

CHAPTER 31 — H.F.No. 173

An act relating to human rights; providing that certain statutes be equally applicable to all persons regardless of sex, including statutes related to the health department, suits for seduction, garnishment actions, judicial pensions, and probate proceedings; providing for penalties; amending Minnesota Statutes 1980, Sections 46.09, Subdivision 1; 144.06; 181.07; 242.47; 246.53; 256.85; 290.28, Subdivision 3; 490.102, Subdivisions 6 and 7; 510.06; 519.05; 525.05; 525.082; 540.07; 540.08; 540.09; 558.28; 576.08; 609.375; 629.55; and 631.09.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 46.09, Subdivision 1, is amended to read:

Subdivision 1. No person who is a bank examiner or other officer or employee of the division of banking shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the wife spouse, or any other member of the household of a bank examiner, or other officer or employee, shall be so interested, it shall be conclusively presumed that the bank examiner, or other officer or employee, is indirectly interested in the corporation within the meaning of this section; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provisions of this section shall not apply to the commissioner of banks.

Sec. 2. Minnesota Statutes 1980, Section 144.06, is amended to read:

144.06 STATE COMMISSIONER OF HEALTH TO PROVIDE INSTRUCTION.

The state commissioner of health, hereinafter referred to as the commissioner, is hereby authorized to provide instruction and advice to expectant mothers and fathers during pregnancy ~~and confinement~~ and to mothers, fathers, and their infants after childbirth; and to employ such persons as may be necessary to carry out the requirements of sections 144.06 and 144.07. ~~Such~~ The instruction, advice, and care shall be given only to applicants residing within the state. No ~~woman~~ person receiving aid under sections 144.06, 144.07, and 144.09 shall for this reason be affected thereby in any civil or political rights, nor shall ~~her~~ the person's identity be disclosed except upon written order of the commissioner.

Sec. 3. Minnesota Statutes 1980, Section 181.07, is amended to read:

181.07 ASSIGNMENT OF UNEARNED WAGES AS SECURITY.

No assignment of or order for wages to be earned in the future to secure a loan of less than \$200 shall be valid against an employer of the person

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making the assignment or order until the assignment or order is accepted in writing by the employer and the assignment or order and the acceptance of the same have been filed and recorded with the clerk of the city or town where the party making the assignment or order resides, if a resident of this state, or in which ~~he~~ the person is employed if ~~not such resident~~ the person is a nonresident. No ~~such~~ assignment of or order for wages to be earned in the future shall be valid when made by a married ~~man~~ person unless the written consent of ~~his wife~~ the person's spouse to the making of ~~such~~ the assignment or order is attached thereto.

Sec. 4. Minnesota Statutes 1980, Section 242.47, is amended to read:

242.47 INTERFERENCE WITH INMATES.

Every person who shall abduct, conceal, entice, carry away, or improperly interfere with, any juvenile inmate of ~~the~~ a Minnesota correctional facility ~~Red Wing~~ shall be guilty of a misdemeanor.

Sec. 5. Minnesota Statutes 1980, Section 246.53, is amended to read:

246.53 CLAIM AGAINST ESTATE OF DECEASED PATIENT.

Upon the death of a patient, or a former patient, the total cost of care given ~~him~~ to that patient, less the amount actually paid toward the cost of ~~such~~ the care by the patient and ~~his~~ the patient's relatives, shall be filed by the commissioner as a claim against the estate of ~~such~~ the patient with the court having jurisdiction to probate the estate and all proceeds collected by the state in ~~such~~ the case shall be divided between the state and county in proportion to the cost of care each has borne. If the commissioner of public welfare shall determine that the property or estate of any ~~such~~ patient is not sufficient to ~~more than~~ care for and maintain the wife spouse and minor or dependent children of ~~such~~ the deceased patient, he shall have the power to compromise the claim of the state in ~~such~~ a manner as he, in his judgment and upon investigation, may deem just and proper. Any statute of limitations which limits the commissioner in recovering the cost of care obligation incurred by a patient or former patient shall not apply to any claim against an estate made hereunder to recover cost of care.

