

CHAPTER 257

CHILDREN; CUSTODY OF; ILLEGITIMATE

CUSTODY OF CHILDREN

257.01 PLACING CHILDREN OUT; RECORDS.

HISTORY. 1893 c. 17 s. 2; G.S. 1894 s. 2933; 1899 c. 64 s. 1; R.L. 1905 s. 3118; 1913 c. 314 s. 1; G.S. 1913 ss. 6542, 6549; 1915 c. 61 s. 1; 1917 c. 221 s. 1; Ex. 1919 c. 51 s. 1; G.S. 1923 ss. 4560, 7913, 7920; M.S. 1927 ss. 4560.

Note. Sections 257.01 and 257.03 should be read along with sections 313.02, 313.05, 313.09, and 313.11.

257.02 SURRENDER OF PARENTAL RIGHTS.

HISTORY. Ex. 1919 c. 51 s. 2; G.S. 1923 s. 4561; M.S. 1927 s. 4561.

Custody of children given to maternal grandmother as against father. State ex rel v Anderson, 175 M 518, 221 NW 868.

Welfare of child is to be considered, and where mother is dead, the father, if a fit person, has preferential right to custody, but in this case custody of female child awarded to maternal grandmother. State ex rel v Mason, 179 M 472, 229 NW 582.

Deeds purporting to convey children to a public home are of no legal effect in this state. OAG July 26, 1923.

Any person, other than parents or relatives, who receives a child for permanent care, except by an order or decree of court or from an agency certified by the director of social welfare under section 257.08 to place children in private homes, is guilty of an offense under this section. OAG May 9, 1931.

Except consent to give medical or surgical care, a parent cannot give a child-caring agency temporary guardianship. OAG Dec. 2, 1925.

257.03 NOTIFICATION OF DIRECTOR OF SOCIAL WELFARE.

HISTORY. 1893 c. 17 s. 5; G.S. 1894 s. 2936; R.L. 1905 s. 3121; 1913 c. 314 s. 3; G.S. 1913 ss. 6545, 6551; 1915 c. 61 s. 3; Ex. 1919 c. 51 s. 3; G.S. 1923 ss. 4562, 7916, 7922; M.S. 1927 s. 4562.

Failure to report placement of child with intent to provide permanent home by mother, doctor, or friend who may have custody of child, is a violation of this section and prosecution is in order. OAG May 9, 1931.

"Any person" covers any party having actual custody of the child or the lawful right to such custody. OAG May 9, 1931.

257.04 VISITATION OF CHILDREN.

HISTORY. 1893 c. 17 s. 4; G.S. 1894 s. 2935; R.L. 1905 s. 3120; G.S. 1913 s. 6544; Ex. 1919 c. 51 s. 4; G.S. 1923 ss. 4563, 7915; M.S. 1927 ss. 4563, 7915; 1935 c. 112 s. 2; M. Supp. s. 4563.

The power of the state board of control (director of social welfare) under this section to remove a child placed in an unsuitable home can only be exercised by filing a petition in juvenile court. Board of control (the director of social welfare) has no authority over children in general except such as are committed to its (his) guardianship. OAG Nov. 16, 1925.

257.05 IMPORTATION OF CHILDREN.

HISTORY. Ex. 1919 c. 51 s. 5; G.S. 1923 s. 4564; M.S. 1927 s. 4564.

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All parties who participate in bringing, or causing to be brought, children into the state, without the consent of the board of control (director of social welfare), violate the law under this act. OAG July 26, 1923.

If a "public institution," within the meaning of the term used in section 261.07, brings in children from another state, they may not acquire a legal settlement in Minnesota, though they may reside in the state for a year. Legal residence is not acquired through time spent in a "public institution" under section 261.07. OAG July 26, 1923.

257.06 EXPORTATION OF CHILDREN.

HISTORY. Ex. 1919 c. 51 s. 6; G.S. 1923 s. 4565; M.S. 1927 s. 4565.

257.07 WRITTEN AGREEMENT.

HISTORY. Ex. 1919 c. 51 s. 7; G.S. 1923 s. 4566; M.S. 1927 s. 4566.

257.08 SUPERVISION BY DIRECTOR OF SOCIAL WELFARE.

HISTORY. Ex. 1919 c. 51 s. 8; G.S. 1923 s. 4567; M.S. 1927 s. 4567.

Where an agency conducting a children's home refuses to comply with the rules and regulations of the board of control (director of social welfare) it is held that the determination of this question is "one of fact" and not "of law" and that the board of control in its discretion (director) may refuse a license; that the findings of an administrative board made in the exercise of its official judgment and discretion are not ordinarily interfered with by the courts excepting upon clear showing of abuse of discretion in that the board (director) acted under a mistake of law or a mistake of facts. OAG Feb. 27, 1923.

