

CHAPTER 252.

CIRCUIT COURTS.

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252.01 Term of office. The term of office of every elected circuit judge is 6 years, and until his successor is elected and qualified, which term commences with the first Monday in January next succeeding his election.

History: 1951 c. 257, 402; 1953 c. 327, 606.

252.015 Each branch a circuit court. Each branch of circuit court constitutes a court with all the powers and jurisdiction possessed by circuit courts in circuits having one judge only, and may be designated in all papers and proceedings either by its respective number or by the name of its presiding judge. The second circuit shall have 10 branches. The ninth circuit shall have 3 branches.

History: 1953 c. 327; 1957 c. 531.

252.016 Second circuit; domestic conciliation. (1) APPLICATION OF SECTION. This section shall apply only to the second judicial circuit.

(2) JUDGES CONFER, MAKE RULES; FAMILY COURT BRANCH. (a) The judges shall meet and divide the business of the whole circuit, apportioning to each branch its due portion thereof, and to that end they may make such rules and institute such measures as they shall determine will promote justice and expedite business.

(b) The said judges shall for periods of 2 years or such times as they may determine designate 2 or more of their number who shall devote their time primarily to divorce litigation and to such other work as is incidental thereto and which is generally described as the work of a family or domestic relations court; and the branches presided over by the judges so designated shall be known as the "Family Court Branches." The judges of such branches shall meet from time to time and divide their work, apportioning to each branch its due portion thereof. In case of the absence, sickness or other disability of either of such judges other judges shall be designated to assist temporarily in the performance of the work of such family court.

(c) All suits, actions, and proceedings in said circuit court arising as follows:

1. Under ch. 245 relating to marriage;
2. Under ch. 247 relating to divorce;
3. Pertaining to the determination of the custody of children under 18 years of age upon writs of habeas corpus;
4. Pertaining to all family and parental affairs not specifically vested in some other court or branch thereof in the county; shall be first assigned to the 2 family court branches as may be determined by rules of court.

(d) Either of said judges of said family court branches shall have the power and authority in his discretion to refer for disposition any matter before said branch for which there has been a warrant issued to any court otherwise having jurisdiction over such matter.

(3) COURT ROOM; OFFICES; SALARY FROM COUNTY. The county board shall provide suitable court rooms and offices, the sheriff shall provide the necessary deputy sheriffs as attending officers and the clerk of the circuit court shall provide a sufficient number of deputy clerks for all the judges and branches of said court. The county shall pay to each such judge a salary of \$1,000 per annum and may pay to each judge an additional \$1,000 per annum, payable monthly out of the county treasury, in addition to the salary paid him out of the state treasury and any amount paid him by authority of s. 252.071.

(4) DEPARTMENT OF DOMESTIC CONCILIATION. (a) There is created a department of domestic conciliation. Said department shall be under the direction and supervision of a director of domestic conciliation. Said director of domestic conciliation, through his respective assistants shall:

1. Receive all domestic complaints and make a proper disposition thereof;
2. Make investigations of the facts upon which to base warrants in the cases hereinbefore specified and in all other matters duly referred to said department;
3. Exercise such supervision in connection with the exercise by said court of its jurisdiction as the judges thereof may duly order.

(b) All persons in this department shall keep such records as may be provided by the rules of the judges of the family court branches of said court. Whenever the judges of said family court branches deem publication of matters before them contrary to public policy they may by order close the files thereof and make such other orders in their discretion as may be in the interest of children in such matters and the public morals.

(c) Said department of domestic conciliation shall have such men and women investigators as may from time to time be authorized by the county board of supervisors of such county. Said investigators shall be appointed by the joint action of the judges of the family court branches of the circuit court under the laws governing civil service in such county.

(e) The county board of supervisors of such county shall provide for such assistants, stenographic and otherwise, as shall be necessary to assist the director of domestic conciliation in carrying out the purpose of subs. (4) to (6) particularly in regard to the proper disposal of domestic complaints. Such director and all other persons in said department shall be appointed by the judges of the family court branches of the circuit court under the laws governing civil service in such county, except in cases otherwise expressly provided for.

(f) All public officers in said county shall refer all domestic complaints made to them to said director of the department of domestic conciliation who shall dispose of all matters before it in proper manner.

(5) SECOND CIRCUIT EQUIPMENT. The board of supervisors of said county shall furnish said courts and said department of domestic conciliation, the judges, officers and employes thereof with suitable accommodations, adequately centralized and consolidated, and with the necessary furniture and supplies and make provision for its necessary expenses and operation.

(6) CIVIL SERVICE. The board of supervisors and county civil service commission shall make suitable reclassifications in positions in said county to accomplish the purpose of subs. (4) to (6).

History: 1951 c. 247 s. 48; 1953 c. 327.

