

Nineteen Hundred Thirty-One  
Supplement

to

# Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the  
Legislature, both new and amendatory, and notes showing repeals,  
together with annotations from the various courts, state  
and federal, construing the constitution, statutes,  
charters and court rules of Minnesota



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CITER-DIGEST CO.  
ST. PAUL, MINNESOTA  
1931

leged injury held sustained by the evidence. 171 M302, 213NW897.

Evidence held to show hernia result of strain and compensable. 171M254, 214NW29.

Death from abscess of brain held not occasioned by injury occurring 20 months prior thereto. 171M382, 214NW57.

Burden of proof is on plaintiff to show that accident arose out of and in the course of the employment. 172M185, 214NW775.

Finding that death did not arise out of and in the course of the employment sustained. 172 M185, 214NW775.

Predisposition of a bone to fracture does not prevent compensation when it does occur from an accidental fall, even though such a fall would not have fractured a bone of ordinary strength. 172M94, 214NW923.

The circumstances attending an automobile trip undertaken after ten o'clock at night held to justify a holding that the employee was not in the course of his employment. 172M551, 216 NW239.

Finding that infection causing death did not result from injury received in course of employment held sustained by evidence. 172M549, 216 NW240.

Sunstroke may constitute an "accident," and apoplexy due in part to an increased blood pressure caused from heavy lifting is an "accident." 172M489, 216NW241.

Finding that injury arose out of and in course of employment as salesman sustained by evidence. 173-481, 217NW680.

Constable's death from accidentally discharging revolver did not arise out of employment by owner of amusement park employing him. 174M 50, 218NW170.

Where one employed to unload car on piece work basis, after quitting for the evening went into foundry and without being asked to do so assisted in lifting a heavy object and was injured, held that the injury arose out of the employment. 174M156, 218NW545.

Meaning of phrase "out of and in course of" employment. 180M400, 231NW214.

Employer who wilfully assaults his employee cannot assert that the latter's remedy is under the compensation act. *Boek v. W.*, 231NW233(2).

Where it was necessary for an employee to cross railroad track to go from one part of his employer's premises to another he was entitled to compensation for injuries by being struck by a train. 181M90, 231NW803.

Evidence held to show that death of employee from tetanus was due to an accident in the course of employment, though the death could not be traced to any particular one of several wounds. 181M359, 232NW621. See *Dun. Dig.* 10406.

## CHAPTER 24

### Soldiers' Home, Relief, Etc.

**§4344. Soldiers Home—who may be admitted.**—The Minnesota Soldiers' Home shall be maintained at Minneapolis, under the management of seven Trustees, one of whom shall be a woman, to be known as the "Soldiers' Home Board," as a home for honorably discharged soldiers, sailors and marines of the United States who served in the Mexican War, the War of the Rebellion, the Spanish-American War, or the Philippine Insurrection, or the Boxer Rebellion, or members of the Minnesota National Guard mustered into Federal Service in 1916, and served on the Mexican border, or the war of 1917 and 1918 commonly called the "World War," and for persons who actually served in any campaign against the Indians in this state in the year 1862, whether as soldiers of the United States or not. But no person shall be admitted to the Home who has not been a resident of the state for three years next preceding the date of his application, unless he served in a Minnesota regiment, or was credited to the state, or served in the Indian Campaign as aforesaid. Nor shall any person be admitted unless he is without adequate means of support, and is unable, by reason of wounds, disease, old age or infirmity to properly maintain himself. (As amended Apr. 16, 1931, c. 176.)

