

MINNESOTA STATUTES 1953 ANNOTATIONS

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RELIEF OF POOR; GENERAL PROVISIONS 261.02

RECEIVING HOME

260.41 MINNESOTA STATE CHILDREN'S CENTER

HISTORY. 1953 c 701 s 1.

260.42 CONTROL, MANAGEMENT

HISTORY. 1953 c 701 s 2.

260.43 SUPERINTENDENT

HISTORY. 1953 c 701 s 3.

260.44 PERSONS ADMITTED

HISTORY. 1953 c 701 s 4.

260.45 COSTS, PAYMENT

HISTORY. 1953 c 701 s 5.

260.46 ACQUISITION OF LAND FOR USE AS CENTER

HISTORY. 1953 c 701 s 6.

RELIEF OF POOR

CHAPTER 261

GENERAL PROVISIONS

261.01 SUPPORT OF POOR; LIABILITY OF RELATIVES

When a married couple dies in a common disaster and there is no proof available that one survived the other, the rights to recovery under M.S.A., Section 573.02 are to be determined as if death occurred to both at the same instant. The damages awarded are not so excessive as to require either reduction or a new trial. That a child has married does not annul the liability under section 261.01 nor relieve the wrongdoer under section 573.02. *Moore v Palen*, 228 M 148, 36 NW(2d) 540.

Where the juvenile court committed a minor to the custody of the home school for girls, in Stearns county, and the commitment was still in effect, and there was no showing that the minor's mother who had left the state had gained a new residence elsewhere, the minor had a legal domicile in the same county as the mother had before she left the state. *OAG Feb. 2, 1950 (268-H)*.

While certain relatives named in section 261.01 have such liability, the statute imposes no liability on the wife for support of a pauper husband. *OAG Feb. 26, 1948 (339-N)*.

Where a county operates under the county system, if a pauper is hospitalized the hospital is entitled to the reasonable value of services rendered. *OAG Nov. 28, 1951 (1001-D)*.

261.02 FAILURE TO SUPPORT; RECOVERY FROM RELATIVE

Where a village acted as a mere volunteer in giving care and support to a person whose settlement was in a certain township and there being no emergency, the township should have been notified of the paupers' need and requested to assume responsibility. The law distinctly says "after like notice." *OAG Oct. 20, 1949 (339-O-5)*.

261.03 LIABILITY OF COUNTY, TOWN, CITY, VILLAGE

HISTORY. 1849 c 60 s 4; RS 1851 c 16 s 4; PS 1858 c 15 s 3; 1864 c 16 s 1; GS 1866 c 15 s 3; GS 1878 c 15 s 3; GS 1894 s 1953; RL 1905 s 1486; GS 1913 s 3069; GS 1923 s 3159; MS 1927 s 3159; 1947 c 546 s 1.

Where a person removes from a county which administers poor relief under the town system and in which she has a settlement, her poor settlement continues in the township in which she was at the time of her departure until she acquires a new settlement. To acquire a new settlement in another county she must reside for two years continuously in that county. Two years continuous residence in some other county, whether it has the county or town system of poor relief, is a condition precedent under section 261.07, subdivision 1, to acquiring a new settlement within any other county in the state. Where a person acquired a "settlement" in Lake Henry township, Stearns county, and thereafter resided in Hennepin county for three months, in Otter Tail county for several months, in Dora township for 12 months, in Isanti county for 12 months, in Washington county for four months, and in Ramsey county for less than two years, she has not acquired a settlement in any locality and her settlement remains in the township of Lake Henry. *Ramsey County v Lake Henry Township*, 234 M 119, 47 NW(2d) 554.

The city of Fergus Falls operating under a home rule charter has authority to buy or condemn property for housing a poor family now on relief but the city council in doing so must make its determination in the exercise of its discretion and judgment as advisable in order to discharge the city's duty to furnish shelter to the poor persons involved. OAG Aug. 19, 1949 (59-A-34).

A city and a county operating under a town system of poor relief may contract for ambulance service in connection with the furnishing of relief. OAG Feb. 7, 1952 (225-A).

A town may provide a house for a pauper outside of the town limits if that is the most practical way of caring for the poor person, and if authority has been granted to the town board by a vote of the electors. OAG September 16, 1948 (339).

