

**RELIEF OF THE POOR****CHAPTER 261****GENERAL PROVISIONS****261.01 SUPPORT OF POOR; LIABILITY OF RELATIVES.**

The quasi-contractual obligation imposed by law upon a father to support his minor child and compensate others who, in his default, assume the duty to nurture and educate the child, places him in the same situation as if he had made an express contract to compensate. In such a situation the quasi-contract is a continuing obligation and may, by the party supporting the child, be treated as entire; suit may be deferred until the arrangement has been terminated by the child reaching majority or its support has been assumed by the parent. The statute of limitations does not commence to run until such termination. *Knutson v Haugen*, 191 M 420, 254 NW 464.

Where a feeble-minded dependent child has been committed to the state authority, but has not as yet been admitted to any institution, the relatives of the child are liable and responsible for specialized care, and if they neglect or refuse to pay, the expense devolves on the county, town, city, or village of the person's settlement. *County of Stearns v Town of Fair Haven*, 203 M 11, 279 NW 707. -

There can be no recovery, under section 261.03, for support furnished to a pauper in the absence of refusal, or inability of relatives charged with his support, to pay the expense incurred. *Humphrey v Town of Goose Prairie*, 208 M 544, 295 NW 53.

A person who has been a recipient of relief in one form or other from January 25, 1934 to May, 1941, except for short periods of employment, is a pauper. *County of Lac qui Parle v Town of Edison*, 210 M 267, 297 NW 743.

Under the provisions of section 261.03 Indians on the Red Lake Reservation are entitled to poor relief from Beltrami county as are other poor persons without relatives. OAG Sept. 13, 1945 (240-J).

Where the county has furnished support for a minor child, upon the death of a parent, the county may file a claim against the estate. OAG Oct. 16, 1945 (540-E).

Forfeit is only collectible from relative who has been notified to furnish support and has failed to do so. OAG Dec. 2, 1946 (339-m).

A cause of action against a child or spouse of an old age assistance recipient is not subject to the limitation contained in section 261.01. OAG May 2, 1947 (521-R).

Claims to allowance out of incompetent's surplus income by persons to whom he owes no legal liability. 13 MLR 152.

Recovery by a third person from an adult child for necessities furnished to an indigent parent. 23 MLR 243.

**261.02 FAILURE TO SUPPORT; RECOVERY FROM RELATIVE.**

See, annotations under section 261.01.

County having furnished support for daughter and grandchildren cannot recover from the grandfather because of absence of any statute providing that the county may bring such action. OAG Nov. 16, 1946 (339-N).

**261.03 LIABILITY OF COUNTY, TOWN, CITY, OR VILLAGE.**

Amended by L. 1947 c. 546 s. 1.

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There can be no recovery under section 261.03 for support furnished to a pauper in the absence of the refusal or inability of relatives charged with his support to pay the expense incurred. *Humphrey v Town of Goose Prairie*, 208 M 544, 295 NW 53.

In a county which distributes poor relief under the town system, a person who resided in a township for 11 months and thereafter moved about from place to place living in other municipalities but who never spent over six months in any municipality never lost her settlement for relief purposes in the original township. *City of Mpls. v Township of Greenwood*, 209 M 466, 297 NW 87.

Suit by an individual for the value of support furnished a pauper having a settlement for poor relief in the defendant municipality can not be maintained in the absence of allegations in the complaint that such support was furnished the pauper in an emergency, the pauper being in immediate need of aid before application of relief in his behalf can be made to the municipality. *Jorgenson v City of Northfield*, 211 M 377, 1 NW(2d) 364.

Under section 261.07 a pauper residing in a county having a town system of poor relief has his settlement for poor relief purposes in the town, city, or village therein in which he has resided longest during the year immediately preceding the date of his application for poor relief. The fact that the applicant received poor relief from a municipality does not estop the municipality from denying that it is the place of the pauper's settlement. *Village of Long Prairie v Town of Burleene*, 212 M 331, 3 NW(2d) 490.

The state is not liable for services of a physician or hospital furnished to a girl committed to the Home School for Girls while she is on parole. In an emergency such treatment and care may be furnished at the expense of the town or county liable for her support (place of settlement) without specific authorization. In other cases the care and treatment must be authorized by the administrative officers charged with the duty of furnishing the same. 1944 OAG 292, Feb. 11, 1944 (345-B).

