

## CHAPTER 393

### COUNTY WELFARE BOARD

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#### 393.01 ESTABLISHMENT.

**Subdivision 1. Membership.** There shall be established in each county of the state a county welfare board which shall consist of the number of members, as hereinafter provided, to be chosen as follows.

**Subd. 2. Selection of members, terms, vacancies.** Except in counties which contain a city of the first class and counties having a poor and hospital commission, the county welfare board shall consist of seven members, including the board of county commissioners, to be selected as herein provided; two members, one of whom shall be a woman, shall be appointed by the commissioner of human services, one each year for a full term of two years, from a list of residents, submitted by the board of county commissioners. As each term expires or a vacancy occurs by reason of death or resignation a successor shall be appointed by the commissioner of human services for the full term of two years or the balance of any unexpired term from a list of one or more, not to exceed three residents submitted by the board of county commissioners. The board of county commissioners may, by resolution adopted by a majority of the board, determine that only three of their members shall be members of the county welfare board, in which event the county welfare board shall consist of five members instead of seven. When a vacancy occurs on the county welfare board by reason of the death, resignation, or expiration of the term of office of a member of the board of county commissioners, the unexpired term of such member shall be filled by appointment by the county commissioners. Except to fill a vacancy the term of office of each member of the county welfare board shall commence on the first Thursday after the first Monday in July, and continue until the expiration of the term for which such member was appointed or until a successor is appointed and qualifies. If the board of county commissioners shall refuse, fail, omit, or neglect to submit one or more nominees to the commissioner of human services for appointment to the county welfare board by the commissioner of human services, as herein provided, or to appoint the three members to the county welfare board, as herein provided, by the time when the terms of such members commence, or, in the event of vacancies, for a period of 30 days thereafter, the commissioner of human services is hereby empowered to and shall forthwith appoint residents of the county to the county welfare board. In the event that the commissioner of human services shall refuse to appoint a nominee from the list of nominees submitted by the board of county commissioners, he shall notify the county board of such refusal. The county board shall thereupon nominate additional nominees. Before the commissioner of human services shall fill any vacancy hereunder resulting from the failure or refusal of the board of county commissioners of any county to act, as required herein, the commissioner of human services shall mail 15 days written notice to the board of county commissioners of its intention to fill such vacancy or vacancies unless the board of county commissioners shall act before the expiration of the 15-day period.

**Subd. 3. County board to be welfare board in Hennepin county.** In the county of Hennepin the board of county commissioners shall be the county welfare board. In such county the members shall be reimbursed by the county for expenses actually incurred in the performance of their official duties under the provisions of this chapter. In such county the county auditor shall be ex officio secretary of the board, but shall have no voice in its proceedings.

**Subd. 4.** [Repealed, 1974 c 435 art 6 s 1]

**Subd. 5. St. Louis county welfare board.** The county welfare board of St. Louis county shall be appointed or elected as provided by Laws 1974, Chapter 266, Sections 1 to 3. The board shall receive such compensation and shall have and exercise all the powers as provided by Laws 1907, Chapter 222, and acts amendatory thereof, in addition to any other and further powers granted herein and shall have and perform all the additional duties referred to in section 393.07.

**Subd. 6. Poor and hospital commission to be county welfare board in certain counties.** In any county now having a board of poor and hospital commissioners, said board of poor and hospital commissioners shall have the same powers and duties as the county welfare board in other counties, and shall be the county welfare board, and shall also retain and exercise the powers and duties conferred upon such board by Laws 1917, Chapter 187, as amended by Laws 1931, Chapter 60, in counties in which said 1917 law as amended is applicable.

**Subd. 7. Joint exercise of powers.** Notwithstanding the provisions of subdivision 1 two or more counties may by resolution of their respective boards of county commissioners, agree to combine the functions of their separate welfare departments into one welfare department to serve the two or more counties that enter into the agreement. Such agreement may be for a definite term or until terminated in accordance with its terms. When two or more counties have agreed to combine the functions of their separate welfare departments, a single welfare board in lieu of existing individual county welfare boards shall be established to direct the activities of the combined department. This board shall have the same powers, duties and functions as an individual county welfare board. The single welfare board shall have representation from each of the participating counties with selection of the members to be as follows:

(a) Each board of county commissioners entering into the agreement shall on an annual basis select one or two of its members to serve on the single welfare board.

