

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,  
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and  
amendatory, and notes showing repeals, together with annotations from the  
various courts, state and federal, and the opinions of the Attorney  
General, construing the constitution, statutes, charters  
and court rules of Minnesota together with digest  
of all common law decisions.



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\$40.00 plus an amount equal to three cents for each \$1,000 of assets in excess of \$25,000, and not exceeding \$300,000; where the assets exceed \$300,000 and do not exceed \$500,000, a minimum fee of \$50.00, plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$500,000 and do not exceed \$1,000,000, a minimum fee of \$60.00 plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$1,000,000 and do not exceed \$3,000,000, a minimum fee of \$80.00, plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$3,000,000, a minimum fee of \$100.00, plus three cents for each \$1,000 of assets in excess of \$25,000 up to \$5,000,000, and two cents per thousand for each \$1,000 of assets in excess of \$5,000,000, and in the case of trust companies an additional amount equal to two cents for each \$1,000 value of properties held in trust for the benefit of others.

In the case of local building and loan associations, for each examination, a minimum fee of \$25.00, plus an amount equal to 2 cents for each \$1,000 of assets in excess of \$15,000.

In the case of credit unions a fee of \$10.00 where the assets do not exceed \$2,000; a fee of \$15.00 where the assets exceed \$2,000 and do not exceed \$4,000; a fee of \$17.00 where the assets exceed \$4,000 and do not exceed \$6,000; a fee of \$20.00 where the assets exceed \$6,000 and do not exceed \$8,000; a fee of \$25.00 where the assets exceed \$8,000 and do not exceed \$10,000; a fee of \$30.00 where the assets exceed \$10,000 and do not exceed \$15,000; a fee of \$35.00 where the assets exceed \$15,000 and do not exceed \$20,000; a fee of \$40.00 where the assets exceed \$20,000 and do not exceed

\$25,000; and where the assets exceed \$25,000, a minimum fee of \$40.00, plus 10 cents for each \$1,000 of assets in excess thereof.

Said fees shall be paid by the institution examined within twenty days after a statement of the amount thereof shall have been rendered the institution examined by the commissioner of banks, and if not so paid shall bear interest at the rate of six per cent per annum. (As amended Apr. 17, 1937, c. 276, §1.)

Sec. 2 of Act Apr. 17, 1937, cited, provides: "all acts or parts of acts inconsistent herewith are hereby repealed."

**5332-1. Examiners powers enlarged.**—The examiner in charge of liquidation in the banking division of the department of commerce is hereby authorized to sign the name of the commissioner of banks and to act for him in all matters connected with the liquidation of insolvent corporations under the supervision and control of the commissioner of banks, with the same force and effect as though the commissioner himself had signed or acted. Provided, that said examiner shall have no authority to order an assessment against the stockholders of an insolvent state bank or trust company under the provisions of Laws 1927, Chapter 254 [§§7699-20 to 7699-247]. (Act Apr. 9, 1931, c. 137.)

Examiner in charge of liquidation may sign examiner's name, including affidavits incident to borrowing of money from Reconstruction Finance Corporation. Op. Atty. Gen., Jan. 22, 1934.

**5334. Certain securities to be deposited with State treasurer.**

Securities deposited with commissioner of banks by national bank desiring to act in a fiduciary capacity must be redeposited with state treasurer. Op. Atty. Gen., Jan. 13, 1934.

## CHAPTER 29

### Public Health

#### 5337. Meetings—Officers—Quorum.

Official bonds of secretary of department of health should be referred to commission of administration and finance for approval, and continuation certificate should not be approved, such bonds should be cumulative. Op. Atty. Gen. (45a), May 7, 1937.

#### 5339. General duties of board—Reports.

Op. Atty. Gen., June 28, 1933; note under §5345.  
Division of hotel inspection cannot compel all places of business serving food and refreshments to be equipped with hot and cold running water and to have their sinks connected with a sewer, nor ordering separate toilet rooms for both sexes in restaurants and places of refreshment, but it can order restaurants and places of refreshment, to install two tanks behind bars to sterilize glasses and provide proper drain for glasses if such requirements are necessary for proper sterilization. Op. Atty. Gen. (238d), Oct. 24, 1935.

#### 5345. State board of health, general and special rules.

Op. Atty. Gen., June 20, 1933; note under §9580.  
Resolution by state board of health that plans and specifications must be prepared by person not prohibited from doing so under Laws 1933, c. 404, is not bound to act according to such resolution, it being merely a declaration of policy. Op. Atty. Gen., June 28, 1933.

City may not construct a swimming pool until plans and specifications are approved by the state board of health. Op. Atty. Gen. (225m), Apr. 30, 1935.

Court will not take judicial notice of health regulations. Op. Atty. Gen. (225b-4), May 21, 1935.

Health department has authority to return and quarantine tubercular patient in hospital or sanatorium. Op. Atty. Gen. (225f-1), Aug. 30, 1935.

Plans and specifications of sewage disposal plant of a metropolitan drainage district are to be approved by state board of health. Op. Atty. Gen. (225m), June 1, 1935.

Under regulation 200 adopted by state board of health, department may pass upon plans submitted to it and approve or disapprove, though plans are prepared by an engineer who is not qualified under state law. Op. Atty. Gen. (255m), June 3, 1937.

Establishing, enforcing and releasing quarantine constitutes control of communicable disease and is a purely public charge payable in first instance by town or village, which may in turn recover one-half from county, but disease control measures necessary for public protection but which also benefit patients, such as vaccination, antitoxin, hospitalization, are primarily liability of patient, but may be allowed as public charge when all possible efforts to secure payment by responsible individual have failed. Op. Atty. Gen. (611a-1), June 16, 1939.

(7).  
A venereal disease is a communicable disease and expense and care of a pauper family afflicted with such disease should be divided equally between village and county, and municipality should first pay such expense and apply to county for reimbursement of half thereof. Op. Atty. Gen. (225f-3), Nov. 14, 1934.

(8).  
Board of control cannot administer toxin-antitoxin and scarlet fever serum without obtaining consent of relatives of children committed to home school for girls. Op. Atty. Gen., Mar. 24, 1934.

School district funds cannot be used to vaccinate school children to prevent spread of small pox during an epidemic. Op. Atty. Gen. (611a-9), Feb. 1, 1935.

(10).  
A death certificate is not conclusive proof of cause of death. *Jorstad v. B.*, 196M568, 265NW814. See *Dun. Dig.* 3348.

#### 5348. Local boards—Health officers.

Member of town board may receive compensation as health officer as well as member of board. Op. Atty. Gen., Feb. 7, 1929.

Town board cannot appoint as health officer one who is not a duly licensed physician. Op. Atty. Gen., Apr. 16, 1931.

Action of voters at town meeting in attempting to elect a health officer is nugatory. Op. Atty. Gen., Apr. 16, 1931.

Village is not compelled to establish its own board of health but where it does establish one, village is liable for costs and expenses lawfully incurred under its direction. Op. Atty. Gen., Apr. 28, 1932.

Where village has no board of health, it is, nevertheless, liable for costs and expenses lawfully incurred un-

der direction of town board in connection with public health affairs. Op. Atty. Gen., Apr. 28, 1932.

A town chairman appointed health officer pursuant to this section is entitled to compensation in addition to his compensation as a board member. Op. Atty. Gen., Apr. 6, 1933.

There is no statute authorizing a town to employ a milk inspector and pay salary out of town funds. Op. Atty. Gen. (442a-17), Oct. 13, 1934.

