

## TITLE XXVIII.

Courts of Justices of the Peace and Proceedings  
Therein in Civil Actions.

## CHAPTER 300.

## GENERAL PROVISIONS AND JURISDICTION OF JUSTICES IN CIVIL ACTIONS.

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**300.01 Territorial jurisdiction.** The jurisdiction of all justices of the peace shall be coextensive with the limits of the county in which they are elected, and no other or greater, except when otherwise specially provided by law.

**300.02 Where office to be.** Every justice of the peace shall keep his office in the town for which he may be elected, and not elsewhere, but he may issue process at any place in the county.

**300.03 Not to have office with attorney; partner not to practice; court not to be in saloon.** No justice of the peace shall hold his office in the same room with a practicing attorney unless such attorney shall be his law partner, and in that case such partner shall not be permitted to appear or practice as attorney in any case tried before such justice. No justice of the peace shall hold a court in any room or room adjoining any room in which strong, spirituous, ardent or intoxicating liquors are sold, bartered or given away, and every such justice violating this section shall forfeit twenty-five dollars for each violation; but no judgment shall be held void in consequence thereof.

**300.04 General powers of justices.** Every justice of the peace in any town may hold a court for the trial of all actions of which justices of the peace have jurisdiction by law and hear, try and determine the same according to law; and for that purpose, where no special provision is otherwise made, such court shall be vested with all the necessary powers which are possessed by courts of record; and all laws of a general nature are to apply to such justice's court so far as the same may be applicable. The place of trial of any such action shall not be changed by any justice nor by the parties to any action to any town or city, nor shall the trial thereof be held in any other town or city except as is provided in sections 301.24 and 301.26.

**300.05 Jurisdiction.** Every such justice of the peace shall have jurisdiction over and cognizance of the following actions and proceedings:

(1) Actions arising or growing out of contract, express or implied, wherein the debt or balance due or damages claimed shall not exceed two hundred dollars;

(2) Actions on a note, bill, bond or other instrument in writing given for the payment of money or other valuable article, for any amount exceeding two hundred dollars, which has been reduced, by credits or payments indorsed thereon, to an amount not exceeding two hundred dollars;

(3) Actions on instalments as they shall become due, where payments are to be made in instalments, on any such note, bill, bond or other instrument in writing for the payment of money or other valuable article when the instalment or instalments due shall not exceed two hundred dollars, or when the same has been reduced, by credits or payments, indorsed as aforesaid, to an amount not exceeding two hundred dollars;

(4) Actions founded on any account when the amount of the plaintiff's account, proven to the satisfaction of the justice, shall not exceed five hundred dollars and when the same

shall be reduced to an amount not exceeding two hundred dollars by credits given, or by the set-off or demand of the opposite party;

(5) Actions on any surety bond taken by them, though the penalty or amount claimed exceeds two hundred dollars;

(6) Actions on any official bond when the damages claimed shall not exceed two hundred dollars;

(7) Actions for injuries to persons or to real or personal property wherein the damages claimed shall not exceed two hundred dollars;

(8) Actions to recover the possession of personal property, with damages for the unlawful taking or detention thereof, wherein the value of the property claimed shall not exceed two hundred dollars;

(9) Actions for forcible entry and detainer;

(10) Actions for a penalty or forfeiture, not exceeding two hundred dollars, given by any statute of this state;

(11) To take and enter a judgment on the confession of a defendant when the amount confessed shall not exceed three hundred dollars;

(12) Actions to enforce a lien upon personal property where the debt or demand claimed does not exceed two hundred dollars.

**300.06 Denial of jurisdiction.** No justice shall have cognizance of any action:

(1) Against an executor or administrator for any debt or demand due from the testator or intestate;

(2) Actions for libel, slander, malicious prosecutions or false imprisonment;

(3) Actions where the title to real property shall come in question;

(4) Actions for or against any town in which the justice is elected, except as provided in section 301.06. [1939 c. 529]

**300.07 Docket entries.** Every justice of the peace shall keep a docket in which he shall enter in each case to which they relate:

(1) The title of all causes commenced before him;

(2) The time when the process was issued against the defendant, when returnable, and the particular process issued, and a statement of the return of the officer;

(3) The time when the parties appeared before him, either without process or upon the return of process;

(4) Where the pleadings are written a brief statement of their nature and reference to the pleadings filed; and where the pleadings are made orally a concise statement of the complaint of the plaintiff, the answer of the defendant, the further pleadings, if any, and the issue joined;

(5) Every adjournment, stating at whose request and to what time and place, and if no place be named the place where the adjournment is ordered shall be taken as the place to which the case is adjourned.