**§4345. Admission to soldiers home.**—The object of the soldiers' home shall be to provide a home for all honorably discharged ex-soldiers, sailors and marines who served in the army or navy of the United States during the War of the Rebellion, or the Mexican War, or in the war begun in the year 1898 between the Kingdom of Spain and the United States or the Philippine Insurrection, or the Boxer Rebellion, or members of the Minnesota National Guard mustered into Federal

service in 1916 and served on the Mexican Border, or the war of 1917 and 1918 commonly called "The World War," who now are or may hereafter become citizens of the State of Minnesota. All persons who are otherwise entitled under the provisions unable to earn their living, who, by reason of wounds, disease, or old age or infirmities are unable to earn their living, and who have no adequate means of support. No applicant shall be admitted to the soldiers' home who has not been a resident of the State of Minnesota for three years next preceding the time of having his application, unless he served in a Minnesota regiment or was accredited to the State of Minnesota. All persons who are otherwise entitled under the provisions of this section to admission to said soldiers' home who actually served in any campaign against the Indians within the United States shall be entitled to admission to such soldiers' home, notwithstanding such person was not regularly enlisted, mustered into or discharged from the military service of the United States.

The board of trustees are hereby authorized to admit wives with their husbands, and the widows or mothers to those who are, or if living, would be, eligible to admission under this act, but no wife or widow of a soldier of the war of the Rebellion, or of a soldier who actually served in any campaign against the Indians within the United States shall be admitted unless she shall have been married to her soldier husband prior to the year 1905 and no wife or widow of an honorably discharged ex-soldier, sailor or marine, who served in the army or navy of the United States in the war begun in the year 1898 between the Kingdom of Spain and the United States or the Philippine Insurrection, or the Boxer Rebellion, or members of the Minne-

sota National Guard mustered into Federal service in 1916 and served on the Mexican Border, shall be admitted unless she shall have been married to her soldier husband prior to the year September 1, 1922 and then only in the event that by reason of physical disabilities, infirmities or old age she is unable to support herself and has no other adequate means of support; and no wife, widow or mother shall be admitted unless she shall have been a resident of the State of Minnesota no less than five (5) years next preceding the date of her application, and no wife, widow or mother shall be admitted unless she shall have attained the age of fifty-five (55) years at the time of making such application, provided however that a widow eligible to admission, except that her soldier husband did not serve in a Minnesota regiment or was not a resident of Minnesota at time of his death, may be admitted, who has resided in this state not less than 15 years next preceding the date of her application for admission.

Provided, however, that in case such wife, widow or mother who had previously been a resident of Minnesota for not less than ten years, and who has lost her residence in this state by removal therefrom for the benefit of her health or the health of her husband or son and who has returned to this state for the purpose of making it her home, may be admitted to said soldiers' home after having been a resident of this state not less than one year next preceding the date of her application, provided such applicant is otherwise eligible to admission under the provisions of this section, and provided further, that all soldiers of the Minnesota National Guard and who heretofore have lost or hereafter may lose an arm or leg or his sight or may become permanently disabled from any cause while in the line and discharge of duty and are not able to support themselves, may be admitted to the home under such rules and regulations as the board of trustees may adopt, and any soldier of the Minnesota National Guard suffering from illness or injury sustained from any cause in the line and discharge of military duty shall be admitted to the soldiers' home hospital for medical treatment and hospital service until recovery from such illness or injury under such rules and regulations as the board of trustees may adopt. (As amended by Laws 1929, c. 333, which is amended Apr. 25, 1931, c. 349.)

**§4365. Soldiers Home relief extended.**—In addition to the persons to whom the Soldiers' Home Board is now authorized to extend relief outside the Minnesota Soldiers' Home from the soldiers' relief fund, the board is hereby authorized to extend relief, outside the home, to the widow, deserted wife or any minor child under fourteen years of age of any honorably discharged ex-soldier, ex-sailor, or ex-marine who served in the army or navy of the United States during the War of the Rebellion, War with Spain, Philippine Insurrection, China Relief Expedition, or World War, provided any such widow or deserted wife is more than fifty-five (55) years of age and shall have married her soldier husband prior to the year 1903; provided, further, that no such relief shall be granted

under the provisions of this act to any person unless he or she shall have been a resident of the state of Minnesota for at least five (5) years next preceding his or her application for such relief. The granting of such relief and the extent and character thereof shall in all cases be in the discretion of the board and subject to such terms as it may prescribe. (As amended Mar. 22, 1929, c. 79.)