(b) Each board of county commissioners entering into the agreement shall in accordance with procedures established by the commissioner of human services, submit a list of names of three county residents, who shall not be county commissioners, to the commissioner of human services. The commissioner shall select one person from each county list to serve as a welfare board member.

(c) The composition of the board may be determined by the boards of county commissioners entering into the agreement providing that no less than one-third of the members are appointed as provided in clause (b).

**History:** 1937 c 343 s 1; Ex1937 c 90; 1941 c 261; 1941 c 284 s 1; 1943 c 417 s 1; 1943 c 473 s 1; 1945 c 56 s 1; 1949 c 63 s 1; 1955 c 226 s 1; 1955 c 506 s 1; 1959 c 89 s 1; 1969 c 264 s 1; Ex1971 c 31 art 19 s 1; 1973 c 380 s 15; 1973 c 650 art 21 s 27; 1973 c 781 s 1; 1974 c 266 s 4; 1974 c 328 s 1; 1984 c 654 art 5 s 58 (974-11)

### **393.02 OATH.**

Each member of the county welfare board, other than those holding some other public office for which they have qualified, shall take the oath of office prescribed in section 358.05 and file same in the office of the auditor of the county for which such

member was appointed. No person shall be qualified to act as a member of the county welfare board until such oath has been filed.

**History:** 1937 c 343 s 2 (974-12)

### **393.03 PER DIEM.**

Except as provided in section 393.01, subdivisions 3 and 5, each member of the county welfare board, except county commissioners, may receive from the state, county, or a municipality, not to exceed \$15 for each day spent in transacting the business of the board, but for not exceeding 50 days in any year, or an amount equivalent to any per diem paid to county commissioners for such services pursuant to section 375.055, subdivision 1, whichever is greater; provided that where such welfare board also serves as the county hospital board or as the county nursing home board, members, other than county commissioners, may be paid not to exceed \$15 for each day spent in transacting the business of the board, but for not exceeding 75 days in any year, or an amount equivalent to any per diem paid to county commissioners for such services pursuant to section 375.055, subdivision 1, whichever is greater. This compensation is in addition to any salary he may receive from any other source. The county may reimburse each member, including county commissioners, for expenses incurred in the performance of official duties. Nothing in this section shall be construed to prohibit the payment of a per diem to county commissioners pursuant to section 375.055, subdivision 1.

**History:** 1937 c 343 s 3; 1945 c 475 s 1; 1953 c 517 s 1; 1955 c 235 s 1; 1957 c 745 s 1; 1959 c 417 s 1; 1969 c 1091 s 1; 1974 c 435 art 5 s 3; 1975 c 301 s 13 (974-13)

### **393.04 ORGANIZATION.**

The county welfare board shall, by resolution, establish a date in July for an annual meeting at which it shall organize by electing a chairman, a vice chairman, and a secretary, except as provided in section 393.01, subdivision 3, each of whom shall perform the customary duties of his office. The board shall appoint a director and such assistants and clerical help as it may deem necessary to perform the work of the board. The appointment of the director shall be made in accordance with rules to be adopted by the commissioner of human services and the director shall be chosen upon the basis of his experience, training, and general qualifications for the work. The director's salary shall be fixed by the county welfare board, and the county welfare board shall fix the salary of such other employees as it may hire.

The welfare board shall require its director and such other of its employees as it may determine, to execute and file with it a bond conditioned as are other official bonds, to the state, with corporate sureties to be approved by it, in such amount as it may fix, not less than \$1,000, and the premium thereon shall be paid by the board.

**History:** 1937 c 343 s 4; 1939 c 432; 1941 c 284 s 2; 1959 c 576 s 1; 1974 c 435 art 5 s 4; 1979 c 186 s 1; 1984 c 654 art 5 s 58 (974-14)

### **393.05 COUNTY TO PROVIDE OFFICES.**

The county shall provide suitable offices for the county welfare board and its employees. Any expenditures for rent, purchase, or construction and maintenance of the office may be paid from county welfare funds.