252.03 Jurisdiction of circuit courts. The circuit courts have the general jurisdiction prescribed for them by the constitution and have power to issue all writs, process and commissions provided therein or by the statutes, or which may be necessary to the due execution of the powers vested in them. They have power to hear and determine, within their respective circuits, all civil actions and proceedings and all cases of crimes and misdemeanors of every kind not exclusively cognizable by a justice of the peace or some other inferior court; and they have all the powers, according to the usages of courts of law and equity, necessary to the full and complete jurisdiction of the causes and parties and the full and complete administration of justice, and to carry into effect their judgments, orders and other determinations, subject to re-examination by the supreme court as provided by law. Said courts and the judges thereof have power to award all such writs, process and commissions, throughout the state, returnable in the proper county.

The circuit court for Dodge county was not without jurisdiction of an independent equitable action for relief from a judgment of divorce entered in the circuit court for Dane county. The better rule is to commence an action for equitable relief from a judgment in the court where the original action was tried but, such action for equitable relief being an independent action, it may, like any other action, be tried in any county, subject to the defendants' right to have the case transferred. *Weber v. Weber*, 260 W 420, 51 NW (2d) 18.

252.031 Circuit judge acting as county judge. The judges of the circuit courts shall have power to perform all duties of county judge in any county, including the duties of judge of the juvenile court, whenever requested to act as county judge by the county judge of any county who is unable to act on account of his inability or disability, and whenever requested to act as county judge by the chairman of the board of circuit judges in case any county judge is totally disabled or if the office is vacant.

History: 1951 c. 35.

252.04 Writs, how issued; certiorari. All writs issued from the circuit court shall be in the name of the state of Wisconsin, shall bear date the day they are issued, be attested in the name of the judge of the circuit in which issued, and if there be no such judge

then in the name of the chief justice of the supreme court, be returnable on the first day of the term next succeeding the date of their issue, unless otherwise directed by law, by the judge or by rule of court, be signed by the clerk, sealed with the seal of the court and directed to some officer or person authorized to serve or execute the same. All writs of certiorari issued to review any action taken by any county board, town board, common council of any city or board of trustees of any village, or any record lawfully in the custody of any county clerk, town clerk, city or village clerk may be addressed to and served upon the proper county clerk, town clerk, city clerk or village clerk, respectively, who shall make return thereto.

A writ of certiorari is not one of right, but is granted in the sound discretion of the court. The petitioner is not entitled to relief in an action of certiorari unless he has sustained an injury from the ruling in the proceeding sought to be reviewed. (Property tax) *State ex rel. Goldsmith Bldg. Co. v. Bolan*, 259 W 460, 49 NW (2d) 409.

A writ of certiorari to review the proceedings of a tribunal no longer in existence must go to the officer having possession of the record. *Petition of Bradt*, 260 W 1, 49 NW (2d) 903.

The action of the county clerk in setting up the machinery for a referendum election to approve an order of the county school committee creating a school district is reviewable by certiorari, to determine whether the clerk acted within his jurisdiction in calling a referendum, since there is no statute authorizing an appeal and there is no other adequate remedy. The writ was properly directed to the secretary of the county school committee, since the records required to be returned for consideration of the petition for the writ were in his custody; and the fact that the petition was for a writ also directed to other officials did not affect the court's jurisdiction to act thereon. *State ex rel. Oelke v. Doepke*, 260 W 493, 51 NW (2d) 10.

For discussion of use of certiorari where statutory appeal is given, see notes to 40.03, citing *Perkins v. Peacock*, 263 W 644, 58 NW (2d) 536.

The holding in *State ex rel. Vaughn v. Ashland*, 71 W 502, that the creation of an exclusive right of appeal by the legislature, so as to preclude maintaining certiorari as an alternative remedy, would be a violation of sec. 8, art. VII, Const., empowering circuit courts to issue writs of certiorari, is expressly disapproved. *Perkins v. Peacock*, 263 W 644, 58 NW (2d) 536.

Certiorari is a discretionary writ. *State ex rel. Hron Brothers Co. v. Port Washington*, 265 W 507, 62 NW (2d) 1.

See note to sec. 3, art. VII, citing *State ex rel. Hynek Co. v. Board*, 267 W 309, 64 NW (2d) 741.

If a county school committee, in allowing tuition claims of school districts, acted in clear violation of law, its error would be jurisdictional and subject to review by certiorari. *Joint School Dist. v. Boyd*, 270 W 222, 70 NW (2d) 630.

See note to sec. 7, art. VII, citing *State ex rel. Badtke v. School Board*, 1 W (2d) 208, 83 NW (2d) 724.

252.05 Seals. The circuit courts in the several counties shall have seals, and they may direct and from time to time alter the inscriptions and devices thereon; and the respective county boards shall furnish such seals as shall be ordered; and when any such court shall be unprovided with a seal the judge may authorize the use of any temporary seal or of any device by way of seal until a seal shall be so provided. The seals now in use by said courts shall continue to be the seals thereof until others shall be provided according to law.

