

TITLE XXVIII.

Municipal Court Procedure.

CHAPTER 300

MUNICIPAL COURT PROCEDURE

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300.01 Definitions. In ch. 300, unless the context plainly indicates otherwise:

- (1) Justice means municipal justice;
- (2) City includes town and village.

300.02 Action, how commenced. Actions in municipal court may be commenced by the voluntary appearance of the parties or by service of summons or warrant.

300.03 Procedure on appearance. (1) When a defendant appears or is brought before a municipal court, the justice shall read the charges as stated in the warrant or complaint to him and shall explain the range of penalties which may be imposed. If the defendant is charged with a traffic violation, the justice shall follow the procedure under s. 343.27.

(2) Defendant shall be informed that he may plead guilty, not guilty or no contest and the effect of a plea of no contest shall be explained to him. The defendant shall plead to the charges and the justice shall enter the plea in his docket. If he refuses to plead, the justice shall enter a plea of not guilty.

(3) If the defendant pleads guilty or no contest, the court shall proceed under s. 300.06 (1).

(4) If the defendant pleads not guilty or if he wishes to appear at a later date, the justice shall advise him of his right to jury trial under s. 300.04. If the defendant agrees to immediate trial by the court, the case may be tried forthwith. If trial is not held, the justice shall then set a date for trial or advise the defendant that he will later be notified of the date set for trial.

(5) (a) A justice may release a defendant without bail or may permit him to execute an unsecured appearance bond.

(b) Paragraph (a) shall be used unless the justice determines that a release under its provisions will not reasonably assure the appearance of the defendant. If the justice determines that the defendant cannot be released under par. (a), he shall release the defendant on an appearance bond, in the amount which the justice directs, but not to exceed the maximum penalty for the offense, with or without sureties. On failure of the defendant to give an appearance bond under this paragraph, he shall be committed to jail while such default continues.

(c) The amount of bail should be determined solely in reference to the purpose of bail; namely, to assure the appearance of the defendant.

Proper considerations in fixing a reasonable amount of bail which will assure the defendant's appearance for trial are: The ability of the arrested person to give bail, the nature and gravity of the offense and the potential penalty the defendant faces, the defendant's prior record, if any, the character, residence and reputation of the defendant, his health, the character and strength of the evidence which has been presented to the judge, whether the defendant is already on bail in other pending cases, whether the defendant has in the past forfeited bail or was a fugitive from justice at the time of his arrest, and the policy against unnecessary detention of defendants pending trial.

300.04 Jury trial. The defendant shall be informed of his right to a jury trial in county court on payment of fees required under s. 299.21 (3). If the defendant requests a jury trial and pays the fees required under s. 299.21 (3), the justice shall promptly transmit all papers and fees in the cause to the clerk of the county court of the county where the offense occurred.

300.05 Affidavit of prejudice. (1) Any party may file an affidavit stating that he believes that he cannot have a fair trial because of the prejudice of the justice, naming him. The affidavit shall be filed not later than 7 days after the return day of the process. Upon filing the affidavit, the filing party shall forthwith mail a copy to each party in the action.

(2) Upon receipt of the affidavit, accompanied by a fee of \$4, the justice shall call in another justice of the county where the offense occurred or transfer the case to the county court of the county where the offense occurred. A justice so called in shall receive compensation as the governing body determines, to be paid by the municipality.

(3) If the case is transferred to county court, the justice shall transmit to the clerk of the county court all the papers in the action and \$3 as payment of the clerk's fee and suit tax. The action shall proceed as if it had been commenced in the county court.

(4) No party is entitled to file more than one affidavit of prejudice in any one action.

300.055 Removal of cases to other court. In counties having a population of less than 500,000, the defendant in municipal court may, at any time prior to trial, transfer the cause to the county court of said county. Upon receipt of such a request, accompanied by a fee of \$1, the justice shall forthwith transmit all the papers in the cause to the clerk of said court.

300.06 Judgment on plea of guilty or on failure to appear. (1) If the defendant pleads guilty or no contest, the court shall convict him of the offense charged and render judgment.

(2) (a) In case the person arrested and released fails to appear, personally or by an authorized attorney or agent, before court at the time fixed for hearing of the case, then the bond and money deposited, if any, or such portion thereof as the court determines to be an adequate penalty, plus costs, may be declared forfeited by the court or may be ordered applied upon the payment of any penalty which may be imposed after an ex parte hearing together with costs. In either event, the surplus, if there is any, shall be refunded to the person who made the deposit.

(b) This subsection shall not apply to violations of parking ordinances. Bond or bail given for appearance to answer a charge under any such ordinance may be forfeited as determined by the governing body.

300.07 Evidence. Actions for the recovery of forfeitures are civil actions.

History: Sup Ct. Order, 59 W (2d) R4

300.08 Judgment. If a municipal court finds a defendant guilty it may render judgment by ordering payment of a forfeiture plus costs of prosecution or by imprisonment in default of such payment. Persons who fail to pay forfeitures and costs shall be committed to a jail or a house of correction in the county in which the cause of action arose and shall be kept at the expense of the municipality. Any person committed under this section may be accorded privileges under s. 56.08. The court may defer payment of any judgment for not more than 30 days.