When a county board provides hospitalization in hospitals within the county and elsewhere, or within the state, to any person, pursuant to the provisions of the general hospitalization law, the hospital furnishing such hospitalization is restricted in its charges therefor in an amount not to exceed the full rates fixed and charged by the University hospitals; but where a "poor person" is furnished hospitalization pursuant to the poor law, the hospital furnishing such hospitalization is not restricted in its charges therefor to the rates fixed and charged by the University hospitals. OAG June 17, 1949 (339-G-2).

Where the county board was of the opinion that property could be acquired by the county for a family of poor persons, the property could be withheld by the county auditor from sale as forfeited land, and the county could acquire and maintain it and make the necessary repairs. OAG Feb. 2, 1950 (425-C-10).

261.07 LEGAL SETTLEMENT OF PAUPERS

HISTORY. 1849 c 60 s 7, 8; RS 1851 c 16 s 7, 8; PS 1858 c 15 s 6, 7; 1864 c 16 s 2; GS 1866 c 15 s 4, 12, 14; 1877 c 13 s 1; GS 1878 c 15 s 4, 12, 14; 1885 c 263 s 1; 1888 Supp c 15 s 12; 1889 c 170 s 6; GS 1894 s 1954, 1977; 1897 c 291 s 2; RL 1905 s 1488; 1919 c 128; Mason's 1927 s 3161; 1933 c 385; Ex1935 c 68 s 1; 1937 c 102 s 1; 1937 c 138 s 1; 1939 c 398 s 1; 1945 c 289 s 1; 1949 c 509 s 1; 1953 c 256 s 1.

Section 261.07 establishes two distinct methods for determining a settlement, each serving different purposes, so that where the county system is employed in distribution of poor relief, two years residence within the county is required, but if the town system prevails such poor person is deemed to have a settlement in the municipality within which he has longest resided within the two years next prior to seeking and getting such relief. *City of Minneapolis v Village of Brooklyn*, 223 M 498, 27 NW(2d) 563.

In an action to determine a legal settlement for purposes of poor relief, the court erred in holding that the legal settlement of an adult daughter, who is physically and

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mentally handicapped, as the court found, and who, all her life and now, has been and is unable to support herself, follows that of her father and was the same as that of the father. In re Underwood, 231 M 144, 42 NW(2d) 416.

A person having acquired a legal settlement in the state, two years continuance in some other county is required to acquire a new settlement therein. Ramsey County v Lake Henry Township, 234 M 119, 47 NW(2d) 554.

An innocent person committed to a public institution, if on the payroll and if he does not receive public aid, may acquire legal settlement in a county other than the county of his commitment. OAG June 16, 1949 (248-B-7).

Where a minor was committed to the home school for girls and her residence and legal settlement was that of her mother who through divorce proceedings was her named custodian, and if the mother has not acquired a new legal settlement, the settlement of the committed child remains the same and her charges and the charges for an illegitimate child born to her in the public institution must be paid by the county of her settlement. OAG Feb. 2, 1950 (268-H).

The receipt of assistance from the veterans affairs rehabilitation fund, and the receipt of educational benefits and subsistence allowance from veterans administration does not prevent a veteran from establishing a poor relief settlement. OAG Oct. 24, 1950 (310-S) (339-Q).

Where a mother and a minor son, residing in a village, were without funds and the son was accidentally killed; the village where they resided properly paid the expense of the burial of the son, and was entitled to reimbursement by the county, and the county in turn might recover the expense from the town of the settlement of the deceased. OAG June 26, 1951 (339-C).

The place of settlement of a wife is that of her husband and the place of settlement of two illegitimate children of the wife is that of the mother. OAG Jan. 7, 1949 (339-D-3).

Where custody of a minor child by divorce decree is awarded to the mother, the settlement of such child is that of the mother. Assuming financial responsibility by a third party for care and support of such minor child in another county for a period of more than two years, does not of itself constitute the emancipation so as to effect a change of settlement of such minor different than the settlement of the mother. OAG Sept. 5, 1950 (339-D-4).

When a county board provides hospitalization in hospitals within the county and elsewhere, or within the state, to any person, pursuant to the provisions of the general hospitalization law, the hospital furnishing such hospitalization is restricted in its charges therefor in an amount not to exceed the full rates fixed and charged by the University hospitals; but where a "poor person" is furnished hospitalization pursuant to the poor law, the hospital furnishing such hospitalization is not restricted in its charges therefor to the rates fixed and charged by the University hospitals. OAG June 17, 1949 (339-G-2).