252.06 Judicial circuits. The state is divided into judicial circuits, numbered and comprising the county or counties, respectively, as specified in the subsequent paragraphs of this section. The terms of the circuit courts for the several circuits begin, unless the judge, by order, designates some other hour, at 10 o'clock in the forenoon, or as soon thereafter as the judge arrives, of the days in each year specified as follows:

First Circuit. In the county of Walworth on the second Monday in March and the second Monday in November; in the county of Kenosha on the third Monday in January and the third Monday in September.

Second Circuit. In the county of Milwaukee on the first Monday in January, April, July and October.

Third Circuit. In the county of Calumet on the third Monday in March and the third Monday in October; in the county of Winnebago on the second Monday of January, the second Monday of April and the second Monday of September.

Fourth Circuit. In the county of Sheboygan on the second Monday in April and the third Monday in September; in the county of Manitowoc on the first Tuesday after the second Monday in January and the first Tuesday after the first Monday in June.

Fifth Circuit. In the county of Lafayette on the first Monday in February and the first Monday in July; in the county of Iowa on the first Monday in March and the first Tuesday in September; in the county of Grant on the first Monday in April and the first Monday in October; in the county of Richland on the first Monday in May and the first Monday in November; in the county of Crawford on the first Monday in June and the first Monday in December.

Sixth Circuit. In the county of La Crosse on the first Monday in May and the fourth Monday in October; in the county of Monroe on the third Monday in March and the second Monday in September; in the county of Trempealeau on the first Tuesday in April and the fourth Monday in September; in the county of Vernon on the third Monday in April and the second Monday in October.

Seventh Circuit. In the county of Waupaca on the first Monday in May and the third Monday in October; in the county of Waushara on the first Monday in June and the second Monday in November; in the county of Portage on the second Monday in April and the fourth Monday in September; in the county of Wood on the third Monday in March and the first Monday in December.

Eighth Circuit. In the county of Buffalo on the second Monday in May and the first Monday in October; in the county of Dunn on the fourth Monday in May and the first Monday in December; in the county of Pepin on the first Monday in April and on the third Monday in October; in the county of Pierce on the third Monday in April and on the first Monday in November; in the county of St. Croix on the second Monday in March and on the second Monday in September.

Ninth Circuit. In the county of Dane on the second Monday in January, April and September.

Tenth Circuit. In the county of Langlade on the second Monday in April and the second Monday in September; in the county of Outagamie on the first Monday in March and the second Monday in October; in the county of Shawano on the first Monday in May and the first Monday in December.

Eleventh Circuit. In the county of Burnett on the third Monday of March and the third Monday of September; in the county of Polk on the fourth Monday of April and the first Monday of October; in the county of Barron on the second Monday of May and the first Monday of November; in the county of Washburn on the first Wednesday after the first Tuesday of April and the third Monday of October; in the county of Douglas on the first Monday of February and the fourth Monday of August.

Twelfth Circuit. In the county of Jefferson on the first Monday of February and the third Monday of September; and in the county of Rock on the third Monday of March and the third Monday of November.

Thirteenth Circuit. In the county of Washington on the first Monday of February and September; in the county of Ozaukee on the first Monday of April and October; and in the county of Dodge on the first Monday of May and November.

Note: Chapter 614, Laws 1957 amended the provision for the 13th Circuit so that it includes only Dodge County; Washington and Ozaukee Counties are made part of the 25th Circuit. However, the judge of the 25th Circuit does not take office until January 1960, and until then the judge of the 13th Circuit continues to hold court in all 3 counties.

Fourteenth Circuit. In the county of Door on the first Tuesday in September and the second Tuesday in March; in the county of Brown on the second Monday in January, the second Monday in April and the fourth Monday in September; and in the county of Kewaunee on the third Monday in May and the first Wednesday in November.

Fifteenth Circuit. In the county of Ashland on the third Monday in January and on the Friday preceding the first Monday in September; in the county of Taylor on the second Monday in February and on the third Monday in September; in the county of Price on the second Monday in April and the first Monday in October; in the county of Bayfield on the first Monday in May and the third Monday in October; in the county of Iron on the third Monday in May and the first Monday in December.

Sixteenth Circuit. In the county of Marathon on the second Monday in May and the third Monday in November; in the county of Lincoln on the fourth Monday in March and the fourth Monday in October; in the county of Oneida on the first Monday in March and the third Monday in September; in the county of Vilas on the second Monday in October and the fourth Monday in April.

Seventeenth Circuit. In the county of Jackson on the first Monday in May and November; in the county of Clark on the first Monday in March and on the first Tuesday after the first Monday in September; in the county of Juneau on the first Monday in April and October; in the county of Sauk on the first Monday of June and December.

Eighteenth Circuit. In the county of Fond du Lac on the first Monday in May and the first Monday in November; in Green Lake county on the third Monday in January and the first Monday in June; in the county of Marquette on the second Tuesday in March and the first Tuesday in October; in the county of Columbia on the second Monday in April and the first Monday in December; in the county of Adams on the third Monday in September and the fourth Monday in March.