This section requires the board of control (director of social welfare) to certify all agencies engaged in the business of caring for children whether specifically authorized to do so or not. All homes receiving children unattended by parent or guardian may be certified where there are less than three infants under three years of age, and also where there are one or more over three years of age. OAG May 3, 1922.

Day nurseries are required to be certified by the state board of control (director of social welfare) as an agency caring for children under this section. OAG March 30, 1925.

Boarding homes established for giving special training to handicapped children must be certified under this section. The board of control (director of social welfare) has no authority to set up standards of education, but may refuse certificate if satisfied money is taken under false pretenses. OAG Nov. 4, 1927.

There is no provision authorizing a person to hold a child as security for a debt incurred for boarding a child. OAG Nov. 7, 1928.

A physician who arranges in a single instance to place a child in a home for permanent care is not within this section. OAG May 9, 1931.

257.09 PROHIBITIONS; PENALTY.

HISTORY. Ex. 1919 c. 51 s. 9; G.S. 1923 s. 4568; M.S. 1927 s. 4568.

257.10 CHILDREN'S HOMES DEFINED; APPLICATION.

HISTORY. 1893 c. 17 s. 1; G.S. 1894 s. 2932; R.L. 1905 s. 3117; G.S. 1913 s. 6541; Ex. 1919 c. 52 s. 1; G.S. 1923 ss. 4569, 7912; M.S. 1927 ss. 4569, 7912; 1929 c. 105; 1935 c. 112 s. 3; M. Supp. ss. 4569, 7912; 1943 c. 486 s. 1; 1945 c. 84 s. 1.

257.11 LICENSED BY DIRECTOR OF SOCIAL WELFARE.

HISTORY. Ex. 1919 c. 52 s. 2; G.S. 1923 s. 4570; M.S. 1927 s. 4570.

257.12 FORMS PRESCRIBED BY DIRECTOR OF SOCIAL WELFARE.

HISTORY. Ex. 1919 c. 52 s. 3; G.S. 1923 s. 4571; M.S. 1927 s. 4571.

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257.13 INSPECTION.

HISTORY. Ex. 1919 c. 52 s. 4; G.S. 1923 s. 4572; M.S. 1927 s. 4572.

257.14 ASCERTAINING OF LEGITIMACY.

HISTORY. Ex. 1919 c. 52 s. 5; G.S. 1923 s. 4573; M.S. 1927 s. 4573.

257.15 DISCLOSURE PROHIBITED.

HISTORY. Ex. 1919 c. 52 s. 6; G.S. 1923 s. 4574; M.S. 1927 s. 4574.

257.16 BURDEN OF PROOF.

HISTORY. Ex. 1919 c. 52 s. 7; G.S. 1923 s. 4575; M.S. 1927 s. 4575.

257.17 VIOLATION A GROSS MISDEMEANOR.

HISTORY. Ex. 1919 c. 52 s. 8; G.S. 1923 s. 4576; M.S. 1927 s. 4576.

257.175 DUTIES OF DIRECTOR IN BEHALF OF CHILDREN; EXECUTIVE OFFICERS.

HISTORY. 1917 c. 194 s. 3; G.S. 1923 s. 4456; M.S. 1927 s. 4456.

257.176 COUNTY CHILD WELFARE BOARDS; AGENTS.

HISTORY. 1917 c. 194 ss. 4 to 6; G.S. 1923 ss. 4457 to 4459; M.S. 1927 ss. 4457 to 4459.

The members of the county child welfare board are required by statute to take the oath of office and file the same in the office of the county auditor. OAG Dec. 17, 1920.

A person employed by a Red Cross chapter may also be employed as an executive agent, with the understanding that only a portion of the time of such agent shall be required for the work of the Red Cross chapter. OAG Sept. 13, 1920.

Members of a child welfare board may not receive compensation for any service or as executive agent. OAG Aug. 11, 1925.

Records are private and disclosed only on the discretion of the director of social welfare, or his agent. OAG Nov. 13, 1924.

County welfare board assumes duties of local agent appointed pursuant to this section, but a guardian appointed pursuant to section 260.12 will continue to act until the guardianship is terminated in the usual manner. OAG Oct. 5, 1937 (125a-64).

255.177 TRAVELING EXPENSES.

HISTORY. 1917 c. 194 s. 7; G.S. 1923 s. 4460; M.S. 1927 s. 4460; 1931 c. 242 s. 1; M. Supp. s. 4460.

The cost of securing a surety bond for the treasurer of a county child welfare board may be paid by the county, even though he happens to be a public officer, such as superintendent of schools, and receives a salary in connection with such office. OAG July 3, 1931.

"Traveling and other necessary expense" does not include the purchase of an automobile. OAG May 19, 1937 (840a-11).

The county welfare board cannot purchase an automobile. OAG Oct. 14, 1938 (707a-7).

