

No. 834, A.]

[Published November 19, 1957.]

**CHAPTER 682**

AN ACT relating to creating and establishing a municipal court for the city of Shawano and county of Shawano.

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

SECTION 1. There is hereby created and established in and for the county of Shawano and city of Shawano a court designated as the "Municipal Court of Shawano County", with the powers and jurisdiction hereinafter specified and provided.

SECTION 2. On the first Tuesday of April 1959, and every 6 years thereafter, there shall be elected in the county of Shawano, in the same manner as county judges are elected, a municipal judge for said court, who shall hold his office for a term of 6 years from the first Monday in January 1960 next following his election and until his successor is elected and qualified, and in case of a vacancy occurring in the office of judge, the vacancy shall be filled as provided in section 17.21 (2) (a) of the statutes, provided that a judge shall be elected in Shawano county for said court in the manner county judges are elected, on the first Tuesday in April 1958, who shall hold office for a term beginning the first Monday in June 1958, and expiring the first Monday in January 1960 and until his successor is elected and qualified and any vacancy shall be filled by appointment by the governor for the residue of said term.

SECTION 3. No person shall be eligible to the office of judge of said municipal court unless he shall have been continuously a resident of Shawano county for a period of 3 years immediately prior to his election or appointment, and shall have been an attorney regularly admitted to practice in the circuit courts of this state for 3 years immediately prior to the date of his election or appointment, and during the term of said

office, said judge shall hold no other office of Shawano county or the city of Shawano, and shall not practice his profession in any of the courts of Shawano county, but shall devote his entire time to the duties of said office. No person shall be eligible to said office, either by election or appointment, unless he shall be a freeholder of Shawano county.

SECTION 4. The judge, before entering upon the duties of his office, shall take and subscribe the constitutional oath of office and file the same in the office of the clerk of the circuit court for said county, and shall execute to said county a bond in the sum of \$3,000 with 2 or more sureties to be approved by the county treasurer of said county, and recorded and filed as provided in section 59.13 of the statutes, conditioned for the faithful performance of the duties required of him by law and for the faithful and prompt application and payment of all moneys and effects that may come into his hands in the execution of the duties of his office. The judge shall be subject to the same prohibitions and penalties as justices of the peace.

SECTION 5. The judge shall hold court and keep his office at the city of Shawano in suitable quarters for such purposes to be provided by the county board of supervisors of Shawano county.

SECTION 6. The judge shall have all the jurisdiction, authority, power and rights given by law to justices of the peace in criminal actions or proceedings; he shall have exclusive original jurisdiction to hear, try and determine all actions or proceedings for violations of ordinances of the city of Shawano and Shawano county, regardless of the amount of forfeiture or penalty involved, and shall have power to sentence and commit all persons convicted of any offense of which he has jurisdiction. The judge shall have power and jurisdiction through Shawano county to cause to come before him persons who are charged with committing any criminal offense, or charged with illegitimacy, and to commit them to jail, or bind them over for trial, as the case may be. When the offense charged is not punishable by commitment to the state prison, and the defendant, upon arraignment, requests to enter a plea of guilty, then the judge shall make such determination of guilt and pass sentence in the manner as if the matter were within the court's original jurisdiction to hear, try and determine. No justice of the peace or police justice of the city of Shawano shall exercise any jurisdiction in criminal actions or proceedings, except that in felony cases such justice of the peace or police justice may issue warrants returnable before the judge of said municipal court, or the presiding judge of the county court of Shawano county, justice court branch, and when so doing, they shall cause the complaint in the action to be filed forthwith in said municipal court or county court, justice court branch. No justice of the peace or police justice in Shawano county shall exercise any jurisdiction in illegitimacy actions. All examinations, recognizances and commitments from said municipal court in illegitimacy cases, and in all criminal actions within the jurisdiction of said county court, circuit court branch, shall be certified and returned to said county court, circuit court branch, instead of to the circuit court for Shawano county, within the time prescribed by law, unless the defendant shall, in writing, request that he be held for trial to the circuit court of Shawano county.