Where the poor are cared for under a town system, a patient may be taken into the county hospital at the expense of the county; but the physician must be paid by the town. OAG May 19, 1945 (1001-C).

A reservation Indian residing in Beltrami county is within the provisions of this section. OAG Sept. 13, 1945 (240-J).

### 261.04 LIABILITY OF ESTATE.

Where the mother supports her minor children after the death of the father she may be compensated therefor out of the estate of the children, at least where her own estate is not sufficient to provide proper support for them and herself. *Guardianship of Soltis*, 177 M 571, 225 NW 896.

### 261.05 POWERS OF GOVERNING BODY OF TOWN, CITY, OR VILLAGE.

Statutes which determine responsibility for care and support apply to the insane and feeble-minded as well as to other persons, and the relatives are responsible for such support, but if they neglect or refuse to provide same, the responsibility rests upon the county, town, city, or village of the person's settlement. *County of Stearns v Town of Fair Haven*, 203 M 11, 279 NW 707.

### 261.07 LEGAL SETTLEMENT OF PAUPERS.

The mother of an illegitimate child having died, the stepfather could not change her domicile, nor could the five year old child choose one. The state has a duty to protect the helpless, which it may delegate. Domicile is established instantaneously when both residence in fact and intent coincide. An infant's domicile may be changed for him, he being sui non juris. *Gale v Lee*, 219 M 414, 18 NW(2d) 147.

Where poor relief is administered under the county system by virtue of section 261.07, two years of continuous residence within the county is required to establish settlement; but where the county administers poor relief through the

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town system, such two years residence is not a prerequisite to the acquisition of settlement, since under the town system settlement is acquired where poor person has resided the longest within such two-year period. *City of Mpls. v Village of Brooklyn Center*, 223 M 498, 27 NW(2d) 563.

Persons domiciled in territory annexed to a city acquire a settlement for relief purposes in the city. OAG July 20, 1945 (339-0-5).

The place of settlement of the wife and child of a husband in military service remains as at the time of the husband's entry into service. OAG Aug. 2, 1945 (339-0).

A woman having a settlement in Minnesota married a person having no fixed place of settlement. She retains her settlement here until her husband acquires one. OAG Aug. 6, 1945 (679-K).

Discussion of the legal settlement of a wife who has secured a divorce on ground of desertion. OAG Oct. 17, 1945 (339-0-2).

There is no statute which would fix the place of legal settlement of a 31-year-old son with the residence of his parents even though such son is incapacitated and incapable of supporting himself. OAG May 24, 1946 (339-0).

In computation of time to establish a settlement in a given county for either old age assistance or general relief, the time during which a person was an inmate of the Minnesota general hospital will be excluded. OAG March 5, 1947 (521-t-3).

Attendance at the Minnesota Braille and Sight-Saving School does not affect the poor relief settlement of a family of which a blind person is a member. OAG March 13, 1947 (339-0-2).

Two separate methods for determining legal settlement prevail: (1) Where county system is in effect, the statute requires residence of two years; (2) where town system is in effect, the pauper is deemed to have a settlement in the municipality in which he has longest resided within two years before getting poor relief. OAG July 11, 1947 (339-0-2).

Citizenship within the meaning of the federal forma pauperis statute. 26 MLR 550.

### 261.08 JUDGE OF DISTRICT COURT TO DETERMINE.

The question whether a pauper may be removed from his freehold to the place of his settlement for relief purposes can be raised only by the pauper. *Town of Ripley v City of Mpls.* 212 M 75, 2 NW(2d) 433.

The district court by virtue of sections 261.08 and 261.09 has jurisdiction of the matter of the removability of a pauper freeholder in proceedings to determine disputes between political subdivisions of different counties; and where, upon appeal, the order or judgment is reversed, an officer who acted upon it prior to reversal is protected upon the ground that he acted under a process which was then valid and in force. *Robinette v Price*, 214 M 521, 8 NW(2d) 800.

