

CHAPTER 256

SOCIAL WELFARE

256.01 COMMISSIONER OF PUBLIC WELFARE; POWERS, DUTIES

HISTORY. 1937 c 438 s 2; 1939 c 431 art 7 s 2(a) (c); 1943 c 7 s 1; 1943 c 177 s 1; 1943 c 570 s 1; 1943 c 612 s 1, 2; 1949 c 40 s 1; 1949 c 512 s 5, 6; 1949 c 618 s 1; 1949 c 704 s 1; 1951 c 330 s 1; 1951 c 403 s 1; 1951 c 713 s 27; 1953 c 30 s 1.

NOTE: Sections 245.03 et seq, creates a department of public welfare; abolishes the department of social security, division of social welfare, and division of public institutions; and repeals sections and supersedes sections 245.01, 245.02.

Children of divorce. 32 MLR 766.

Integration of private pension plans to unemployment compensation and social security. 35 MLR 610.

A child has legally protected rights in the maintenance of the family relationship against inference of outsiders, and enticement by an outsider of the child's mother from the family home constitutes an invasion of the child's rights for which the child may maintain an action for damages. The novelty of the right asserted in the instant case and lack of common law precedent therefor are no reasons for denying the existence of the right of action. *Miller v Monsen*, 228 M 400, 37 NW(2d) 543.

Under the Social Security Act of the United States and the rules and regulations issued and promulgated to the several states, the social security administration and under the social and county welfare board laws of the state of Minnesota and the rules and regulations issued and promulgated pursuant to said laws, the revised basic compensation plan promulgated by the director of social welfare and approved by the federal security agency fixing the rates, is binding upon all the county welfare boards of the several counties and is required to fix the salary of its employees within the salary range set forth by the director of social welfare. The Hennepin County Welfare Board was without authority to pay its employees salaries exceeding the maximum rates of pay as promulgated by the director. The party is not entitled to a peremptory writ of mandamus if at the time of the trial he cannot show a clear, legal right to a writ. *State v Fitzsimons*, M, 58 NW(2d) 882.

The director of the division of social welfare may disburse funds received by federal grant to such students in graduate schools of social work as he is authorized to do by federal law; and the University of Minnesota is the only school expressly named. OAG May 13, 1947 (454-E).

Unless he determines the federal construction of the Federal Security Act arbitrary and unreasonable, the director of social welfare may apply that construction to a similar state act. OAG Aug. 19, 1947 (540-J).

Where an individual was and had been for approximately ten years an employee of the division of social welfare, and had been paid as an Attorney IV, he had the legal status as a provisional Attorney IV and was entitled to receive salary as such, notwithstanding that the supreme court had decreed that a second individual was an attorney for a chief counsel of the division, and under specifications of civil service, there apparently could be but one chief counsel. OAG Aug. 31, 1950 (644-F).

As prerequisite to certification of a private child placement agency, it must satisfy the director of social welfare; (1) of its competency, (2) the adequacy of its facilities, and (3) compliance with the law relating to the management of such agencies. It may solicit and receive voluntary contributions. It may not accept payment of any kind from the person adopting a child, except cost of transportation.

MINNESOTA STATUTES 1953 ANNOTATIONS

256.011 SOCIAL WELFARE

682

Director may forbid the charge by the association of a filing or registration. OAG Nov. 17, 1947 (840-A-2).

256.011 ADMINISTRATION, FEDERAL GRANTS-IN-AID

HISTORY. 1949 c 618 s 2.

256.013 REVOLVING FUND

HISTORY. 1953 c 592 s 1, 2.

Laws 1953, Chapter 592, establishes a revolving fund. From this fund the cost of care and support of children under guardianship of the commissioner of public welfare is paid. The revolving fund is reimbursed by payments by counties under the provisions of section 260.38. If a county fails to make such required payment, the commissioner may withhold from funds due such county for any other purpose such amount as will pay the same. OAG Nov. 9, 1953 (840-A-7).

256.02 INVESTIGATIONS; EXAMINATIONS; SUPERVISION

HISTORY. Amended, 1949 c 228 s 1.

256.05 SUPERVISION OVER PAROLED INMATES; STATE AGENTS APPOINTED; EXCEPTION

Where the director of public institutions determined that better supervision at less cost could be given to paroled patients living in Minneapolis and vicinity by providing a place where they could meet their supervisor and have available clinical and social service advice, appropriation for such expense was permissible. OAG March 8, 1950 (9-A-39).

256.07 STERILIZATION, FEEBLEMINDED PERSONS; CONSENT TO OPERATION

Where a feeble-minded or insane person has been placed under guardianship by the probate court and committed to a public institution when under 21 years of age upon the petition of the parents or nearest relative and therefor unlawfully committed under the supreme court decision in *Westlind v State*, 32 NW(2d) 161, before an operation is performed sterilizing such patient there should be a new petition filed in the probate court and a new commitment properly made. OAG July 9, 1948 (248-B-9) (679-L).