The only justification for a city furnishing aid to roving paupers would be that it is done in the name of humanity to meet a pending emergency. The expense cannot be justified. Under the provisions of section 261.07 as construed by the supreme court in the City of Minneapolis v Village of Brooklyn Center, 223 M 498, 27 NW(2d) 563, nor can it be justified under the decision of the supreme court in Robbins v Town of Homer, 95 M 201, 103 NW 1023. OAG June 24, 1948 (339-O-2).

Where a child is hospitalized the question of his settlement determines who must pay the hospital bill, the parents being unable to do so. The place of the settlement is the settlement of the father. The father having a settlement in the Village of Fertile in Polk county, moved to Norman county, but had residence in Norman county less than two years where the hospitalization took place. The settlement of the child remained in the Village of Fertile. OAG Jan. 15, 1948 (339-O-2).

Ownership of land is not a factor in determining the place of residence or place of settlement of a pauper. Where the town system of poor relief prevails the place of settlement is determined by the provisions of section 261.07. OAG April 22, 1949 (339-O-2).

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The settlement of the wife is that of her husband and where a woman, while receiving aid marries a man receiving aid in another locality, she must, from the date of her marriage, receive aid, if at all, from the place of settlement of her husband. OAG July 18, 1949 (339-O-2).

The two year period determining the place of settlement should be given from the date of the application, or if the relief has been granted in the same month in which the application is made, the two year period begins the last day of the month immediately preceding the application. OAG Sept. 23, 1949 (339-O-2).

Two years residence in the county is required whether the county is under the county or town system of relief. OAG Feb. 21, 1951 (339-O-2).

Whether a poor person's voluntary and uninterrupted absence from the state for more than a year affects the determination or loss of settlement is a pure question of fact. The responsibility of making that determination rests in the first instance with the county welfare board. OAG March 13, 1951 (339-O-2).

If prior to his removal from Becker county to Hubbard county, a husband had acquired a legal settlement for purposes of poor relief within Becker county as a resident therein, as required by statute, that settlement was not lost by his removal to Hubbard county until he had resided within Hubbard county for a period of two years, exclusive of the time prescribed by subdivision 2 of section 261.07. OAG July 17, 1950 (339-O-2).

Whether a poor person's voluntary and uninterrupted absence from the city for more than a year affects the determination or loss of settlement is a pure question of fact. The decision depends upon whether or not the absence was with the intent to abandon his residence in the city. OAG Sept. 28, 1950 (339-O-2).

The legal settlement of paupers is controlled by section 216.07, and subdivision 3 provides that a married woman deserted by her husband for a period of one year continuously shall thereafter have the same right to acquire a new settlement as a single person. Where a husband has failed to support his wife and she believes it dangerous to reside in his place of residence and has left the county of his settlement and has resided in a new county for more than two years, supporting herself, the wife, in applying for a pauper settlement, has the burden of establishing that her domicile is different from that of her husband and the additional burden of showing a year of continuous desertion and the acquisition of a new settlement thereafter. OAG June 14, 1950 (339-O-2).

The month during which poor relief is furnished to a poor person must be excluded in determining the time of legal settlement. OAG July 8, 1942 (339-O-2).

Two years continuous settlement in a county is required to constitute a settlement for poor relief purposes. OAG Feb. 16, 1953 (339-O-2).

In the event there has been no emancipation of the minor from her parents, the residence of the minor still follows the residence of her father. The emancipation of a minor always presents a factual question. OAG March 13, 1953 (339-D-4).

Where a pauper has no settlement in the state the municipality in which he resides at the time of his need must provide the necessary relief. OAG April 15, 1953 (339-O-2).

In determining his poor relief the time during which a person is an inmate of a hospital at the county expense is to be excluded in determining the amount of relief to be granted by the county. OAG March 26, 1951 (339-O-4).

A veteran of World War II, who entered service in Illinois and who was paid the Illinois bonus, resided in Minneapolis from August, 1945, until July, 1947, when he moved to Wisconsin, obtained a job and stated his intent to establish his residence there. When he lost his job he returned to Minnesota in April, 1948 and has since resided in Minnesota. He has apparently lived in Minnesota continuously for a two-year period, his residence in Wisconsin being of less than one year duration. He has acquired a settlement for poor relief purposes in Minnesota. OAG Jan. 3, 1949 (339-Q).