Sec. 6. Minnesota Statutes 1980, Section 256.85, is amended to read:

256.85 LIBERAL CONSTRUCTION.

Section 256.72 to 256.87 shall be liberally construed with a view to accomplishing their purpose, which is ~~hereby declared to be~~ to enable the state and its several counties to cooperate with responsible ~~mothers or relatives~~ primary caretakers of children in rearing future citizens, when ~~such~~ the cooperation is necessary on account of relatively permanent conditions, in order to keep the family together in the same household, reasonably safeguard the health of the ~~mother~~ children's primary caretaker and secure personal care and training to the children during their tender years ~~her personal care and training~~.

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Sec. 7. Minnesota Statutes 1980, Section 290.28, Subdivision 3, is amended to read:

Subd. 3. **INCOME OF AN ESTATE OR TRUST IN CASE OF DIVORCE.** (1) There shall be included in the gross income of a wife person who is divorced or legally separated under a decree of divorce or of legal separation (or who is separated from ~~her husband~~ under pursuant to a written separation agreement) the amount of the income of any trust which such wife the person is entitled to receive and which, except for this subdivision, would be includible in the gross income of ~~her husband~~ the person's spouse, and such the amount shall not, despite any other provision of this chapter, be includible in the gross income of ~~such husband~~ the spouse. This paragraph shall not apply to that part of any such income of the trust which the terms of the decree, written separation agreement, or trust instrument fix, in terms of an amount of money or a portion of such the income, as a sum which is payable for the support of minor children of ~~such husband~~ the spouse. In case such the income is less than the amount specified in the decree, agreement, or instrument, for the purpose of applying the preceding sentence, such the income, to the extent of such the sum payable for such support, shall be considered a payment for such support.

(2) For purposes of computing the taxable income of the estate or trust and the taxable income of a wife person to whom paragraph (1) applies, such wife the person shall be considered as the beneficiary specified in sections 290.22 to 290.28. A periodic payment of maintenance, to any portion of which sections 290.22 to 290.28 applies, shall be included in the gross income of the beneficiary in the taxable year in which under sections 290.22 to 290.28 such the portion is required to be included.

Sec. 8. Minnesota Statutes 1980, Section 490.102, Subdivision 6, is amended to read:

Subd. 6. The widow spouse of every judge of the district or supreme court who dies, in active service, shall be paid one-half of the retirement compensation to which such the judge would have been entitled on the date of ~~his~~ the judge death, if ~~he~~ the judge would have been otherwise eligible for retirement under the provisions of section 490.101 or under section 490.025, and had retired on that date, irrespective of whether ~~he shall have~~ the judge attained the age of retirement at the date of ~~his~~ the judge death or not and irrespective of whether ~~he~~ the judge had served 15 years as such district judge or as a judge of a court of record, and irrespective of whether ~~he~~ the judge had previously been eligible to retire, but had not retired under the provisions of section 490.101, prior to ~~his~~ the judge's death, provided ~~she~~ the spouse had been married to such the judge for three years prior to ~~his~~ the judge's death. The widow spouse of every judge of the district court or supreme court who dies after retiring shall be paid one-half of the retirement compensation which such the judge was receiving at the date of ~~his~~ the judge's death.

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Any judge who has heretofore retired and exercised the option previously set forth in section 490.102, shall, after July 1, 1961, be paid the full retirement compensation herein provided for, and his widow the judge's spouse shall upon his the judge's death be entitled to compensation as herein set forth.

The term "widow" "spouse" as used in this subdivision means the surviving ~~wife~~ spouse of a district or supreme court judge, but only if ~~she~~ the spouse was married to him the judge for a period of not less than three years immediately prior to the date of his the judge's retirement or of his death, whichever occurs first.

If ~~such widow~~ the spouse, either of a retired judge or a judge who dies in active service, who is otherwise qualified under this section, has not attained the age of 40 years at the time of such the judge's death, ~~such widow~~ the spouse will not become eligible for retirement compensation payments hereunder until ~~her~~ the spouse's 40th birthday but shall receive such the payments thereafter.

A ~~widow~~ spouse who is entitled to a retirement compensation under the provisions of this subdivision and subdivision 7 shall be paid such the retirement compensation for the period of ~~her~~ the spouse's life, unless ~~she~~ the spouse remarries, in which event such the retirement compensation is to cease and terminate. ~~Every judge~~ All judges of the district court and ~~every judge~~ of the supreme court shall contribute four percent of his their state salary salaries, which amount shall be deducted from his salary their salaries at least once each month and paid to the state treasurer to be deposited in a special survivor retirement account. This contribution shall be for the purpose of providing the survivor benefits established by this subdivision and subdivision 7 and such amount as may be necessary to carry out this purpose is hereby appropriated from such the special retirement account. It is declared to be the policy of the legislature that the survivor benefits provided for herein shall be wholly paid from contributions by the judges to ~~said~~ the special retirement account. To implement this policy the rate of contribution by the judges shall be reviewed periodically and contributions adjusted to make this account sufficient to cover all benefits.

