

No. 419, S.]

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CHAPTER 326

AN ACT to amend 271.04 (2) of the statutes, and chapter 168, laws of 1951, section 24, 1, as amended by chapter 580, laws of 1953, relating to allowed costs for disbursements in litigation.

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

SECTION 1. 271.04 (2) of the statutes is amended to read:

271.04 (2) All the necessary disbursements and fees of officers allowed by law, the suit tax, the compensation of referees, guardian ad litem

fees, a reasonable disbursement for the service of process or other papers in an action when the same are served by a person authorized by law other than an officer, but in no event shall such item exceed the authorized sheriff's fee for the same service, amounts actually paid out for certified copies of papers and records in any public office, postage, telegraphing, telephoning, adverse examinations including copies, express or for plats and photographs, not exceeding \$50 for the last two items, \$25 for expert witness fees, and in actions relating to or affecting the title to lands, the cost of procuring an abstract of title to such lands.

SECTION 2. Chapter 168, laws of 1951, section 24, 1, as amended by chapter 580, laws of 1953, is amended to read:

(Chapter 168, laws of 1951) Section 24. 1. The prevailing party in any action or proceeding in said civil court shall be entitled to costs, in the discretion of the judge before whom such action or proceeding was heard or tried; provided, however, that if in actions for assault and battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation or seduction, the plaintiff shall recover less than \$50 damages, he shall recover no more costs than damages. Such costs shall be taxed by the clerk or deputy clerk upon the application of the party entitled thereto, provided that such costs shall be limited to the actual and necessary disbursements and amounts actually and necessarily paid out for premiums on bonds, expert testimony given by a witness not exceeding \$25, postage, telegraphing, telephoning, express, or for plats and photographs, not exceeding \$50 for the last 2 items, made by such prevailing party in such action or proceedings, and an attorney's fee as follows: 5 per cent of the amount recovered, unless a greater amount shall have been demanded in the pleadings of the adverse party, in which case the attorney's fee shall be 5 per cent of such greater amount; and if judgment is for the defendant dismissing the action, 5 per cent of the amount demanded in the complaint; in a replevin action where a lien is established in favor of a third party, 5 per cent of the amount of said lien; provided that in no case shall said attorney's fee be less than \$5, nor more than \$100, unless said judge shall fix some other amount for such attorney fee, not exceeding \$100; and provided that said judge may disallow any attorney fee to be included in the costs. Provided also, that in replevin, attachment and garnishment proceedings, said percentage shall be computed upon the value of the property or indebtedness involved. When a judgment for damages for less than \$100 is entered upon confession or upon a note or bond and warrant of attorney, no more than \$5 shall be recovered for costs including disbursements. Costs may be allowed upon a motion in the discretion of the court or a judge, not exceeding \$10, and may be absolute or directed to abide the event of the action.

Approved July 28, 1961.