ILLEGITIMATE CHILDREN

257.18 COMPLAINT, WHEN TAKEN; PROCEDURE; WARRANT.

HISTORY. R.S. 1851 c. 22 ss. 9, 10; P.S. 1858 c. 19 ss. 9, 10; G.S. 1866 c. 17 ss. 9 to 12; G.S. 1878 c. 17 ss. 9 to 12; 1879 c. 7 s. 1; G.S. 1894 ss. 2047 to 2050; R.L. 1905

ss. 1575, 1576; G.S. 1913 ss. 3222, 3223; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 ss. 3269, 3270; M.S. 1927 ss. 3269, 3270.

Defendant in bastardy is entitled to change of venue, but mother may file complaint in any justice or municipal court in the state, and district court of county to which justice or municipal court binds defendant over has jurisdiction to determine paternity, unless defendant moves for change of venue before trial. *State v Rudolph*, 203 M 101, 280 NW 1.

Indication by the court that instructions given were requested by one of the parties, held error. *State v Gavle*, 181 M 374, 232 NW 624.

At common law the father of an illegitimate child was not liable for its care, maintenance, and support. The present obligation is a liability created by statute. An illegitimacy proceeding is not barred by the statute of limitations, so that it be brought during the minority of the child and while the father is under a continuing obligation to provide for its care, maintenance, and education. *State v Johnson*, 216 M 427, 13 NW(2d) 26.

257.19 COMPLAINT BY MOTHER.

HISTORY. R.S. 1851 c. 22 ss. 1, 12; P.S. 1858 c. 19 ss. 1, 12; G.S. 1866 c. 17 ss. 1, 14; G.S. 1878 c. 17 ss. 1, 14; G.S. 1894 ss. 2039, 2052; R.L. 1905 s. 1567; G.S. 1913 s. 3214; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3261; M.S. 1927 s. 3261.

The proceedings are civil, not criminal. *State v Nestaval*, 72 M 415, 135 NW 65; *State v Hanson*, 187 M 235, 244 NW 809; *State v Thompson*, 193 M 364, 258 NW 527; *State v Osland*, 199 M 604, 273 NW 76; *State v Rudolph*, 203 M 101, 280 NW 1.

An illegitimacy proceeding is civil in nature rather than criminal, and state is not liable for costs to a defendant receiving a favorable verdict. OAG Oct. 9, 1935 (199a-1).

In proceedings under the illegitimacy act, a complaint which charges that the complainant is pregnant with child, which, if born alive, will be illegitimate, naming the party and stating the other requisites of the statute, states a good cause of action. The fact that the time and place are not given does not make the complaint subject to the objection that it does not state facts sufficient to constitute a cause of action. *State v Brathovde*, 81 M 501, 84 NW 340.

An order denying a motion to dismiss illegitimacy proceedings on the ground that the testimony of the complaining witness showed that the child was born in another state, where she has since lived and was maintaining it when the complaint was made, is not appealable under section 605.09. *State v Riebel*, 166 M 497, 207 NW 631.

It is not essential to the acquiring of jurisdiction by a justice of the peace in illegitimacy proceedings that the warrant of arrest set forth with particularity the facts contained in the complaint. *State v Klitzke*, 46 M 343, 49 NW 54.

Nature and object of act and proceedings thereunder. *State ex rel v Hauswedell*, 94 M 177, 102 NW 204.

Proceedings under this act are for the benefit of the mother, as well as that of the public. A county commissioner is not authorized to settle and release the mother's interest in such case without her consent. *State v Zeitler*, 35 M 238, 28 NW 501.

At common law the father was not charged with the support of his illegitimate child, and the bastardy statute charges the father with the support of such child and furnishes the only remedy. *State v Lindskog*, 175 M 533, 221 NW 911.

Husband and wife are competent to give evidence that the former is not the father of a child of the wife conceived before the dissolution of the marriage by divorce. *State v Soyka*, 181 M 533, 233 NW 300.

Defendant in bastardy is entitled to change of venue, but mother may file complaint in any justice or municipal court in the state, and district court of county to which justice or municipal court binds defendant over has jurisdiction to determine paternity, unless defendant moves for change of venue before trial. *State v Rudolph*, 203 M 101, 280 NW 1.

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The fact that the county attorney first filed an information did not come to the attention of the jury, and there could be no prejudice. *State v Tofteland*, 216 M 128, 11 NW(2d) 26.

One charged with being the father of an illegitimate child may waive arrest and appear voluntarily. *State v Johnson*, 216 M 428, 13 NW(2d) 26.

If motion for change of venue is based solely on ground of residence of defendant in another county, and affidavit supporting the motion does not negative non-residence of woman and child in county where action is brought, court should properly deny the motion. OAG May 8, 1939 (840c-5).

