

*be false, unfair or libelous, or in the absence of such notice, within 5 days, or thereafter in the next issue, after service of complaint in a libel action, may be introduced upon the trial of any such action as a sufficient defense against any imputation of malice and against the recovery of any damages except actual damages. In case positive proof of the true fact is not contained in said notice or complaint or otherwise ascertainable with reasonable diligence, the publication of the libeled person's statement, as such, of the true fact, or so much thereof as shall not be libelous of another, scurrilous or otherwise improper for publication, may be introduced upon the trial and shall have like force and effect as a correction, except that the extent of the mitigation of actual damages shall depend upon the facts of each case.*

Approved June 5, 1945.

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### CHAPTER 263.

AN ACT to repeal chapter 264, laws of 1911, relating to the county court of Jackson County and to confer additional jurisdiction, powers and duties, as herein provided, on the county court of said county.

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

SECTION 1. Chapter 264, laws of 1911, is repealed.

SECTION 2. There is hereby conferred additional jurisdiction, powers, duties and functions upon the county court of Jackson County as provided in this section, unless the context indicates otherwise, the words "county court" or "court" means the county court of Jackson County, "county judge" or "judge" means the judge of the county court of Jackson County and "county" means Jackson County.

(1) CIVIL JURISDICTION. The county court and the presiding county judge shall have and exercise civil jurisdiction concurrent with and equal to the jurisdiction of the circuit court of Jackson County in all actions, suits and proceedings at law and in equity, including special proceedings of every kind and nature, except actions where the value of the property in controversy, or the debt or balance due, or the damages claimed in

the complaint, shall exceed \$2,000 exclusive of interest, costs and disbursements, including liens for which claims have been filed in the office of the clerk of the circuit court of the county; and the county court and the presiding county judge shall also have and exercise all of the jurisdiction, powers and authority in civil actions and proceedings within the county which are possessed by justices of the peace, including offenses against the ordinances of the county and of cities, towns and villages therein.

(2) **CRIMINAL JURISDICTION.** The county court and the presiding county judge shall have and exercise jurisdiction concurrent with and equal to the jurisdiction of the circuit court of Jackson County in bastardy actions, and in all criminal actions except murder and manslaughter; and the county court and the presiding county judge shall also have and exercise all of the jurisdiction, powers and authority in criminal actions and proceedings within the county which are possessed by justices of the peace, including offenses against the ordinances of the county and of cities, towns and villages therein. All examinations, recognizances and commitments from or by any examining magistrate of the county in bastardy cases and in all criminal actions within the jurisdiction of the county court shall be certified and returned within the time prescribed by law to the county court or to the circuit court of Jackson County in the examining magistrate's discretion, except that the certification and return shall be made to said circuit court if the defendant so requests and the attendance of witnesses upon the trial of any person so committed shall be procured in the same manner as provided by law in the circuit court of Jackson County and the county court shall have power to appoint an attorney to defend a person charged with an offense in the same manner and upon the same conditions as said circuit court may now or hereafter appoint an attorney to defend a person charged with an offense. Where the county judge is the examining magistrate he may make such certification and return to the county court or the circuit court of Jackson County, except that if requested by the defendant the certification and return shall be to the circuit court of Jackson County.

(3) **COURT OF RECORD.** The county court shall be a court of record, with general jurisdiction, and in the exercise of such civil or criminal jurisdiction, and in the enforcement and review of orders and judgments of the county court, the procedure in

circuit court shall obtain except as otherwise provided in this section and in chapter 324 of the statutes.

(4) **CLERK OF CIRCUIT COURT IS CLERK OF COUNTY COURT.** The clerk of the circuit court of Jackson County shall be the clerk of the county court as to all matters which come within the jurisdiction conferred by this section on the county court and the powers and duties conferred and imposed upon him as clerk of the circuit court extend to him as such clerk of the county court.

(5) **ENTRY AND DOCKETING OF ORDERS AND JUDGMENTS.** All orders and judgments of the county court shall be entered, recorded and docketed in the same manner and in the same books that the Jackson County circuit court orders and judgments are recorded and docketed, but with a notation added to indicate that they are the orders and judgments of the county court.

(6) **TERMS OF COURT.** General terms of the county court shall begin on the second Tuesday of January, April and October, and each term continues until the first day of the succeeding term, and the court shall be deemed open at all times.

(7) **DISABILITY OF COUNTY JUDGE.** If the county judge is unable to hold court on the day appointed, he may continue any or all matters to a day certain, or to the next term; or any circuit judge or any other county judge may, upon the request of the county judge, or of the chairman of the board of county judges, attend and hold court, and while so doing shall have the authority conferred by this section upon the county judge. All matters set for hearing or trial during any term and not disposed of shall stand continued to the next term.

(8) **APPEALS TO COUNTY COURT.** Appeals from judgments of justices of the peace in the county may be taken to either the county court or the circuit court of Jackson County, as the appellant may elect, and the procedure for taking such appeal shall be the same in either case.

(9) **LAND TITLES INVOLVED.** All actions before justices of the peace in the county, where the title to lands shall come in question, shall be sent to the county court or the circuit court of Jackson County at the election of the party making the plea that the title of land will come in question.