Town board may revoke permit for rendering plants without rendering town or themselves liable for damages, but they must act in good faith. Op. Atty. Gen. (434a-6), Mar. 22, 1935.

Health officer of a city is guilty of a misdemeanor if he contracts to perform an operation on a poor person for which city would be liable, but he may recover from city any benefits received by it, provided city may require him to perform such operation as a part of his services as an officer without consideration other than salary received. Op. Atty. Gen. (90e), Jan. 25, 1937.

Though city council is without authority to pass ordinance "based purely on aesthetic reasons", it may pass and enforce an ordinance requiring cleaning of yards in interest of public health. Op. Atty. Gen. (59a-32), Sept. 13, 1939.

#### 5349. Duties of local boards of health—Penalties.

City health department has right to subject school children exposed to tuberculosis to reasonable tests. Op. Atty. Gen., June 15, 1933.

Offices of clerk of school board and member of town board are incompatible where town board is also local health board. Op. Atty. Gen. (358e-6), Mar. 29, 1935.

Jurisdiction is vested in local Board of Health, and not County Child Welfare Board, to take reasonable steps to prevent spread of tuberculosis, and it has legal right to subject students exposed to tuberculosis to any reasonable test. Op. Atty. Gen. (225f-1), Jan. 7, 1938.

If a hog feeding ranch is dangerous to health and constitutes a nuisance, nuisance may be abated and criminal proceedings instituted. Op. Atty. Gen. (225j), Dec. 31, 1938.

#### 5351. Powers of health officer in assuming jurisdiction over communicable diseases.

Op. Atty. Gen., Apr. 28, 1932; note under §5348.

Whether removal of tonsils of diphtheria carrier would be control measure for benefit of public, is question of fact. Op. Atty. Gen., June 11, 1932.

There are three classes of measures employed in controlling communicable diseases quarantine, other control measures such as vaccination, etc., and measures looking only to comfort and treatment of particular individual suffering from disease, first is purely public measure, expenses of which are paid by local health districts, one-half to be claimed against county, and same is true as to second class, if individuals cannot pay, but there is no public liability as to third class except by way of poor relief. Op. Atty. Gen., June 11, 1932.

Local board of health on advice of state board of health has power to seize a person afflicted with tuberculosis and carry him off to public hospital. Op. Atty. Gen., May 10, 1933.

Whether tuberculosis of knee is a communicable disease is question of fact to be determined by medical experts. Op. Atty. Gen., Sept. 26, 1933.

Where a tubercular person is placed in a sanatorium at the request of the municipality of his settlement, municipality is acting under its legal poor obligation and is entitled to a refund from the county under §3195, but if the municipality is proceeding under §5351 and expends money thereunder, it is entitled to a refund of  $\frac{1}{2}$  of its expenditures from the county, but the half assumed by the municipality cannot be included as poor relief for purpose of securing a further reimbursement under §3195. Op. Atty. Gen. (339f-3), June 15, 1934.

County commissioners may not make an appropriation for vaccination of relief children unless epidemic exists, and when it does make an appropriation for that purpose it cannot limit use of funds to relief children. Op. Atty. Gen. (611a-9), Feb. 14, 1935.

All charges incident to the establishment, maintenance and releasing of quarantine are proper charges against health district, but any medical aid or services in way of treatment of patient for benefit of such patient is not proper charge. Op. Atty. Gen. (611a-7), Apr. 16, 1935.

County is not liable for one-half expense incurred in treatment of communicable diseases when there has been no quarantine. Op. Atty. Gen. (611a), June 27, 1935.

Expense incident to establishing, enforcing and releasing of quarantine is a legal charge upon health district, irrespective of financial ability of person quarantined or other person responsible, but a physician's charges for services rendered to sick person do not become a charge upon a health district unless sick person is a pauper. Op. Atty. Gen. (611a-7), Sept. 24, 1935.

If primary purpose of treatment is to benefit patient, §§4545 and 4546 apply, while if purpose is for isolation of person for protection of general public, §§5351 et seq. are to be complied with. Op. Atty. Gen. (611a-8), June 16, 1936.

Where township in county operating under town system expends in care and maintenance of tubercular persons in discharge of its legal obligations of providing medical attention to its proper residents, it is impairable

to reimbursement of 75 per cent as provided in §3195, but if township is proceeding pursuant to §5351, township is entitled to reimbursement of one-half of its expenditure but the half of the expenditure assumed by township cannot be included as poor relief for purpose of securing further reimbursement under §3195. Op. Atty. Gen. (400k), Aug. 1, 1936.

Where a nonresident of the state has been hospitalized at Glen Lake Sanatorium at request of health commissioner of Minneapolis, as a tubercular person and a public health menace, patient is not a "free patient" for whom aid will be paid under §708, but board of control may pay for maintenance and care as provided in §710. Op. Atty. Gen. (88a-31), Mar. 22, 1937.

Cost of maintaining a poor person in state sanatorium is to be charged against county of poor person's residence, and no part of it is to be charged against town or village, though patient is suffering from a communicable disease. Op. Atty. Gen. (556a-8), May 27, 1937.

Health district is chargeable only with expenses incident to establishment, maintenance and releasing of quarantine, one-half of which must be paid by county, and expenses incident to care and relief of a family in nature of medical care and advice, nursing, food, etc., are ultimately chargeable against municipality in which family has its place of settlement. Op. Atty. Gen. (611a-6), June 8, 1937.

Expense of maintaining patient at state sanatorium is chargeable against local health district where patient is sent to sanatorium for purpose of preventing spread of disease, such as tuberculosis. Op. Atty. Gen. (611a-8), June 11, 1937.

County is responsible for one half of expense incurred by municipality in controlling venereal diseases. Op. Atty. Gen. (611a-6), July 20, 1938.

Village is not liable to health officer for expenses in connection with furnishing care and treatment of a person afflicted with communicable disease, except in so far as treatment is necessary to prevent spread of disease. Op. Atty. Gen. (611a), Dec. 30, 1938.

Medical expenses incurred in establishing, maintaining and releasing quarantine of public charges, are payable in first instance by local health district, subject to reimbursement by county for one-half amount paid, while medical expenses incurred in all other control measures, such as immunization, hospitalization, and all steps reasonably necessary for protection of the public, are primarily personal liability of sick person, or of individual charged with his support. Op. Atty. Gen. (225f-1), Feb. 10, 1939.

Town chairman is entitled to compensation for posting notice of quarantine, but not expense of disinfecting premises occupied by tuberculosis patients. Op. Atty. Gen. (611a-7), April 27, 1939.

#### 5352. Allowance and payment of expenses, etc.

Op. Atty. Gen., Apr. 28, 1932; note under §5348.

Op. Atty. Gen., June 11, 1932; note under §5351.

Person who has communicable disease should pay expenses of care, but if it is impossible to secure payment from him, local health district must assume expense and may recover one half from county. Op. Atty. Gen., July 31, 1933.

In county operating under town system of caring for poor, township finding it necessary to isolate poor person having tuberculosis is entitled to be reimbursed by county to extent of  $\frac{1}{2}$  of cost. Op. Atty. Gen., Dec. 2, 1933.

A venereal disease is a communicable disease and expense and care of a pauper family afflicted with such disease should be divided equally between village and county, and municipality should first pay such expense and apply to county for reimbursement of half thereof. Op. Atty. Gen. (225f-3), Nov. 14, 1934.

County need not pay half of a claim which it deems unreasonable in amount. Op. Atty. Gen. (611a-7), Dec. 7, 1934.