**History:** 1937 c 343 s 5; 1965 c 162 s 1; 1974 c 435 art 5 s 5 (974-15)

**393.06 SALARY AND EXPENSES.**

The salaries, office, traveling, and other necessary expenses of the county welfare board, including such amount as may be allowed in the discretion of the county board as compensation for cashing welfare board checks, shall be paid by the county, and shall be subject to reimbursement out of state and federal funds as may be provided by law.

**History:** 1937 c 343 s 6; 1939 c 445; 1973 c 717 s 26; 1974 c 435 art 5 s 6 (974-16)

**393.07 POWERS AND DUTIES.**

**Subdivision 1. Public child welfare program.** (a) To assist in carrying out the child protection, delinquency prevention and family assistance responsibilities of the state, the county welfare board shall administer a program of social services and financial assistance to be known as the public child welfare program. The public child welfare program shall be supervised by the commissioner of human services and administered by the county welfare board in accordance with law and with rules of the commissioner.

(b) The purpose of the public child welfare program is to assure protection for and financial assistance to children who are confronted with social, physical, or emotional problems requiring protection and assistance. These problems include, but are not limited to the following:

- (1) Mental, emotional, or physical handicap;
- (2) Birth of a child to a mother who was not married to the child's father when the child was conceived nor when the child was born, including but not limited to costs of prenatal care, confinement and other care necessary for the protection of a child born to a mother who was not married to the child's father at the time of the child's conception nor at the birth;
- (3) Dependency, neglect;
- (4) Delinquency;
- (5) Abuse or rejection of a child by its parents;
- (6) Absence of a parent or guardian able and willing to provide needed care and supervision;
- (7) Need of parents for assistance with child rearing problems, or in placing the child in foster care.

(c) A county welfare board shall make the services of its public child welfare program available as required by law, by the commissioner, or by the courts and shall cooperate with other agencies, public or private, dealing with the problems of children and their parents as provided in this subdivision.

The public child welfare program shall be available in divorce cases for investigations of children and home conditions and for supervision of children when directed by the court hearing the divorce.

(d) A county welfare board may rent, lease, or purchase property, or in any other way approved by the commissioner, contract with individuals or agencies to provide needed facilities for foster care of children. It may purchase services or child care from duly authorized individuals, agencies or institutions when in its judgment the needs of a child or his family can best be met in this way.

Subd. 1a. [Repealed, 1979 c 256 s 3]

**Subd. 2. Administration of public welfare.** The county welfare board, subject to the supervision of the commissioner of human services, shall administer all forms of public welfare, both for children and adults, responsibility for which now or

hereafter may be imposed on the commissioner of human services by law, including general assistance, aid to dependent children, county supplementation, if any, or state aid to recipients of supplemental security income for aged, blind and disabled, child welfare services, mental health services, and other public assistance or public welfare services, provided that the county welfare board shall not employ public health nursing or home health service personnel other than homemaker-home help aides, but shall contract for or purchase the necessary services from existing community agencies. The duties of the county welfare board shall be performed in accordance with the standards, rules and regulations which may be promulgated by the commissioner of human services to achieve the purposes intended by law and in order to comply with the requirements of the federal social security act in respect to public assistance and child welfare services, so that the state may qualify for grants-in-aid available under that act. The county welfare board shall supervise wards of the commissioner and, when so designated, act as agent of the commissioner of human services in the placement of his wards in adoptive homes or in other foster care facilities.

**Subd. 3. Federal social security.** The county welfare board shall be charged with the duties of administration of all forms of public assistance and public child welfare or other programs within the purview of the federal social security act, other than public health nursing and home health services, and which now are, or hereafter may be, imposed on the commissioner of human services by law, of both children and adults. The duties of such county welfare board shall be performed in accordance with the standards, rules and regulations which may be promulgated by the commissioner of human services in order to achieve the purposes of the law and to comply with the requirements of the federal social security act needed to qualify the state to obtain grants-in-aid available under that act. Notwithstanding the provisions of any other law to the contrary, the welfare board may delegate to the director the authority to determine eligibility and disburse funds without first securing board action, provided that the director shall present to the board, at the next scheduled meeting, any such action taken by him for ratification by the board.