#### MISCELLANEOUS PROVISIONS

##### **§4368. Preference to soldiers, marines, etc., in public appointments.**

Where civil service rules require appointment to be made from three highest on eligible list, one within preference act, but not one of the three, was not entitled to appointment. 171 M164, 213NW738.

This act does not prescribe or require formal notice to employer of status of employee. 173 M485, 217NW681.

The word "towns" includes villages. 173M485, 217NW681.

It is only when there is a failure on the part of the council to act or a manifest by arbitrary action on its part that a court may interfere. 178M277, 226NW841.

Soldiers' Preference Act is not applicable to school districts. Op. Atty. Gen., May 21, 1929.

Does not apply to school districts. Holmquist v. I., 231NW406(1).

The Soldiers' Preference Act did not apply to school districts, and the situation was not changed by Laws 1931, c. 347. Opt. Atty. Gen., May 4, 1931.

The Soldiers' Preference Act was not applicable to school districts and was not enlarged as to its application by the 1931 Act. Op. Atty. Gen., May 20, 1931.

##### **§4369. Removal forbidden—Right of mandamus.**

171M164, 213NW738; note under §4368.

Employment of village fireman held not for a fixed term and he was protected by this act. 173M485, 217NW681.

The position of Superintendent of Waterworks in the City of Eveleth is within this act, such officer not being the head of a department. 179 M99, 228NW447.

**§4369-1. Veterans preference act.**—The provisions of Mason's Minnesota Statutes of 1927, sections 4368 and 4369, known as the Veterans' Preference Law, and acts amendatory thereof, shall apply to and govern the appointment, employment, promotion, and removal of all employees of the state and of all other governmental agencies within the state enumerated in said sections and amendatory acts, notwithstanding any provision to the contrary in any other existing law or in any city charter relating thereto. (Act Apr. 25, 1931, c. 347, §1.)

**§4369-2. Applications of act.**—No provision of any subsequent act relating to any such appointment, employment, promotion, or removal shall be construed as inconsistent herewith or with any provision of said Mason's Minnesota Statutes of 1927, sections 4368 and 4369, or any act amendatory thereof, unless and except only so far as expressly provided in such subsequent act that the provisions of said sections or amendatory acts shall not be applicable or shall be superseded, modified, amended, or repealed. Every city charter provision hereafter adopted which is inconsistent herewith or with any provision of said sec-

tions or of any act amendatory thereof shall be void to the extent of such inconsistency. (Act Apr. 25, 1931, c. 347, §2.)

**§4369-3. Laws amended.**—All acts, parts of acts, and city charter provisions inconsistent herewith are hereby superseded, modified, or amended so far as necessary to give effect to the provisions of this act. (Act Apr. 25, 1931, c. 347, §3.)

**§4370. Burial of soldiers.**—The adjutant general shall cause to be decently buried, within or without the state, at a cost to the state of not more than one hundred dollars, the body of any soldier, sailor, marine or nurse who served the United States as such in the Civil or Spanish American War, the Philippine Insurrection, Boxer Rebellion, Mexican Border Campaign or the recent war with the German Empire and its Allies, and of any person not a soldier who actually served in this state, or is a resident thereof, in the Indian war of 1862, and who dies within the state or is brought thereto for interment, and has not left sufficient means to defray the expenses of suitable burial. Such interment shall not be made in any place used exclusively for the burial of the pauper dead, and the relatives or comrades of the deceased, if they so desire, shall be permitted to conduct the burial services. The adjutant general shall furnish at a cost or not to exceed seven dollars a United States flag for each such veteran. All funds appropriated for the purposes of this act shall be disbursed by the adjutant general in the same manner which other funds of the department are disbursed. The adjutant general shall promulgate such regulations as are necessary to carry out the provisions of this act. (As amended Apr. 25, 1931, c. 363, §1.)