Reimbursement of city by county for one-half of expenses incident to control may be paid without resort to action against person benefited. Op. Atty. Gen. (611a), Apr. 22, 1936.

City is not liable for value of books located in house under quarantine. Op. Atty. Gen. (611a-7), Apr. 22, 1936.

County is liable for one-half of expenses incurred by municipality in establishing, enforcing and releasing quarantine for control of communicable diseases, including venereal diseases, and for one-half of cost of treatment where same is deemed necessary for control of diseases for protection of public. Op. Atty. Gen. (225f-3), Aug. 28, 1936.

One-half of expenses are chargeable against county only where quarantine has been established. Op. Atty. Gen. (611a-7), Aug. 24, 1937.

Treatments for prevention of rables may be given at public expense, but only where responsible individual is unable to pay or cannot be made to pay the expense incurred. Op. Atty. Gen. (611a), Oct. 14, 1938.

Village is not legally liable for services of a practicing physician for treatment of a communicable disease, unless physician was employed by village for purpose of caring for person afflicted prior to time such services were rendered. Op. Atty. Gen. (611a), Dec. 30, 1938.

Village council approving a claim in January could submit its statement to county board for one-half in December. Id.

Three kinds of measures may be employed in control of a communicable disease: establishing, enforcing and releasing quarantine; immunization by vaccination, administration of antitoxin, hospitalization, and other measures which protect the public and also benefit the patient; and things done for care, comfort or relief of patient and not necessarily for protection of public, cost of the first being purely public, individual treated being primarily liable for the second, and individual treated being wholly liable for the third except by way of poor relief. Op. Atty. Gen. (225f-1), April 12, 1939.

**5353. Appeal from disallowance—costs.**

Op. Atty. Gen., June 11, 1932; note under §5351.

**5353-1. Public health nurses in counties, cities, villages, towns, etc.**

A school nurse cannot be classified as a teacher and cannot enter into a contract with school board for a definite period of time. Op. Atty. Gen. (905f), May 14, 1935.

**5353-2. Same—Expenses.**

If the county purchases an automobile, gasoline and repairs, the limitations of Laws 1931, c. 331, have no application but such act does apply if county nurse furnishes her own automobile and bills the county for reimbursements. Op. Atty. Gen., May 23, 1931.

Whether it is necessary for town to employ driver for nurse's car and health officer's car is matter for determination by town board after taking into consideration all facts involved. Op. Atty. Gen. (442a-17), Oct. 13, 1934.

There is no statute authorizing town board to employ recreational directors and pay for their services out of town funds. Id.

**5353-3. Same—Must be registered nurses.**

Nurses employed by municipalities must be registered pursuant to statute. Op. Atty. Gen., Aug. 10, 1932.

**5354. Vital statistics—state board to have charge.**

—The state board of health shall have general supervision and charge of the state system of registration of births and deaths and may make, and enforce, any regulations necessary for the proper carrying out of the same. The secretary of the state board of health shall be designated and known as the state registrar and shall be the administering officer of the state in connection therewith, charged with the enforcement of the provisions of this act. The state registrar may appoint, and at his pleasure remove, an employee of the state board of health as deputy state registrar, who shall render such aid as the state registrar may require of him in the discharge of his official duty. (As amended Apr. 17, 1937, c. 263, §1.)

**5356. Birth certificates—Form and contents.**—The physician or midwife attending at the birth of any child, or, if there is no attending physician or licensed midwife, the father or mother, shall within five days thereafter, subscribe and file with the local registrar of the district within which the birth occurs, a certificate of birth specifying:

Place of birth, including state, county, city, village or town with the street and house number, if any, or in lieu thereof the name of the hospital or other private, public or state institution, if in such institution.

Full name of child. If the child dies without being named before the certificate is filed, enter the word "unnamed" with the date of death.

Male or female.

Whether one of twins, triplets or other plural birth, and the number in order of birth.

Legitimate or no.

Date of birth, including year, month, day and hour.

Full name of father, provided that if the child is illegitimate the name or residence of, or other identifying details relating to, the putative father shall not be entered without his consent, except as provided in Section 5365-A.

Residence of the father.

Color or race of father—as white, colored, Indian, Chinese or other.

Age of father at last birthday.

Birthplace of father; state or foreign country.

Occupation of father with a statement of the trade, profession or particular kind of work; or the general nature of the industry or business engaged or employed in.

Full maiden name of mother.

Residence of mother.

Color or race of mother—as white, colored, Indian, Chinese or other.

Age of mother at last birthday.

Birthplace of mother; state or foreign country.

Occupation of the mother with a statement of the trade, profession or particular kind of work; or the general nature of the industry or business engaged or employed in.

Number of children born to this mother, including present birth.

Number of children born of this mother now living.

The fact of attendance and that the birth occurred at the time stated.

Date of making and address of the person subscribing.

If the child is one of a plural birth a separate certificate for each child shall be filed.

When the birth occurs in any lying-in hospital or in any private, public, charitable or state institution, without attendance by a physician or licensed midwife, the superintendent, manager or person in charge shall make and file the certificate of birth.

If the birth occurs in any hotel, rooming or boarding house, or in any private dwelling or apartment other than the home of the parents, the keeper or occupant shall immediately notify the local registrar of that fact. The local registrar shall then procure the necessary information and the signature for a proper certificate of birth.

Whoever finds any child of unknown parentage shall immediately report the fact to the local registrar. The local registrar shall thereupon make and file a certificate of birth for the child; the certificate shall state among other things, the date and place of finding, the sex, the color of the child, the approximate date of birth, and the name and the address of the person or institution with whom the child has been placed for care. The place where the child was found shall be known as the legal birthplace of the child. The date of birth shall be determined by approximation and shall be known as the legal date of birth. The person, superintendent or manager of the institution with whom the foundling child is placed for care shall give the child a name and shall report the name given to the local registrar within ten days after the child has been received.

If any foundling child shall later be identified and a certificate of birth be found or obtained, the certificate of birth as a foundling child provided for shall be cancelled by the state registrar with a citation to the certificate of birth on file in the Department.

The attending physician or midwife shall deliver to the parents a blank for a supplemental report of the given name if the child is not named at the time of making the certificate of birth.

When a certificate of birth is filed without the given or baptismal name the local registrar shall deliver to the parents a blank for a supplemental report of the name. Such supplemental report shall be made and filed with the local registrar as soon as the child is named. If such report is not filed within thirty days from the date of birth, the local registrar shall obtain such name by other means.

Whenever the state registrar shall receive a birth certificate which is incomplete or inaccurate, he shall endeavor to secure information relative to any errors or omissions, and shall make corrections on the original in red ink, when additional information is secured. Provided, that whenever a certified copy of any such corrected birth certificate is issued, the corrections shall be shown on the certified copy in red, and this act shall be printed or typed on the form used for such certification.

Except that a certified copy of a new certificate of birth, as hereinafter provided, shall be issued without such corrections, and red ink corrections shall not be shown on certificates as provided herein.

Whenever it satisfactorily appears to the state registrar that a birth record contains errors or omissions or is false in some respect he may attach a statement of the true facts to the same.

Whenever any person shall execute an affidavit admitting that he is the father of a child, subscribed to in the presence of two witnesses, before any person authorized to administer an oath, the affidavit shall be filed in connection with the birth certificate.

A new certificate of birth may be made whenever the state registrar receives proof satisfactory to him:

(a) That the previously unwed parents of a person have intermarried subsequently to the birth of such person; or

(b) That a court of competent jurisdiction has entered a judgment, order or decree relating to the parentage or adoption of a person.