(10) **ACTION, WHO TO TRY.** Actions properly triable by a jury shall, if no jury be demanded by either party, be tried by

the court. The demand for a jury trial must be made at or prior to the fixing of the date for trial. When tried by a jury, it shall be of 12 persons unless a lesser number be agreed upon by the parties.

(11) DEMANDING JURY; DATE OF TRIAL. After issue joined, any party may upon 5 days' notice apply to the court to set the same for trial on a particular day, and the court or judge shall, if it be reasonably possible, fix a time for such trial, which shall not be less than 5 days after hearing such application unless for cause the court otherwise orders.

(12) DRAWING JURY. When it shall appear to the county judge that a jury should be drawn for any term of court he may order the clerk, at a named time not less than 6 days before such term, to draw from the list provided for jury service in circuit court, in the presence of the judge, 24 names. If the name of any person known to the clerk or judge to be disqualified or no longer liable to jury duty is drawn, such name shall be thrown out and the name of another juror drawn to take his place. A list of the jurors so drawn shall be forthwith filed in the office of the clerk. No jurors shall be summoned to attend upon any term of court unless it appears to the county judge that a jury panel is necessary.

(13) TRIAL JURY. Trial juries shall be drawn from the panel of jurors selected for the term. The plaintiff shall strike first and each party in turn until only 12 jurors are left. If either party declines to strike in his turn, the clerk shall strike for him. When the jury has been selected, a venire therefor, returnable at such time as the judge may direct, shall be issued by the clerk to the sheriff. If jurors named in the venire fail to appear or are excused or upon examination are found to be disqualified to serve, the court may direct the sheriff to summon a sufficient number of talesmen from among the bystanders or from the county at large to supply the deficiency, but not more than 4 talesmen shall be selected from any town, city or village, except by consent of the parties.

(14) CHANGE OF VENUE. When the venue of any action or proceeding shall be changed pursuant to section 261.04 of the statutes it shall be changed to the circuit court of the proper county. When the venue shall be changed pursuant to section 261.08 of the statutes it shall be changed to the circuit court of the county, or the judge of the county court may call upon the

circuit judge of the county or upon any other county judge to attend and hold court and try the action or proceeding, and while doing so he shall have the powers of the judge of the county court.

(15) CHANGE OF VENUE FROM CIRCUIT COURT. Any action or special proceeding commenced in the circuit court of the county, but which is within the jurisdiction of the county court, may, by written stipulation of the parties or their attorneys, be transferred to the county court; and the filing of such stipulation shall effect such transfer, and further proceedings therein shall be had in the county court in the same manner as though the action or proceeding had been commenced in the county court.

(16) SHERIFF'S DUTIES. The sheriff of the county, in person or by his undersheriff or deputy, shall attend the court when requested by the court, and the court shall designate the number of officers that shall be present during sessions of the court.

(17) FEES. The fees of the clerk, witnesses, jurors, officers and interpreters shall be the same as are allowed to them in the circuit court of the county.

(18) COURT REPORTER. The county court may employ a phonographic reporter for the court, who shall take and subscribe the official oath. Such reporter shall be furnished necessary stationery and shall attend when required by the judge and report the proceedings in the court, and perform such other duties as the judge shall require. The judge shall fix the compensation of the reporter, but not to exceed \$10 for each day's attendance, which shall be in full compensation for services and for making transcripts from his shorthand notes as may be required by the judge. The reporter shall furnish parties to the action, when required by them, like transcripts, at a price not exceeding 10 cents per folio for transcripts and 2-1/2 cents per folio for carbon copies thereof. The per diem compensation of the reporter shall be paid out of the county treasury upon the certificate of the judge.

(19) COURT COMMISSIONERS' POWERS AND DUTIES. Court commissioners of the county shall have the same powers and be subject to the same duties in respect to actions and proceedings in county court as in actions and proceedings in the circuit court of the county.

(20) OFFICE SUPPLIES. The county shall provide the books, blanks, and stationery for keeping the records and proceedings of the county court made necessary by this section.

(21) PLACE OF HOLDING COURT. The county court shall be held at the county seat, in the county courtroom or in the circuit courtroom when the circuit court is not in session, and all books, records and proceedings pertaining to the county court shall be kept in the office of the clerk of court or in the office of the county judge.

(22) FINES, COSTS AND FEES PAID TO COUNTY. All fines and costs collected by the clerk in any civil action and in all criminal prosecutions and proceedings under the general statutes of this state tried or determined by the county court which, if tried or determined by the circuit court or circuit judge, would be paid over to the county treasurer, shall be accounted for and paid over quarterly by the clerk of the county court to the county treasurer, and all fines and costs collected pursuant to jurisdiction exercised as justice of the peace which fines and costs, if the jurisdiction were exercised by a justice of the peace, would be paid over to the county treasurer, and all money collected as fees of a justice of the peace shall be so accounted for and paid to the county treasurer.

(23) SALARY OF COUNTY JUDGE. The county judge shall receive no other compensation because of the additional functions under this section, except that the county board may at any time increase the salary of the county judge to compensate him for the additional functions conferred upon him and the county court by this section.

Approved June 5, 1945.