SECTION 7. The judge of said municipal court shall have all other jurisdiction, authority, powers and rights given by law to justices of the peace. He shall have cognizance of and jurisdiction to hear, try and determine all actions and proceedings at law wherein the amount of debt, damages, demand, penalty or forfeiture shall not exceed \$500, and also of actions to recover the possession of personal property, with damages for the unlawful taking or detention thereof, wherein the value of property claimed shall not exceed \$500, exclusive of damages. Said municipal

court shall also have jurisdiction to hear, try and determine all actions arising under chapter 291 of the statutes, when the amount claimed shall not exceed \$500.

SECTION 8. The process and jurisdiction of said court shall extend throughout Shawano county.

SECTION 9. Summonses and other legal process or papers shall be issued, returnable, served and docketed as provided in sections 254.09, 254.10, 254.11 and 254.12 of the statutes.

SECTION 10. The garnishee summonses shall be issued and signed by the judge or the clerk of said municipal court. The garnishee or his authorized agent may answer by letter directed to the judge of said court which letter shall have the same force and effect as an answer made through general appearance on the return date. Such letter shall not be deemed a timely answer unless received by the judge prior to or at the time when the garnishee is summoned to appear. In the event issue is taken upon an answer made by letter, all further proceedings shall be the same as in garnishment actions under chapter 304 of the statutes. Nothing herein shall be construed as prohibiting a garnishee from answering in all garnishment actions through personal appearance. A garnishee other than the state of Wisconsin shall be entitled to a fee of 50 cents and shall not be required to answer unless such fee is first tendered by cash or by check. In the event the garnishee summons is served by mail, such fee shall be mailed with the summons. Such garnishee fee shall be advanced by the plaintiff to the clerk of said court before mailing. In the event that the garnishee defendant does not present the check tendered for his fee within 90 days from the date thereof, the check shall be void and the amount of the fee shall be paid over to the county treasurer of Shawano county and the city treasurer of the city of Shawano. Section 267.22 (5) and (6) of the statutes shall apply to garnishment of salaries and wages of public officials and employes. Garnishment or attachment proceedings on judgments tendered in the county court of Shawano county and the circuit court of Shawano county may be commenced in said municipal court, provided a copy of the summons is filed with the clerk of the court wherein such judgment is docketed and the amount sought to be recovered is within the jurisdiction of the municipal court. A report of the outcome of the proceedings in the municipal court shall be filed with the clerk with whom the summons was filed.

SECTION 11. The forms of summonses, legal process or papers shall be determined by section 254.08 of the statutes.

SECTION 12. In all criminal actions and proceedings and illegitimacy proceedings, and actions or proceedings for enforcement of ordinances of Shawano county, the city of Shawano, and all towns and villages located in Shawano county, costs shall be assessed and collected in the same amount and in the same manner as now provided by law in justice courts. In all other civil actions and proceedings, the fees and costs shall be determined by sections 254.15 and 254.16 of the statutes. The judgments of said municipal court may be filed with the clerk of the circuit court of Shawano county, or the clerk of any circuit court in this state, all as provided in section 254.17 of the statutes.

SECTION 13. In case of failure of actual notice of suit by mail, the defendant may petition the court within the time and in the manner set forth in section 254.18 of the statutes.

SECTION 14. All actions commenced before a justice of the peace in Shawano county, or before the municipal court of Shawano county, where the title to lands will come in question, and which were heretofore

required by law to be sent and certified to the circuit court, may hereafter, at the election of the party making the plea or answer showing that the title of lands will come in question, be sent and certified either to the circuit court or to the county court of said county.