Such new certificate for any person shall be in the form prescribed by the state registrar, subject to approval of the state board of health and state board of control, and shall be prepared on the following basis: Such person shall be treated as having had at birth the status subsequently acquired or established and of which proof is submitted; where such person is illegitimate and paternity has been established by legal proceedings the name of such father shall be inserted; where such person has been adopted the name of such child shall be that fixed by the decree of adoption and the foster parents shall be recorded as the parents of such child.

When a new certificate of birth is made, the state registrar shall substitute such new certificate of birth for the one then on file, if any. The state registrar shall place the original certificate of birth and all papers pertaining to the new certificate of birth under seal. Such seals shall not be broken except by order of a court of competent jurisdiction or on written order of the state registrar. Thereafter, when a certified copy of the certificate of birth of such a person is issued, it shall be a copy of the new certificate of birth, except when an order of a court of competent jurisdiction shall require the issuance of a copy of the original certificate of birth.

Upon receipt of a certified copy of a court order of annulment of adoption, the state registrar shall restore the original certificate.

The person certifying to the birth of an illegitimate child shall report such birth direct to the state registrar. The state registrar shall furnish the local registrar with an abstract of such birth containing the legal surname of the child, with the date of birth and sex of the child, directing that in case of inquiry, the local registrar shall refer such inquiry to the state registrar.

Whenever the report of a birth which occurred in Minnesota is not on file with the state registrar or with any local registrar or with the clerk of the district court of the county in which birth occurred, a certificate of such birth may be filed with the state registrar or a clerk of district court, and for such a birth which occurred in a city of 100,000 or more population with the local registrar of such city. Whenever for such delayed registration the birth certificate is not made and subscribed by the physician who attended the birth, the birth certificate shall be made and subscribed by the nearest of kin, if any, or otherwise by any person or persons having personal knowledge of the facts of birth as given by them in such certificate, and such certificate shall be accompanied by supporting affidavits by the person or persons making and subscribing the certificate and if possible by the baptismal record and other documentary evidence.

The state registrar shall place on file any birth certificate made and subscribed by attending physicians and others as herein provided. Whenever a birth certificate so made and subscribed is filed with a clerk of the district court such clerk shall forward such certificate to the state registrar. The state registrar shall send certified copies of all delayed birth cer-

tificates filed with him as herein provided, to the clerks of court of the counties in which such births occurred.

Any person who shall furnish false affidavits or false documentary evidence for the purpose of making or securing a delayed registration of birth shall be guilty of a misdemeanor. (As amended Mar. 28, 1939, c. 89, §1.)

Manner of correcting birth certificates, discussed. Op. Atty. Gen., Aug. 11, 1931.

Child born in wedlock but not conceived in wedlock should be certified as an illegitimate. Op. Atty. Gen., Mar. 24, 1934.

Birth record may not be changed in paternity cases except on order of court, but it is proper to attach affidavit of father to record. Op. Atty. Gen. (225k), Aug. 20, 1935.

Certificates of births recorded under Laws 1870, c. 25, Laws 1887, c. 114, or Laws 1913, c. 579, are admissible in evidence as public records, but unregistered birth occurring before passage of Laws 1913, c. 579, cannot now be registered, and birth must be proven by other evidence, though birth occurring subsequent to that enactment may still be registered with full probative effect. Op. Atty. Gen. (225i), July 11, 1938.

**5356-1. School nurses, etc., shall keep health records of children.**—It shall be the duty of every school nurse, school physician, school attendance officer, superintendent of schools, principal, teacher and of the persons charged with the duty of compiling and keeping the school census records to cause a permanent public health record to be kept for every child of school age. Such record shall be kept in such form that it may be transferred with the child to any school which the child shall attend within the state and transferred to the board of health when the child ceases to attend school. It shall contain a record of such health matters as shall be prescribed by the board of health, and of all mental and physical defects and handicaps, which might permanently cripple or handicap the child. Nothing in this act shall be construed to require any child whose parent or guardian objects in writing thereto to undergo a physical or medical examination or treatment. A copy shall be forwarded to the proper department of any state to which the child shall remove. (Act Apr. 20, 1929, c. 277, §1.)

**5356-2. To furnish copies of records to juvenile court.**—Whenever any child shall be brought into juvenile court, the court shall request and the custodian of the record shall furnish a complete certified copy of such record to the court, which copy shall be received as evidence in the case; and no decision or disposition of the pending matter shall be finally made until such record, if existing, shall be considered. (Act Apr. 20, 1929, c. 277, §2.)

**5356-3. Commissioner of Education to report to Children's Bureau.**—It shall be the duty of the state commissioner of education to cause a report to be made periodically to the children's bureau of the state of all diseases and defects that are of a continuous nature or that might result in a permanent handicap to the child, which have not been heretofore reported. He shall also furnish to the state board of health such information from the records as that board shall desire. (Act Apr. 20, 1929, c. 277, §3.)

**5356-4. False statements to be cause for discharge.**—Any intentionally false statement in such certificate and any act or omission of a superintendent or superior officer to connive at or permit the same shall be deemed good cause for summary discharge of the person at fault regardless of any contract. (Act Apr. 20, 1929, c. 277, §4.)

**5357. Death certificates—Form and contents.**—The undertaker or person acting as such at the burial, cremation or other disposal of the body of any person dying in this state, shall obtain and file with the local registrar of the district in which the death occurs, a certificate of death containing:

(a) A statement authenticated by the signature of some person cognizant of the facts, specifying:

1. Place of death, including state, county, city, village or town, with the name of the street and house number, or in lieu thereof, the name of the hospital or other private, public or state institution, if in such institution. If in an industrial or mining camp, or mine, the name of the camp or mine.

2. Full name of deceased. If an unnamed child the surname preceded by "unnamed."

3. Male or female.

4. Color or race—as white, colored, Indian, Chinese or other.

5. Single, married, widowed or divorced.

6. Date of birth, including year, month and day.

7. Age in years, months and days. If less than one day, the hours or minutes.

8. Occupation. If the person had any remunerative employment, statement of the trade, profession, or particular kind of work, or the general nature of the industry or business engaged or employed in.

9. Birthplace; state or foreign country.

10. Name of father, provided that if the deceased was of illegitimate birth the name or residence of, or other identifying details relating to the putative father shall not be entered without his consent, except as provided in Section 5365-A.

11. Birthplace of father; state or foreign country.

12. Maiden name of mother.

13. Birthplace of mother; state or foreign country.

In addition the said undertaker or person acting as such shall obtain and report in the monthly report to the state registrar provided for in Section 5360, General Statutes, 1923, as amended by Chapter 190, Session Laws 1925, information as to whether the deceased ever served in the military or naval forces of the United States.

(b) A medical certificate which shall be subscribed by the attending physician together with his address and date of making, stating fact and time of death, giving year, month, day and hour; time of attendance; when last seen alive; the disease or injury causing death, with contributory cause or complication and the duration of the illness; if from violence, the means and circumstances of the injury and whether indicating accident, suicide or homicide. When the physician cannot certify the cause of death because of a pending autopsy or incomplete findings he may substitute for the cause, the words "Cause not yet determined." Provided, that the medical certificate shall be made and subscribed by the coroner whenever the cause of death is investigated by him. Provided, further, that in cities of the first, second and third class the health officer, and in towns, villages and cities of the fourth class the local registrar, or a sub-registrar, shall make and subscribe the medical certificate for any death occurring therein without medical attendance or investigation by the coroner. If the local registrar, or sub-registrar, is unable to determine the cause of death, he shall refer the case to a physician, or to the coroner, for certification.