Where possible to locate, the consent of the nearest of kin must be obtained before a sterilizing operation can be performed on a feeble-minded person. OAG June 30, 1953 (679-L).

256.08 INSANE PERSONS IN STATE HOSPITALS; CONSENT TO OPERATION

HISTORY. 1925 c 154 s 2; Mason's Supp s 4422-2.

Rights of the insane offender. 36 MLR 933.

OLD AGE ASSISTANCE

256.11 STATE OLD AGE ASSISTANCE; POLICY

The county attorney is the attorney for the county agency and on an appeal from the state agency to the district court on a matter relating to old age assistance it is for the county attorney to determine whether or not such appeal be taken. OAG April 16, 1951 (521-C).

The statute of limitations limiting the county and state to recover only for old age assistance granted within six years by reason of the provision contained in sec-

MINNESOTA STATUTES 1953 ANNOTATIONS

683

SOCIAL WELFARE 256.12

tion 256.25, does not apply to any claims made under sections 256.11 to 256.43. The proceeds from life insurance on the life of the recipient's predeceased son are not exempt from a claim filed in the recipient's estate for old age assistance. OAG Aug. 20, 1946 (521-G).

Where an old age recipient left no surviving wife or children, and if a petition is made to the probate court for special administration alleging necessity and expediency therefor, the court has jurisdiction to appoint said special administrator and the proper proceedings being had may confirm a sale of the homestead and application of the proceeds to apply upon or satisfy the old age assistance lien. The proceedings being regular, the probate judge may confirm the sale. An interested person may attack the proceeding collaterally if he alleges lack of jurisdiction or irregularity. If the purchaser is in doubt as to whether or not he has acquired a marketable title, he may resort to the usual remedies in such cases. OAG March 21, 1949 (521-P-4).

256.12 DEFINITIONS

HISTORY. Ex1935 c 95 s 2; 1937 c 324 s 1; 1937 c 428 s 1; 1939 c 195 s 1; Mason's Supp s 3199-12, 3199-63, 8688-3; 1943 c 6 s 1; 1947 c 324 s 1; 1951 c 229 s 1; 1951 c 600 s 1, 2; 1951 c 618 s 1; 1953 c 639 s 1; 1953 c 725 s 1.

Children of divorce. 32 MLR 766.

Abandonment committed by the alleged father on the Red Lake Indian Reservation by a tribal Indian against another tribal Indian cannot be prosecuted in the courts of Minnesota; and in such case an illegitimate child is entitled to the aid allowed to dependent children. OAG Sept. 9, 1948 (240-K).

A state agency may make rules and regulations, if reasonable, which would exclude recipients from receiving old age assistance while living in a municipal hospital as boarders and roomers. OAG Nov. 23, 1948 (521-T-4).

The term "dependent children" is not limited to children who are victims of the crime of abandonment. The term "dependent children" should be given a liberal construction. OAG Aug. 22, 1947 (540-B).

An application for aid to dependent children is not stymied by failure to prosecute the father, who had abandoned the children. OAG May 25, 1948 (540-B).

When a child is under the age of 18 years, is regularly attending school, is found to be deprived of parental support, whose relatives liable under the law for the child's support are not able to provide care and support and who is living with his mother in a place of residence maintained by her as a home, is a dependent child. If, however, a child under guardianship has property available for his support, education, and maintenance, the ownership of such property and its value are elements to be considered in determining his dependency. OAG June 23, 1952 (540-F).

A county cannot make up the difference between the amount of the husband's irregular remittance and the budgetary needs of his wife and children. OAG Sept. 3, 1952 (540-F).

The fact that there are relatives able to support a child and who refuse to do so does not render the child ineligible for aid if all other conditions pertinent to the allowance of the aid have been established. OAG March 8, 1951 (540-I).

The provisions of section 256.12 should be liberally construed for the benefit of dependent children; and the words "uncle" and "aunt" may be construed to include great uncle and great aunt. OAG Aug. 19, 1947 (540-J).

The amount of assistance to be rendered in each particular case must be determined by reference to the peculiar facts of the case and if in addition to the other needs of the family the father is also incapacitated, that fact may be stated in the petition and given due consideration. General relief, however, should not be given to a family or to the father under the guise of aid to a dependent child. OAG June 28, 1949 (540-J).