300.09 Execution. A justice may issue a property execution for the amount of the forfeiture, costs and interest as provided in ch. 815.

History: Sup Ct. Order, 67 W (2d) 776

300.10 Appeals. (1) Appeals from judgments of municipal courts may be taken by either party to the circuit court of the county where the offense occurred. The appellant may appeal by giving the justice written notice of appeal within 20 days after judgment.

(2) If the appeal is taken by the defendant, he shall execute a bond to the city with surety, approved by the municipal justice, that if the judgment is affirmed in whole or in part he will pay the judgment and all costs awarded against him on appeal. Any bail or sureties posted may be applied to the bond required under this section.

(3) On meeting the requirements for appeal, execution on the judgment of the municipal court shall be stayed until the final disposition of the appeal.

(4) On appeal the justice shall make a copy of the docket and forward it along with all papers concerning the action together with the bond to the clerk of the appellate court.

(5) On appeal from the judgment of a municipal court there shall be a trial de novo. Costs of the action in municipal court may be assessed against the losing party.

300.11 Docket entries. (1) Every justice shall keep a docket in which he shall enter, in actions to which they relate:

(a) The title of every action commenced before him, including the name and address of the defendant;

(b) The process issued, date and place where it issued, when returnable and the return of the officer;

(c) A brief statement of the charges, including the nature and time of the offense and the section of law violated;

(d) Every adjournment, stating at whose request and to what time;

(e) The date and time trial was held;

(f) The names of witnesses sworn, stating at whose request;

(g) The judgment rendered by the justice, including the penalties imposed, the date and time of rendering judgment and costs assessed in the action;

(h) The record of contempt convictions under s. 300.13;

(i) The amount of bail and names and addresses of sureties, if any;

(j) The time of ordering any stay of execution;

(k) The time of issuing execution and the name of the officer to whom delivered;

(m) The return of every execution and when made and every renewal of an execution, with the date thereof;

(n) The date and reason of removal of the action to another court;

(o) The date of giving transcript of judgment;

(p) The date of an appeal made from judgment;

(q) All motions made in the action, his decision thereon and all other proceedings in the action which he may think useful.

(2) Failure of the justice properly to keep his docket shall not oust him of jurisdiction or render the judgment void.

300.12 Transcript of judgment. The transcript of judgment shall contain:

(1) Name and location of court.

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(2) Title of action.

(3) Name, address and vocation of defendant.

(4) Date of judgment.

(5) Amount of judgment, costs and fees.

(6) Certification that this is a true copy of the judgment.

300.13 Contempts. In the following cases, and no others, a justice may punish for contempt:

(1) Persons guilty of disorderly, contemptuous and insolent behavior towards him, while engaged in any judicial proceeding, or other conduct, which tends to interrupt such proceeding or impair the respect due his authority;

(2) Persons guilty of resistance or disobedience to any lawful order or process made or issued by him.

300.14 Contempt, penalty. A city may by ordinance provide that a municipal justice may impose a forfeiture for contempt under s. 300.13 not to exceed \$50, or upon default in payment of the forfeiture, a jail sentence of not to exceed 7 days.

300.15 Accused to be heard. No person shall be punished for contempt before a justice until an opportunity has been given him to be heard in his defense, and for that purpose the justice may, if the offender is not present, issue his warrant to bring the offender before him.

300.16 Mistaken remedy or court; transfer to proper court. When an action which is outside the jurisdiction of a justice has been tried and judgment entered in municipal court and the action has been appealed, the appeal operates as a transfer of the action to the appellate court and that court shall proceed as though the action had been commenced therein.

300.17 Process. All provisions of ch. 968 relating to complaints, warrants and summonses shall apply to the municipal court unless otherwise provided in this chapter.

History: 1971 c. 40 s. 93.

300.18 Warrants, power to issue. Municipal justices are authorized to issue civil warrants to enforce matters which are under the jurisdiction of the municipal court. Municipal justices are also authorized to issue inspection warrants under ss. 66.122 and 66.123.

300.19 Forms. Unless otherwise specified by statute, municipal courts shall, where applicable, use similar forms to those prescribed for courts of record in criminal proceedings.

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300.20 Fees and costs. (1) Fees of the municipal justice are \$2 on default of appearance or on a plea of guilty or no contest and not more than \$3.50 if it is necessary to issue a warrant or summons or the action is tried as a contested matter.

(2) Costs and additional fees in municipal courts are taxed as in ss. 288.20, 299.25 and 299.255.

(3) On appeal from municipal court, the filing fee as designated in s. 59.42 (3) and the suit tax as designated in s. 814.21 are applicable.

History: Sup Ct Order, 67 W (2d) 776; 1975 c 231.

300.21 Forfeitures; report. All forfeitures received by a municipal justice shall be paid to the city treasurer within 30 days of receipt. At the same time the municipal justice shall report the title of the action, the offense for which the forfeiture was imposed and the amount of the forfeiture.

300.22 Reports to court administrator.

The municipal justice shall make the reports required by the administrative director under s. 257.19 (5).

History: 1973 c 12 s. 37.