District court of county where mother placed child to be cared for, for a consideration, had jurisdiction of proceedings, though mother had residence in another county, and the court properly refused to give requested instruction concerning settlement under poor relief statutes. *State v Rudolph*, 203 M 101, 280 NW 1.

The county attorney is by statute the legal representative of the state in proceedings to determine paternity. OAG Jan. 29, 1926.

The death of the mother of an illegitimate child does not preclude an adjudication of paternity. OAG Sept. 20, 1923.

A mother of an illegitimate child who is a non-resident of the state may bring an action against the father of the child in the county wherein he resides in Minnesota. OAG Jan. 8, 1925.

When defendant is a minor:

(1) The statute does not require that parents be notified;

(2) It does not yet appear that a guardian ad litem must be appointed, yet it may be advisable as action is civil though criminal in form. OAG Nov. 4, 1927.

A decree of adoption is not a bar to proceedings to establish the paternity of an illegitimate child. OAG Aug. 24, 1923.

The statutes are not broad enough to warrant a civil action by a pregnant woman who has suffered a miscarriage, against the man by whom she became pregnant, for the recovery of the expenses paid by her for medical treatment. OAG August 28, 1923.

Extradition may not be secured on a charge of illegitimacy, but may be secured for absconding from the state with intent to evade proceedings to establish paternity. OAG Jan. 28, 1939 (193b-20).

Venue of paternity proceedings is set by statute, but the act of absconding from state with intent to evade proceedings to establish paternity determines venue for prosecution of felony. OAG Jan. 28, 1939 (193b-20).

Does not authorize proceedings hereunder in state courts to establish the paternity of an illegitimate child born of tribal Indian parents residing on an Indian reservation, as such Indians are subject to the guardianship of the federal government. OAG March 23, 1923.

The county attorney under this section is to prosecute. 26 MLR 219.

257.20 ACTION ENTERED; PROCEEDINGS ON RETURN OF WARRANT.

HISTORY. R.S. 1851 c. 22 s. 2; P.S. 1858 c. 19 s. 2; G.S. 1866 c. 17 s. 2; G.S. 1878 c. 17 s. 2; 1889 c. 89 s. 1; G.S. 1894 s. 2040; R.L. 1905 s. 1568; G.S. 1913 s. 3215; 1917 c. 210 s. 1; G.S. 1923 s. 3262; M.S. 1927 s. 3262.

A discharge by one justice is not a bar to fresh proceedings before another justice. *State ex rel v Linton*, 42 M 32, 43 NW 571.

Failure to make docket entire held immaterial. *State v Snure*, 29 M 132, 12 NW 347.

The examination is for the benefit of the defendant and he may waive its provisions, either expressly or by his conduct. Where the defendant testified without objection to complainant's absence, he waived her examination and the justice had jurisdiction. *State v Charlton*, 101 M 535, 111 NW 733.

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257.21 CHILDREN; CUSTODY OF; ILLEGITIMATE

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An action in illegitimacy under sections 257.18 to 257.31 is a civil proceeding, not criminal, and the defendant may be called under section 595.03 by the prosecution for cross-examination. *State v Jeffrey*, 188 M 476, 247 NW 692.

At common law the father was not charged with the support of his illegitimate child. The illegitimacy statute charges the father with the support of such child and furnishes the remedy. Section 617.56 refers to legitimate children. The evidence in this case does not show a common law marriage. *State v Lindskog*, 175 M 533, 221 NW 911.

257.21 BOND; MAY PLEAD GUILTY; COMMITMENT.

HISTORY. R.S. 1851 c. 22 s. 3; P.S. 1858 c. 19 s. 3; G.S. 1866 c. 17 s. 3; G.S. 1878 c. 17 s. 3; G.S. 1894 s. 2041; R.L. 1905 s. 1569; 1909 c. 275; 1913 c. 71 s. 1; G.S. 1913 s. 3216; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3263; M.S. 1927 s. 3263.

A release by the mother is not a bar to the proceedings. *State v Dougher*, 47 M 436, 50 NW 475.

257.22 CONTINUANCE; RECOGNIZANCE.

HISTORY. R.S. 1851 c. 22 s. 4; P.S. 1858 c. 19 s. 4; G.S. 1866 c. 17 s. 4; G.S. 1878 c. 17 s. 4; G.S. 1894 s. 2042; R.L. 1905 s. 1570; G.S. 1913 s. 3217; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3264; M.S. 1927 s. 3264.

The return of the justice held sufficient. The irregularity of the justice should be disregarded. *State v Snure*, 29 M 132, 12 NW 347.

257.23 TRIAL; PRELIMINARY EXAMINATION; JUDGMENT OF PATERNITY; DEFAULT; DUTIES OF DIVISION OF SOCIAL WELFARE; BOND FOR SUPPORT OF CHILD.