MINNESOTA STATUTES 1953 ANNOTATIONS

256.13 SOCIAL WELFARE

684

256.13 STATE AGENCY; DUTIES

Under the Social Security Act of the United States and the rules and regulations issued and promulgated to the several states, pursuant to the act, and under the social welfare and county welfare board laws of the state of Minnesota and the rules and regulations issued and promulgated by the director of social welfare of Minnesota, the revised basic compensation plan adopted and promulgated by the director of social welfare and approved by the federal security agency containing initial, intervening, and maximum rates of pay for each class of positions in the county welfare board system is binding upon all of the county welfare boards of Minnesota. The county welfare boards of the several counties of this state in fixing the salaries of their employees are required to do so within the salary range set forth by the director of social welfare in his revised basic compensation plan. Hennepin county welfare board was without authority to pay its employees salaries which exceeded the maximum rates of pay set forth in the director's revised basic compensation plan.

A party is not entitled to a peremptory writ of mandamus if at the time of the trial he cannot show a clear, legal right to the writ. It will not issue unless it serves a legal purpose. The action of the trial court in refusing to issue to peremptory writ under the circumstances here shown must be sustained. *State v Fitzsimmons*, M, 58 NW(2d) 882.

County welfare boards in dealing with food standards applying to old age assistance, aid to dependent children and aid to the blind, must adopt standards in conformity with the rules and regulations of the director of social welfare. Food allowances cannot be determined on the basis of local costs unless such rules and regulations so provide. OAG July 30, 1951 (125-A-64).

Old age assistance liens when subject to mortgage, which mortgage is foreclosed, will be paid from surplus remaining after payment of debt secured by mortgage and costs of foreclosure, if by advertisement. If the foreclosure is by action, the surplus will be paid into court under the provisions of section 561.06, subject to the order of the court. OAG Feb. 4, 1948 (521-P-4).

256.15 RESIDENTS; OTHER ASSISTANCE

HISTORY. Ex1935 c 95 s 5; Mason's Supp s 3199-15; 1941 c 466 s 2; 1943 c 456 s 1; 1945 c 302 s 1; 1947 c 530 s 1; 1949 c 677 s 1, 2; 1951 c 92 s 1; 1951 c 199 s 1; 1951 c 626 s 1; 1953 c 507 s 1.

Old age assistance maximum raise from \$40 to \$50 per month and the prohibition against granting other relief to a recipient is waived until March 31, 1951. 33 MLR 50.

An old age recipient whose legal settlement is in Mower county may change his residence to another county if he so desires and have his grant computed on the basis of his needs where he presently resides. OAG May 12, 1953 (521-T-1).

Since the statute authorized the board to "allow not to exceed \$75 a month" providing such care is received from a nonresident in a licensed boarding care home, the county welfare board may not pay up to \$75 per month in a non-licensed boarding care home. OAG Aug. 24, 1953 (521-A).

256.151 Repealed, 1951 c 92 s 2.

256.16 APPLICANT; AGE; CITIZENSHIP; RESIDENCE; INSTITUTIONAL CARE

Where an applicant for old age assistance has not had state residence for five years or more within the last nine years, there may be added to the actual residence within the nine year period credit for previous residence in the state as provided in paragraphs "a" to "d," under section 256.16, provided however that the applicant has had two years state residence continuous and immediately preceding the application. OAG Feb. 16, 1953 (521-T-2).

MINNESOTA STATUTES 1953 ANNOTATIONS

685

SOCIAL WELFARE 256.19

In determining the legal settlement as provided in section 256.19, the time during which a person has been committed to a state institution must be excluded. OAG Sept. 2, 1948 (521-T-3).

256.18 DISQUALIFICATIONS

HISTORY. Ex1935 c 95 s 2; Mason's Supp s 3199-18; 1939 c 315 s 2; 1941 c 466 s 3; 1951 c 118 s 1; 1951 c 225 s 1; 1953 c 656 s 1; 1953 c 702 s 1.

An old age recipient is not entitled to assistance during the period he is confined in the county jail. OAG Dec. 7, 1948 (521).

Where a person otherwise qualified to receive an old age pension prior to her application paid \$400 to an undertaker as pre-payment for burial expenses, the question as to whether or not such pre-payment disqualifies the applicant is a fact question for the county agency. OAG Oct. 28, 1949 (521-D).

"Net value of property" as used in section 256.18, as amended by Laws 1951, Chapter 225, means the value of the owner's equity in the property. In determining the value the amount of the liens imposed by law against the property must be deducted from its full and true value. OAG May 1, 1951 (521-P-4).

An old age recipient is not disqualified from receiving assistance by reason of the fact that he boards and lodges at a hospital, provided that he is not hospitalized at public expense. The fact that he boards and lodges at a hospital instead of at a hotel does not prejudice him. OAG Oct. 26, 1948 (521-T-4).

A blind person would be disqualified from receiving aid to the blind while an inmate of a county hospital for aged and blind erected by the county of St. Louis and leased to the city of Virginia. An old age assistance recipient is not disqualified from receiving aid while an inmate of the Virginia hospital unless he receives gratuitously all the necessities of life therefrom but he is disqualified under the federal laws and rules. OAG Dec. 16, 1949 (521-T-4).

