

## 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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**300.001 Definitions.** In Title XXVIII, unless the context plainly indicates otherwise:

- (1) Justice means justice of the peace;
- (2) Town includes village and city;
- (3) Town clerk includes municipal clerk.

**300.01 Territorial jurisdiction of justices.** The territorial jurisdiction of a justice is coextensive with the county in which he is elected, except when otherwise provided.

**300.02 Office, where kept.** (1) Every justice shall keep his office and hold court only in the municipal hall of the town, village or city in which he was elected or if no room is available in the municipal hall, the governing body may authorize him to temporarily keep his office and hold court elsewhere, except at a place prohibited by sub. (2), in the municipality; provided that he may issue process or perform ministerial functions at any place in the county.

(2) No justice shall keep his office or hold court in any tavern, or in any room in which intoxicating liquors are sold, or in any room connecting therewith. For any violation of this section the justice shall forfeit \$25, and any order or judgment shall be void in consequence of such violation.

**300.03 Who may office with or practice before justice.** No justice shall hold court or keep his office with a practicing attorney unless the attorney is his law partner, and such partner shall not act as attorney before such justice.

**300.04 Power of justices follows circuit court practice.** Where no special provision is otherwise made, justices are vested with all necessary powers which are possessed by courts of record; and all laws of a general nature apply to justice's courts so far as applicable. The place of trial shall not be changed to any other town except as provided in sections 301.24 and 301.26.

**300.05 Jurisdiction.** Every justice has jurisdiction over:

- (1) Actions arising out of contract wherein the amount claimed does not exceed \$200;
- (3) Actions on instalments as they become due on any written instrument when the amount claimed does not exceed \$200;

- (5) Actions on any surety bond or undertaking taken by a justice, though the penalty or amount claimed exceeds \$200;
- (6) Actions on any official bond when the damages claimed do not exceed \$200;
- (7) Actions for injuries to persons or to property wherein the damages claimed do not exceed \$200;
- (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 does not exceed \$200;
- (9) Actions for forcible entry and unlawful detainer;
- (10) Actions for a penalty or forfeiture, not exceeding \$200, given by statute;
- (12) Actions to enforce a lien upon personal property where the amount claimed does not exceed \$200.
- (13) Actions to recover a tax, for the full amount thereof.

**Cross Reference:** Other sections pertaining to the civil jurisdiction of justices of the peace include the following:

62.26	(6) City in more than one county.
291.05	Forcible entry and unlawful detainer.
61.30	Village justices; general; village in two counties.
300.06	Denial of jurisdiction.
300.08	Punishment for contempt.
62.24	Acting as municipal justice.
301.06	Action by or against town.

**Note: Ch. 315, Laws of 1959, repeals 300.05 (8), (9) and (10) and rennumbers (12) and (13), effective January 1, 1962.**

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

- (1) Against an executor or administrator for any debt or demand due from the decedent;
- (2) For libel, slander, malicious prosecution or false imprisonment;
- (3) Where title to real property comes in question; or
- (4) For or against the town in which the justice is elected, except as provided in section 301.06.

**Note: Ch. 315, Laws of 1959, creates 300.06 (5), effective January 1, 1962, to read:**

**(5) Garnishee actions and actions by warrant of attachment.**

**300.07 Docket entries.** Every justice shall keep a docket in which he shall enter, in actions to which they relate:

- (1) The title of every action commenced before him;
- (2) The process issued, time it issued, when returnable, and the return of the officer;
- (3) The time the parties appeared before him, either without process or upon the return of process;
- (4) Where pleadings are written a brief statement of their nature and reference to the pleadings filed; and where pleadings are oral a brief statement of the complaint, the answer and any further pleadings;
- (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 action is adjourned;
- (6) The issuing of a venire, stating at whose request and the time and place of its return; and if a jury is chosen by agreement, a minute of the agreement;
- (7) The time when trial was had, the names of jurors summoned who did not appear, the fine imposed on each, if any, and the names of jurors sworn;
- (8) The names of witnesses sworn, stating at whose request;
- (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;
- (10a) The entry required by section 300.13 in contempt convictions;
- (11) The time of ordering 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, with the date thereof;
- (14) The time of giving a transcript of judgment;
- (15) The time of service of a certiorari brought on any judgment;
- (16) The time of an appeal made from the judgment;
- (17) All motions made in the action, and his decision thereon, and all other proceedings in the action which he may think useful;
- (18) Failure of a justice to properly keep his docket shall not oust him of jurisdiction or render the judgment void.

**Cross Reference:** Other sections requiring docket entries in civil actions include the following:

- 291.06 Order for publication or posting notice of unlawful detainer action.
- 300.13 Record of contempt conviction.
- 301.02 Summons issued by attorney.
- 301.30 Answer showing title to lands in question.
- 301.35 Pleadings.
- 302.03 Command constable to attend trial.
- 302.18 Verdict.
- 302.37 Transcript of judgment by another justice as set-off.
- 302.38 Setting off judgments.
- 304.12 Order for publication or posting of notice of attachment.
- 304.15 Default in attachment.
- 304.26 Garnishment action..
- 304.29 Trial in garnishment desired.
- 304.32 (2) Order for publication or posting when garnishee in doubt as to owner of money.  
(3) Undertaking by plaintiff in such case.
- 304.34 Order requiring garnishee to deliver.
- 304.38 Default of garnishee.
- 305.11 Undertaking in replevin.
- 305.16 Notice in replevin when defendant does not appear.
- 305.17 Default in replevin.
- 306.09 Order for delivery of property in replevin.
- 307.02 Order for witness fee over \$15.
- 307.09 Surety to sign memorandum on docket (security for costs).