(c) When the death occurs in a hospital or other institution or place, other than the home of the deceased, a statement of the length of time at the place of death, length of time in the state, usual place of residence, and where the disease was contracted.

(d) A statement showing place and date of burial signed by the undertaker with his address.

(e) In the case of a child dead at birth, a certificate of birth having the word "still-birth" inserted in place of the name, and also a certificate of death shall be made and filed with the local registrar, and a burial permit issued as hereinafter provided. The medical certificate shall be signed by the attending physician and shall state the cause of death as "still-born" with the cause of the still-birth, whether a premature birth, and if so, the period of uterogestation in months. Provided, that a certificate of birth or death shall not be required for a child that has not advanced the fifth month of uterogestation.

(f) In cases of still-births occurring without an attending physician the medical certificate shall be made and subscribed as is herein provided in case of death without medical attendance.

(g) Whenever the state registrar shall receive a death certificate which is incomplete or inaccurate, he shall endeavor to secure information relative to any errors or omissions, and shall make corrections on the original in red ink when additional information is secured; provided, that whenever a certified copy of any such corrected death certificate is issued, the corrections shall be shown on the certified copy in red and the provisions of this act shall be printed or typed on the form used for such certification.

(h) Whenever it satisfactorily appears to the state registrar that a death record contains errors or omissions or is false in some respect he may attach a statement of the true facts to the same. (As amended Mar. 28, 1939, c. 89, §2.)

176M360, 223NW677; note under §5366.

The medical certificate of death is not admissible in litigation between private parties, to prove the "indications" or inferences of murder, suicide, or accident, drawn by the certificate maker from the "means and circumstances" of a violent death. *Backstrom v. N.*, 183M384, 236NW708. See Dun. Dig. 3347(62), 3348(67).

Medical expert may properly give reasons for opinion expressed as to cause of death. *Milliren v. F.*, 185M614, 242NW290. See Dun. Dig. 3327.

In action on accident policy, death certificate made by attending physician and filed was not conclusive, but could be contradicted, and when shown to be hearsay would have no probative value. *Milliren v. F.*, 185M614, 242NW290. See Dun. Dig. 3348, 3349.

Under c. 272, Laws 1915, as amended by c. 404, Laws 1919, and modified by c. 280, Laws 1921, coroner of Hennepin county or a deputy coroner is required to investigate violent, mysterious, and accidental deaths, and may order an autopsy when and where he deems proper, but order directing an autopsy did not conclude plaintiff, and she had right to show that autopsy was unauthorized or that it was improperly made, and this being construction placed on statutes, it cannot be claimed that they are in violation of due process clause of state or federal constitutions, nor violative of constitutional provision prohibiting special legislation, nor are their titles defective. *Kingsley v. F.*, 192M468, 257NW95. See Dun. Dig. 2599.

Certificate of undertaker was rightly excluded as of no probative force on issue tried—it being palpably hearsay of deputy coroner not a physician. *Miller v. M.*, 193 M497, 270NW559. See Dun. Dig. 3348.

Death certificate of an adopted child should show the natural parent and also the same information as to adoptive parents. *Op. Atty. Gen.* (2257), Dec. 11, 1935.

In cases of accidental drowning, no inquest is necessary, but it is probably best to have coroner sign death certificate, and in absence of coroner, a private physician called upon finding dead body, could not make a certificate because he was not in attendance at time of death. *Op. Atty. Gen.* (103f), July 11, 1939.

**5358. Duties of local registrars.**—The local registrar shall endorse on each certificate of birth and death filed with him the number of his district, the number of the certificate, in consecutive numbers, beginning with number one (1) for the first birth and the first death in each calendar year, the date when filed with him, his postoffice address, and subscribe the same. He shall record such certificates in a suitable record book and, on the fifth day of each month, transmit to the state registrar all original certificates filed with him during the preceding month. If no births or no deaths occurred in his district, within his knowledge, during any month, he shall report that fact to the state registrar on the fifth day of the following month. When required by the state registrar he shall supply any information, or data, necessary to make a complete record or to facilitate the administration of the provisions of this act. (As amended Mar. 28, 1939, c. 89, §3.)

**5361. Interment, duties of persons in charge of places of.**—The body of any person dying, or found dead, in this state, or the body of a still-born infant, shall not be interred, cremated or otherwise disposed of, or removed from one registration district to another, or held for more than seventy-two hours after death, unless and until a proper certificate of death has been filed and a permit issued as provided for by this act. Provided, that in any cases where it is

impossible to secure such certificate or permit without delay, the state registrar may permit the attending embalmer or funeral director to remove the body to another registration district on the condition that such certificate and permit will be secured and properly filed before the body is buried, cremated, further transported or otherwise disposed of. Where there is a person charged with the care or supervision of a cemetery, burial place or other premises where human bodies are interred, cremated, or otherwise disposed of, the name of such person and his address shall be posted in a conspicuous place at the entrance of such premises. He shall not inter, nor permit the interment, cremation, or other disposition of the body of a deceased person until he receives a burial permit as herein provided. He shall keep a record of all interments, or other disposition of the body, made on the premises under his charge, stating the name of the deceased person, place of death, date of burial or cremation and the name and address of the undertaker. Such record shall be open to public inspection at all times. (As amended Mar. 28, 1939, c. 89, §4.)

A body buried in part of cemetery set aside for use of entrance by unknown persons without authority of cemetery authorities should not be removed to a different part of cemetery without attempt to obtain consent of nearest of kin or without order of court. Op. Atty. Gen. (870d). May 14, 1937.

**5365. Fees of local registrars—Tabulations, etc.—** Each local registrar except those acting in cities which have a population of more than 100,000 shall receive, from the county in which his district is located, a sum of twenty-five cents for each birth and each death certificate. He shall receive the same fee for each monthly report card of no births or deaths having occurred in his district to his knowledge, providing such card is received by the state registrar before the fifteenth of the month following that to which it applies. Annually, on or before the first day of April, the state registrar shall tabulate all the facts shown in the returns of local registrars, except those acting in cities which have a population of more than 100,000 as having occurred during the preceding year, and transmit to the clerk of the district court of each county a certified copy of such tabulation, so far as the same relates to the vital statistics of such county, and each clerk of the district court shall file, index and preserve such certified copy, and the same shall be prima facie evidence of each and every fact contained therein. Such tabulation shall show the whole number of births and deaths, and reports of no births or deaths having occurred, transmitted by each local registrar during each year, but no fee shall be paid for "no report" cards if a report of a birth or death for that month is received later.

Upon the receipt and the filing of such certified copies the clerk of court shall issue to each local registrar within his county a voucher for the amount due him as shown by such tabulated statement. Upon the presentation of such voucher to the county auditor, a warrant for the amount thereof shall be issued by him. The forms of indexes and indexing shall be prescribed by the state registrar and made in a suitable book furnished at the expense of the county. All statistics of birth and deaths shall be so indexed without other compensation than the clerk's salary, except, that in counties where the clerk is not on a salary basis he shall be paid five cents by the county, for each name so indexed.

Whenever it satisfactorily appears to any clerk of court in Minnesota that a birth or death record on file in his office contains errors or omissions, or is false in some respect, he may attach a statement of the true facts to the same, when authenticated by an affidavit made by a person presuming to know the fact or facts, which affidavit is to be filed with said clerk and made a part of the original record. He shall immediately furnish to the state registrar copies of such affidavits.