256.183-256.185 Obsolete.

256.19 LEGAL SETTLEMENT

Laws 1943, Chapter 203, Section 1, was enacted to prevent an undue burden from being imposed upon counties in which private charitable institutions or homes for the aged are located. 31 MLR 71.

An old age assistance applicant need not attach a certified copy of his birth record to his application. OAG Aug. 25, 1948 (521-D).

The birth records of the clerk of the district court are open to inspection without the payment of any fee. OAG Aug. 25, 1948 (521-D).

Prior to June 1, 1946, Mrs. B for more than three years resided in Jackson county. On June 1, 1946 she moved to Martin county and remained there until Nov. 1, 1946 (5 months). On Nov. 1, 1946 she visited her son in Arizona, returning March 15, 1947, and on June 24, 1947, made application for old age assistance in Martin county. She had a legal settlement in Martin county on June 24, 1947, as at that time she had resided one year continuously in that county. Whether Mrs. B abandoned her residence in Martin county when she went to Arizona is a question of fact for the determination of the welfare board but under the provisions of section 261.07 she apparently did not because of this four months absence from the state abandon her residence in Martin county. OAG Dec. 9, 1947 (521-T-2).

The time during which a person has been committed to a state institution must be excluded in determining legal settlement. OAG March 5, 1947 (521-T-3); Sept. 2, 1948 (521-T-3).

In determining the legal settlement as provided in section 256.19, the time during which a person has been committed to a state institution must be excluded. OAG Sept. 2, 1948 (521-T-3).

MINNESOTA STATUTES 1953 ANNOTATIONS

256.20 SOCIAL WELFARE

686

256.20 INVESTIGATIONS; DETERMINATION; RENEWAL OF APPLICATION

In order to expedite investigation of an applicant for old age assistance, the county agency may require the applicant to attach to his application a certified copy of his birth certificate. OAG Aug. 25, 1948 (521-D).

An old age assistance applicant need not attach a certified copy of his birth record to his application. OAG Aug. 25, 1948 (521-D).

The birth records of the clerk of the district court are open to inspection without the payment of any fee. OAG Aug. 25, 1948 (521-D).

256.22 ATTORNEY GENERAL, COUNTY ATTORNEY; DUTIES

The county attorney is the attorney for the county agency and on an appeal from the state agency to the district court on a matter relating to old age assistance it is for the county attorney to determine whether or not such appeal be taken. OAG April 16, 1951 (521-C).

256.24 FUNERAL EXPENSES OF RECIPIENT, CLAIM AGAINST ESTATE HISTORY. Amended, 1951 c 246 s 1.

256.25 OLD AGE ASSISTANCE TO BE ALLOWED AS A CLAIM IN PROBATE COURT

The statute of limitations limiting the county and state to recover only for old age assistance granted within six years by reason of the provision contained in section 256.25, does not apply to any claims made under sections 256.11 to 256.43. The proceeds from life insurance on the life of the recipient's predeceased son are not exempt from a claim filed in the recipient's estate for old age assistance. OAG Aug. 20, 1948 (521-G).

Where an old age assistance recipient prior to his death received life insurance on the life of his son, such life insurance is not exempt from a claim filed in the recipient's estate. OAG Aug. 20, 1948 (521-G).

Section 256.25 prevents the running of the six-year limitation statute against the claim of the county welfare agency against the estate of an old age assistance recipient against whom the agency had filed a lien. The board should file a claim for reimbursement. OAG Aug. 20, 1948 (521-G).

256.26 OLD AGE ASSISTANCE; LIENS

HISTORY. Ex1935 c 95 s 16; 1939 c 315 s 1; Mason's Supp s 3199-26; 1941 c 433 s 1; 1945 c 460 s 2; 1953 c 267 s 1; 1953 c 487 s 1.

In ascertaining the meaning in section 256.26, subdivisions 3, 6, and 8, of such legal terms as "lien" and "joint tenancy interests" and the application therein of such legal doctrines as those relative to subjecting real property to liens and the duration, priority, and enforcement thereof, resort may be had to well-settled rules of statutory construction, such as those that the legislature is deemed to use words with their well-settled meaning, that statutes are to be construed with reference to the common law relative to the same subject matter, and that the contemporaneous legislative history may be considered.

An old age assistance lien, which the statute cited supra provides shall attach to all real property owned by the recipient of such assistance, including joint tenancy interests, and shall continue until the debt secured thereby shall be satisfied, attaches, where the recipient is one of several owners of real property in joint tenancy, only to the joint tenancy interest of the recipient, and if the recipient dies before the other joint tenants the lien, by reason of the rules governing joint tenancies, terminates with his death and is unenforceable afterward. Application of Gau, 230 M 239, 41 NW(2d) 445.