Sec. 9. Minnesota Statutes 1980, Section 490.102, Subdivision 7, is amended to read:

Subd. 7. *In addition to the provisions of Minnesota Statutes 1961, Section 490.102, Subdivisions 1 to 6, inclusive, and notwithstanding the limitations thereof, the widow surviving spouse of every judge of the district or supreme court who died in active service prior to May 19, 1961, who had been married to such the judge for five years prior to his the judge's death and who has now attained the age of 49 years, shall be paid during ~~her~~ the spouse's life one-half of the retirement compensation to which such the judge would have been entitled, if ~~he~~ the judge had been retired as of date of death. For the purposes of this subdivision, the ~~said~~ judge shall be deemed to have been*

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entitled to full retirement and to have retired as of the day of his death. If retirement of a district judge from active service was by executive order prior to enactment of Laws 1949, Chapter 640, his the judge's unmarried widow surviving spouse who would otherwise qualify under this section will receive one-half of the compensation ~~such~~ the judge would have received if his the judge's retirement occurred in 1949 after enactment of that law and ~~he~~ the judge was eligible for compensation thereunder.

Sec. 10. Minnesota Statutes 1980, Section 510.06, is amended to read:

510.06 EXEMPTION NOT LOST BY DEATH OR DESERTION.

If the owner ~~shall die~~ dies leaving a spouse or minor children constituting his the owner's family surviving, the homestead exemption shall not be affected by ~~such the~~ death. If a husband the owner shall abscond, or otherwise desert his the family, his wife the spouse and the minor children comprising ~~such the~~ family may retain the homestead, with all the rights of owners therein. They shall not have power to sell or mortgage ~~the same~~ it, except in cases expressly provided for by law.

Sec. 11. Minnesota Statutes 1980, Section 519.05, is amended to read:

519.05 LIABILITY OF HUSBAND AND WIFE.

~~No married woman shall be~~ A spouse is not liable for any debts of ~~her husband, nor shall any married man be liable for any torts, debts, or contracts of his wife, committed or entered into either before or during coverture the other spouse,~~ except for necessities furnished to the wife other after marriage, where ~~he the spouse~~ would be liable at common law. Where husband and wife are living together, they shall be jointly and severally liable for all necessary household articles and supplies furnished to and used by the family.

Sec. 12. Minnesota Statutes 1980, Section 525.05, is amended to read:

525.05 JUDGE OR REFEREE; GROUNDS FOR DISQUALIFICATION.

The following shall be grounds for disqualification of any judge or referee from acting in any matter: (1) That ~~he or his wife~~ the judge or the judge's spouse or any of ~~his or her~~ either of their kin nearer than first cousin ~~shall be~~ is interested as representative, heir, devisee, legatee, ward, or creditor in the estate involved therein; (2) that it involves the validity or interpretation of a will drawn or witnessed by ~~him~~ the judge; (3) that ~~he~~ the judge may be a necessary witness in ~~such the~~ matter; (4) that it involves a property right in respect to which ~~he~~ the judge has been engaged or is engaged as an attorney; or (5) that ~~he~~ the judge was engaged in a joint enterprise for profit with the decedent at the time of death or that ~~he~~ the judge is then engaged in a joint enterprise for profit with any person interested in ~~such the~~ matter as representative, heir, devisee, legatee, ward, or creditor. When grounds for disqualification

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exist, the judge may, and upon proper petition of any person interested in the estate must, request the probate judge of another county or a probate judge who has retired as provided in section 490.12, subdivision 2, to act in his stead in ~~such~~ the matter.

Sec. 13. Minnesota Statutes 1980, Section 525.082, is amended to read:

525.082 JUDICIAL OFFICERS, INCREASE IN COMPENSATION.

Notwithstanding any law to the contrary, or any provision of Laws 1971, Chapter 951, the salaries of all judges of probate as provided under section 525.081, subdivisions 1 and 2, who do not become county court judges, but who are eligible to serve out the balance of their term as judicial officers of the county district court as provided in Laws 1971, Chapter 951, shall be increased by 10 percent of the amount provided for and received by ~~said~~ the judge under the provisions of section 525.081, subdivisions 1 and 2, which salary shall be the salary for the balance of the term for which they are elected, and which salary shall determine any retirement and ~~widow's spouse's~~ survivorship to which the judge and ~~his wife~~ the judge's spouse may be entitled to under the laws pertaining thereto.

