

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



Edited by  
WILLIAM H. MASON, Editor-in-Chief  
W. H. MASON, JR., Assistant Editor

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In action by woman for fraud in sale of stock of financial corporation, evidence held to show that plaintiff's husband acted as her agent. *Watson v. G.*, 236NW213. See *Dun. Dig.* §612.

**2. Other contracts.**

Evidence held to show conveyance by husband and wife to daughter rendered husband insolvent, and conveyance fraudulent as to creditors. 171M284, 213NW911.

Where the promises of the husband under an antenuptial contract, to make payments to his wife have matured and the money has become due, the causes of action so perfected are not defeated by the wife's subsequent desertion of the husband. 172M91, 214NW791.

**§8622. Barring interest of spouse.**

Where the evidence of misconduct of husband does not justify either an absolute or a limited divorce, the court is not authorized to terminate the husband's inchoate interest in the wife's real estate even though the misconduct may legally justify her in living apart from him. 174M159, 218NW559.

**§8622-1. Dower and curtesy abolished in certain lands.**

Act abolishing dower and curtesy and statutory interests in lieu thereof in all lands conveyed by guardians of incompetent married persons prior to Jan. 1, 1929. Laws 1931, c. 29.

CHAPTER 73

Adoption and Change of Name

**§8630. Status of adopted child.**

When the name of an adopted child is omitted from the will of the parent, the presumption is

that the omission was not intentional and was occasioned by accident or mistake. 175M193, 220NW601.

CHAPTER 73A

Dependent, Neglected and Delinquent Children

See §§208-1 to 208-9.

**§8636. Definitions.**

Juvenile delinquents are not criminals. *State v. Zenzen*, 227NW356.

No appeal lies from a decision of a juvenile court under this chapter. *State v. Zenzen*, 227NW356.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. *Op. Atty. Gen.*, Oct. 30, 1930.

**§8637. Jurisdiction of district court—Jury trial—Probate court—Application.**—The District Court in counties now or hereafter having a population of more than 40,000 inhabitants except in such counties of the Seventh Judicial District shall have original and exclusive jurisdiction in all cases coming within the terms of this act. In all trials in the district court under this act, except as hereinafter provided, any person interested therein may demand a jury; or a judge of his own motion may order a jury to try the case. In counties now or hereafter having a population of not more than 40,000 inhabitants and in all counties of the Seventh Judicial District the probate court shall have jurisdiction over the appointment of guardians of dependent, neglected or delinquent children for the purpose of this act. The jurisdiction of both the district and probate courts over cases of dependency, neglect and delinquency arising under this act shall extend to all persons resident or found within the territorial limits of the court, although the evidentiary facts showing such dependency, neglect or delinquency may have occurred outside such territorial limits. (As amended Apr. 20, 1931, c. 250, §1.)

**§8638. Judges of juvenile court.**—In counties having more than 40,000 except the Fourth Judicial District, and the counties in the Seventh Judicial District the judges of the district court shall at such times as they shall determine designate one of their number whose duty it shall be to hear all cases arising under this act, unless absent or disabled, in which case another judge shall be temporarily assigned for said purposes; and such designation shall be for the period of one year unless otherwise ordered. The judge of the juvenile court so designated shall devote his first service and all necessary time to the business of the juvenile court, and this work shall have precedence over all his other court work. When deemed advisable the district judges may designate two judges for the purposes and subject to the provisions specified in this section. A special court room, to be designated as the juvenile court room, shall be provided for the hearing of such cases, and the findings of the court shall be entered in a book or books to be kept for that purpose, and known as the "juvenile record," and the court may for convenience be called the juvenile court of the appropriate county. The title of proceedings in the juvenile court, excepting prosecutions under section 27 and 28 of this act, shall be substantially as follows:

Juvenile Court, County of. . . . .  
 In the matter of. . . . . as a dependent (or neglected or delinquent, as the case may be) child. (As amended Apr. 20, 1931, c. 250, §2.)

\* \* \* \* \*  
 Laws 1931, c. 250, §2, amends the first paragraph of this section to read as above.

**§8640. Salary of bailiff in Juvenile Court in certain counties.**—In all counties of this state having, or which hereafter shall have a

population of not less than 220,000 and not more than 330,000 inhabitants, a bailiff of the juvenile court may be appointed by the judge of the court. He shall serve four years, unless removed by the said judge for cause, and shall be in attendance at all sessions of the court, make and serve all summons, writs, warrants and processes issued out of the court and perform such other duties as may be directed by the judge. He shall have all the authority of a deputy sheriff and when his services are not required by the juvenile court, he may, with the consent of the court, be called upon by the sheriff to serve as such deputy. In case of his absence, the sheriff shall, upon request of the judge, assign a deputy to perform his duties. The bailiff shall receive a salary of \$1800 per annum which sum shall include all expenses incurred by him in the performance of his duties within the county. (As amended Apr. 26, 1929, c. 405, §1.)