MINNESOTA STATUTES 1953 ANNOTATIONS

687

SOCIAL WELFARE 256.26

There is no statute which directly obligates a wife to support her husband, but under section 256.26 if a person applies for or is receiving old age assistance and it is found that the spouse is in a position to contribute to the care and support of the recipient without undue hardship then, after notice to such spouse, a cause of action exists against him for such amount of assistance furnished under sections 256.11 to 256.43 subsequent to said notice, or such part thereof as such person is reasonably able to pay. OAG March 5, 1948 (339-N).

Where an old age recipient dies intestate the homestead is exempt from all debts which were not valid charges on the homestead at the time of the decedent's death but, as no certificate of assistance as required by section 256.26 had been filed, no lien arose. As a result, there is no ground for recovery of the money paid for old age assistance either by foreclosure of a lien which does not exist or through filing of a claim in the probate court and payment from the exempt property. OAG April 3, 1951 (521-G).

An old age assistance lien is extinguished upon the forfeiture of the property for delinquent taxes. OAG Sept. 21, 1951 (412-A-24); OAG June 1, 1951 (521-B-4).

Where an heir presents a claim for reimbursement of funeral expenses he would have no claim against the estate of the decedent until and unless the claim is allowed by the probate court pursuant to section 525.42. Even if the claim is allowed by the probate court the adjudication thereof will not affect the lien of the state under section 256.26. The petition by the county board for administration of the estate of the old age assistance recipient does not constitute a waiver of the lien. OAG June 12, 1951 (521-G) (521-P-4).

The state's claim for old age assistance cannot be enforced against the homestead of the deceased in probate court because the homestead passes by descent to the surviving child. OAG July 5, 1951 (521-G).

Where the old age assistance lien amounts to in excess of \$3,000, and the decedent leaves property worth \$1,500, the lien is not to be defeated by contracting excessive funeral expenses. No public officer has authority to waive the lien. It is the duty of the administrative officers to enforce liens. OAG June 15, 1950 (521-J-2).

A claim of a child of an old age assistance recipient for money actually paid by the child in discharge of taxes upon the real estate owned by the recipient, takes priority over the old age assistance lien. The statute of limitations, section 541.05, necessarily operates from the time that such repayment was due. OAG Sept. 16, 1947 (521-P-4).

An old age recipient received assistance from Grant county and a certificate of assistance was filed with the register of deeds of Grant county. At the time of his death recipient owned a homestead in Traverse county, but no certificate was filed in Traverse county until after the death of the recipient. The filing of the certificate is a condition precedent to the creation of the lien, and until the certificate was filed in Traverse county there was no lien on the property in question. The United States government has a claim against the decedent for furnishment of seed. This is not a lien but was filed as a claim against the estate under section 525.44. The claim of the state for old age assistance has no priority. OAG Sept. 18, 1947 (521-P-4).

Old age assistance liens apply to any equitable interest of the recipient under a contract for a deed. OAG Sept. 30, 1947 (521-P-4).

Where certain real estate was owned by husband and wife as joint tenants and at the time of the husband's death the lien for assistance amounted to \$2,106, the lien which arose by reason of assistance paid to the husband covered his interest in the property and no more. His interest ceased upon his death. The lien for assistance paid to him ceased when his interest ceased. In the instant case the amount of lien against the property for assistance furnished to the surviving wife is collectible but not the amount of assistance due the deceased husband. OAG July 2, 1948 (521-P-4).

Where upon the death of an old age recipient appropriate foreclosure proceedings were taken and the lien foreclosed and the homestead was bid in for the state, the procedure for readmission by the heirs is as follows: section 256.26, subdivision

MINNESOTA STATUTES 1953 ANNOTATIONS

8, provides that old age assistance liens may be enforced in the manner provided for the enforcement of mechanic's liens upon real estate. Section 514.15 provides that the judgment shall direct a sale for the satisfaction of the liens and the manner of sale, and that the right of redemption shall be the same as upon execution sales. Sections 550.24, 550.25, 550.26, and 550.27, provide the method by which such redemption may be made. Upon such redemption being made a certificate of redemption may be issued either by the person from whom such redemption is made, the sheriff, or the clerk of the district court of the county in which the real property is located. The facts set forth in the certificate of redemption are in section 580.26. OAG Aug. 9, 1948 (521-P-4).

An old age assistance recipient who purchased real estate on contract subjects his land to an old age assistance lien. The granting of further assistance to either husband or wife depends upon the need of the applicants for assistance. The root of the old age assistance law is need, and whether or not such need is present is a matter of fact for the county welfare board to determine. OAG Oct. 6, 1948 (521-P-4).