SECTION 15. Appeals from judgments of justices of the peace in said county, and from the municipal court of said county, may hereafter be taken either to the circuit court or county court of said county at the option of the appellant, and if taken to the county court such appeal shall be tried and determined therein in the same manner as is, by law, required in the circuit court, and all laws providing for taking appeals in civil and criminal actions from justice courts of said county, shall hereafter be construed to apply equally to such appeals when taken to said county court.

SECTION 16. Any circuit judge or any county judge of any county court having civil jurisdiction, or the judge of the municipal court of Shawano county may hold court in the event of the absence, sickness or other disability of the judge of county court of Shawano county, upon the request of the judge thereof, and while so doing he shall have the same power as if elected judge of said county court. This section shall apply to all civil and criminal actions and proceedings pending in the county court, circuit court branch of Shawano county. In all uncontested actions or proceedings pending in the county court of Shawano county, by virtue of the jurisdiction conferred upon county courts by chapter 253 of the statutes, the municipal judge of Shawano county may hold court, upon the request of the judge of the county court of Shawano county, and while so doing shall have the power as if elected judge of said county court.

SECTION 17. When a change of venue shall be made, pursuant to and as provided by law, the county judge of Shawano county shall have the right to call upon any circuit judge or any county judge of a county court having civil or criminal jurisdiction of like subject matter, or the judge of the municipal court of Shawano county, to attend, hold court and try such action, and while so doing, shall have the same powers as if elected judge of said county court, but the judge of said county court shall have and retain jurisdiction over all other actions and proceedings, and may exercise such jurisdiction and hold court and try such actions and proceedings at the same time the judge called in is trying the action so transferred to him; provided, that sections 261.03, 261.04, 261.06 and 261.08 of the statutes so far as applicable shall apply to said county court.

SECTION 18. In case of the absence or disability of the judge of a court designated as a juvenile court in Shawano county, he, or if he is unable, the judge of the circuit court for the county, shall designate a judge of any other court of record, or the municipal judge of Shawano county to act temporarily in his place.

SECTION 19. In any action or proceeding, civil or criminal, brought in the justice court branch of the county court of Shawano county, a change of venue may be had, because of prejudice of the county judge, in the same manner and upon the same terms as is now provided in justice court. The county judge, instead of transmitting the case to the nearest justice, as is provided by law, shall retain the cause of action in said county court, and shall call in to hear and determine said action or proceeding any justice of the peace in Shawano county, or the judge of the municipal court of Shawano county, or may, in his discretion, transfer the action or proceeding to the municipal court of Shawano county. If a justice of the peace shall be called in, he shall receive the statutory fees for a justice of the peace.

SECTION 20. The county judge of Shawano county, or in case of his inability to do so, then the circuit judge of Shawano county, may, by order filed in the office of the county judge in the case of absence or disability of the county judge, designate the judge of the municipal court of Shawano county to preside upon the hearing or trial of any action or proceeding, either civil or criminal, pending or commenced in the justice court branch of the Shawano county court, and the judge so appointed shall, during such absence or disability, have all the jurisdiction of the county judge in such actions and proceedings.

SECTION 21. (1) Whenever any action, examination or other proceeding shall be removed from any justice of the peace or police justice, upon the oath of the defendant, his agent or attorney, according to law, then the action, examination or other proceeding, and all papers therein, shall be transmitted to the municipal court of Shawano county, who shall proceed with the action, examination or other proceeding in the same manner as if originally instituted before him.

(2) Whenever any action, examination or other proceeding shall be removed from the municipal court of Shawano county upon oath of the defendant, his agent or attorney, according to law for such removal, then the action, examination or other proceeding, and all papers therein shall be transmitted to that branch of the county court of Shawano county that has jurisdiction to hear and determine the action or proceeding.

