

CHAPTER 526

PROBATE GENERAL PROVISIONS

526.01 SUPPORT OF INSANE PERSONS.

Unused portions of moneys advanced and accepted under an agreement that refunds will be made in the event of the death or removal of an inmate of a state institution should be refunded to the party who made the advance payment. OAG Feb. 25, 1944 (248).

An old age pension lien attaches at the time of furnishing the assistance. The lien for hospitalization in the state institution attached when allowed by the probate court. The old age lien has priority. 1944 OAG 321, Dec. 21, 1943 (521-P-4).

Except in case of one who has no dependents, \$10.00 per month is the maximum charge for the maintenance of an insane person committed to a state hospital. OAG March 5, 1945 (248-B-7).

Section 526.01 is not retroactive. OAG Feb. 4, 1946 (248-A-1).

If an inmate dies or disappears, it is the duty of the superintendent to exercise the utmost care in keeping safely the personal effects of said inmate until they can be delivered to the persons who are legally entitled to receive them. OAG Aug. 1, 1946 (88-A-27-F).

The director of the division of public institutions under the provisions of section 526.01 may apply for the appointment of an administrator to administer the estate of a deceased inmate who has left personal property other than money, and under the direction of the probate court may sell the inmate's assets and apply the proceeds to the payment of the indebtedness of the inmate to the state and general creditors. OAG Aug. 1, 1946 (88-A-27-F).

526.07 PROCEDURE FOR RECEIVING AND DISBURSING OF MONEY SO PAID OR PAID VOLUNTARILY.

Unused portions of moneys advanced and accepted under an agreement that refunds will be made in the event of the death or removal of an inmate of a state institution should be refunded to the party who made the advance payment. OAG Feb. 25, 1944 (248).

Except in case of one who has no dependents, \$10.00 per month is the maximum charge for the maintenance of an insane person committed to a state hospital. OAG March 5, 1945 (248-B-7).

526.09 PSYCHOPATHIC PERSONALITY.

Where the evidence as to the existence of a psychopathic personality as defined by section 526.09 is in conflict, the question is one of fact to be determined by the trial court upon all the evidence. In re Dittrich, 215 M 234, 9 NW(2d) 510.

Youth correction act. 28 MLR 330.

Court clinic in the administration of justice. 30 MLR 416.

Scientific crime detection is in its infancy. We still are far from a full realization of the contributions available to criminal law administration from the psychiatrist and the criminologist. 30 MLR 410.

Physical factors and criminal behavior. 30 MLR 435.

X-Ray examination of the nervous system. 30 MLR 467.

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526.10 LAWS RELATING TO INSANE PERSONS TO APPLY TO PSYCHOPATHIC PERSONALITIES.

Section 526.10 merely extends the concept of insanity to include sexually irresponsible persons who are dangerous to others; and does not deny due process of law as it provides for hearing and examination on petition, representation by counsel, machinery for compelling the production of witnesses for the defendant, and gives a right of appeal. *State v Probate Court*, 205 M 545, 287 NW 297; 60 SC 523, 309 US 270.

See, *Dittrich v Brown Co.* 215 M 234, 9 NW(2d) 510, noted under section 526.09.

Except in cases falling under sections 253.25, 631.19, where it is determined that a person is a psychopathic personality it is within the discretion of the committing court to confine him to the hospital for dangerously insane in St. Peter, or to any institution authorized to receive persons found to be dangerously insane. OAG July 17, 1946 (284-B-11).

A person having a psychopathic personality is governed by the same laws as the dangerously insane. The power to commit, or modify the terms thereof, are entrusted to the probate court. OAG July 17, 1946 (284-B-11).

Validity of statute relating to persons having "psychopathic personality"; due process. 24 MLR 687.

526.11 NOT TO CONSTITUTE DEFENSE.

Constitutional validity of statute relating to persons having "psychopathic personality." 24 MLR 687.

526.12 SALARIES OF JUDGES OF PROBATE IN CERTAIN COUNTIES; CLERK HIRE.

Method of determining salary of judge of probate where determined by value of assessed property. 1942 OAG 199, July 18, 1941 (347-1).

Providing the salary fixed does not exceed \$800, the probate judge may fix the clerk's salary without the action of the county board. OAG Aug. 13, 1946 (348-A).

526.123 SALARIES OF PROBATE JUDGES.

Where there is uncertainty as to when an increase in a probate judge's salary becomes effective, the auditor may withhold payment until required to do so by order of court. OAG Dec. 22, 1944 (347-I).

See, L. 1947, c. 183, coded as section 490.12, relating to retirement allowance of probate judges.

Laws 1947, cc. 117, 128, 251, 334, 451, are general laws of special application to certain counties and are not coded in the general statutes.

526.124 SCHEDULE OF SALARIES IN CERTAIN COUNTIES.

Laws 1943, c. 255, is inconsistent with L. 1911, c. 241, which requires fees earned by the probate judge to be paid to the county. OAG Sept. 5, 1946 (347-I).