County board discharges responsibility of making funeral arrangements, but may approve arrangements made for the funeral where first presented to it after the funeral. Op. Atty. Gen., Sept. 6, 1930.

Expenditure for funeral is authorized where deceased leaves no property, even though there may be relatives with sufficient means to pay the funeral expenses. Op. Atty. Gen., Sept. 6, 1930.

Expenses of administration and other allowances under the laws are to be paid before estate may be said to have sufficient funds for a funeral. Op. Atty. Gen., Sept. 6, 1930.

**§4371. Headstones.**—The adjutant general shall cause to be placed a headstone at the grave of every such person, bearing his name, and if ascertainable, the date of his birth and death, and the designation of the organization to which he belonged or in which he served. The cost of such headstone shall not exceed fifteen dollars, finished and in place. It shall not be furnished by the state until the adjutant general shall have applied unsuccessfully to the federal government therefor. When the federal government furnishes such stone, without a base, the adjutant general, at a cost to the state of not more than seven dollars and fifty cents, shall, cause the same to be properly placed. When such headstone heretofore has been furnished and erected other than by the state or the federal government and does not bear the designation of the organization to which such person belonged or in which he served, upon

written request of the next of kin of such person or of the state commander of the Grand Army of the Republic, the board, at a cost to the state of not more than seven dollars and fifty cents, shall cause to be graven thereon the designation of the organization to which such person belonged or in which he served. (As amended Apr. 25, 1931, c. 363, §2.)

**§4372. Expense.**—The expense of such interments, of headstones not furnished by the federal government, and of base stones shall be borne by the state. The person in charge of the interment shall report all expenditures, with vouchers approved by the adjutant general, and the state auditor shall issue his warrant for the amount. The sum of twenty-five hundred dollars is hereby appropriated annually for the defraying of such expenses. (As amended Apr. 25, 1931, c. 363, §3.)

**§4373. May provide markers.**—That the adjutant general shall upon the petition of any five reputable freeholders of any township or municipality, or of any patriotic or ex-service men's organization procure for and furnish to said petitioners some suitable and appropriate metal socket for the grave of each and every soldier, sailor, marine or nurse who served with honor in the forces of the United States and who is buried within the limits of the state, to be placed on the grave of such a soldier, sailor, marine or nurse for the purpose of permanently marking and designating said grave for memorial purposes. (As amended Apr. 25, 1931, c. 363, §4.)

Laws 1931, c. 363, §4, purports in its body to amend this section, but the section is not included in the title.

**§4374. Petitions to state names.**—That in all petitions to the adjutant general the petitioners shall state in said petition the names of soldiers buried and number of such graves in their said township or municipality at the time of petitioning. (As amended Apr. 25, 1931, c. 363, §5.)

**§4384-2. State to provide office building for veteran organization.**—The Governor of this State shall set apart a suitably furnished room in the State Capitol Building, or other state office building, for the use of each of the following Veteran organizations: the Grand Army of the Republic, the United Spanish War Veterans, the Veterans of Foreign Wars of the United States, and the Disabled American Veterans of the World War, incorporated, or when incorporated, under the laws of the State of Minnesota. Such room shall be under the charge of the Minnesota State Commander of the Department of Minnesota of the Veteran organization assigned thereto, and such person as he may in writing designate, and shall be used for the purpose of keeping therein, records, archives, trophies, supplies and other Veteran property of said organization and as its general headquarters office for the Department of Minnesota. (Act Apr. 27, 1929, c. 434.)

**§4385. Preservation of flags.**—The flags and colors carried by Minnesota troops in the Civil War, Spanish American War, Mexican

Border Campaign and World War shall be preserved in the capitol, under the especial care of the adjutant general. They shall be suitably encased and marked, and, so far as the adjutant general may deem it consistent with their safety, shall at all times be publicly displayed. (As amended Apr. 25, 1931, c. 363, §6.)

