement and certify the same to the superintendent. The county of his legal settlement (if he has one) shall be charged with his care, unless his care is privately paid for. A voluntary patient shall be subject to the same laws, rules and regulations as a regularly committed patient, except that he may leave at any time if, in the judgment of the superintendent, he is in fit condition, on 5 days' written notice to the superintendent of his intention to leave, given by the patient or his guardian. The patient shall not be detained over 35 days after such notice is given. If, in the opinion of the superintendent, the patient needs further hospitalization, he may make application in the county where the institution is located, as provided in s. 51.01; and thereafter proceedings shall be as upon other applications. The superintendent's signature on the application shall suffice.

(3) If a voluntary patient is found to be a nonresident of this state and does not apply for a discharge, the superintendent shall make application for commitment to the county * * * *court* of the county where the institution is located, as provided in s. 51.01. The application of the superintendent alone is sufficient.

(4) If at any stage of an inquiry under this chapter, the patient prefers to enter an institution voluntarily, the * * * *court* may permit him to become a voluntary patient pursuant to sub. (1) upon his signing an application therefor in the presence of the judge; and the judge may continue the hearing or dismiss the proceedings and shall notify the institution of his action.

SECTION 18. 51.11 (1), (3), (3a), (4), (5), (7) and (8) of the statutes are amended to read:

51.11 (1) Except as otherwise provided in ss. 51.21, 357.11 and 357.13, any person adjudged mentally ill or infirm or deficient or epileptic, or restrained of his liberty because of alleged mental illness or infirmity or deficiency or epilepsy, may on his own verified petition or that of his guardian or some relative or friend have a re-examination before * * * any court of record, either of the county from which he was committed or in which he is detained.

(3) The * * * *court* shall thereupon appoint 2 disinterested physicians, each having the qualifications prescribed in s. 51.01, to examine and observe the patient and report their findings in writing to the * * * *court*. For the purpose of such examination and observation the * * * *court* may order the patient confined in a convenient place as provided in s. 51.04.

(3a) If the patient is under commitment to a hospital, a notice of the appointment of the examining physicians and a copy of their report shall be furnished to such hospital by the * * * *court*.

(4) Upon the filing of the report the * * * *court* shall fix a time and place of hearing and cause reasonable notice to be given to the petitioner and to the hospital and to the general guardian of the patient, if he has one, and may notify any known relative of the patient. The provisions of s. 51.02, so far as applicable, shall govern the procedure.

(5) If the * * * *court* determines that the patient is sane * * * *it* shall enter judgment to that effect and order his discharge; if * * * *it* shall not so determine, * * * *it* shall order him returned under the original commitment, except that if he is at large on conditional release or leave, the * * * *court* may permit him so to continue. If a jury trial is demanded, the procedure shall, as near as may be, be the same as in s. 51.03, and the * * * *court's* order or determination shall be in accordance with the jury's verdict.

(7) When a proceeding for 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 department may, on application, determine the mental condition of any patient committed to any institution under this chapter, and its determination shall be recorded in the county court of the county in which the patient resides or from which he was committed, and such determination shall have the same effect as though made by the county * * * *court*. The department may also, with or without application, if it has reason to doubt the mental illness or infirmity of any such patient, require the * * * *court* of the county from which he was committed or in which he is detained to determine his mental condition pursuant to this section.

(8) Subsequent re-examinations may be had at any time in the discretion of the * * * *court* but may be compelled after one year of the preceding one.

SECTION 19. 51.125 (1) of the statutes is amended to read:

51.125 (1) If it appears to the department at any time that a patient should have been committed to a different institution, it may transfer him thereto. The department shall notify the committing * * * court of such transfer.

SECTION 20. 51.14 of the statutes is amended to read:

51.14 SUPERINTENDENT'S REPORTS TO COUNTY COURT; RECORD. When any person is committed to any hospital or home from any county other than the county of his legal settlement, the superintendent of such hospital or home shall immediately notify the county * * * court of the county of his legal settlement. The superintendent shall also notify such * * * court whenever any patient dies, is discharged, transferred, escapes, is conditionally released or returns from such release. The * * * court shall keep a record of the facts so reported.

SECTION 21. 51.16 (2) of the statutes is amended to read:

51.16 (2) The superintendent shall not be compelled to obey the subpoena of any court in any case, civil or criminal, if he shall file with the magistrate or clerk his affidavit that to obey the same would be seriously detrimental and hazardous to the welfare of the hospital under his charge, except when an accusation of murder is to be tried; nor in such case unless the * * * court shall make a special order therefor, and the subpoena, with a memorandum thereof indorsed thereon, be served one week before the time when he shall be required to appear; but no superintendent shall be entitled in any case to make and file such affidavit, who shall, upon tender of the usual fees of witnesses in courts of record, refuse to be present and to give his deposition at his office, usual place of business, or usual place of abode; and any superintendent so present and giving his deposition who shall be detained 4 hours from the time fixed for the taking thereof or from the time to which the taking of the same may have been adjourned may make affidavit that further detention would be seriously detrimental or hazardous to the welfare of the persons or business in his charge whereupon the officer before whom such deposition is being given shall adjourn further proceedings thereon to a future day.