Nineteenth Circuit. In the county of Rusk on the second Monday in May and the first Monday in November; in the county of Sawyer on the first Monday in June and the first Monday in December; in the county of Chippewa on the third Monday in April and the third Monday in October.

Twentieth Circuit. In the county of Marinette on the first Monday in October, the first Monday after the first Tuesday in April, and the second Monday in January;

in the county of Oconto on the third Monday in October, the first Monday in May and the first Monday in February, but in the county of Oconto no jury shall be drawn and called at the February term of said court except upon order in writing of the circuit judge filed with the clerk of the circuit court; in the county of Florence on the first Wednesday in September and the first Monday in June; in the county of Forest on the third Tuesday in September and on the third Tuesday of May.

Twenty-first Circuit. In the county of Racine on the first Monday in April and October.

Twenty-second Circuit. In the county of Waukesha on the first Monday of February and October.

Twenty-third Circuit. In the county of Green on the first Monday of each month.

Twenty-fourth Circuit. In the county of Eau Claire on the third Monday of March and the third Monday in September.

Twenty-fifth Circuit. In the county of Washington on the first Monday of February and September; and in the county of Ozaukee on the first Monday of March and October.

Note: The term of office of the judge of the new 25th Circuit does not commence until January 1960. Until then Washington and Ozaukee Counties continue as part of the 13th Circuit. See Chapter 614, Laws 1957.

History: 1951 c. 200, 255, 257, 402, 630, 726; 1953 c. 21, 113; 1955 c. 667; 1957 c. 41, 51, 109, 317, 452, 508, 509, 614, 672.

Failure to open circuit court on the day fixed for the beginning of a term does not result in a lapse or loss of the whole term, but the new term begins on said date by operation of law. 40 Atty. Gen. 447. The provision for a special circuit court in Green county is probably constitutional. 46 Atty. Gen. 151.

252.071 Judge's salary from county. In every judicial circuit each county of such circuit may pay to each circuit judge of such circuit, a sum which shall not exceed in the aggregate \$3,000 for the entire circuit as annual salary, payable as other salaries in said county, out of the county treasury, in addition to the salary paid out of the state treasury and that provided for in s. 252.016 such sum as the county board of each county shall determine.

History: 1957 c. 252.

252.072 Salary limitation. No salary shall be paid a circuit judge except as provided in ss. 20.930, 252.016 and 252.071.

History: 1951 c. 319 s. 251.

252.073 Expenses. A circuit judge shall be paid actual and necessary expenses incurred in the discharge of judicial duty outside his own county and in attending meetings of the board of circuit judges and the board of criminal court judges. The circuit judge who is acting as chairman of the board of circuit judges shall be paid his actual and necessary itemized expenses, incurred in the performance of his duties as such chairman.

History: 1951 c. 319 s. 252; 1953 c. 539, 606; 1955 c. 321.

252.075 Retired judges. (1) **POWERS.** Retired supreme court justices and retired circuit judges serving temporarily as circuit judges at the request of the chief justice of the supreme court may exercise all of the jurisdiction of the circuit court in which they serve.

(2) **COMPENSATION.** The retired justices and judges serving temporarily as circuit judges shall receive a per diem of \$50 and while serving outside the county in which they reside shall also receive actual and necessary expenses incurred in the discharge of judicial duties. This compensation shall be paid from the appropriation provided in s. 20.260 (1).

History: 1955 c. 494, 652.

252.08 Board of circuit judges. (1) The several circuit judges of the state and the judge of any court having unlimited jurisdiction concurrent with the circuit court either in civil or criminal matters shall constitute a board known as the "Board of Circuit Judges." They shall meet at least once in each year at such time and place as they shall determine. They shall make such rules and regulations as they shall deem advisable, not inconsistent with the statutes or the rules of practice adopted by the justices of the supreme court, to promote the due and prompt administration of the judicial business of their respective courts. Said board shall elect a chairman whose duty it shall be to expedite and equalize so far as practicable the work of the said judges. The chairman shall request judges whose calendars are not congested to assist those judges whose calendars are congested. Every circuit judge shall report monthly, and every clerk and reporter of a circuit court shall report when requested, to the chairman such information as the latter shall re-

quest respecting the condition of judicial business in the circuit of such circuit judge. The chairman shall perform such other duties as the board shall prescribe.

252.09 Terms; jury. (1) **TERMS.** Every term of circuit court continues to the commencement of the next term in the same county.

(2) **JURY.** A jury shall be drawn and summoned to appear at 10 a.m. on the first day of each term, unless the presiding judge directs some other time or directs that no jury shall be summoned. He may make such a direction for the convenience of business or if satisfied that no jury issues will be tried.

History: Sup. Ct. Order, 265 W vii; 1955 c. 577, 652.