HISTORY. R.S. 1851 c. 22 s. 5; P.S. 1858 c. 19 s. 5; G.S. 1866 c. 17 s. 5; G.S. 1878 c. 17 s. 5; G.S. 1894 s. 2043; R.L. 1905 s. 1571; G.S. 1913 s. 3219; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3265; 1925 c. 354 s. 1; M.S. 1927 s. 3265; 1941 c. 152 s. 1; 1943 c. 201 s. 1.

The five-sixths jury law applies to illegitimacy proceedings. *State v Longwell*, 135 M 65, 160 NW 189.

The complaint in illegitimacy proceedings may be amended. *State v Brathovde*, 81 M 501, 84 NW 340; *State v Solie*, 137 M 279, 163 NW 505; *State v Weise*, 161 M 28, 200 NW 746.

The burden rests upon the state to prove its case by a "fair preponderance of evidence"; "proof beyond a reasonable doubt" is not necessary. *State v Nichols*, 29 M 357, 13 NW 153; *State v Eichmiller*, 35 M 240, 28 NW 503; *State v McCullough*, 102 M 419, 113 NW 1059; *State v Swedberg*, 159 M 292, 198 NW 815; *State v Thompson*, 193 M 364, 258 NW 527.

Corroboration of the testimony of the complaining witness is not required. *State v Nichols*, 29 M 357, 13 NW 153; *State v Deike*, 144 M 453, 175 NW 1000; *State v Cotter*, 167 M 263, 209 NW 939.

The declarations of the mother in travail are inadmissible, or when made out of court and not under oath. *State v Spencer*, 73 M 101, 75 NW 893; *State v Watzek*, 158 M 351, 197 NW 669.

The date of intercourse is immaterial except as bearing on the question whether defendant was the father. The relationship of the parties and other acts of intercourse about the same time are admissible. *State v Smith*, 47 M 475, 50 NW 605.

The date of intercourse may be material when the complainant testifies to only one act. *State v Ryan*, 78 M 218, 80 NW 962.

When the child is fully developed at birth, the jury may be instructed that it must have been begotten more than 235 days before birth. *State v Allrick*, 61 M 415, 63 NW 1085.

It is appropriate for the court to submit to the jury whether the child was born prematurely. *State v Wiebke*, 154 M 61, 191 NW 249.

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The finding whether a child may be born 325 days after intercourse is one of fact and not of law; the defendant was found guilty by two juries and since the evidence discloses that there are authenticated cases of protracted gestation as long or longer, this court is not authorized to say that this is not one of the exceptional cases. *State v Domish*, 154 M 512, 191 NW 1002.

The court is not justified in stating that the child was not fully developed at 249 days. *State v Watzek*, 158 M 351, 197 NW 669.

The time from the intercourse to delivery is not necessarily identical with the period of gestation. The child may be born fully developed 258 days after intercourse. The question is for the jury. *State v Pumper*, 162 M 39, 201 NW 938.

The complainant had intercourse with other man May 13, 1922; menstrual period June 1-6; intercourse with defendant June 13, 1922; child born February 16, 1923. Conviction sustained. *State v Long*, 159 M 62, 197 NW 964.

Medical authorities say the term of gestation for fully developed child may vary from 240 to 320 days or longer from the last menstrual period preceding intercourse. Term correspondingly shorter from the date of intercourse. The child may be prematurely born at a much shorter period. See cases cited. *State v Domish*, 154 M 512, 191 NW 1002.

The accused may be convicted upon the sole testimony of the mother. Evidence of the reputation of the complainant for unchastity is inadmissible to refute paternity; also inadmissible to impeach her credibility. Evidence of immaterial misconduct of the complainant with other men is not admissible. *State v Cotter*, 167 M 263, 209 NW 969.

Evidence of subsequent acts of intercourse is admissible. *State v Smith*, 47 M. 475, 50 NW 605.

Evidence held sufficient to justify conviction. *State v Schmidt*, 155 M 440, 193 NW 954; *State v Wiebke*, 154 M 61, 191 NW 249; *State v Watzek*, 158 M 351, 197 NW 669.

Presumption of the legitimacy of a child conceived during wedlock, while strong, is not conclusive. Under section 595.02, making all persons of sufficient understanding competent to testify in all actions or proceedings, husband and wife are competent to give evidence that the former is not the father of a child of the wife conceived before the dissolution of the marriage by divorce. *State v Soyka*, 181 M 533, 233 NW 300.

Exclusion of evidence of intercourse with a third person at an indefinite prior time held proper, and evidence of promise to marry during the period of illicit relations was admissible. *State v Stephan*, 179 M 80, 228 NW 335.

Delay in telling of pregnancy and who is the father of the child is only a fact to be considered by the jury in judging the truth of the charge. *State v Thompson*, 193 M 364, 258 NW 527.

There was prejudicial misconduct in the state's presentation of its case in suggesting or insinuating that the defendant had been involved in like matters before. *State v Sanderson*, 179 M 436, 229 NW 564.