**Subd. 4. Rules and regulations.** The commissioner of human services shall be the authority to adopt and enforce rules and regulations concerning the use and publication of lists of public assistance recipients and governing the custody, use, and preservation of public assistance, mental health or child welfare records, files, and communications. The commissioner of human services shall adopt such rules and regulations as may be necessary to comply with the requirements of the federal social security act; but in any event shall provide for the annual publication of a summary financial statement giving total expenditures for each of the several programs of public assistance; and shall make all finance records available for such examinations and audits as are required by law. No use or publication of the lists, records, files, and communications herein referred to shall be made until such rules and regulations are adopted, and then only in the manner and form therein provided. All other laws, or parts of laws, now in effect inconsistent with the provisions of this chapter are hereby repealed, superseded, modified, or amended so far as necessary to conform to and give full force and effect to the provisions of this chapter. The provisions of this chapter will not be construed to apply to poor relief or direct relief given solely in behalf of adult persons.

**Subd. 5. Compliance with federal social security act; merit system.** The commissioner of human services shall have authority to require such methods of administration as are necessary for compliance with requirements of the federal social security act, as amended, and for the proper and efficient operation of all welfare programs. This authority to require methods of administration includes methods relating to the establishment and maintenance of personnel standards on a

merit basis as concerns all employees of county welfare boards except those employed in an institution, sanatorium, or hospital. The commissioner of human services shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods. The adoption of methods relating to the establishment and maintenance of personnel standards on a merit basis of all such employees of the county welfare boards and the examination thereof, and the administration thereof shall be directed and controlled exclusively by the commissioner of human services.

Notwithstanding the provisions of any other law to the contrary, every employee of every county welfare board who occupies a position which requires as prerequisite to eligibility therefor graduation from an accredited four year college or a certificate of registration as a registered nurse under section 148.231, must be employed in such position under the merit system established under authority of this subdivision. Every such employee now employed by a county welfare board and who is not under said merit system is transferred, as of January 1, 1962, to a position of comparable classification in the merit system with the same status therein as he had in the county of his employment prior thereto and every such employee shall be subject to and have the benefit of the merit system, including seniority within the welfare board, as though he had served thereunder from the date of his entry into the service of the welfare board.

**Subd. 6. Purchase of equipment to aid welfare recipients.** Every county welfare board authorizing braces, crutches, trusses, wheel chairs and hearing aids for use by recipients of supplemental security income for the aged, blind and disabled, aid to families with dependent children and relief shall secure such devices at the lowest cost obtainable conducive to the well being of the recipient and fix the recipient's grant in an amount to cover the cost of the device providing it will be purchased at the lowest cost obtainable, or may make payment for the device directly to the vendor.

**Subd. 7. Volunteer programs.** In accordance with procedures established by the commissioner of human services, the county welfare boards may establish volunteer service programs. Persons who participate in these programs may be reimbursed for expenses incurred in performing assigned duties. For purposes of this section, a volunteer worker shall not receive compensation for services rendered but shall be entitled to workers' compensation coverage as provided for in section 176.011, subdivision 9.

**Subd. 8. Citizens advisory committee.** In accordance with procedures established by the commissioner of human services, county welfare boards may appoint citizen advisory committees to consult with the board on any of the programs or services administered by the board. Within the limits of the appropriation provided, the board may authorize the reimbursement of committee members for expenses incurred in the performance of their duties.

**Subd. 9. Power to compel certain persons to pay child support.** When directed by a judge of district or county court or when a person under court order is in default in making child support payments to another person who has custody of the children for whom such payments have been ordered, the county welfare board shall take such steps as may be necessary to compel the person in default on such payments to make them; to take such steps as may be necessary to compel such persons to make reimbursement to comply with the order of court when in default; and to institute, if necessary, contempt proceedings on behalf of such person or persons to whom money or property is ordered to be paid or delivered. It shall be the duty of the county attorney to conduct such contempt proceedings when directed by a judge of the district or county court or when requested by the county welfare board. The county attorney in such contempt proceedings or upon a separate

motion supported by order to show cause and affidavits may move the court that any defaults or delinquent payments under such order of support be reduced to a judgment against the defaulting party, and where the county welfare board or any other public agency has advanced and expended funds to supply the unmet needs of such children because of such default by failure to pay the court order, such county welfare board or other public agency shall be subrogated and may recover under such judgment to the extent that public funds were expended for the care and support of such children. The additional cost incurred by the county attorney to bring contempt actions under this subdivision shall be paid from the moneys collected in such actions in whatever manner and amount approved by a judge of that particular county or district court.