252.10 Attendance of officers, pay; opening court. (3) Except when otherwise directed by the presiding judge, no officer, other than the clerk, shall be paid for attending court or the judge when the court is not engaged in the trial of jury cases. Every officer attending court upon the order of the presiding judge shall have the same powers and authority as the sheriff, and shall be paid out of the county treasury upon the certificate of such judge, compensation equal to that fixed by the county board for deputy sheriffs of the respective county where such court is held; but shall be paid for no day when the court is not in session unless specially ordered by the presiding judge.

(4) The court shall be opened on the first day of each term and on each day when a jury is in attendance by proclamation of the sheriff in the following words:

Hear ye! Hear ye! Hear ye! The circuit court for the county of . . . is now open. Silence is commanded.

History: Sup. Ct. Order, 259 W v; 1953 c. 104; Sup. Ct. Order, 265 W v; 1957 c. 655.

252.11 Special terms. Every term in any county is a special term for every other county in the same circuit, unless the presiding judge files with the clerk of the court at least twelve days before the term an order directing otherwise as to any such other county. At any term in any county which is by law a special term for any other county or counties, all business may be done arising in such other county or counties, which might be done at a term in the county where the business arose except the trial of issues of fact by a jury in cases other than those arising in actions of quo warranto and mandamus, and excepting also the trial of issues of fact in actions made local by law and arising in some county other than the one in which such special term is held. All orders, findings and judgments made, and papers filed in connection therewith at any special term, shall be authenticated by the clerk of such court and filed and entered of record in the office of the clerk of the circuit court in the county where the action or proceeding is pending; and no entries need be made in the office of the clerk of the circuit court of any other county.

252.12 Transmittal of papers. For the purpose of the trial or hearing of any action or proceeding at any special term the clerk of the court shall, at the request of either of the parties, transmit all the papers on file in such action or proceeding, under his official certificate, certifying the same to be all the original files and papers therein on file in his office. Such papers, so certified, shall be inclosed by such clerk in an envelope, sealed by him, directed to the clerk of the circuit court of the county where such special term is to be or is being held, and may be transmitted by mail or by the hand of any person selected by such clerk; and after the trial or hearing of such action or proceeding the clerk last above named shall in like manner remit the same to the clerk of the court in which such action or proceeding is pending; but before any clerk shall be obliged to transmit any such papers he shall be paid all necessary postage, and the clerk remitting the same shall also be paid his fees in such action or proceeding.

See note to 59.42, citing 42 Atty. Gen. 330.

252.13 Holding court in other circuits. (1) Any circuit judge may hold court and perform any judicial act in any judicial circuit of the state other than the one for which he was elected or appointed, upon the request of the judge of such other circuit or of the chairman of the board of circuit judges; and it shall be the duty of any circuit judge to comply with any such request of the chairman unless the chairman shall relieve him from performance after such request is made.

(2) Terms required by law to be held in any circuit at times when there is a vacancy in the office of judge of such circuit and at times when such judge on account of absence, sickness or disability is unable to call in another judge shall be held by a judge or judges designated for that purpose by the chairman of the board of circuit judges.

(3) Whenever any judge, upon such request, attends a term out of his circuit to assist another judge holding court at such term, both he and the other judge may hold court and try cases separately at the same time and exercise all the powers of a presiding judge at such term.

252.14 Court commissioners. (1) In each county the circuit judge or judges shall appoint such number of court commissioners as the proper transaction of business requires, subject to the following limitations: in circuits having a population in excess of 500,000, not more than 2 commissioners shall be appointed by each circuit judge; in all other circuits, not more than 10 commissioners shall be appointed for each county whose population exceeds 65,000, and not more than 6 commissioners for each county whose population is less than 65,000; the appointments to be distributed evenly among the judges if the circuit has more than one judge. All court commissioners appointed after May 1, 1953, other than official court reporters or persons who have served as official court reporters in any court of record in this state for period of not less than 5 years, shall be attorneys licensed to practice in this state except in counties where a sufficient number of such licensed attorneys are not available. Each circuit judge shall have power at will and without cause to remove any court commissioner appointed by him or by his predecessor in office. The term of each court commissioner, unless removed by the judge, shall continue until the expiration of the term of the judge who appointed him and until the successor of such commissioner is appointed and qualified. Each commissioner before entering upon the duties of his office shall take and subscribe the constitutional oath of office and file the same duly certified, together with his appointment, in the office of the clerk of the circuit court of the county for which he is appointed.

(2) In counties having a population of 500,000 or more, the divorce counsel, assistant divorce counsels and, in all counties, retired circuit judges appointed to act as conciliators pursuant to s. 269.70 may be appointed court commissioners, in addition to those appointed under sub. (1). The term of court commissioners appointed under this subsection and acting as divorce counsel or assistant divorce counsel shall be coextensive with their tenure of office. The term of court commissioners appointed to act as conciliators under s. 269.70 shall continue until a successor is appointed and qualifies.

History: 1953 c. 100, 441, 610; 1955 c. 415, 420.