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If person who resided two years continuously in any county has a settlement therein for poor relief purposes and, in the instant case, if the person in question has acquired a settlement for relief purposes in Minnesota, his residence in Wisconsin for less than one year would not invalidate his Minnesota settlement. OAG Jan. 3, 1949 (339-Q).

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).

Time during which a person has been an inmate of the Minnesota General hospital must be excluded in establishing a settlement in a county for old age assistance or general relief purposes. OAG March 5, 1947 (521-T-3).

A married woman does not lose her legal settlement while under commitment to the guardianship of the director of public institutions as a mentally deficient person even though her husband gains a new settlement in another county. OAG Sept. 22, 1948 (679-K).

The settlement of a minor child committed to guardianship of the director of public institutions is not changed by a subsequent change of legal settlement of the parents of the child. OAG Dec. 19, 1950 (679-K).

261.08 JUDGE OF DISTRICT COURT TO DETERMINE

HISTORY. 1925 c 378 s 1; MS 1927 s 3161-1; 1925 c 378 s 2; MS 1927 s 3161-2; 1939 c 398 s 2; M Supp s 3161-1.

Where a person has once acquired a legal settlement within the state, two years continuous residence thereafter in some other county, whether it has county or town system of poor relief, is a condition precedent to acquiring a new settlement within any other county in the state. Ramsey County v Lake Henry Township, 234 M 119, 47 NW(2d) 554.

The legal settlement of paupers is controlled by section 261.07 and subdivision 3 provides that a married woman deserted by her husband for a period of one year continuously, shall thereafter have the same right to acquire a new settlement as a single person. Where the husband has failed to support the wife and the wife believes it dangerous to reside in his place of residence and has left the county of his settlement and has resided in a new county more than two years supporting herself, the wife in applying for a pauper settlement, carries the burden of establishing that her domicile is different from that of her husband, and the additional burden of showing a year of continuous desertion and the acquisition of a new settlement thereafter. OAG June 14, 1950 (339-O-2).

261.10 COUNTY OF RESIDENCE CHARGED WITH SUPPORT

HISTORY. 1849 c 60 s 8, 9; RS 1851 c 16 s 8, 9; PS 1858 c 15 s 7, 8; 1864 c 16 s 12, 13; GS 1866 c 15 s 14, 15; GS 1878 c 15 s 14, 15; 1889 c 170 s 8; GS 1894 s 1964, 1965; RL 1905 s 1500; GS 1913 s 3083; GS 1923 s 3173; 1925 c 378 s 4; MS 1927 s 3161-4, 3173; 1939 c 398 s 5; M Supp s 3161-3.

The place of settlement of the wife is that of her husband and the place of settlement of two illegitimate children of the wife is that of the mother. OAG Jan. 7, 1949 (339-D-3).

County which furnished emergency hospitalization for a poor person who had his poor settlement in another county is entitled to recover the reasonable value of the hospitalization from the county where the poor person had his poor settlement

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and was not limited to amounts in price schedule which had been adopted by the county where the poor person had his poor settlement. OAG Oct. 7, 1949 (339-G-2).

The settlement of the wife is the settlement of the husband, and where a woman while receiving aid marries a man receiving aid in another locality, she must from the date of the marriage receive aid if at all from the place of settlement of the husband. OAG July 18, 1949 (339-O-2).

261.11 COSTS OF PROCEEDINGS

HISTORY. 1925 c 378 s 5; MS 1927 s 3161-5; 1939 c 398 s 6; M Supp s 3161-4.

261.12 REMOVAL; SETTLEMENT

For the purpose of poor relief, the legal settlement of a mother and her illegitimate child was not retroactively affected by the mother's marriage to the father of the child, the legal settlement of the father being in another county. OAG Sept. 8, 1950 (339-D-3).

261.123 APPEAL FROM ORDER OR DETERMINATION TO COMMISSIONER OF PUBLIC WELFARE

HISTORY. 1953 c 464 s 1.

261.124 APPEAL TO DISTRICT COURT

HISTORY. 1953 c 464 s 2.