Sec. 14. Minnesota Statutes 1980, Section 540.07, is amended to read:

540.07 PARENT OR GUARDIAN MAY SUE FOR SEDUCTION.

A ~~father, or, in case of his death or desertion of his family, the mother,~~ parent may maintain an action for the seduction of the son or daughter, and the guardian may maintain an action for the seduction of the ward, though ~~such the son or daughter or ward~~ is not living with, or in the service of, the plaintiff at the time of the seduction or afterwards, and there is no loss of service.

Sec. 15. Minnesota Statutes 1980, Section 540.08, is amended to read:

540.08 INJURY TO CHILD OR WARD; SUIT BY PARENT OR GUARDIAN.

A ~~father~~ parent may maintain an action for the injury of ~~his~~ a minor child son or daughter. ~~When such father has deserted his family or is dead the mother of such minor child may maintain the action. When custody of the injured child has been granted to either parent by a court having jurisdiction, that parent may maintain the action.~~ A general guardian may maintain an action for ~~the an~~ injury of ~~his to the~~ ward. A guardian of a dependent, neglected, or delinquent child, appointed by a court having jurisdiction, may maintain an action for the injury of ~~such~~ the child. If no ~~such~~ action is brought by the father or mother, an action for the injury may be brought by a guardian ad litem, either before or after the death of ~~such~~ the parent. Before ~~any such~~ a parent receives any property as a result of ~~any such~~ the action, ~~he~~ the parent shall file ~~such~~ a bond as the court prescribes and approves as

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security therefor. In lieu of this bond, upon petition of the parent, the court may order that the property so received ~~shall~~ be invested in securities issued by the United States, which shall be deposited pursuant to the order of the court, or ~~such that the~~ property shall be invested in a savings account, savings certificate, or certificate of deposit, in a bank, savings and loan association, or trust company, subject to the order of the court. A copy of the court's order and the evidence of ~~such the~~ deposit shall be filed with the clerk of ~~such the~~ court. No settlement or compromise of ~~any such the~~ action is valid unless it is approved by a judge of the court in which the action is pending.

Sec. 16. Minnesota Statutes 1980, Section 540.09, is amended to read:

540.09 DESERTED WIFE SPOUSE MAY SUE AND DEFEND IN HUSBAND'S ABSENT SPOUSE'S NAME.

When a ~~husband~~ spouse has deserted ~~his the~~ family, the ~~wife deserted~~ spouse may prosecute or defend, in ~~his name the~~ name of the absent spouse, any action which ~~he the~~ absent spouse might have prosecuted or defended, and shall have the same powers and rights therein as ~~he the~~ absent spouse might have had.

Sec. 17. Minnesota Statutes 1980, Section 558.28, is amended to read:

558.28 WIFE MAY RELEASE OF CONTINGENT INTEREST.

A married ~~woman~~ person may release to ~~her husband her~~ a spouse a contingent interest in ~~his~~ real estate by a writing executed and acknowledged in the same manner as a conveyance, and, upon the filing of ~~such the~~ instrument with the clerk, the whole proceeds arising from ~~such the~~ sale shall be paid to the ~~husband spouse to whom the interest was released.~~ ~~Such~~ The release shall bar ~~her the~~ releaser's contingent interest in ~~such the~~ real estate.

Sec. 18. Minnesota Statutes 1980, Section 576.08, is amended to read:

576.08 HEARING BY COURT; DISMISSAL OF PROCEEDING; APPOINTMENT AND BOND OF RECEIVER.

The absentee, or any person who claims an interest in any of the property, may appear and show cause why the prayer of the petition should not be granted. The court may, after hearing, dismiss the petition and order the property in possession of the officer to be returned to the person entitled thereto, or it may appoint a receiver of the property which is in the possession of the officer and named in his schedule. If a receiver is appointed, the court shall find and record the date of the disappearance or absconding of the absentee; and ~~such the~~ receiver shall give a bond to the state in ~~such the~~ sum and with ~~such condition as the conditions,~~ the court orders, to be approved by

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the court. In the appointment of the receiver the court shall give preference to the wife spouse of the absentee, if ~~she~~ the spouse is competent and suitable.