(6) The issuing of a venire, stating at whose request and time and place of its return;

(7) The time when a trial was had, the names of the jurors returned summoned who did not appear and the fines imposed on them, if any, and the names of the jurors who were sworn;

(8) The names of witnesses sworn at the request of either party, stating at whose request; the objections, if any, made to the competency of a witness, and the decision thereon;

(9) The verdict of the jury and when received;

(10) The judgment rendered by the justice, and the time of rendering the same, and the amount of the debt, damages, costs and fees due to each person separately;

(11) The time of putting in any stay of execution and the name of the surety;

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

(13) The return of every execution and when made and every renewal of an execution made by him, with the date of such renewal;

(14) The fact of his having given a transcript of the judgment to be filed in the office of the clerk of the circuit court and the time when the same was given;

(15) The fact of a certiorari having been brought on any judgment rendered by him and the time of service of the same;

(16) The fact of an appeal having been made from the judgment rendered by him and the time when made;

(17) In addition to the above, he shall enter all motions made in a cause, and his decision thereon, and the exceptions taken thereto, and all other proceedings before him in the cause which he may think useful. [Supreme Court Order, effective Jan. 1, 1935; Supreme Court Order, effective Jan. 1, 1936]

**Note:** Failure of a justice of the peace to enter in his docket the place to which an adjournment of an unlawful detainer action is taken results in a loss of jurisdiction under (5). *Shefeller v. First Nat. Bank*, 207 W 510, 242 NW 137.

**300.08 Contempts.** In the following cases, and no others, a justice of the peace may punish for contempt:

(1) Persons guilty of disorderly, contemptuous and insolent behavior towards such justice, whilst engaged in the trial of a cause, or in rendering judgment, or in any judicial proceeding, which tends to interrupt such proceedings or to impair the respect due to his authority;

(2) Persons guilty of any breach of the peace, noise or disturbance tending to interrupt the official proceedings of such justice;

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

**300.09 Costs limited in trespass.** The taxable costs in any action brought by the owner of any wild and uninclosed lands against any person for trespass by hunting or fishing thereon, shall in no case exceed the damages awarded such owner for the actual injury caused by such trespass.

**300.10 Contempt, penalty.** Punishment for contempts may be by fine not exceeding twenty dollars or by imprisonment in the county jail not exceeding two days, unless otherwise provided, at the discretion of the justice.

**300.11 Accused to be heard.** No person shall be punished for contempt before a justice of the peace until an opportunity shall have been given him to be heard in his defense, and for that purpose the justice may issue his warrant to bring the offender before him. But if the offender be present he may be summarily arraigned before the justice and proceeded against in the same manner as if a warrant had been previously issued and the offender arrested thereon.

**300.12 Form of warrant.** The warrant for contempt may be in the following form:  
 .... County, }  
 Town of .... } ss.

THE STATE OF WISCONSIN, to the sheriff or any constable of said county:

You are hereby commanded to apprehend A. B. and bring him before J. P., one of the justices of the peace of the said county, at his office in said town, to show cause why he, the said A. B., should not be convicted of a criminal contempt alleged to have been committed on the .... day of .... A. D. 19.., before the said justice while engaged as a justice of the peace in judicial proceedings.

Dated at the town aforesaid, the .... day of ....., A. D. 19...

J. P., Justice of the Peace.

**300.13 Record of conviction.** Upon the conviction of any person for contempt the justice shall make up a record of the proceedings on such conviction, stating the particular circumstances of the offense and the judgment rendered thereon, and shall file the same in the office of the clerk of the circuit court and shall also enter the same in his docket as in civil cases.

**300.14 Form of record.** The record of conviction may be in the following or an equivalent form:

.... County, }  
 Town of .... } ss.

Whereas, on the .... day of ....., A. D. 19.., while the undersigned, one of the justices of the peace of the town of ....., in said county, was engaged in the trial of a cause between C. D., plaintiff, and E. F., defendant, in said town, according to the statute in such cases made and provided, A. B., of the town of ....., in said county, did interrupt the said proceedings and impair the respect due to the authority of the undersigned by (here describe the cause particularly); [or whereas, the undersigned, one of the justices of the peace of the town of ....., in said county, did issue a lawful process (or did make a lawful order) in a certain cause, wherein C. D. was plaintiff and E. F. defendant, requiring (here set forth the substance of the process or order), and whereas, A. B. was guilty of disobedience to said process (or order), (or was guilty of resistance to said process or order) by (here set forth the means of disobedience or resistance)]; and whereas, the said A. B. was thereupon required by the undersigned to answer for said contempt and show cause why he should not be convicted thereof; and whereas, the said A. B. did not show any cause against the said charge; be it therefore remembered, that the said A. B. is adjudged to be guilty and is convicted of the criminal contempt aforesaid, before the undersigned, and is adjudged by the undersigned to pay a fine of .... dollars (or to be imprisoned in the common jail of said county for the term of two days or until he be discharged from imprisonment according to law).

Dated this .... day of ....., 19...

J. P., Justice of the Peace.

**300.15 Form of warrant of commitment.** The warrant of commitment for any contempt shall set forth the particular circumstances of the offense and may be in the following or equivalent form:

.... County, }  
Town of ..... } ss.