The title to the homestead owned by the decedent upon his death descends to the widow for life and the remainder to the children of the decedent. Immediately upon the death of the intestate the title vests in the children subject to the widow's life estate. The widow has no power to dispose of the remainder after her life estate, nor is her consent that the administrator sell the property in any way effective. Notwithstanding any such sale by the administrator, the state has the right to foreclose its lien, under section 256.26. OAG Feb. 1, 1949 (521-P-4).

Upon the death of the husband the homestead passes to the children subject to the life estate of the widow. The matter of any sale of the homestead and the payment of an old age assistance lien thereon is for the district and not for the probate court. The administrator is without power to sell the homestead and pay the lien thereon. OAG Feb. 28, 1949 (525-P-4).

The foreclosure of an old age assistance lien should be directed by the director of social welfare or the attorney general. OAG March 7, 1949 (521-P-4).

The claim of the recipient's child for an improvement made after recipient's death does not take priority over old age assistance lien. OAG April 19, 1950 (521-P-4).

Indian lands held in trust by the United States under the provisions of U.S.C.A., Title 25, Section 348, are not subject to old age assistance liens. OAG Feb. 6, 1952 (521-P-4).

An original lien against a recipient of old age assistance who sold his home and with the consent of the county welfare board obtained a partial release of the lien as to the particular security only, and who received no further old age assistance but who later acquired additional property which he placed in joint tenancy with his wife and daughter is enforceable against such property held in joint tenancy by his widow and daughter after his death. OAG Oct. 1, 1952 (521-P-4).

In the foreclosure by the state of old age assistance lien the clerk of the district court is entitled to the statutory fee incident thereto, which fees are paid by the state. OAG Sept. 29, 1953 (521-P-4).

256.263 LAND ACQUIRED BY STATE UNDER OLD AGE ASSISTANCE LIENS

HISTORY. 1945 c 172 s 1, 2.

Old age assistance lien should not be foreclosed except upon recommendation of director of social welfare or upon direction of the attorney general. OAG March 7, 1949 (521-P-4).

256.28 PAYMENTS TO RECIPIENT

HISTORY. Amended, 1951 c 118 s 2.

MINNESOTA STATUTES 1953 ANNOTATIONS

689

SOCIAL WELFARE 256.53

256.34 COUNTY BUDGET; LEVY; WARRANTS; CLAIMS FOR REIMBURSEMENT; PAYMENT

HISTORY. Ex1935 c 95 s 24; Mason's Supp s 3199-34; 1953 c 220 s 1.

256.35 MANDAMUS TO COMPEL COMPLIANCE

Judicial review by means of extraordinary remedies. 33 MLR 570, 607, 685.

256.36 CHANGE OF RESIDENCE BY RECIPIENT

HISTORY. 1935 c 95 s 26; Mason's Supp s 3199-36; 1945 c 476 s 1; 1947 c 543 s 1; 1949 c 341 s 1.

While the legal settlement of the wife is that of her husband if an unmarried woman receiving a grant of old age assistance in one county marries a man living in another county, and drawing old age assistance therein, the county originally granting old age assistance continues to be liable therefor regardless of any change of residence within the state by the recipient thereof. OAG March 7, 1950 (339-O-2).

An old age recipient whose legal settlement is in Mower county may change his residence to another county if he so desires and have his grant computed on the basis of his needs where he presently resides. OAG May 12, 1953 (521-T-1).

256.431 Obsolete.

256.432 Obsolete.

256.433 Obsolete.

256.434 Obsolete.

256.44-256.48 Repealed, 1947 c 535 s 16.

256.49 STATE AGENCY, DUTIES

HISTORY. 1923 c 336 s 3; MS s 4617-1; Ex1935 c 93; 1937 c 324 s 2; M Supp s 3199-64; 1951 c 600 s 3.

256.51 PUBLIC ASSISTANCE

HISTORY. 1937 c 324 s 1; Mason's Supp s 3199-66; 1941 c 352 s 1; 1947 c 343 s 1; 1949 c 534 s 1; 1949 c 711 s 1; 1951 c 600 s 4; 1953 c 238 s 1.

Time during which assistance under the Aid to the Blind Act is received should not be excluded in computation of the period required to obtain settlement for purposes of poor relief. OAG March 13, 1951 (339-O-4).

256.52 WHO MAY RECEIVE ASSISTANCE

A blind person would be disqualified from receiving aid to the blind while an inmate of a county hospital for aged and blind erected by St. Louis county and leased to the city of Virginia. An old age assistance recipient is not disqualified from receiving aid while an inmate of the Virginia hospital unless he receives gratuitously all the necessities of life therefrom but he is disqualified under the federal law and rules. OAG Dec. 16, 1949 (521-T-4).