261.125 ORIGINAL PROCEEDINGS IN DISTRICT COURT; APPEAL TO SUPREME COURT

HISTORY. 1953 c 464 s 3.

261.126 PROTESTS BY TAXPAYERS AGAINST GRANTING OF RELIEF

HISTORY. 1953 c 464 s 4.

261.13 BRINGING INTO STATE

HISTORY. 1849 c 60 s 11; RS 1851 c 16 s 11; PS 1858 c 15 s 10; 1864 c 16 s 17; GS 1866 c 15 s 18; GS 1878 c 15 s 18; GS 1894 s 1968; RL 1905 s 1490; GS 1913 s 3073; GS 1923 s 3163; MS 1927 s 3163.

261.17 BONDS ISSUED

Bonds and other evidence of indebtedness would be subject to the debt limitation prescribed by section 475.53. By following a proper procedure in order to provide funds with which to meet an emergency in providing for county relief of the poor, the county board could issue bonds or other evidence of indebtedness, the proceeds of which could be expended only for support or relief of the poor. OAG July 25, 1950 (519-J).

261.21 HOSPITALIZATION FOR INDIGENT PERSONS

HISTORY. 1933 c 393; M Supp s 3164-16 to 3164-18; 1935 c 359 s 1; M Supp s 3164-19; 1941 c 473 s 1.

The county of the patient's settlement is liable for "reasonable value" of hospitalization service. OAG Oct. 4, 1949 (339-G-2).

In counties having the town system of poor relief, section 263.01 is authority to the town board to grant aid to poor people for their board and care, including medical attendance. Like authority is conferred on the county board by section 261.21. Each board exercises discretion in the performance of its duties. Neither board may

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dominate the other. Each board in consideration of an application must act upon the application and the evidence before it and not upon what the other board has done. It is the province of the district court to decide the question when a case is properly before it. OAG Nov. 26, 1951 (339-G-2).

The county board has authority to provide hospitalization of indigent patients of the county who are afflicted with a malady which can probably be remedied by hospitalization and who are financially unable to pay their bills; but whether nursing care is a part of the hospitalization is a question of fact. OAG July 14, 1947 (1001-D).

Where a pauper is hospitalized under the poor law the county of the pauper's settlement, where the county system prevails, is liable to the hospital for reasonable value of services rendered; but where an indigent person is hospitalized under the general hospital law the cost of such hospitalization shall not exceed in amount full rates fixed and charged by Minnesota general hospital. OAG Nov. 28, 1951 (1001-D).

261.22 APPLICATION FILED

The test of eligibility for hospitalization under the University of Minnesota Hospital Law, or under the general hospitalization law, is one of indigency or financial inability to pay for the care; and that is the measure the board of county commissioners must follow in contracting for hospitalization for indigent persons. Section 256.18 deals with the granting of old age assistance and has no connection with the hospital law. OAG June 25, 1949 (339-G-2).

261.23 COSTS OF HOSPITALIZATION

The county board has authority to provide hospitalization of indigent patients of the county who are afflicted with a malady which can probably be remedied by hospitalization and who are financially unable to pay their bills; but whether nursing care is a part of the hospitalization is a question of fact. OAG July 14, 1947 (1001-D).

CHAPTER 262

COUNTY SYSTEM

262.01 COUNTY BOARD SUPERVISORS OF THE POOR; RELIEF; RELIEF AGENT; POORHOUSES

HISTORY. Amended, 1949 c 420 s 2.

The welfare board submits to the county board an annual budget estimating its needs. The estimate is not binding on the county board. If the county board approves the estimate, tax is levied accordingly. The county board under the provisions of section 262.01 establishes a poorhouse and by direction of the county board the welfare board operates it. While the county board has power to repair, equip, and put a poorhouse in shape as requested by the county welfare board, it is limited in its expenditures. It may expend available money but cannot contract to spend money it does not have. OAG Sept. 3, 1948 (125-A-36).

The plan of taking care of poor persons unable to support themselves by the poor farm system was evolved more than 100 years ago when social security and old age assistance had not appeared in the law. The poor farm system and the social security and old age assistance laws are distinct and of unrelated philosophy. Poor farms are established and maintained by county boards. The welfare board has no powers or duties in respect thereto. There is no law under which the county board may contract with a pauper for his support at the poor farm. He cannot be a paying guest therein. OAG Dec. 24, 1953 (339-K).