Sec. 2 repeals inconsistent acts. Sec. 3 provides that the act shall take effect from and after Apr. 1, 1929.

**§8641. Probate court as juvenile court.**—In counties of not more than 40,000 population the judge of probate shall provide himself with a suitable book in which to record all proceedings for the appointment of guardians under the provisions of this act, at the expense of the county, and shall record in said book all proceedings taken in each case coming before him under this act, but need not record any evidence taken except as it shall seem to him proper and necessary. The reasons for appointing a guardian shall be entered therein and any parent or the attorney for any child may appeal from the final disposition of the guardianship matter by complying with the law regulating appeals from probate courts. When acting under the provisions of this act the probate court may for convenience be called the juvenile court of the appropriate county. (As amended Mar. 20, 1931, c. 82, §1; Apr. 20, 1931, c. 250, §3.)

No appeal lies from an order of the probate judge, sitting as a juvenile court judge, adjudging a minor delinquent. Op. Atty. Gen., May 5, 1931.

**§8642. Petition.**

The responsibility for placing children in homes is now with the juvenile court and the board of control rather than with the county board. Op. Atty. Gen., Jan. 13, 1930.

**§8643. Summons—Service—Notice, etc.**

Where a petition was filed in probate court to have certain children committed to state public school as dependent, and pending investigation the children were removed to another county, the probate judge could not go to such other county and hold hearings and commit the children. Op. Atty. Gen., Mar. 27, 1931.

**§8646. Dependent or neglected children—Disposition.**

Court may commit child to private charitable institution and require county to pay for its care as long as the court in its discretion directs. Op. Atty. Gen., Mar. 18, 1929.

**§8664. Expenses in probate court, how paid.**

Probate judge is not entitled to reimburse-

ment from the county for his expenses in attending a convention of the Probate Judges' Association. Op. Atty. Gen., Feb. 9, 1931.

Where a petition was filed in probate court to have certain children committed to state public school as dependent, and pending investigation the children were removed to another county, the probate judge could not go to such other county and hold hearings and commit the children. Op. Atty. Gen., Mar. 27, 1931.

**§8671. Allowances to mothers, etc.**

See §§208-1 to 208-9.

Judge of probate has no right to pay out any money in dependency cases until he has made findings under this section. Op. Atty. Gen., Aug. 9, 1929.

A woman with dependent children is entitled to pension where her husband has deserted her and she has obtained a divorce on that ground, and where there is an outstanding warrant for his arrest which has remained unserved for 3 months, or where there has been a conviction for abandonment. Op. Atty. Gen., July 23, 1930.

County commissioner investigating financial condition and status of children is not entitled to a per diem and mileage. Op. Atty. Gen., Sept. 18, 1930.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. Op. Atty. Gen., Oct. 30, 1930.

An allowance made by a county to a mother terminates when the mother ceases to be a resident of the county. Op. Atty. Gen., Feb. 20, 1931.

A county attorney required to make investigations in connection with applications of mothers for county allowances is entitled to take expenses necessarily incurred out of his contingent fund. Op. Atty. Gen., Mar. 26, 1931.

A county attorney may use his own automobile and receive compensation therefor from the county out of his contingent fund or otherwise. Op. Atty. Gen., Mar. 26, 1931.

Right to mother's pension does not depend upon a person's "settlement," but upon her "residence" for the prescribed period of time, and the fact that widow was moved out of another county where she had settlement for the sole purpose of obtaining a mother's pension was immaterial. Op. Atty. Gen., June 12, 1931.

**(b).**

Statute makes no provision for the payment of allowances to a divorced mother. Op. Atty. Gen., Mar. 4, 1931.

**§8677. Official investigators.**—In counties having over 200,000 and not to exceed 330,000 population the judge of the juvenile court may appoint one supervisor and one or more investigators for the investigation of application for allowance under this act, whose duty it shall be to visit the homes of the applicants and ascertain all the relevant facts and circumstances including the facts specified in the preceding section and make report in such form as the court may require. In counties having over 200,000 and not to exceed 250,000 population each person so appointed shall receive such salary as shall be fixed by a majority of the judges of the district court and approved by the county board. Such salary, however, of said supervisor shall not exceed \$2400. per annum and of said investigators \$1800 per annum. In counties having over 250,000 and not to exceed 330,000 population such salary of said supervisor shall not exceed \$1500.00 during the first year of service of such supervisor, except a supervisor in service now, who shall receive the salary now provided by law, \$1600 during the second year of service and \$1800 during and after the third year of service of such supervisor, and such salaries of such

investigators shall not exceed \$1200 during the first year of service of any investigator except those in service now, who shall receive the salary now provided by law, \$1300 during the second year of service, \$1400 during the third year of service and \$1500 during and after the fourth year of service of any such investigator. Such salary shall be paid as other salaries are paid out of the county treasury, together with all expenses certified by the judge to have been necessarily incurred by them in the performance of their duties. (As amended Apr. 24, 1931, c. 326.)