**Subd. 10. Federal food stamp program.** The county welfare board shall establish and administer the food stamp program pursuant to rules of the commissioner of human services and federal regulations. The county welfare board shall participate in a food stamp quality control system subject to the supervision of the commissioner of human services and pursuant to federal regulations.

Any person who commits any of the following acts is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (1), (2), and (5):

(a) Obtains or attempts to obtain, or aids or abets any person to obtain by means of a wilfully false statement or representation, or intentional concealment of a material fact, food stamps to which he is not entitled or in an amount greater than that to which he is entitled; or

(b) Presents or causes to be presented, coupons for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(c) Willfully uses or transfers food stamp coupons or authorization to purchase cards in any manner contrary to existing state or federal law.

The amount of food stamps incorrectly issued shall be the difference between the amount of food stamps actually received and the amount to which the recipient would have been entitled under state and federal law had the welfare agency been informed of all material facts. The amount of any food stamps determined to have been incorrectly issued, used, transferred or presented shall, unless otherwise determined by the county welfare board in order to prevent undue hardship, be recoverable from the recipient, or user, or his estate by the county as a debt due the county.

**Subd. 11. Abortion services; policy and powers.** In keeping with the public policy of Minnesota to give preference to childbirth over abortion, Minnesota county welfare boards shall not provide any medical assistance grant or reimbursement for any abortion not eligible for funding pursuant to section 256B.02, subdivision 8.

**History:** 1937 c 343 s 7; 1939 c 407 s 1; 1941 c 370 s 2; 1941 c 476 s 1; 1949 c 40 s 2; 1951 c 336 s 1; 1951 c 620 s 1; 1959 c 480 s 1-4; 1961 c 334 s 1,2; 1969 c 148 s 1; 1969 c 244 s 1; 1969 c 356 s 1; 1969 c 809 s 1; 1969 c 1141 s 1; 1971 c 132 s 1; 1971 c 307 s 1; 1973 c 199 s 1; 1973 c 650 art 21 s 28; 1973 c 678 s 2,3; 1973 c 717 s 27,28; 1975 c 359 s 23; 1977 c 225 s 2; 1977 c 282 s 10; 1978 c 508 s 5; 1981 c 360 art 1 s 24; 1983 c 7 s 9; 1983 c 243 s 5 subd 9; 1984 c 654 art 5 s 58; 1984 c 655 art 1 s 63 (974-17)

### 393.08 ESTIMATES FURNISHED TO COUNTY BOARD.

**Subdivision 1.** As scheduled by the county board of commissioners each year, the county welfare board, except any such board referred to in section 393.01, subdivision 3, shall submit to the county board of commissioners an estimate of the amount needed by it to perform its duties, including expenses of administration, and

the county board of commissioners shall consider the estimates so submitted and, if approved, shall levy a tax as provided by law for the purposes. In the event the estimate is not approved, the county board of commissioners shall confer with the county welfare board and adjust a budget in accordance with the facts and levy a tax for the amount required.

In counties referred to in section 393.01, subdivision 3, the estimate required shall not include institutional requirements in any city of the first class located therein. The tax levy by the county board of commissioners in such counties shall be such as is required for public assistance, poor relief and categories of aid under the federal social security act, and shall be separate and distinct from other levies made by it. The governing body of any such city of the first class may annually levy a tax for institutional requirements as authorized by such home rule charter, on the real and personal property within the corporate limits of such city. Such tax levy and the proceeds thereof shall be subject to the same control and supervision as is imposed on any existing public welfare tax levy.

In counties referred to in section 393.01, subdivision 7, the estimate required to fund the public welfare programs of the single welfare department, including expense of administration, shall be submitted to the boards of county commissioners who are parties to the agreement. Each board of county commissioners shall consider the estimate so submitted and shall confer with the board of county commissioners from the other counties who are a party to the agreement in determining the amount of funds to be assessed against each county for purposes of funding the welfare program.