252.15 Court commissioners; powers and duties. (1) **TESTIMONIAL POWERS.** A court commissioner may issue subpoenas and attachments and other process to compel the attendance of witnesses; administer oaths and affidavits; take depositions and testimony when authorized by law or rule or order of any court within its jurisdiction; and certify and report said depositions and testimony.

(2) **CERTIFICATION OF RECORD FOR REVIEW OF HIS RULINGS.** The commissioner may at any time certify the record taken on a deposition to the court for review of such of his rulings as he indicates; he shall certify it on motion of a party at the conclusion of the taking, noting the rulings which either party desires reviewed. If the court orders a person to answer questions which were not answered on the deposition, such matters may be further developed on return of the record.

(3) **ACKNOWLEDGMENTS, ETC.** He may take and certify acknowledgments; state accounts referred to him by the court; and fix the amount and sufficiency of bail.

(4) **WRITS.** He may allow writs of habeas corpus, certiorari, ne exeat and alternative writs of mandamus; and may grant injunctions except in the cases mentioned in section 133.07 (2).

(5) **POWER AND RESTRICTIONS ON POWER TO MAKE ORDERS.** He has the powers and is subject to the restrictions thereon of a circuit judge at chambers; but when the authorization is to the presiding judge or the circuit judge—using such words of designation—a court commissioner cannot act.

(6) **PUNISH CONTEMPTS.** He has power concurrent with that of a circuit judge at chambers to punish disobedience of his lawful orders made in proceedings pending before him, but subject to review by the circuit court or by the court in which the proceeding is pending if it is pending in a different court.

(7) **RECORD OF PROCEEDINGS; WHEN FILED.** He shall keep a record of proceedings before him and at the expiration of his term shall deliver such record and all his official papers to the clerk of the circuit court.

(8) **MUNICIPALITIES EXTENDING INTO 2 COUNTIES.** A court commissioner who resides in a city or village which is located partly in one county and partly in another may keep his office and exercise his authority as commissioner and enforce his orders anywhere in such city or village as well as throughout the county of his residence, the same as he could do if the city or village was entirely in the county in which he resides.

(9) **ACTIONS IN COUNTY COURTS HAVING CIVIL JURISDICTION.** In any county in which the county court has civil jurisdiction a court commissioner has the same powers and duties in civil actions in the county court as he would have if the actions were in the circuit court.

(10) **GENERAL PROVISION.** He shall perform other duties required of him by the circuit court or which are proper for the exercise of powers expressly granted.

(11) **CERTIFICATIONS; REPORTS; REVIEW.** Certifications and reports pursuant to this section and any review of the acts of the commissioner shall be by the court before which the action or proceeding is pending or before the court whose process is being enforced.

History: 1951 c. 251; 1957 c. 566.

Comment of Advisory Committee, 1951: 252.15 (1) to (10) is a restatement of old 252.15 (1) except that new (2) provides for court review of commissioners' ruling on adverse examinations. (Bill No. 92-S)

A court commissioner, in a habeas corpus proceeding instituted before him by a divorced parent to obtain the custody of

his minor child, has jurisdiction to take testimony and make an order determining custody. State ex rel. Tuttle v. Hanson, 274 W 423, 80 NW (2d) 387.

See note to 269.29, citing State ex rel. Tuttle v. Hanson, 274 W 423, 80 NW (2d) 387.

252.152 Special powers and duties of commissioners in single-county circuits. (1) In each county constituting an entire judicial circuit the circuit judges may designate court commissioners to make findings of fact and conclusions of law in actions to foreclose mortgages or mechanics' liens. Said judges may refer to such court commissioners cases in which:

(a) The trial of an issue of fact requires the examination of a long account; in which case the court commissioner may be directed to decide the whole issue or report upon any specific question of fact involved therein;

(b) The taking of an account is necessary for the information of the court before judgment or for carrying a judgment or order into effect;

(c) A question of fact other than upon the pleadings arises.

(2) In a county which constitutes an entire circuit a court commissioner may order a party charged with contempt for disobeying an order made in supplementary proceedings to show cause in the court why he should not be punished for contempt; which order to show cause shall be served by the sheriff.

(3) The compensation of court commissioners for services under this section shall be fixed by the circuit judges, including fees for reporting services; and such compensation shall be in full for all services performed by them. No transcript of testimony taken before such court commissioner shall be typed unless specifically authorized by the circuit judges.

History: 1951 c. 251.

Comment of Advisory Committee, 1951: 252.15 (3). The general provision on court (1) is from old 252.15 (2). (2) is from lines commissioner's fees is in 252.17. (Bill No. 21 to 26 of old 252.15 (1). (3) is from old 92-S)

252.155 Public hearing before court commissioner. All proceedings and hearings before a court commissioner shall be public and every citizen may freely attend the same, except when it is necessary for the court in which the action or proceedings is pending to impose by order restrictions under its inherent power to conduct proceedings in camera.

History: 1957 c. 578.

See note to 256.14, citing State ex rel. Ameco Metal v. O'Neill, 273 W 530, 78 NW (2d) 921.