Sec. 19. Minnesota Statutes 1980, Section 609.375, is amended to read:

609.375 NON-SUPPORT OF WIFE SPOUSE OR CHILD.

Subdivision 1. Whoever is legally obligated to provide care and support to ~~his wife~~ a spouse who is in necessitous circumstances, or ~~his child~~, whether or not its custody has been granted to another, and knowingly omits and fails without lawful excuse to do so is guilty of non-support of ~~said wife~~ the spouse or child, as the case may be, and upon conviction thereof may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300.

Subd. 2. If the knowing omission and failure without lawful excuse to provide care and support to a spouse, a minor child, or a pregnant wife continues for a period in excess of 90 days ~~such~~ the person is guilty of a felony and may be sentenced to imprisonment for not more than five years.

Subd. 3. Upon conviction, the court may provide by order for the care and support of ~~such~~ the child or ~~wife~~ spouse for a period not to exceed five years, require bond or other security to the state to secure performance thereof, and suspend sentence or execution thereof, conditioned upon compliance with ~~such~~ the order.

Subd. 4. If, upon order to show cause duly made, the court finds that an order made pursuant to subdivision 3 has been violated, the suspension may be revoked and sentence imposed or executed, and the obligors of ~~such~~ the bond or security shall become liable pursuant to the terms thereof, and, with leave of the court, the wife spouse, or child, or any public agency which furnished care or support to ~~such wife~~ the spouse or child while ~~such~~ the order for care and support was in force, may recover thereon.

Sec. 20. Minnesota Statutes 1980, Section 629.55, is amended to read:

629.55 REFUSAL TO RECOGNIZE.

Every A witness required to recognize, with or without sureties, who ~~shall refuse~~ refuses so to do, shall be committed by the magistrate until ~~he shall comply~~ the witness complies with ~~such~~ the order, or ~~be is~~ otherwise discharged according to law. Every person held as a witness ~~shall receive~~ shall receive ~~such compensation~~ during confinement as ~~shall receive~~ the compensation the court before whom the case is pending ~~shall direct~~ directs, not exceeding regular witness fees. When a ~~married woman~~ or a minor shall be a material witness, any other person may recognize for the appearance of ~~such~~ the witness, or the magistrate

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may take recognizance of ~~such~~ the witness in a sum of not more than \$50, which shall be valid and binding in law notwithstanding ~~such~~ the disability.

Sec. 21. Minnesota Statutes 1980, Section 631.09, is amended to read:

631.09 JURY; HOW AND WHERE KEPT WHILE DELIBERATING; SEPARATE ACCOMMODATIONS FOR ~~WOMEN~~ JURORS.

After hearing the charge the jury may either decide in court, or retire for deliberation, if it shall not agree without retiring, one or more officers shall be sworn to take charge of it, and it shall be kept together in some private and convenient place, without food or drink except water, unless otherwise ordered by the court, and no person shall be permitted to speak to or communicate with it or any one of its number unless by order of court, nor listen to the deliberations; and it shall be returned into court when agreed, or when so ordered by the court. In case of mixed juries counties shall provide adequate, separate quarters for ~~women~~ male and female jurors with proper accommodations and, in the event the county ~~shall so fail~~ fails to provide ~~such~~ proper accommodations, the court shall order ~~such women~~ the jurors kept in a suitable hotel for the night.

This section ~~shall apply~~ applies only in cases where the jury has failed to agree.

Approved April 14, 1981

CHAPTER 32 — H.F.No. 201

An act relating to fire control services; providing for reimbursement by railroads and the department of public safety; setting the time limit for claims; amending Minnesota Statutes 1980, Sections 161.465; and 219.761, Subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 161.465, is amended to read:

161.465 REIMBURSEMENT FOR FIRE SERVICES.

Ordinary expenses incurred by a municipal or volunteer fire department in extinguishing a fire or easing or eliminating the danger of fire or explosion within the right-of-way of any state trunk highway, or outside the right-of-way if the fire originated within the right-of-way, upon approval of a police officer or an officer or employee of the department of ~~transportation or department of~~ public safety shall, upon certification to the commissioner of ~~transportation~~ public safety by the proper official of the municipality or fire department within

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