256.53 AMOUNT OF ASSISTANCE

HISTORY. 1937 c 324 s 6; Mason's Supp s 3199-68; 1941 c 486 s 1; 1947 c 343 s 2; 1949 c 711 s 2; 1951 c 600 s 5; 1953 c 693 s 1.

MINNESOTA STATUTES 1953 ANNOTATIONS

256.55 SOCIAL WELFARE

690

256.55 INVESTIGATIONS

HISTORY. 1937 c 324 s 8; Mason's Supp s 3199-70; 1951 c 600 s 6.

256.60 APPEALS

HISTORY. Amended, 1951 c 600 s 7.

256.70 Unnecessary.

256.72 DUTIES OF COUNTY AGENCIES

HISTORY. 1913 c 130 s 1-3; GS 1913 s 7197-7199; 1917 c 223 s 1-17; 1919 c 328 s 1; 1919 c 333 s 1; 1921 c 316 s 1; 1921 c 435 s 1; 1923 c 189 s 1, 2; GS 1923 s 8671-8689; 1925 c 355 s 1-3; 1927 c 287; 1927 c 320; 1927 c 362; MS 8671-79; 1935 c 57; 1935 c 326; 1937 c 438 s 3; M Supp s 8688-5.

256.73 ASSISTANCE, RECIPIENTS

HISTORY. 1937 c 438 s 4; Mason's Supp s 8688-6; 1939 c 195 s 2; 1943 c 7 s 2; 1951 c 229 s 2; 1953 c 140 s 1, 2; 1953 c 639 s 2.

Children of divorced parents whose father has an estate under guardianship in excess of \$300 in cash are not eligible for assistance under section 256.73. OAG June 11, 1948 (540-C).

Where the mother is otherwise eligible for aid to dependent children, the fact that the children are beneficiaries of a settlement fund deposited by order of the district court pursuant to section 540.08, and which fund is not presently available, does not bar eligibility of the children to aid to dependent children. OAG March 8, 1949 (540-F).

When a child is under the age of 18 years, is regularly attending school, is found to be deprived of parental support, whose relatives liable under the law for the child's support are not able to provide care and support and who is living with his mother in a place of residence maintained by her as a home, is a dependent child. If, however, a child under guardianship has property available for his support, education, and maintenance, the ownership of such property and its value are elements to be considered in determining his dependency. OAG June 23, 1952 (540-F).

The Fort Snelling reservation is not within the territory constituting Ramsey county, and Ramsey county need not furnish aid to a dependent child on the reservation. OAG July 17, 1950 (540-M); OAG Nov. 20, 1950 (540-M).

Aid to dependent children is not payable to a mother who has removed from Minnesota with the intention of making her home in Montana. OAG March 8, 1951 (540-M).

R, his wife and four minor children resided in Blue Earth county for five years before November, 1949. In July, 1949, R was committed to prison. In August, 1949, aid to dependent children was granted to Mrs. R in Blue Earth county. In November, 1949, the family moved to Le Sueur county where they remained until May 15, 1952, at which time R was paroled, and with the wife and family moved to Illinois. He violated his parole and he and his family returned to Le Sueur county in September, 1952. Blue Earth county paid the aid until the family had resided in Le Sueur for one year and thereafter Le Sueur county paid the aid. Blue Earth county is no longer liable for any aid. OAG Oct. 15, 1952 (540-M).

Aid to dependent children is authorized by sections 256.72 to 256.87 but in the instant case the children are not entitled to this aid since they had not resided in Minnesota for one year immediately preceding the application. Section 256.73 as amended by Laws 1953, would not apply in this case either to residents in California or to residents in Japan. OAG June 8, 1953 (540-M).

256.74 ASSISTANCE

HISTORY. Amended, 1949 c 606 s 1; 1951 c 229 s 3.

MINNESOTA STATUTES 1953 ANNOTATIONS

691

SOCIAL WELFARE 256.863

Grant of aid to dependent children must be based upon an application as required by section 256.74, subdivision 2. OAG Dec. 15, 1949 (540).

The amount of assistance to be rendered in each particular case must be determined by reference to the peculiar facts of the case, and if in addition to the other needs of the family the father is also incapacitated, that fact may be stated in the petition and given due consideration. General relief, however, should not be given to a family or to the father under the guise of aid to a dependent child. OAG June 28, 1949 (540-J).

256.76 ASSISTANCE, DETERMINATION OF AMOUNT

HISTORY. Amended, 1951 c 229 s 4.

That part of a rule promulgated by the director of the division of social welfare that no aid to dependent children may be made unless support is obtained in instances in which the relatives are financially able to assume such support, is improper. OAG March 8, 1951 (540-I).

256.78 ASSISTANCE GRANTS RECONSIDERED

If a child is abandoned while receiving dependent child aid, and the 120-day period prescribed by section 256.12 has expired, the grant under the provisions of section 256.78 should be reconsidered, in which case the warrant for arrest may issue within 120 days after the grant upon reconsideration has been ordered. OAG Aug. 22, 1947 (540-B).