**300.08 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.

**300.10 Contempt, penalty.** Punishment for contempts may be by fine not exceeding \$20 or by imprisonment not exceeding 2 days.

**300.11 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.

**300.12 Form of warrant for contempt.** The warrant for contempt may be in substantially the following form:

State of Wisconsin, { In Justice Court  
.... County. } Before .... ., Justice of the Peace

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 me, at my office at .... (location of office), to show cause why he should not be convicted of a criminal contempt alleged to have been committed on the .... day of ...., 19.., before me while engaged as a justice of the peace in judicial proceedings.

Dated ...., 19 ..  
....., Justice of the Peace.

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

**300.14 Form of record.** The record of conviction may be in substantially the following form:

State of Wisconsin, { In Justice Court  
.... County. } Before .... ., Justice of the Peace

Whereas, on the .... day of ...., 19 .., while the undersigned justice of the peace in said county, was engaged in the trial of an action, A. B. interrupted the proceedings and impaired the respect due to the authority of the undersigned by (here describe the cause particularly); [or whereas, the undersigned justice of the peace in said county, issued a lawful process (or made a lawful order) in a certain action, 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, 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, he did not show any cause against the said charge; therefore said A. B. is adjudged guilty and is convicted of the criminal contempt aforesaid, before the undersigned, and is adjudged to pay a fine of \$ .... (or to be imprisoned in the county jail for .... days or until he be discharged according to law).

Dated ...., 19 ..  
....., Justice of the Peace.

**300.15 Commitment for contempt.** The commitment for contempt shall set forth the circumstances of the offense and may be in substantially the following form:

State of Wisconsin, {	In Justice Court
.... County. }	Before .... ., Justice of the Peace

The State of Wisconsin, to the sheriff or any constable of said county:

Whereas, A. B. was duly convicted by the undersigned justice of the peace, of a criminal contempt, as appears by the record of conviction, (a copy of which record is hereto attached and made part hereof), you are commanded to take A. B. to the keeper of the county jail, who is hereby commanded to receive and keep him in jail until the sum of \$... and all legal expenses are paid (or, if judgment is that he be imprisoned, for .... days), or until he is discharged therefrom by due course of law.

Dated ...., 19 ..

.... ., Justice of the Peace.

**300.16 Disobedient witness.** When any witness before a justice in any action refuses to be sworn or to answer any proper question the justice may by order commit him to the county jail. The order shall specify the reason for which it is issued, and if it is for refusing to answer any question, the question shall be specified; and the witness shall be closely confined until he consents to be sworn or to answer.

**300.17 Same; adjournment.** The justice shall thereupon adjourn the action, at the request of the party desiring the testimony, for a reasonable time or until the witness shall testify.

**300.18 Justice's liability for moneys collected.** Every justice and his sureties shall be liable on his official bond to every person for whom he collects money which he neglects to pay; and any person to whom the justice is so liable, may sue him and his sureties therefor; and on proof that the justice has neglected to pay any money by him collected, judgment shall be given against the defendants for the money so collected, with interest and costs according to the condition of the bond.

**300.19 Papers, how kept.** Every justice shall file and keep together all papers in any action, separate from all other papers.

**300.20 Delivery of docket to another justice.** If any justice is to be absent from the county for 3 days or more or is unable from sickness to attend to business, and any action is pending before him, he may call in some other justice of his town or he may deliver his docket and all papers relating to such action, with a minute of his proceedings therein, to the nearest available justice of the county who may thereupon proceed to try the action in the same manner as if it had been commenced before him and with like effect; but the parties, their agents or attorneys shall be notified of the transfer previous to trial; and the justice may, while the docket remains in his possession, issue execution upon or give a certified transcript of any unsatisfied judgment appearing therein.

**300.22 Delivery of books to town clerk.** When the office of a justice becomes vacant, the books and papers belonging to his office shall be delivered, within 10 days after the vacancy happens, to the town clerk, by the person who is in possession thereof.

**300.23 Books demanded by town clerk.** If any books or papers which should be delivered to the town clerk pursuant to section 300.22 are not delivered within the time there specified, the town clerk shall demand their delivery to him and may by action compel such delivery.

**300.24 Duty of clerk on receipt of books.** When any town clerk receives the books or any papers of any justice he shall, within 10 days after receiving them, deliver them to some justice of the town or, if there is no justice in the town, then to some justice in the county. The town clerk shall publish a notice in a newspaper published in the county, 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 actions triable by justice who receives books.** When any action is pending before any justice at the time his office becomes vacant and his books and papers have been delivered to any other justice pursuant to law, the last-named justice may try such action and enter judgment and issue execution thereon, as though the action had been begun before him. He may issue execution and transcripts upon any judgment appearing upon said books.

**300.26 Continuance on vacancy; notice of trial.** All actions before any justice undetermined when his office becomes vacant are continued until the expiration of 10 days

from the time when his books and papers were delivered to another justice; of which time the justice to whom the books and papers were delivered shall give at least 3 days' notice to the parties to the action who are within the county.

**300.30 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 justice 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.