

1989 Assembly Bill 509

Date of enactment: April 19, 1990

Date of publication\*: May 3, 1990

# 1989 WISCONSIN ACT 261

AN ACT to amend 53.38 (2), 755.045 (1), 757.15, 800.01 (1) (b) and 800.04 (2) (b); and to create 53.335 and 755.045 (1) (c) of the statutes, relating to: confinement of persons in a county jail, court procedures and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 53.335 of the statutes is created to read:

**53.335 County jail in populous counties.** (1) A county having a population of 500,000 or more shall provide, as part of its county jail, for the confinement of all persons arrested for violation of state laws or municipal ordinances or otherwise detained by police officers of a 1st class city located within the county. A contribution toward the construction and equipment of the county jail from a 1st class city accepted by a county having a population of 500,000 or more under an intergovernmental cooperation agreement under s. 66.30 is made for a municipal purpose, and a 1st class city may borrow money under ch. 67, appropriate funds and levy taxes for that purpose.

(2) Prisoners confined in the county jail under sub. (1) are in the legal custody of the county sheriff or other keeper of the jail. The sheriff or other keeper is legally responsible for any such prisoner's confinement; maintenance; care, including medical and hospital care; release prior to an initial appearance in court; and the initial appearance before the circuit court or the initial appearance before a municipal court at a location within the county jail.

(3) Except as provided in sub. (4) and s. 53.33 (2), a county under sub. (1) is solely responsible for:

(a) The costs of operating and maintaining the county jail and maintaining the prisoners in the county jail.

(b) The costs of carrying out its legal responsibilities under sub. (2).

(4) An intergovernmental cooperation agreement under s. 66.30 between a city and a county under sub. (1) may provide for the city to reimburse the county for its cost of custody at the initial appearance before a municipal court located within the county jail for prisoners who are in custody exclusively for violation of a municipal ordinance.

**SECTION 2.** 53.38 (2) of the statutes is amended to read:

53.38 (2) The prisoner is liable for the costs of medical and hospital care outside of the jail. If the prisoner is unable to pay the costs, the county shall pay the costs in the case of persons held under the state criminal laws or for contempt of court and, except as provided in s. 53.335 (2) and (3) (b), a municipality shall pay the costs in the case of persons held under municipal ordinance by the municipality.

**SECTION 3.** 755.045 (1) of the statutes is amended to read:

755.045 (1) A municipal court has exclusive jurisdiction over an action in which a municipality seeks to impose forfeitures for violations of municipal ordinances of the municipality which that operates the court, unless except as follows:

(a) If the action is transferred under s. 800.04 (1) or 800.05 (3) to a court of record.

(b) If equitable relief is demanded the municipal court does not have jurisdiction and plaintiff shall bring the action must be brought in a court of record.

**SECTION 4.** 755.045 (1) (c) of the statutes is created to read:

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755.045 (1) (c) Whenever the municipal court of a 1st class city in any county having a population of 500,000 or more is not in session, the circuit court has concurrent jurisdiction to hear municipal court cases.

**SECTION 5.** 757.15 of the statutes is amended to read:

**757.15 Holding court, effect of holidays.** ~~No~~ A court may be ~~opened or~~ open to transact business on the first day of the week, ~~July 4 or Christmas unless it is for the purpose of instructing or discharging a jury or of receiving a verdict and rendering a judgment thereon.~~ This section does not prevent the exercise of the jurisdiction of any judge when it is necessary, in criminal cases, to preserve the peace or arrest offenders. ~~Whenever and on a legal holiday, other than July 4 or Christmas, occurs, the court may proceed with its business thereon in like manner and with like effect as upon any other day.~~

**SECTION 6.** 800.01 (1) (b) of the statutes is amended to read:

800.01 (1) (b) Is arrested and brought before a the court personally, or in the municipal court of a 1st class city, personally or through interactive video and audio transmission conducted in accordance with the rules of the 1st judicial administrative district; or

**SECTION 6m.** 800.04 (2) (b) of the statutes, as affected by 1989 Wisconsin Act 107, is amended to read:

800.04 (2) (b) If the municipal judge determines that the defendant should not be released under par. (a) and the defendant is charged with a traffic or boating violation, the municipal judge shall release the defendant on a deposit in the amount established by the uniform deposit schedule under s. 345.26 (2) (a) or under s. 23.66. For other violations, the municipal judge shall establish a deposit in an amount not to exceed the maximum penalty for the offense, including any penalty assessment that would be applicable under s. 165.87 and any jail assessment that would be applicable under s. 302.46 (1). If the judge in a 1st class city determines that a defendant appearing before the judge through interactive video and audio transmission should not be released under par. (a), the judge shall inform the defendant that he or she has the right to appear personally before a judge for a determination, not prejudiced by the first appearance, as to whether he or she should be released without a deposit. On failure of the defendant to make a deposit under this paragraph, he or she may be committed to jail pending trial only if the judge finds that there is a reasonable basis to believe the person will not appear in court.

**SECTION 7. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 53.335 and 53.38 (2) of the statutes takes effect on January 1, 1993.