

1969 Senate Bill 7

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CHAPTER 125, LAWS OF 1969

AN ACT to repeal 299.21 (5), 299.25 (8), 957.054 and 959.055 (2) (f); to amend 299.21 (3) and (4), 299.25 (9), 299.30 (2) and (5), 957.01 (1) and (2), 957.053 and 958.075 (4); and to repeal and recreate 958.075 (3) and (5) of the statutes, relating to altering the procedure in small claims and misdemeanor actions to remove the 6-man jury and making all misdemeanor appeals to circuit court be on the trial record in county court.

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

SECTION 1. 299.21 (3) and (4) of the statutes are amended to read:

299.21 (3) (a) Any party may, upon payment of the fees specified in par. (b), file a written demand for trial by jury at the time of joining issue or within 20 days thereafter. ~~Such demand shall specify whether trial is to be by a jury of 6 or 12.~~ If no party demands a trial by a jury of 12, the right to trial by a jury of 12 is waived forever.

(b) The fee for a ~~12 man~~ jury is \$24, plus an additional amount as suit tax of \$4 which will result in a suit tax payment of the amount which would have been payable had the action been commenced in circuit court and additional clerk's fees of \$6, ~~or a total of \$34.~~ The fee for a 6 man jury is \$12.

(4) JURY PROCEDURE. If there is a demand for a trial by a jury of 12, the parties shall proceed as if the action had originally been begun as a proceeding under Title XXV; the plaintiff shall, when no complaint has previously been served and filed, accordingly file and serve a written complaint within 20 days of the jury demand, and the court shall place the case on the trial calendar of the county court, or forthwith transfer the case to circuit court for trial.

SECTION 2. 299.21 (5) of the statutes is repealed.

SECTION 3. 299.25 (8) of the statutes is repealed.

SECTION 4. 299.25 (9) of the statutes is amended to read:

299.25 (9) JURY FEE. A \$24 fee for a ~~12 man~~ jury if demanded under s. 299.21 (3).

SECTION 5. 299.30 (2) and (5) of the statutes are amended to read:

299.30 (2) WHERE TRIED BY A JURY. If an action was tried with a ~~12 man~~ jury under Title XXV, any appeal shall be taken under ch. 274.

(5) On appeal, the circuit court has power similar to that of the supreme court under ch. 274 to review and to affirm, reverse, or modify the judgment appealed from, ~~and~~. In addition, the circuit court may order a new trial in whole or in part, which shall be in the ~~circuit~~ county court.

SECTION 6. 957.01 (1) and (2) of the statutes are amended to read:

957.01 (1) Except as otherwise provided in this ~~chapter~~ section, criminal cases in courts of record shall be tried by a jury of 12, drawn as prescribed in ch. 270, unless the defendant waives a jury trial in writing or by statement in open court, entered in the minutes, with the approval of the court and the consent of the state. ~~A defendant charged with a misdemeanor in county court waives trial by a jury of 12 if he elects to be tried by a jury of 6.~~

(2) At any time before *trial* or *after trial has begun but before verdict*, the parties may stipulate in writing or by statement in open court, entered in the minutes, with the approval of the court, that the jury shall consist of any number less than 12.

SECTION 7. 957.053 of the statutes is amended to read:

957.053 JURY TRIAL. The procedure used for a ~~12 man~~ jury trial in county court shall be the same as that used in circuit court and shall be governed by this chapter.

SECTION 8. 957.054 of the statutes is repealed.

SECTION 9. 958.075 (3) and (5) of the statutes are repealed and recreated to read:

958.075 (3) Within 15 days after judgment, appeal may be taken to circuit court by filing a notice of appeal with the clerk of the trial court and by serving notice of appeal on the opposing party or his attorney. Within 40 days after notice of appeal is filed, the appellant shall file with the clerk of the trial court either a transcript of the reporter's notes of the trial or a statement that his appeal can be supported by the case file without the transcript.

(5) On appeal, the circuit court has power similar to that of the supreme court under ch. 274 to review and to affirm, reverse or modify the judgment appealed from. In addition, the circuit court may for good cause shown or in the interests of justice order a new trial in whole or in part, which shall be in the county court.

SECTION 9m. 958.075 (4) of the statutes is amended to read:

958.075 (4) Within 10 days after the ~~notice of appeal~~ *transcript or statement* is filed with the clerk, he shall return the case file, together with the entire record and including all transcripts, exhibits and other matters therein to the circuit court, and shall notify the parties of such filing in ~~said~~ *the* circuit court.

SECTION 10. 959.055 (2) (f) of the statutes is repealed.

Approved July 29, 1969.