It is within the court's discretion to allow expert fees for a physician who, in part of his testimony, was called upon to give his opinion as a medical expert. *State v Wiebke*, 154 M 61, 191 NW 249.

Recovery of costs in illegitimacy proceeding properly awarded to the county where the trial was instituted. *State v Wiebke*, 154 M 61, 191 NW 249.

The statute does not authorize the enforcement of the payment of costs by imprisonment. *State v Wiebke*, 154 M 61, 191 NW 249.

In respect to the future support and care for the child, the court hears and fixes the amount and, in so doing, passes upon the defendant's ability to pay; but as to the costs of proceedings, they are taxed by the clerk. *State v Wiebke*, 154 M 61, 191 NW 249.

The drastic remedy prescribed by this statute for the enforcement of the judgments and orders entered thereunder should not be held to include a judgment solely for costs. *State v Wiebke*, 154 M 61, 191 NW 249.

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These trials are governed by the same rules as civil actions; the court may direct a verdict in favor of the state, and may grant a new trial on the motion of the state. OAG June 1, 1927.

Except as the duly appointed guardian of the child, the court is not authorized by statute to order the adjudged father of an illegitimate child to pay directly to the mother for its support. OAG Sept. 30, 1922.

When the defendant fails to appear in court at the time set for trial there is no reason why the court cannot proceed in his absence. Judgment may be entered for support of child and forfeited bail applied thereon. OAG Dec. 26, 1928.

The defendant held not entitled to a dismissal for lack of a speedy trial because of his own conduct contributing to the delay. *State v Hanson*, 187 M 235, 244 NW 809.

A judgment is binding though the mother deserts the child. *Olson v Johnson*, 23 M 301.

The mother of an illegitimate child is not entitled to recover from the adjudged father money expended by her in the care and support of her child, the father having been ordered by the district court to make periodical payments to a county child welfare board as trustee and agent of the director of social welfare. *Lawson v McLeod*, 189 M 93, 243 NW 658.

Where the adjudged father of an illegitimate child was directed to pay certain sums for its support to a county child welfare board which agreed to pay such sums to the plaintiff for board and caring for the child, the plaintiff could sue the child welfare board for the sums received by it. *Salvas v Rapp*, 175 M 484, 221 NW 719.

Where the father is not entitled to the custody of a child because it is illegitimate, or he is divorced, the father owes the duty of supporting the child where the child lives. His constructive presence within the jurisdiction wherein he owes the duty of supporting the child will be presumed. OAG May 23, 1932.

The guardian of an illegitimate child may claim payments after the death of the adjudged father, but only those payments that had matured at the time of the death. OAG Aug. 21, 1933.

Father of a bastard cannot be punished for contempt in not obeying an order to pay money which it is not in his power to obey. *State v Strong*, 192 M 420, 256 NW 900.

Verdict in bastardy case held not sustained by the evidence. *State v Ahrens*, 173 M 294, 217 NW 118.

Evidence held sufficient to sustain a conviction. *State v Klaustermeier*, 173 M 627, 218 NW 110; *State v Sanderson*, 179 M 436, 229 NW 564; *State v Rasmussen*, 193 M 374, 258 NW 503; *State v Thompson*, 193 M 364, 258 NW 527; *State v Oslund*, 199 M 604, 272 NW 76.

Where defendant was adjudged father of illegitimate child and directed to pay certain sums for its support to a child welfare board which agreed to pay such sums to the plaintiff for boarding and caring for the child, plaintiff could sue the welfare board for sums received by it. *Salvas v Rapp*, 175 M 484, 221 NW 719.

Exclusion of evidence of intercourse with third person at indefinite prior time, held proper, and evidence of promise to marry during period of illicit relations was admissible. *State v Stephon*, 179 M 80, 228 NW 335.

Defendant in filiation proceeding held not entitled to dismissal for lack of speedy trial because of his own conduct contributing to the delay. *State v Hanson*, 187 M 235, 244 NW 809.

Mother of illegitimate child is not entitled to recover from adjudged father money expended by her in care and support of child, father having been ordered by district court to make periodical payments to a county welfare board. *Lawson v McLeod*, 189 M 93, 248 NW 658.

Delay in telling of pregnancy and who is father of child is only a fact to be considered by jury in judging the truth of the charge. *State v Thompson*, 193 M 364, 258 NW 527.

Credibility of witnesses in bastardy case is for the jury. *State v Thorson*, 193 M 382, 258 NW 575.

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Weight to be given testimony of witnesses in bastardy proceedings is for the jury. *State v Thorson*, 193 M 382, 258 NW 575.

Although a bastardy proceeding has some of the features of a criminal trial, it is substantially a civil action, and, after a verdict of not guilty, the court may grant a new trial. *State v Reigel*, 194 M 308, 260 NW 293.