Subd. 2. [Repealed, 1973 c 380 s 18; 1973 c 650 art 21 s 33]

**History:** 1937 c 343 s 8; 1945 c 301 s 1; 1949 c 510 s 1,2; 1965 c 274 s 1; 1969 c 264 s 2; 1973 c 380 s 17; 1973 c 510 s 1; 1973 c 650 art 21 s 29; 1979 c 186 s 2 (974-18)

NOTE: Section 393.08 is not applicable to Ramsey county. See Laws 1976, Chapter 14.

### 393.09 MONTHLY MEETINGS.

The county welfare board shall meet and advise with the director at least once each month and the director shall report and be responsible to the county welfare board and shall be directed in his activities by the board. The director shall be charged with the administration of the duties of the county welfare board and shall perform such additional duties as the county welfare board may designate.

**History:** 1937 c 343 s 9; 1959 c 576 s 2 (974-19)

### 393.10 MEDICAL, SURGICAL AND HOSPITAL EXPENSES, LIEN.

Subdivision 1. **Public welfare; medical assistance lien.** Any county board or any county welfare board which as a part of its public assistance program provides, pays for or becomes liable for medical, surgical or hospital care shall have a lien for the cost of such care upon any and all causes of action accruing to the person to whom such care was furnished, or to the legal representatives of such person, on account of injuries giving rise to such causes of action and which necessitated such medical, surgical or hospital care, subject, however, to any attorney's lien.

Subd. 2. **Procedure for filing.** The county board or county welfare board may perfect and enforce its lien by following the procedures set forth in sections 514.69, 514.70 and 514.71, except that it shall have 180 days from the date when the last item of medical, surgical or hospital care was furnished in which to file its lien.

**History:** 1963 c 480 s 1,2; 1973 c 161 s 1; 1975 c 247 s 5



**393.11 COUNTY ATTORNEY; EXPENSES.**

Subdivision 1. The county welfare board of any county is authorized to pay from welfare funds a share of the salary, clerk hire, and expenses of the county attorney or an assistant county attorney or both, such share to be proportionate to the expenses incurred on county welfare board matters and other county matters as determined by the county board of commissioners.

Subd. 2. The county welfare board or the commissioner of human services may contract with the county attorney for the provision of legal services to the county welfare board in paternity actions, child support enforcement and related matters as specified in Title IV-D of the Social Security Act. The county attorney may contract as to and perform the services and receive reimbursement therefor as determined by the commissioner. The contract may specify that the reimbursement shall be in addition to the salary of the county attorney as set by the county commissioners pursuant to chapter 388.

**History:** 1965 c 194 s 1; 1977 c 282 s 11; 1984 c 654 art 5 s 58

**393.12 FEES FOR SOCIAL SERVICES.**

A county welfare board may charge fees for social services furnished to a family or individual not on public assistance. The county welfare board shall establish fee schedules based on the recipient's ability to pay and for day care services on the recommendations of the appropriate advisory council. The schedules shall be subject to the approval of the commissioner of human services.

**History:** 1973 c 190 s 1; 1974 c 405 s 1; 1975 c 95 s 1; 1984 c 654 art 5 s 58

**393.13 PRIVATE INSURANCE POLICIES.**

Subdivision 1. Upon providing services pursuant to sections 252.27, 260.251, subdivision 1a, 261.27 or 393.07, subdivision 1 or 2 to any person having private health care coverage, the county agency shall be subrogated, to the extent of the cost of services provided, to any rights the person may have under the terms of any private health care coverage. The right of subrogation does not attach to benefits paid or provided under private health care coverage prior to the receipt of written notice of the exercise of subrogation rights by the carrier issuing the health care coverage.

Subd. 2. To recover under this section, the county attorney may institute a civil action against the carrier of the private health care coverage.

Subd. 3. When any amount of money shall be recovered pursuant to this section the county shall pay to the state an amount of the recovery substantially in the proportion in which the state agency has contributed toward the services which were paid by the carrier issuing the health care coverage.

Subd. 4. For the purposes of this section, private health care coverage means any policy or plan regulated by chapter 62A, 62C, 62E or 64A. Private health care coverage also includes any self-insurance plan providing health care benefits.

**History:** 1979 c 174 s 5