256.79 REMOVAL TO ANOTHER COUNTY

R, his wife, and four minor children resided in Blue Earth county for five years before November, 1949. In July, 1949, R was committed to prison. In August, 1949, aid to dependent children was granted to Mrs. R in Blue Earth county. In November, 1949, the family moved to Le Sueur county where they remained until May 15, 1952, at which time R was paroled, and with the wife and family moved to Illinois. He violated his parole and he and his family returned to Le Sueur county in September, 1952. Blue Earth county paid the aid until the family had resided in Le Sueur for one year and thereafter Le Sueur county paid the aid. Blue Earth county is no longer liable for any aid. OAG Oct. 15, 1952 (540-M).

256.80 COUNTY BOARD TO APPROPRIATE MONEY; MANDATORY

In the enforcement of the provisions of sections 518.41 to 518.53 public officers, charged with expenditure of public funds for relief of the poor, have implied powers to expend public money in the payment of officers' fees outside the state and in proceedings initiated in another state the clerk of the court must demand and receive fees. In case of a dependent child the money should come from appropriation made by the county board under this section. OAG Sept. 20, 1951 (144-B-7).

256.81 COUNTY AGENCY, DUTIES

HISTORY. Amended, 1951 c 229 s 5.

256.82 PAYMENT BY STATE

HISTORY. Amended, 1951 c 229 s 6.

256.85 LIBERAL CONSTRUCTION

An application for aid to dependent children is not stymied by failure to prosecute the father, who had abandoned the children. OAG May 25, 1948 (540-B).

256.863 RECOVERY OF MONEY; DISTRIBUTION

HISTORY. 1953 c 55 s 1.

MINNESOTA STATUTES 1953 ANNOTATIONS

256.87 SOCIAL WELFARE

692

256.87 CONTRIBUTION BY RELATIVES; AMENDMENTS; REPEALS

HISTORY. 1937 c 438 s 19-21; Mason's Supp s 8688-21, 8688-22, 8688-23; 1953 c 639 s 3.

Where the mother is otherwise eligible for aid to dependent children, the fact that the children are beneficiaries of a settlement fund deposited by order of the district court pursuant to section 540.08, and which fund is not presently available, does not bar eligibility of the children to aid to dependent children. OAG March 8, 1949 (540-F).

256.88 SOCIAL WELFARE FUND ESTABLISHED

The director of public institutions, when so directed by the probate court, may take charge of the personal property belonging to a feebleminded or epileptic person when the value thereof does not exceed \$1,000. OAG Sept. 24, 1948 (88-A-27-F).

Where a feebleminded ward disappeared and could not be located within four years, the ward's money left on deposit in the social welfare fund of the county welfare board may either be left in the fund or, upon direction of the director of social welfare, may be deposited in a local bank which carried federal deposit insurance. This may be done by the executive secretary of the welfare board. OAG July 14, 1947 (88-A-27-M).

256.89 FUND DEPOSITED IN STATE TREASURY

Where a feebleminded ward disappeared and his whereabouts unknown for four years, the ward's money left on deposit in the social welfare fund of the county welfare board could be left in the fund or pursuant to regulations of the director of social welfare, could be deposited in a local bank carrying federal deposit insurance, by the executive secretary of the welfare board. OAG July 14, 1947 (88-A-27-M).

256.91 PURPOSES

The director of public institutions may pay out what in his discretion he deems proper for the benefit of a minor not exceeding in the aggregate the principal amount previously received for the minor's benefit. Before making such payments an effort should be made to obtain payment for the minor's support from persons legally responsible. OAG Sept. 24, 1948 (88-A-27-F).

The director of social welfare may exercise his discretion in expenditure of funds for the support and maintenance of the ward, and expend such amounts as he deems the payment proper under the circumstances. His action is entirely administrative. OAG Dec. 28, 1949 (88-A-27-F).

256.93 COMMISSIONER OF PUBLIC WELFARE

HISTORY. 1929 c 55 s 1, 2; Mason's Supp s 4467-1, 4467-2; 1939 c 9 s 1; 1943 c 612 s 4, 5; 1949 c 32 s 1.

When authorized by the probate court the director of public institutions may take charge of the personal property belonging to a feebleminded or epileptic person, where the value of the property does not exceed \$1,000. OAG Sept. 24, 1948 (88-A-7-F).

The probate court may vest possession of the property and estate of a mentally deficient or epileptic patient in the director of public institutions where the estate is less than \$1,000 and the guardianship of the patient's person has been committed to it. When the property is liquidated the funds are placed in the social welfare fund. OAG Dec. 28, 1949 (88-A-27-F).