252.16 Commissioners' powers of county judges. Every county judge shall have and may exercise in his county all the powers and perform all the duties of a court commissioner as defined in section 252.15; and every authority granted to, or limitation of the powers of, a court commissioner by these statutes shall be construed to extend to the county judge, acting in such capacity except when otherwise expressly provided.

252.17 Fees of court commissioners. Court commissioners shall be entitled to the following fees:

(1) For taking bail, 38 cents.

(2) Deciding upon an application for a writ of habeas corpus or certiorari, \$2, whether such writ be allowed or not.

(3) Every attendance upon the hearing of any motion for an order which such officer is authorized to grant, 50 cents; and the like fee for attendance upon any motion for an official act to be done by such officer, when no fee is specially provided for such act.

(4) Admitting any person to prosecute or defend as guardian of any infant, 25 cents.

(5) Every order for a commission to examine witnesses, 25 cents.

(6) Attending, settling and certifying interrogatories to be annexed to a commission, 50 cents.

(7) Every order for the examination of a witness conditionally or upon any proceedings to perpetuate his testimony, 25 cents.

(8) Attendance upon the taking of testimony or examination of witnesses in any matter or proceeding whatever, whether acting as a referee or otherwise, \$10 for the first 2 hours thereof and \$3 per hour thereafter, and also 20 cents per folio for the original transcript

of the testimony so taken and $7\frac{1}{2}$ cents per folio for each copy thereof. The reporter and commissioner shall be paid \$5 per day for the attendance at each examination or adjourned hearing whether or not evidence is taken except that no attendance fee shall be paid where testimony taken at any examination or adjourned hearing the folio charge therefor is \$5 or more; where the reporter is present, no motion for adjournment shall be granted unless the movant first pays the reporter's and commissioner's attendance fee. No such attendance fee shall be allowed to a court reporter whose salary is paid in whole or in part by the state. Out of fees charged by the court commissioner under this subsection he shall be obligated to pay to the reporter 15 cents per folio for the original transcript and $7\frac{1}{2}$ cents per folio for each copy, except that in counties having a population over 500,000 the court commissioner out of fees charged by him under this subsection shall be obliged to pay the court reporter 10 cents per folio for the original transcript and 5 cents per folio for each copy. The attorney requesting the examination shall be directly responsible to the court commissioner for the payment of all fees, except where paid by the party requesting an adjournment. The attorney ordering the examination shall be responsible for the payment of the original of the testimony taken and any attorney ordering a copy of the transcript shall be responsible for the payment of the same to the court commissioner. Original of the testimony shall be filed by the commissioner only after payment of the commissioner's and reporter's fees. The court commissioner shall be directly liable to the court reporter for the payment of the per folio charges for the original transcript as well as all copies and such payment shall be made within 30 days after the delivery of the transcript. Unless the context clearly indicates otherwise, as used in this subsection, "court reporter" or "reporter" includes also a stenographer.

(9) Every necessary order in progress of a cause, except orders to stay proceedings, 25 cents.

(10) Signing a judgment, 12 cents.

(11) Taking the acknowledgment of satisfaction of a judgment, 25 cents.

(12) Taking a bond, undertaking or recognizance, when the same is required or authorized by law, 25 cents.

(13) For deciding on the sufficiency of sureties and certifying such sufficiency in cases where it shall appear, 25 cents.

(14) For every precept for a jury, subpoena for a witness or attachment for a witness, 25 cents.

(15) Receiving and filing the petition and accompanying papers of an insolvent debtor, 50 cents.

(16) For every order, warrant, certificate or appointment of assignees in such proceeding, 25 cents.

(17) For deciding on the propriety of directing an assignment of the estate of an insolvent debtor, \$1.

(18) Signing the discharge of any insolvent debtor, 75 cents.

(19) For every order, warrant, or attachment made or issued in any special proceeding authorized by law, including proceedings supplementary to execution, except the order requiring the judgment debtor to appear and answer and the warrant for the arrest of the debtor, 25 cents.

(20) For every notice to any party, officer or person, required to be given by any such officer, 25 cents.

(21) For every report and all other papers and proceedings which he may be required by law to prepare, in order to be signed by himself, in cases where no specific allowance shall have been made for such paper or proceeding, for drafting the same, 20 cents for each folio, and for copying, $7\frac{1}{2}$ cents for each folio.

(22) Hearing and deciding on the return of a writ of habeas corpus, \$1.

(23) For administering an oath, in cases where no fee is specifically provided for by law, and certifying the same when required, 12 cents.

(24) For taking and certifying the acknowledgment or proof of any conveyance of real estate or any other instrument which by law may be recorded, 25 cents for each person making such acknowledgment or whose execution of such conveyance or instrument shall be proved.

(25) Taking a surrender of principal in any cause, 25 cents.

(26) For a commitment of such principal, 25 cents.

(27) Allowing a writ of habeas corpus or certiorari, 25 cents.

(28) For marrying and making certificates and return thereof, \$1.50.