Where at the time of marriage the husband is unsettled and the wife is settled, the wife retains her maiden settlement until her husband acquires one which can devolve upon her; and where a husband, with no settlement within the state, abandons his wife, who had a settlement within the state before marriage, she may be removed to that settlement. *City of Mpls. v Town of Whitefield*, 215 M 361, 10 NW(2d) 365.

Where determination rests upon factual circumstances, question of liability for support of pauper should be submitted to the court for determination. OAG Sept. 5, 1946 (339-0-2).

### 261.09 MAY PROVIDE FOR REMOVAL OF PAUPERS.

A person who can and does support himself is not a poor person and is not chargeable or removable as such. *Lucht v Bell*, 214 M 318, 8 NW(2d) 26.

See, *Robinette v Price*, 214 M 521, 8 NW(2d) 800.

The owner of a freehold cannot, without his consent, be removed therefrom to his legal settlement for poor relief purposes in another municipality, notwith-

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standing general statutory language conferring such right of removal. Thiede v Town of Scandia Valley, 217 M 218, 14 NW(2d) 400.

### **261.12 REMOVAL OF POOR PERSON; SETTLEMENT.**

Where a husband having no settlement abandoned or deserted his wife, the wife may be removed to the place of her maiden poor relief settlement. City of Mpls. v Town of Whitefield, 215 M 361, 10 NW(2d) 365.

### **261.13 BRINGING POOR PERSON INTO STATE.**

Where a declared mentally deficient person, while on parole, marries and moves to another state and establishes a residence there is no law compelling Minnesota to accept such person from her now state of residence. OAG Dec. 2, 1946 (679-K).

### **261.15 DEFINITIONS.**

Welfare board may pay cash to persons on relief for purchase of necessities. 1944 OAG 326, Feb. 3, 1943 (339-I-1).

### **261.207 BONDS.**

Money in the commodity stamp fund should be deposited by the stamp issuing officer in "a local bank carrying federal deposit insurance," designated by the county welfare board for this purpose. 1942 OAG 105, Aug. 8, 1941 (140-a-7).

### **261.208 CONSTRUCTION OF SECTIONS 261.201 TO 261.208.**

Enforcement of federal rights by state courts. 30 MLR 549.

### **261.21 COUNTY BOARD TO PROVIDE HOSPITALIZATION FOR INDIGENT PERSONS.**

A physician having been legally appointed, who makes an examination and report to the county, may collect from the county a reasonable fee for his services, the amount of which is a question of fact for determination of the board. OAG Aug. 21, 1945 (1001-D).

The county pays transportation and hospital expense of an indigent person. The village of the patient's settlement must pay the medical bills. OAG Oct. 5, 1945 (556-A-8).

Under section 261.21, hospitalization includes all necessary and proper service rendered to the patient including special nursing care. OAG Feb. 5, 1946 (1001-C).

Discussion as to which of two counties is liable for expenses and care of an indigent person. OAG Feb. 5, 1946 (1001-D).

The expense of treatment and care of a prisoner, who was shot while attempting to commit a crime and who was at liberty on commuted sentence at the time, is imposed upon the county where the attempt was committed. OAG Oct. 15, 1946 (91-H).

### **261.22 APPLICATION TO BE FILED.**

There is a distinction between cases for hospitalization and cases for care and treatment outside a hospital. The village is not liable for hospitalization but is liable for care and treatment outside. In case of hospitalization the village officers should file an application for same with the county auditor. The chairman of the county board orders the admission, but in any event an investigation must be had. The county board has wide discretion as to admission. 1942 OAG 274, May 15, 1942 (339-G-2); 1942 OAG 275, June 27, 1942 (1001-D).

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Before an indigent person can be committed to the Minnesota general hospital, a report must be made by a licensed physician to the county board. OAG June 6, 1945 (1001-C).

Where a member of the county board of a county where a non-resident was accidentally injured while hunting applied for his entry to the Minnesota general hospital where he was accepted and treated, the county of the residence of the patient is responsible for his care. OAG May 3, 1944 (339-G-2).

### 261.23 COSTS OF HOSPITALIZATION.

See, 1942 OAG 274, May 15, 1942 (339-G-2); 1942 OAG 275, June 27, 1942 (1001-D).