A. Whenever the clerk of the district court shall report to the state registrar that a judgment has been entered determining the paternity of an illegitimate child, the state registrar shall record the name of the father, and sufficient data to identify the judgment, in connection with the record of the birth of the child appearing in his office, and also in connection with the record of the death of the child, if there be such record. A report by the clerk of the subsequent vacation of such judgment shall be recorded in like manner.

Likewise whenever any District Court shall enter a judgment that any person named on a birth certificate or death certificate, as the father of an illegitimate child, is not in fact the father of such child, the clerk of such court shall forward to the state registrar and to the local registrar of the district in which such birth or death is reported, a copy of its judgment; whereupon, it shall be the duty of such registrars to make such corrections as to the statement of paternity on such birth or death certificate, and to attach to the original, or to his record of the original, a copy of such judgment.

Whenever any court of competent jurisdiction shall have made findings in relation to the true status of a child whose birth certificate is incomplete or inaccurate or false, the state registrar shall prepare and file a new certificate setting forth the true information.

In the event it shall appear that a certificate of birth shall have been filed in behalf of a child said to be legitimate and such fact shall be controverted in the proceedings in any court of competent jurisdiction, the court shall hear all evidence pertaining to such fact and shall make its findings accordingly. In the event of the findings that a child whose birth is recorded as legitimate is in truth and in fact an illegitimate child, the court shall so certify and the state registrar shall prepare and file in behalf of such child a new certificate pursuant to such findings which shall be deemed to be the original from thenceforth, and the original certificate shall be preserved by the state registrar as in other cases hereinbefore provided.

B. Except when so ordered by a court of record no member of the state board of health, nor any state or local registrar, nor any person connected with the office of either, shall disclose the fact that any child was illegitimate, nor disclose the fact that a new certificate has been filed for an adopted child. The district court shall have jurisdiction, upon petition against and notice to the state registrar, to issue such orders permitting or requiring the inspection of records of births and deaths, as to it may seem just and proper, and the making and delivery of certified copies thereof.

C. The birth and death records of the State Board of Health shall be open to inspection by the State Board of Control or its designated agents at all times, and it shall not be necessary for said Board of Control to obtain an order of court in order to inspect records of illegitimate children and new certificates filed for adopted children, or to secure certified copies thereof.

D. Whenever the parents of a child whose birth has been reported to the State Board of Health as illegitimate shall marry each other and when the father of such illegitimate child shall execute an affidavit that he is the father of said child and that at a certain specified time he married the mother of said child and shall mail said affidavit to the state registrar then the state registrar shall amend the birth record of such child so as to indicate the child is a legitimate child and certified copies thereof may be issued without a court order. The state registrar shall report to the local registrar the legitimation of said child by the marriage of his parents to each other and the local registrar shall note upon his records the fact that the child is legitimized and record the name of the father. The state registrar shall in-



clude in his annual report to the clerk of district court of the county a copy of said affidavit of the father legitimizing said child and the said clerk of court shall file said affidavit and enter on his records the name of the father and the fact that such child is legitimized. (As amended Mar. 28, 1939, c. 89, §5.)

Clerk of court whose salary is fixed by Laws 1909, c. 335, as amended by Laws 1913, c. 511, and by Laws 1919, c. 229, is not entitled to extra compensation for indexing and keeping vital statistic records. Op. Atty. Gen., Mar. 24, 1933.

Clerk of court has authority to correct false birth records upon proper showing by affidavit as provided by this section. Op. Atty. Gen. (144b-27), Dec. 13, 1934.

Birth record may not be changed in paternity cases except on order of court, but it is proper to attach affidavit of father to record. Op. Atty. Gen. (225k), Aug. 20, 1935.

Affidavit should not be sent to state registrar of vital statistics. Person may exercise his own discretion in acceptance of affidavit and extent of his investigation. Clerk cannot predicate an entire complete new birth record on affidavit under this section. Op. Atty. Gen. (144b-27), May 7, 1936.

**B.**

Confidential information given to child welfare board should be classed as privileged and its disclosure would be contrary to public interest. Op. Atty. Gen., Dec. 29, 1933.

**D.**

Legitimation by marriage of parents of child born illegitimate may be shown by ordinary affidavit. Op. Atty. Gen., Aug. 11, 1931.

Where, following birth of illegitimate, father signed affidavit of admission of paternity and thereafter married mother and two years later a divorce was obtained, child was legitimate and father could be prosecuted for desertion. Op. Atty. Gen. (494b-27), Sept. 17, 1935.

Clerk of district court upon receiving annual report from state registrar with a copy of affidavit of father legitimizing a child, should so amend or correct his record, as to such child as to show name of father and fact that child has been legitimized. Op. Atty. Gen. (144b-27), May 6, 1937.

**5366. Certified copies of record as evidence.**—The state registrar, or any local registrar, shall furnish any applicant therefor a certified copy of the record of any birth or death recorded under the provisions of this act, provided that the fact that any child was illegitimate, shall not be disclosed except when ordered by a court of competent jurisdiction in accordance with section 5365-B. For the making and certification of which the registrar shall be entitled to receive a fee of fifty cents, to be paid by the applicant. Such a copy of the record of a birth or death, when certified by the state or local registrar to be a true transcript therefrom shall be prima facie evidence of the fact therein stated in all courts in this state. The state registrar shall keep a correct account of all fees or moneys received by him under the provisions of this act, and pay the same over to the state treasurer at the end of each month.

In cases where a record of birth of a child is required for a specific purpose only, the state registrar shall have power to issue a certificate setting forth the name, the place and date of birth of such child, and any other facts pertinent to the purpose for which the certificate is to be issued. Such certificate shall be evidence in any court upon the facts so recorded. (As amended Mar. 28, 1939, c. 89, §6.)

Milliren v. F., 185M614, 242NW290; note under §5357. Coroner's certificate is not admissible in evidence as showing that death was suicidal. New York L. I. Co. v. A. (CCA8), 66F(2d)705.

The medical certificate of death provided for by statutes is admissible in evidence to prove, prima facie, the immediate cause as well as the fact of death. 176M360, 223NW677.

The medical certificate of death is not admissible in litigation between private parties, to prove the "indications" or inferences of murder, suicide, or accident, drawn by the certificate maker from the "means and circumstances" of a violent death. Backstrom v. N., 183 M384, 236NW708. See Dun. Dig. 3347(62), 3348(67).

A physician's death certificate is not conclusive as to cause or contributory cause of death and may be contradicted or explained by evidence. Krama v. G., 204M 186, 282NW822. See Dun. Dig. 3348.

Where child has been legitimized by affidavit of parent, clerk of court may furnish a certified copy of amended birth record, but only include therein so much of birth record as does not relate to illegitimacy of child, and complete certified copy of entire record may be secured

only by obtaining order of court. Op. Atty. Gen. (144b-27), May 6, 1937.

Records of local registrar of public records and information contained therein is public property, and any person making proper inquiry at any reasonable time has right of access thereto, except that part thereof which contains information which cannot be lawfully disclosed without an order of court. Op. Atty. Gen. (225f), July 5, 1939.

**5371. Offensive trades.**

If a hog feeding ranch is dangerous to health and constitutes a nuisance, nuisance may be abated and criminal proceedings instituted. Op. Atty. Gen. (225j), Dec. 31, 1938.

**5372. Assignment of places, etc.**

Town board may revoke permit for rendering plants without rendering town or themselves liable for damages, but they must act in good faith. Op. Atty. Gen. (434a-6), Mar. 22, 1935.