A defendant in a bastardy proceeding is entitled to prove good character as to chastity and morality. *State v Osland*, 199 M 604, 273 NW 76.

Where there is conflicting evidence upon issue of paternity, the question is for the jury. *State v Hanke*, 202 M 47, 277 NW 364.

The number of witnesses does not establish weight of evidence, and a verdict may be based upon the testimony of a single witness. *State v Hanke*, 202 M 47, 277 NW 364.

A conviction in bastardy, supported by adequate and ample evidence, will not be disturbed. *State v Bergeson*, 203 M 88, 279 NW 837.

A judgment obtained in a competent court of this state for payments due under a judgment entered by a competent court of a sister state under the illegitimacy statute of the latter may be enforced, when so ordered by our court, by the same means as if the judgment had been originally obtained in this state and under our laws. *Ladd v Martineau*, 205 M 129, 285 NW 281.

Guardian of illegitimate child may claim payments after the death of her father, but only those that had matured at the time of death. OAG Aug. 21, 1933.

A county attorney cannot charge for his services in suing on bonds in bastardy proceedings. OAG May 31, 1935 (121b-11).

County is responsible for the lying-in expenses and the doctor bills of the mother of an illegitimate child. OAG July 6, 1936 (339d-3).

257.24 FATHER TO PAY ALL EXPENSES.

HISTORY. R.S. 1851 c. 22 s. 6; P.S. 1858 c. 19 s. 6; G.S. 1866 c. 17 s. 6; G.S. 1878 c. 17 s. 6; G.S. 1894 s. 2044; R.L. 1905 s. 1572; G.S. 1913 s. 3219; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3266; M.S. 1927 s. 3266.

Mother of illegitimate child is not entitled to recover from the adjudged father money expended by her in the care and support of the child, the father having been ordered by the district court to make periodical payments to a county welfare board. *Lawson v McLeod*, 189 M 93, 248 NW 658.

The obligation of support rests upon the father during the entire minority of the child, and the action may be brought at any time during such minority. *State v Johnson*, 216 M 427, 11 NW(2d) 26.

Paternity proceedings should be instituted regardless of property settlement between mother and father of the illegitimate child. OAG Sept. 3, 1935 (121b-11).

257.25 APPLICATION FOR DISCHARGE FROM IMPRISONMENT.

HISTORY. R.S. 1851 c. 22 s. 7; P.S. 1858 c. 19 s. 7; G.S. 1866 c. 17 s. 7; G.S. 1878 c. 17 s. 7; G.S. 1894 s. 2045; R.L. 1905 s. 1573; G.S. 1913 s. 3220; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3267; M.S. 1927 s. 3267.

The father of a bastard cannot be punished for contempt in not obeying an order to pay money which it is not in his power to obey. *State v Strong*, 192 M 420, 256 NW 900.

257.26 HEARING; JUDGMENT.

HISTORY. R.S. 1851 c. 22 s. 8; P.S. 1858 c. 19 s. 8; G.S. 1866 c. 17 s. 8; G.S. 1878 c. 17 s. 8; G.S. 1894 s. 2046; R.L. 1905 s. 1574; 1913 c. 494 s. 1; G.S. 1913 s. 3221; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3268; M.S. 1927 s. 3268.

The father of an illegitimate child cannot be punished for contempt in not obeying an order to pay money which it is not in his power to obey. Imprisonment may be resorted to only when he can pay but will not. *State v Strong*, 192 M 420, 256 NW 900.

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Conviction of bastardy, held free from error. *State v Gavle*, 181 M 374, 232 NW 624.

Finding of paternity held sustained by the evidence. *State v Van Guilder*, 199 M 214, 271 NW 473.

257.27 COMPROMISE BY BOARD.

HISTORY. R.S. 1851 c. 22 s. 11; P.S. 1858 c. 19 s. 11; G.S. 1866 c. 17 s. 13; G.S. 1878 c. 17 s. 13; G.S. 1894 s. 2051; R.L. 905 s. 1577; G.S. 1913 s. 3224; 1917 c. 210 s. 1; G.S. 1923 s. 3271; M.S. 1927 s. 3271.

257.28 DIRECTOR OF SOCIAL WELFARE MAY MAKE SETTLEMENT.

HISTORY. R.S. 1851 c. 22 s. 12; P.S. 1858 c. 19 s. 12; G.S. 1866 c. 17 s. 14; G.S. 1878 c. 17 s. 14; G.S. 1894 s. 2052; R.L. 1905 s. 1578; G.S. 1913 s. 3225; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3272(a); M.S. 1927 s. 3272a(a); 1941 c. 152 s. 2.

Mother of illegitimate child is not entitled to recover from the adjudged father money expended by her in the care and support of the child, the father having been ordered by the district court to make periodical payments to a county welfare board. *Lawson v McLeod*, 189 M 93, 248 NW 658.