**§4394. Membership of Board of Governors of recreation and recuperation camps.**—There is hereby established a Board of Governors who shall have and exercise supervision, care, control, and management of such recreation and recuperation camp, which board shall consist of ten members who shall be selected and appointed as follows: Two members thereof shall be selected and appointed by the State Department of the American Legion, two members thereof shall be selected and appointed by the State department of the Veterans of Foreign Wars of the United States, two members thereof shall be selected and appointed by the state department of the United Spanish War Veterans, two members thereof shall be selected and appointed by the state department of the Disabled American Veterans of the World War, one member thereof shall be selected and appointed by the state department of the American Red Cross, and one member, who shall act as the chairman of the said Board of Governors, shall be selected and appointed by the State Board of Control. The members of said Board of Governors shall be appointed in the first instance for the term ending on the first Monday in January, 1925, and thereafter for the term of two years, ending the first Monday of January of the odd numbered year next after the appointment and qualification of their suc-

cessors. Any vacancies at any time occurring in said Board of Governors shall be filled by appointment in like manner as hereinbefore provided for members of said board. If any organization fails to make the appointments hereinbefore provided within thirty days from the passage hereof, the State Board of Control is hereby authorized and required to make appointments for and on behalf of such organization. (As amended Apr. 3, 1929, c. 130.)

**§4397-1. County Board of Control may appropriate money to rest camp.**—The Board of Control of any county in this state for whose disabled American War Veterans a rest camp is now being operated, or which may hereafter be established, whether the said camp is located in said county or not, may annually expend an amount not in excess of the sum of \$9,000.00 in the operation and maintenance of said rest camp. (Act Apr. 24, 1929, c. 312.)

**§4397-2. County boards may appropriate money for rest camps in certain counties.**—That the Board of County Commissioners of any County having a population of over 500,000 in which a rest camp for disabled American War Veterans is being operated, may annually expend an amount not in excess of the sum of \$3,000.00 to assist in the operation and maintenance of said rest camp. (Act Apr. 24, 1931, c. 324.)

Act Apr. 25, 1931, c. 405, makes an appropriation for relief of veterans of Spanish American War, Philippine Insurrection and China Relief Expedition. The act creates a board for administration of the fund, and provides that its functions shall cease June 30, 1935. The act is omitted as temporary.

## CHAPTER 25

### Board of Control and Charities under Its Exclusive Management

#### THE BOARD

**§4398. Membership of board of control.**—The State Board of Control shall consist of three members at least one of whom shall be a woman, appointed by the Governor, with the consent of the Senate, each for the term of six years and until their successors qualify. Not more than two (2) members shall belong to the same political party. Vacancies shall be filled by like appointment for the unexpired terms. On the second Monday in April, 1931, and biennially thereafter, the board shall elect from its membership a chairman. A vacancy in the office of chairman shall be filled by like election for the unexpired term.

The Governor may remove any member for malfeasance or non-feasance in office or for any cause which renders him incapable or unfit to discharge his official duties. (As amended Mar. 24, 1931, c. 84.)

#### ILLEGITIMATE CHILDREN

**§4460. Traveling expenses.**—The traveling and other necessary expense of the several members of the child welfare board, while acting officially as members of such board, and of the executive agents while exclusively employed in the business of the board, shall be paid, so far as approved by the county board, out of the general revenue fund of the county in the same manner as other claims against the county. If a member or executive agent of the child welfare board uses his own automobile or other conveyance owned by him, he may be allowed reasonable compensation therefore at a rate of not more than seven cents per mile for each mile necessarily traveled in such automobile or other conveyance in the performance of his official duties. (As amended Apr. 20, 1931, c. 242.)

The cost of securing a surety bond for the treasurer of a county child welfare board may be paid by the county, even though such treasurer happens to be a public officer, such as superintendent of schools, and receives a salary