**5377. Other remedies preserved.**

Where a municipality casts sewage upon private property and creates and maintains a nuisance thereon, the owner or lawful occupant may recover damages. 177M 547, 225NW898.

**5377-1. Pollution of waters—State Board of Health to administer and enforce laws.**

Mason's Minn. St. 1927, §§5377-1 to 5377-6, granting state board of health power to administer and enforce all laws relating to pollution of waters of state, did not repeal or affect §9580, giving district courts jurisdiction to abate private nuisances arising from pollution of waters. Satren v. H., 202M553, 279NW361. See Dun. Dig. 7271.

**5379. Nuisance, source of filth, etc.**

In an action to recover damages for the loss of a building destroyed after an effort by city authorities to condemn it under a city ordinance, held that the evidence was insufficient to establish that the order of condemnation was posted on the building, as provided by the ordinance, and the court properly directed a verdict for plaintiffs, leaving the amount thereof to the jury. Cates et al. v. R., 182M494, 234NW681. See Dun. Dig. 6809(78).

Village council having determined that a garbage dump was a nuisance, local health officer should then move to cause owner or occupant to remove garbage. Op. Atty. Gen. (477b-20), Apr. 14, 1938.

**5380. Same—Abatement—Costs assessed on property.**

Village council having determined that garbage dump was a nuisance by ordinance, expense involved in abatement of nuisance could be charged against land. Op. Atty. Gen. (477b-20), Apr. 14, 1938.

**5381. Tuberculosis—Physicians to report to state board, etc.**

School district may pay physician for x-rays to be taken of school children suspected of being tubercular. Op. Atty. Gen. (159b-7), May 25, 1934.

**5383. Removal of public sanatorium or hospital.**

Op. Atty. Gen., May 10, 1933; note under §5351. County sanatorium commission may enter into agreements with public welfare board of city of the first class under home rule charter for handling and diagnosing of tuberculosis. Op. Atty. Gen. (556a-3), Mar. 29, 1935.

Health department has authority to return and quarantine tubercular patient in hospital or sanatorium. Op. Atty. Gen. (225f-1), Aug. 30, 1935.

This section does not authorize a county board to pay expenses of a tubercular patient, but §726 does authorize board to pay for care of a poor person afflicted with tuberculosis, and to take an assignment of interest of poor persons in an estate to indemnify county, but board cannot contract to furnish care and support beyond its legal obligations to furnish same under laws relating to poor relief. Op. Atty. Gen. (556a-8), June 2, 1936.

Expenses of person admitted to state sanatorium under §4545-1 are to be paid by the state, and not a county, and person admitted cannot gain residence during period of hospitalization in county from which he came or county in which sanatorium is located. Op. Atty. Gen. (339f-3), July 11, 1936.

County may pay expenses incurred in treatment of tubercular poor person outside of state sanitarium. Op. Atty. Gen. (556a-7), May 18, 1937.

Local authorities are without power to remove person to another state against his will. Op. Atty. Gen. (611a-8), Jan. 18, 1938.

One removed to sanatorium may be forcibly retained or returned there, and may not be discharged by superintendent unless he has ceased to be a menace to the public, in which case he may be released by superintendent without approval of local health officer. Op. Atty. Gen. (225f-1), Mar. 29, 1938.



County board has a discretionary right to either approve or disapprove removal of person reported to it. Op. Atty. Gen. (611a-8), June 27, 1938.

#### 5384. Teachers, pupils, etc.—Certificate.

Finding that school district was negligent in exposing school teacher to tuberculosis, sustained by evidence, but there was not sufficient evidence to show that it maintained a nuisance by its failure to make the school building sanitary, and it was not liable for damages under §3098. 177M454, 225NW449.

Jurisdiction is vested in local Board of Health, and not County Child Welfare Board, to take reasonable steps to prevent spread of tuberculosis, and it has legal right to subject students exposed to tuberculosis to any reasonable test. Op. Atty. Gen. (225f-1), Jan. 7, 1938.

#### 5385. Infected premises—Disinfecting.

177M454, 225NW449; note under §5384.

Town chairman is entitled to compensation for posting notice of quarantine, but not expense of disinfecting premises occupied by tuberculosis patients. Op. Atty. Gen. (611a-7), April 27, 1939.

**5390. Proclamation—Publication.**—If on such investigation any such officer finds and determines that rabies does exist in any town, city or village, he shall forthwith and thereupon make and file, as hereinbefore provided, a proclamation, setting forth the fact of such investigation and determination, and also in and by said proclamation prohibit the owner or custodian of any dog from permitting or allowing such dog to be at large within such town, city or village, designating it, unless such dog shall be so effectually muzzled that it cannot bite any other animal or any person.

Whenever the secretary and executive officer of the State Live Stock Sanitary Board, after investigation, has determined that rabies exists in any territory in the State of Minnesota he shall issue similar proclamations in all towns, villages and cities within such territory or area which in his judgment it is necessary to control the outbreak and prevent the spread of such disease, and such proclamation when filed as hereinafter provided, shall prohibit the owner or custodian of any dog within the designated territory, from permitting or allowing such dog to be at large within such territory unless such dog shall be so effectually muzzled that it cannot bite any other animal or any person.

It shall be the duty of all local peace officers and all health officers to enforce the provisions of this act and any person violating any of its provisions shall be guilty of a misdemeanor.

Such proclamation, when issued by the executive officer of a town or village board of health, shall be filed with the town or village clerk, respectively; when issued by the chief health officer of a city, it shall be filed with the city clerk; when issued by the state official hereinbefore named, it shall be filed with the clerk of each town, village and city within the territory specified therein.

It shall be the duty of each officer with whom such proclamation is filed as aforesaid, to forthwith publish a copy thereof in one issue, at the expense of his municipality, in a legal newspaper published in the town, village or city of which he is clerk, if such a newspaper is published therein, and if there be no newspaper published therein, then, to post a copy of such proclamation in three public places therein.

Proof of publication shall be made by affidavit of the publisher in the one case, and of posting, in the other, by the person posting the same, which affidavit shall be filed with the proclamation. Such proclamation shall be deemed effective and in full force five days after the publication or posting of copies thereof, as hereinbefore provided for, and shall remain in full force and effect for a period of time therein designated not exceeding six months, as shall be determined by the officer making such proclamation. (G. S. '13, §4685; '13, c. 541, §2; Feb. 20, 1929, c. 34.)

**5391-1. Federal aid for maternal and child welfare service—Custodian of fund—plan of operation—local appropriations.**—The state treasurer of the state of Minnesota is hereby appointed as the custodian of all monies received or which may hereafter be received, by the state of Minnesota, by reason of any federal aid granted for maternal and child welfare service, and for public health services, which monies shall be expended in accordance with the purposes expressed in the Acts of Congress granting such aid, and solely in accordance with plans to be prepared by the state board of health; that the plans so to be prepared by said state board of health for maternal and child health service shall be approved by the United States Children's Bureau; and that the plans of the state board of health for public health service shall be approved by the United States Public Health Service. Such plans shall include the training of personnel for both state and local health work, and shall conform with all the requirements governing federal aid for said purposes; and such plans shall be designed to secure for the state of Minnesota the maximum amount of federal aid which is possible to be secured on the basis of the available state, county and local appropriations for such purposes. The state board of health shall make reports which shall be in such form and contain such information as may be required by said United States Children's Bureau or the United States Public Health Service, as the case may be; and it further shall comply with all the provisions, rules and regulations which may be prescribed by said federal authorities in order to secure the correction and verification of such reports. (Jan. 24, 1936, Ex. Ses., c. 70, §1.)