(29) For perusing a bill or petition for an injunction or ne exeat and allowing or refusing writ, \$1.

(30) For issuing a warrant required by chapter 273, 50 cents.

(31) For making an order requiring a judgment debtor to appear and answer concerning his property, 50 cents.

(32) For administering an oath to a witness, 10 cents.

(33) For filing every necessary paper, 6 cents.

(34) For forwarding of all copies of testimony to any attorney ordering same, the cost of the first class mailing thereof and registering with return receipt requested.

History: 1951 c. 716; 1953 c. 414; 1955 c. 424.

252.18 Court reporter and assistant; oaths of office. (1) Every circuit judge may, in his discretion, appoint a competent phonographic reporter for the circuit or the branch of a circuit, as the case may be, for which he was elected or appointed; and when he shall deem it necessary he may appoint one or more competent assistant reporters. The appointing judge or his successor may remove any such reporter or assistant reporter at pleasure and appoint a successor. Every person so appointed as reporter or assistant reporter is an officer of the court and shall take and file the official oath. When so qualified every reporter and every assistant reporter shall be authorized to act in any circuit court in the state. Every reporter shall attend upon the terms of court in the circuit or branch for which he is appointed and, when requested by the judge appointing him, upon the sessions of court presided over in other counties by such judge, and shall discharge such other duties as the court or judge thereof requires; and every assistant reporter shall attend upon the court for which he is appointed, whenever requested so to do by the circuit judge.

(2) A reporter or assistant reporter attending a term of court or attending by the direction of the court the trial of a compulsory reference, outside the county in which he resides, or attending the sessions of court presided over in other circuits by the judge appointing him, at the request of such judge, shall be reimbursed his necessary traveling expenses and hotel bills. Every assistant reporter shall be compensated in such amount as the judge appointing him shall direct, but not more than \$25 for any day or more than \$350 for any month.

History: 1951 c. 319 s. 253; 1955 c. 317.

Payment of circuit court reporter's travel expenses of circuit court reporter residing outside the circuit, reconsidered and circuit to court house and return is proper. 19 affirmed. 41 Atty. Gen. 251. Atty. Gen. 78, relating to allowance of travel

252.19 Additional compensation of reporters. In addition to the compensation payable from the state treasury, each reporter appointed pursuant to s. 252.18 in the second circuit shall be further compensated for his services at the rate of not less than \$75 nor more than \$200 per month, payable out of the treasury of the county comprising such circuit, and in any other circuit divided into 2 or more branches shall be further compensated for his services at the rate of \$50 per month, payable out of the treasury of the county or counties embracing such circuit. If there are 2 or more counties in such circuit, each county shall pay such proportion of said sum as its population at the last census shall bear to the entire population of such circuit according to such census. Such payments shall be made upon affidavit of the reporter and the certificate of the judge with whom the service shall have been performed, showing performance, and filed with the county clerk. The reporter of the circuit in which actions against state officers and state commissions are required to be tried, who receive additional compensation from the state treasury, shall not receive any sum from the counties comprising such circuit.

History: 1951 c. 319 s. 254; 1955 c. 183.

252.20 Transcripts. Every reporter shall, upon the request of a party to any action, transcribe in longhand or typewriting, the evidence or any other proceedings taken by him in such action or any part thereof so requested, and make, when requested, any number of carbon copies, each duly certified by him to be a correct transcript thereof, for which he shall be entitled to receive from the party requesting the same 20 cents per folio for single transcript and 5 cents per folio for each carbon copy; except that when transcript is requested by the state or any political subdivision thereof, the charge shall be 15 cents per folio for single transcript and 2½ cents per folio for each carbon copy. In the trial of any criminal action or proceeding the court may, in its discretion, and, in case of commitment to any state penal or reformatory institution, or to a house of correction in counties having and maintaining same, shall order such transcript of the evidence and proceedings to be made and certified by the reporter and filed with the clerk of the court, and a certified duplicate of such transcript to be filed with the warden or superintendent of the institution to which the person may be sentenced, and the cost thereof, not exceeding 15 cents per folio for the original transcript and 2½ cents per folio for the duplicate, shall be certified and paid by the county treasurer upon the certificate of the clerk of the court. In case of application for a pardon or commutation of sentence said duplicate transcript shall accompany the application. In all actions in which any circuit court shall order a compulsory reference the court may direct the reporter thereof to attend the trial of such action, take the evidence and proceedings therein and furnish the referee or ref-

crees with a transcript thereof in longhand or typewriting, when the court shall so order. Such reporter shall receive the same fees for such transcript of testimony, paid in the same manner as hereinbefore provided. This section does not prohibit an additional charge, made by special arrangement, for transcribing proceedings in longhand or typewriting from day to day during the progress of a trial. The provisions of this section shall govern the charges for transcripts and copies thereof which may be made by reporters of municipal courts having the same criminal jurisdiction, except treason, as circuit courts.

History: 1953 c. 414.