SECTION 22. Whenever the office of a justice of the peace for Shawano county becomes vacant, the dockets, books and papers belonging to his office with reference to all civil and criminal actions and proceedings may be delivered to the clerk for the circuit court for Shawano county, and when so delivered, the municipal court of Shawano county shall have jurisdiction of all such actions and proceedings. In the exercise of such jurisdiction, the municipal court may try any such actions or proceedings pending at the time such vacancy occurred, enter judgment therein, and issue execution thereon with the same force and effect as though such action or proceeding had been commenced before it. With like force and effect, it may issue executions and transcripts upon any judgment in any such action or proceeding appearing upon such dockets, books and papers, and may issue process, hold hearings and make determinations in proceedings supplemental to such execution.

SECTION 23. Sheriffs and constables of Shawano county shall have power to serve and execute process of said municipal court, and shall be entitled to receive the same fees therefor as in justice courts. Policemen of the city of Shawano shall also have power to serve and execute process of said court in all actions arising within the city of Shawano, and shall be entitled to receive the same fees therefor as constables in justice court, and such fees, when recovered, shall be paid to the treasurer of the city of Shawano.

SECTION 24. The judge of the municipal court shall appoint, in writing, a clerk of the court, who shall also act as reporter thereof and make and keep the records of the court and perform such other ministerial duties as the judge may require. The clerk shall hold office at the pleasure of the judge and shall receive such salary as is determined by Shawano county and the city of Shawano.

SECTION 25. The practice and procedure of the municipal court in civil actions shall be summary in its nature. Its pleadings may be oral or written, and need not be verified, except when otherwise expressly provided by applicable statutes. The court may, by order, require written or verified pleadings in any case in its discretion. The judge shall have power to make such rules governing the practice and procedure in the court as

he may deem advisable to facilitate the disposition of matters coming before the court. Every such rule shall be in writing and shall not be effective until filed with the clerk of the court for a period of at least 10 days.

SECTION 26. Trial by jury may be had in the same manner as is now provided in justice courts, and the judge shall have the right to charge the jury, and such charge may be given orally, unless a party to the action requests, in writing, that the charge be reduced to writing.

SECTION 27. The judge shall keep a docket for all cases of which he has jurisdiction as provided by section 254.24 of the statutes.

SECTION 28. In any civil action or proceeding pending in the county court, circuit court branch, or justice court branch within the jurisdiction of the municipal court of Shawano county, upon stipulation by the parties to the action or proceeding, the same shall be transmitted forthwith to the municipal court of Shawano county, and it shall not be necessary to secure an order of the court transferring the same.

SECTION 29. If the municipal judge of Shawano county shall, because of any disability, sickness or other cause, be unable, or be prevented from presiding, he shall by order, in writing, to be filed in his court, call in the judge of the county court of Shawano county or any justice of the peace, as the case may be, to act in his stead as provided by law.

SECTION 30. In actions for the enforcement of ordinances of the city of Shawano, the officer's fees and fines shall be transmitted to the treasurer of the city of Shawano. The costs collected in actions enforcing ordinances of the city of Shawano, and the officer's fees, costs and fines collected in all other proceedings shall be transmitted to the treasurer of Shawano county.

SECTION 31. Three-fourths of the cost of said court shall be paid by Shawano county, and one-fourth by the city of Shawano.

SECTION 32. The salary of the municipal judge for performing the duties herein provided shall be \$7,000 per year, payable in equal monthly instalments, by Shawano county, but such salary may be increased by said county and the city of Shawano. The clerk of the court shall receive an annual salary determined by the city of Shawano and Shawano county, which salary shall likewise be paid monthly by the county of Shawano.

SECTION 33. Shawano county shall purchase all equipment, and supplies that are necessary for the operation of said court, and shall pay the salary of the judge and clerk of said court, and shall on or before February 1 of each year prepare a statement of the disbursements of Shawano county including salaries, and shall also prepare a statement showing the receipts of all fees from said court, and shall file the same with the city council of the city of Shawano, and the city of Shawano shall pay to Shawano county one-fourth of the operation of said court, less the fees received by Shawano county from said municipal court, and in the event said fees exceed the disbursements for said court, one-fourth of said excess shall be paid to the city of Shawano.

Approved November 8, 1957.