**5391-2. Same—rules and regulations.**—The state board of health may make such reasonable rules and regulations as may be necessary to carry into effect the provisions of this act; and alter, amend, suspend or repeal any of such rules and regulations. (Jan. 24, 1936, Ex. Ses., c. 70, §2.)

### SUBJECTS FOR DISSECTION

#### 5393. What bodies excepted.

Wife has legal right to possession of dead body of her husband for purpose of a decent burial and a wrongful mutilation of or interference with corpse entitles surviving wife to damages against wrongdoer. Kingsley v. F., 192M465, 257NW95. See Dun. Dig. 2599.

Nature of property rights in a dead body. 18MinnLaw Rev204.

(6).

If a body is claimed for burial or cremation by a fraternal organization, or persons claiming friendship with the deceased and having an interest in it, official in charge of body has authority to deliver it to such organization or persons for burial or cremation. Op. Atty. Gen. (103f), Mar. 2, 1938.

### GARBAGE REMOVAL

**5394-1. Unlawful to transport garbage without permit.**—It shall be unlawful for any person to transport garbage, offal, ashes, or other rubbish over any public highway, including trunk highways, without first obtaining a permit so to do from the governing body of each town, city, or village through which such transportation may take place. A separate permit shall be issued for each vehicle used in such transportation, and shall state the period of time, not exceeding one year, that the permit shall be in effect, and the place to which and the roads over which such garbage, offal, ashes, or other rubbish may be transported. The governing body of such town, city or village, may revoke any permit at any time. The driver or operator of each such vehicle shall carry such permit on his person or attached to such vehicle at all times while transporting such material. The provisions hereof shall not apply to the transportation of any of the materials herein mentioned over roads within the limits of the town, city or village in which such garbage, offal, ashes or other rubbish originates. (Act Mar. 19, 1931, c. 77, §1.)

**5394-2. Violation a misdemeanor.**—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Act Mar. 19, 1931, c. 77, §2.)

**5394-3. Definitions.**—The word "person" as used herein shall include individuals, copartnerships, or corporations, and shall include persons hauling under contract or agreement with any municipal corporation

or board or commission thereof, and any employe of such contractor, or of such municipality, board or commission. (Act Mar. 19, 1931, c. 77, §3.)

**5394-4. Application.**—This act applies only in all counties of this state having a population of over 500,000 inhabitants. (Act Mar. 19, 1931, c. 77, §4.)

## CHAPTER 30

### Live Stock Sanitation

**5402. Diseased horses and cattle to be killed—Rate of compensation to owner.**—Whenever the State Live Stock Sanitary Board (hereinafter called the board) shall decide upon the killing of an animal affected with the disease of tuberculosis, paratuberculosis, or glanders, or Bang's disease, it shall notify the owner or keeper thereof of such decision and when in the judgment of the board, such animal may be ordered transported for immediate slaughter by said board, through its executive officer to any abattoir where the United States Bureau of Animal Industry maintains inspection, or where the United States Bureau of Animal Industry or the board may establish field post mortem inspection, and the owner shall receive the value of the net salvage of the carcass.

Before the animal is removed from the premises of the owner, the representative or authorized agent of the board shall agree in writing with the owner as to the value of such animal; in the absence of such agreement, there shall be appointed three (3) competent disinterested men, one appointed by the board, one by the owner, and a third by the first two, to appraise such animal at its cash value, taking into consideration the condition of the animal as to the disease and its present and probable effect on the animal.

Such appraisal shall in no case exceed \$100 for a cow and \$125 for a horse, except in the case of pure bred cattle and horses where the pedigree shall be proved by certificates of registration from the herd books where registered, and in which case the maximum appraisal shall not exceed \$200.00.

The appraisements made under this act shall be in writing and signed by the appraisers and certified by the board, to the auditor of the state, who shall draw a warrant on the state treasurer for the amount due the owner. ('03, c. 352, §13; '05, c. 115; '09, c. 401; G. S. '13, §4696; '13, c. 148, §1; '15, c. 114, §1; '21, c. 485, §1; '25, c. 230, §1; Feb. 20, 1929, c. 35, §1; Feb. 28, 1935, c. 32; Apr. 8, 1939, c. 171, §1.)

Money appropriated by legislature in 1935 for expense of Bang's disease may be used to pay indemnity for cattle condemned because affected with such disease. Op. Atty. Gen. (293B-1), April 13, 1939.

**5403. Same—Inspection before killing—Appraisal of and payments to owners for animals killed—Eradication of foot and mouth diseases.**—(a) Notwithstanding any provision of this chapter to the contrary, neither cattle affected with tuberculosis, paratuberculosis, Bang's disease, nor glandered horses shall be killed as such until they have been inspected by a veterinarian appointed by the board, and are pronounced by him to be so diseased.

For each animal slaughtered because of tuberculosis, paratuberculosis, glanders, or Bang's disease, the value of the net salvage of the carcass shall be deducted from the appraised value of the living animal; provided that in no case shall any payment be more than \$15.00 for grade females or more than \$30.00 for any purebred animal, nor, in case of joint payments on the part of the Federal government or any other agency, shall compensation from all sources aggregate more than \$15.00 for grade females or more than \$30.00 for any purebred animal, and that no payment shall be made unless the owner has complied

with all lawful rules and regulations of the board; and provided further that two-thirds of the appraised value of any horse slaughtered as provided herein shall be paid to the owner thereof by the state after disposal of the carcass of said horse as directed by the board.

(b) The owner of any animal, as provided in this act, shall be entitled to indemnity therefor as herein provided, except in the following cases:

1. Indemnity shall not be paid for steers or grade bulls.

2. Animals which have not been kept for one year, or since their birth in good faith, in the state.

3. Animals brought into the state, or from one county into another within the state, contrary to any provision of law or rules and regulation of the board.

4. Animals diseased at time of arrival in this state.

5. Animals belonging to the United States.

6. Animals belonging to institutions maintained by state, county or municipality.

7. Animals which the owner or claimant knew to be diseased or had notice thereof at the time they came into his possession, or when the owner shall have been guilty of negligence by wilfully exposing his animal or animals to Bang's disease, or if the animals have been injected with live Bang's disease organisms in the form of so-called Bang's disease vaccines.

8. When the owner has received indemnity as a result of a former inspection or tests and has hereafter introduced into his herd any animals which theretofore had not passed the tuberculin or Bang's disease test.

9. Where the owner, agent, or person in possession of said animal has not complied with the rules and regulations of the board with respect to animals condemned.

10. When the condemned animals are not destroyed within 15 days after date of appraisal, except that in extraordinary circumstances and in meritorious cases and at the discretion of the secretary and executive officer of the board, said time limit of 15 days may be extended an additional 15 days, provided, however, that the owner receives permission to do so from the said secretary and executive officer within 15 days of date of appraisal.

11. No indemnity or compensation shall be paid for the destruction of any livestock affected with tuberculosis, paratuberculosis, glanders, or Bang's disease, unless the entire herd of which such affected livestock is a part, or from which such affected livestock has originated, shall be examined and tested under the supervision of the board, in order to determine if they are free from such disease.

12. No indemnity or compensation shall be paid for the destruction of any livestock affected with tuberculosis, paratuberculosis, glanders, or Bang's disease, unless the owner has carried out the instructions and regulations of the board relating to the cleaning, disinfection and rendering the stables and premises in a sanitary condition, within 15 days from the time of removal of such animals from the premises, except when because of inclement weather or other extenuating circumstances, the time may be extended by the executive officer of the board.