**§8679. What property a bar.**—The ownership by a mother of personal property of the value of one hundred dollars, exclusive of appropriate clothing and household furniture and of such tools, implements and domestic animals as in the opinion of the court it is expedient to retain for the purpose of reducing the expense or increasing the income of

the family or of real estate not used as a home; or of real estate, when used as a home; of a value disproportionate to the actual needs of the family, shall be a bar to any allowance under this act, provided, further, that in lieu of all real estate and personal property except appropriate clothing and household furniture the possession of no more than five hundred dollars by a mother, grandmother, or other person, shall not be a bar to an allowance, if all but one hundred dollars thereof shall be deposited in trust with a proper depository to be designated by the court, the income therefrom to be used in lieu of an equivalent amount of the allowance ordered by the court, the principal to be returned to the mother, or other person, upon the discontinuance of the allowance. (As amended Mar. 28, 1929, c. 101.)

**§8689. Inconsistent act repealed.**

See §§208-1 to 208-9.

## Part III. Civil Actions and Proceedings

### CHAPTER 74

### Probate Courts

**§8690. Establishment, Sessions, etc.**

PROBATE COURTS GENERALLY

**1. Jurisdiction in general.**

Claims against executor and by executor against creditor must be enforced in district court. 172M68, 214NW895.

District court has jurisdiction to determine title to homestead pending proceeding in probate court to administer estate of decedent. 171M182, 213NW736.

**2. Jurisdiction of estates of deceased persons.**

Judgments are not subject to collateral attack and district court cannot in an independent action in equity amend a decree of distribution for mere errors in making up the final account by the administrator. 175M68, 220NW406.

Laws 1925, c. 262 (§8080-1) is cumulative and not a bar to administration by the probate court upon the estate of one absent for seven years. 175M493, 221NW876.

Administration of an estate of a decedent is a proceeding in rem and jurisdiction is not obtained if there are no assets of decedent within the territorial jurisdiction of the probate court. 176M445, 223NW683.

**7. Held not to have jurisdiction.**

While court has jurisdiction to determine title for purpose incident to administration it has no jurisdiction to determine title as between persons interested in estate and outsiders. Op. Atty. Gen., May 16, 1930.

**§8701. Incidental duties of probate court.**

**2. Vacating orders, etc.**

Real estate assigned by final decree passes out of the control of the court and is discharged from further administration, and thereafter neither the probate court nor the district court on appeal has authority to vacate the decree without notice to the persons who then hold title to such real property. 175M524, 222NW68.

The probate court has power to vacate its final decree on the ground of fraud, mistake, inadvertence or excusable neglect upon proper

application seasonably made. 175M524, 222NW 68.

Application to vacate decree of descent rendered by probate court on ground of mistake in both judicial discretion, and on appeal the district court exercises a like discretion. 179M315, 229NW133.

Section 9283 governs the vacation of judgments and orders of the probate court as well as those of the district courts for mistake, inadvertence and excusable neglect. Walker's Estate v. M., 236NW485. See Dun. Dig. 7784.

Inadvertent neglect of attorneys for executors in failing to ascertain the filing of a claim and the date of hearing was excusable. Walker's Estate v. M., 236NW485. See Dun. Dig. 7784.

In determining whether judicial discretion should relieve executor against a claim allowed as on default, it is proper to consider the statement of claim as filed and the objections or defense proposed thereto. Walker's Estate v. M., 236NW485. See Dun. Dig. 7784.

**§8702. Judges of probate court, etc.**

Probate judge is not entitled to reimbursement from the county for his expenses in attending a convention of the Probate Judge's Association. Op. Atty. Gen., Feb. 9, 1931.

**§8704. Certified copies.**

This section does not warrant a fee for making return on appeal to district court under Mason's St. 1927, §8986. Op. Atty. Gen., Apr. 30, 1929.

**§8706. Definitions.**

174M354, 219NW286; note under §9251.

**§8706-1. Salary of Judge of Probate in certain counties.**—That from and after January 1, 1929, the compensation of the judges of the Probate Court in all counties of this state now or hereafter having a population of 240,-