THE STATE OF WISCONSIN, to the sheriff or any constable of said county:

Whereas, A. B., of the town of ....., was duly convicted by the undersigned, a justice of the peace of said county, of a criminal contempt, as appears by the record of such conviction, of which the following is a copy (here insert a copy of the record of conviction). Therefore you are commanded to take the body of the said A. B. and deliver him to the keeper of the common jail of said county, who is hereby commanded to receive and keep the said A. B. in safe custody in said prison until the aforesaid sum of .... dollars and all legal expenses be paid and satisfied (or if judgment be that he be imprisoned for the said term of .... days), or until he be discharged therefrom by due course of law.

Given under my hand this .... day of ....., A. D. 19...

J. P., Justice of the Peace.

**300.16 Witness, punishment for refusing to answer.** When any witness attending before a justice of the peace in any cause shall refuse to be sworn in some form prescribed by law or to answer any pertinent or proper question such justice may by order commit such witness to the jail of the county. Such order shall specify the cause for which the same is issued, and if it be for refusing to answer any question, such question shall be specified therein; and such witness shall be closely confined, pursuant to such order, until he submit to be sworn or to answer, as the case may be.

**300.17 Adjournment.** The justice shall thereupon adjourn such cause, at the request of the party, for such time as shall be reasonable or until such witness shall testify in the case.

**300.18 Liability for moneys collected.** Every justice of the peace and his sureties shall be liable on his official bond to each and every person for whom such justice shall collect money and refuse to pay the same; and it shall be competent for any person to whom such justice and his sureties may have become liable, as aforesaid, to sue him and his sureties therefor; and on proof that such justice has neglected or refused to pay any sum of money by him collected as aforesaid judgment shall be given against the parties defendants in such action, for the money so collected, together with interests and costs according to the condition of such bond.

**300.19 Papers, how kept.** Every justice shall preserve, file and keep together all affidavits and papers delivered to him to be filed in any cause, separate from all other papers.

**300.20 Delivery of docket to another justice.** If any justice of the peace shall be about to be absent from the county for three days or more or be unable from sickness to attend to business, when there shall be pending before him any matter or action undetermined, he may call in some other justice of the same town or he may deliver his docket and all the papers relating to such matter or action, with a minute of his proceedings therein, to some other justice of the same town who may thereupon proceed to hear, try and determine such matter or action in the same manner as if such matter or action had been commenced before him and with like effect; but the parties to such matter or action, their agents or attorneys shall be notified of such transfer previous to any hearing or trial of such matter or action, and the justice having such docket may, whilst the same shall remain in his possession, upon request of any party entitled thereto, issue execution upon or give a certified transcript of any unsatisfied judgment appearing therein, with like effect as if issued by the justice so delivering such docket to him.

**300.21 Delivery of books on expiration of term.** When the term of office of a justice shall expire he shall forthwith deliver over to the nearest justice all the books and papers relating to his office as a justice of the peace.

**300.22 Same on vacancy.** Whenever any justice shall be removed from office, or shall remove out of the town in which he was elected, or his office shall in any way become vacant, except by death, if his successor be not elected and qualified, such justice or the person in whose possession the same may be shall, within ten days after such vacancy shall happen, deliver to the town clerk all the books and papers in his custody relating to his office as a justice of the peace.

**300.23 Books to be demanded by town clerk.** In case any justice shall die and any books or papers belonging to such justice in his official capacity shall come to the hands of any person the town clerk may demand and receive such books and papers from the person having the same in his possession; and it shall be the duty of every such person, within ten days after any such books and papers shall come into his possession, whether demanded or not, to deliver the same to the town clerk.

**300.24 Duty of clerk on receipt of books.** Whenever any town clerk shall receive the books or any papers of any justice of the peace he shall, within ten days after receiving the same, deliver them over to some other justice of the same town and post up a notice in three of the most public places specifying the name of the justice whose books and papers have been so delivered and to what justice and when the same were delivered.

**300.25 Pending cause triable by justice who receives books.** Whenever the office of any justice shall become vacant for any cause and there shall be pending before him any matter or action undetermined and the books and papers of such justice shall have been delivered over to any other justice pursuant to law, such last-named justice shall proceed to hear, try and determine such matter or action and to issue execution thereon, and may also issue execution upon any judgment appearing upon said books, and in either case may issue certified transcripts thereof in the same manner and with like effect as if such action or matter had been originally commenced before him or judgment rendered by him.

**300.26 Continuance of cause on vacancy; notice of trial.** All actions and proceedings before any justice of the peace and undetermined when his office shall become vacant shall be continued as of course until the expiration of ten days from the time when the books and papers of such justice are delivered over to another justice of the town as provided by law; of which time the justice to whom such books and papers shall be delivered shall cause at least three days' notice to be given to the parties to such action or proceeding, or such of them as shall be within the county.