A judgment of a sister state entered in pursuance of its illegitimacy statutes and intended for the support of the mother and child will be enforced by the courts of this state. *Ladd v Martineau*, 205 M 129, 285 NW 281.

Paternity proceedings should be instituted regardless of property settlement between mother and father of the illegitimate child. OAG Sept. 3, 1935 (121b-11).

257.29 CLERK TO REPORT NAME OF ADJUDGED FATHER.

HISTORY. R.S. 1851 c. 22 s. 12; P.S. 1858 c. 19 s. 12; G.S. 1866 c. 17 s. 14; G.S. 1878 c. 17 s. 14; G.S. 1894 s. 2052; R.L. 1905 s. 1578; G.S. 1913 s. 3225; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3272(b); M.S. 1927 s. 3272(b).

257.30 PHYSICIAN MAY TESTIFY.

HISTORY. R.S. 1851 c. 22 s. 12; P.S. 1858 c. 19 s. 12; G.S. 1866 c. 17 s. 14; G.S. 1878 c. 17 s. 14; G.S. 1894 s. 2052; R.L. 1905 s. 1578; G.S. 1913 s. 3225; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3272(c); M.S. 1927 s. 3272(c).

257.31 RECORDS PRIVATE.

HISTORY. R.S. 1851 c. 22 s. 12; P.S. 1858 c. 19 s. 12; G.S. 1866 c. 17 s. 14; G.S. 1878 c. 17 s. 14; G.S. 1894 s. 2052; R.L. 1905 s. 1578; G.S. 1913 s. 3225; 1917 c. 210 s. 1; 1921 c. 489 s. 1; G.S. 1923 s. 3272(e); M.S. 1927 s. 3272(e); 1945 c. 357 s. 1.

Justice of the peace records are open to the inspection of the public, except illegitimacy proceedings. OAG July 1, 1935 (851).

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

257.32 DIRECTOR OF SOCIAL WELFARE SHALL BE LEGAL GUARDIAN.

HISTORY. 1917 c. 194 s. 1; G.S. 1923 s. 4454; M.S. 1927 s. 4454; 1941 c. 159 s. 1; 1945 c. 565 s. 3.

A feeble-minded dependent child who had been committed to state board of control (director of social welfare) for specialized care, and thereafter adjudged to be feeble-minded, and ordered to the custody of the state board of control (director of public institutions) but not admitted to a state institution is not a charge of the state. *County of Stearns v Town of Fairhaven*, 203 M 11, 279 NW 707.

Juvenile courts may not commit a dependent child to the school for the feeble-minded without reference to the conditions of admission and regulations

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concerning the same which may have been prescribed by the director of social welfare. The director of social welfare has legal guardianship over the persons of all children committed to his care and may make such provision for the child as necessity and the best interests of the child may require. If there is not room for the proper care in the school for the feeble-minded, the director may make arrangements for care and maintenance elsewhere. 1918 OAG 155, May 14, 1918.

A county child welfare board may not be made the guardian of the person of a dependent child by juvenile court. 1920 OAG 42, Nov. 13, 1919.

Parents are still responsible for the care of a child, though the child has been committed to the director of social welfare. OAG May 9, 1923.

Where a delinquent child is committed to the guardianship of the director of social welfare (and not to an institution alone), he may consent to the marriage of a minor ward. OAG July 18, 1922.

By this section the director of social welfare is the legal guardian of children immediately upon their commitment to his care or to the state public school or other institution under his management. OAG Aug. 9, 1932.

The director of social welfare has authority to authorize surgery or the administration of prophylactic measures upon a child committed as a dependent to his care or an institution under his management without the consent of parents. As to defectives, the authority of the director is limited to emergencies. OAG Oct. 4, 1932.

A child committed to the guardianship of the director of social welfare and placed in a boarding home in a county has a right to attend school free in the district where the boarding home is located, although the father of such child may be living in another district. OAG Oct. 13, 1932.

257.33 ILLEGITIMATE CHILDREN; DUTIES OF DIRECTOR OF SOCIAL WELFARE.

HISTORY. 1917 c. 194 s. 2; G.S. 1923 s. 4455; M.S. 1927 s. 4455.

Records of the county child welfare board are records of the director of social welfare. The county has no property rights in such records. OAG Dec. 22, 1932.

A public officer shall not be allowed to disclose communications made to him in official confidence when the public interest will suffer by the disclosure. The court will determine if communications are privileged. Confidential information given to the county child welfare board should be classed as privileged, and its disclosure would be contrary to the public interest. OAG Dec. 29, 1933.

A welfare worker appearing in juvenile court as a part of his duties as such worker is not entitled to witness fees. OAG Nov. 24, 1933.

County commissioners are not entitled to compensation for serving on county relief committee. OAG Nov. 19, 1935 (124a).