SECTION 22. 51.19 of the statutes is amended to read:

51.19 A child born in any state or county hospital or state colony and training school shall be promptly removed therefrom by the mother's friends or by the county of her legal settlement. The superintendent shall petition the juvenile * * * court of the county in which the institution is located to make such removal, and until the child is removed the superintendent shall make suitable provision for its care and comfort, and charge all expenses to the county of the mother's legal settlement, to be adjusted as provided in s. 46.106. The * * * court shall notify the juvenile * * * court of the county of the mother's legal settlement of the filing of such petition.

SECTION 23. 51.21 (3) (b), (d) and (e) of the statutes are amended to read:

51.21 (3) (b) The superintendent of the hospital shall receive the prisoner and shall, within a reasonable time before his sentence expires, make a written application to the * * * county court where the hospital is located for an inquiry as to the prisoner's mental condition. Thereafter the proceeding shall be as upon an application made under s. 51.01, but no physician connected with the prison, reformatory, home for women, Winnebago or central state hospital or county jail shall be appointed as

an examiner. If the * * * court is satisfied that the prisoner is not mentally ill * * *, infirm * * *, deficient or epileptic, * * * it may dismiss the application and order the prisoner returned to the institution from which transferred. If the * * * court finds that the prisoner is mentally ill or infirm or deficient or epileptic, * * * it may commit the prisoner to the central state hospital or commit her to the Winnebago state hospital.

(d) When such prisoner is found mentally ill * * *, infirm * * *, deficient or epileptic, the superintendent of the institution shall retain him until he is legally discharged or removed.

(e) The provisions of s. 51.11 relating to re-examination shall apply to such prisoner if found to be mentally ill * * *, infirm * * *, deficient or epileptic, except that the application shall be made to the * * * court which made such finding. If upon such rehearing he is found not to be mentally ill * * *, infirm * * *, deficient or epileptic, he shall be returned to the prison unless his term has expired. If his term has expired he shall be discharged. The time spent at the central state hospital or Winnebago state hospital shall be included as part of the sentence already served.

SECTION 24. 51.215 (2) of the statutes is amended to read:

51.215 (2) Within a reasonable time before the expiration of such person's commitment, if he is still in the hospital, the superintendent of the hospital shall make an application under s. 51.01 to the * * * court of the county in which the hospital is located, for an inquiry into the person's mental condition, and thereafter the proceedings shall be as in other applications under said section. The application of the superintendent of the hospital alone is sufficient.

SECTION 25. 51.22 (5) of the statutes is amended to read:

51.22 (5) The superintendent of either school, with the approval of the department, or the superintendent of any county hospital, with the approval of the visiting physician, may permanently discharge from custody (which shall not be considered a legal restoration of competency) any mentally deficient or epileptic person who has been on a temporary discharge for one year or more, and who has continued to demonstrate fitness to be at large. Notice of such permanent discharge shall be filed with the committing * * * court by the superintendent. After permanent discharge, if it becomes necessary for such person to have further institutional care and treatment, a new commitment must be obtained, following the procedure for original commitment.

SECTION 26. 51.30 of the statutes is amended to read:

51.30 The files and records of the * * * court in proceedings under this chapter shall be kept in locked files and shall not be open to inspection except upon the specific permission of the * * * court. In any action or special proceeding in a court of record, such files and records shall be made available by special order of such court, if they are relevant to the issue and competent.

SECTION 27. 51.32 of the statutes is amended to read:

51.32 The county * * * court may, upon written request of the department, order the detention of any nonresident person who escaped from some mental institution of another state. Such detention shall be for a period not to exceed 30 days and may be extended by the * * * court for an additional period if it is necessary to consummate the deportation of the escaped person.

SECTION 28. 58.05 (3) of the statutes is amended to read:

58.05 (3) If at any time complaint is made to the state department of public welfare that any person is improperly confined in any such

hospital, asylum * * * or institution, the department shall examine into the case in such manner as it deems best; and if it shall appear to the department that such person is improperly confined it shall order his immediate release, and thereupon such person shall be released. The corporation owning or maintaining any such hospital, asylum or institution shall not, nor shall any officer or employe thereof, be liable for the detention of any person duly committed or detained at the request of his guardian or friends or of any county board unless such person shall have been detained after the state department of public welfare shall have ordered his release or after a court * * * shall have directed his discharge; and such liability shall exist only for such detention as shall have occurred after the service of a copy of the order of such department * * * or court * * * upon the superintendent or other officer in charge of such hospital, asylum or institution.

SECTION 29. 59.28 (37) of the statutes is amended to read:

59.28 (37) For bringing a person alleged to be mentally ill * * *, infirm * * *, deficient or epileptic before the * * * court and subpoenaing witnesses, the fees allowed him in other cases; for taking such patient to a hospital or removing one therefrom, \$5 per day and his necessary expenses and the actual expenses for the support and transportation of the patient, and \$3 per day and necessary expenses of such assistants as may be ordered by the * * * court.

Approved July 25, 1955.
