

CHAPTER 253.

COUNTY COURTS.

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253.01 County court established. There is established in each county a county court which is a court of record with the jurisdiction specified in ss. 253.10 to 253.14.

253.015 Shawano-Menominee county court. Menominee county shall not be organized separately for county court purposes, but shall be a part of a joint Shawano-Menominee county court, which constitutes a single judicial district. Such court shall have 2 divisions, the Shawano county division and the Menominee county division. No county judge for Menominee county shall be elected separately, but the duly elected judge of the Shawano-Menominee county court shall serve as county judge of the district. The books, papers and records of the office of such county judge shall be kept at the county seat of the county in which he has his principal office, or, at the discretion of the county judge, at either or both county seats. The incumbent judge of Shawano county court shall assume his duties as judge of Shawano-Menominee county court on April 29, 1961. The judge of Shawano-Menominee county court may appoint a register in probate and a public administrator for each of the 2 divisions of the county court, or, in his discretion, may appoint one register in probate or public administrator to serve both divisions. If a separate register in probate is appointed for the Menominee county division, he may be the same person who is the duly elected clerk of circuit court for Menominee county. If one register in probate serves for both the Shawano and Menominee county divisions of the county court, the office of such register in probate shall be in the city of Shawano. The qualified electors of Menominee county shall cast ballots for the election of the judge of the Shawano-Menominee county court at the first election for county judge held after April 29, 1961, and at every succeeding election for county judge. The Shawano-Menominee county court shall possess all the jurisdiction in Menominee county that it presently has in Shawano county, and the judge of the Shawano-Menominee county court shall possess all of the duties, rights and powers as a judge that he presently has in Shawano county. Any civil matter or proceeding or criminal matter or action, except a criminal action which the justice of the peace has no jurisdiction to try, commenced in the Shawano-Menominee county court, Menominee county division, justice court branch, which would be within the jurisdiction and authority of the justices of the peace of Menominee county had the action been commenced in Menominee county, shall be, on the motion of the defendant in a criminal case or in the case of a forfeiture, and may be on the motion of either party in other cases, transferred by the county judge to a justice of the peace in Menominee county for trial. The county boards of Menominee county and Shawano county shall enter into an agreement prorating the joint expenditures involved in conducting the joint county court, and for such purposes the county board of Menominee county shall be authorized to appropriate, levy and collect a sum each year sufficient to pay its share of such expenses; provided that no portion of the initial cost, or amortization of debt on the Shawano county courthouse or repair, maintenance, or improvement of the same or items which are taxable costs between the parties

shall be included as a joint expenditure for proration purposes. If the 2 county boards are unable to agree on prorating the joint expenditures involved, then the judge of the circuit court for the tenth circuit shall, under appropriate notice and hearing, determine the prorating of such expenditures, on the basis of the volume and character of work and responsibilities, to each county, under such procedure as he prescribes. The county judge may order court held at the county seat in Menominee county or at the county seat in Shawano county or other appropriate place, and the general terms of the court for the county court of Shawano county shall be the terms of Shawano-Menominee county court. The proper place of trial of civil and criminal actions commenced in such court shall be the place in either county where the judge orders court held. The jury commissioners of Shawano county shall serve as jury commissioners for the Shawano-Menominee county court, and shall add to the present Shawano county court jury list from which jurors shall be drawn the names of qualified residents of Menominee county, and the list shall be known hereinafter as the Shawano-Menominee county court jury list. All fines and all costs and fees collected in Shawano-Menominee county court in causes of action arising out of Menominee county shall be accounted for and paid over quarterly to the county treasurer of Menominee county and in causes of action arising out of Shawano county shall be accounted for and paid over quarterly to the county treasurer of Shawano county. All process and pleadings and documents of the Shawano-Menominee county court shall be entitled, "Shawano-Menominee County Court: County Division", to be completed with the name of the appropriate county.

History: 1961 c. 33, 495.

253.02 Branches of county court. (1) The following county courts have branches as follows:

(a) Two branches:

- 5. Columbia
- 8. Dodge
- 20. Jefferson
- 23. La Crosse
- 29. Manitowoc
- 30. Marathon
- 35. Ozaukee
- 45. Sauk
- 49. Shawano-Menominee
- 50. Sheboygan
- 55. Walworth
- 58. Washington
- 60. Waukesha
- 65. Wood

(b) Three branches:

- 5. Brown
- 10. Douglas
- 15. Fond du Lac
- 20. Kenosha
- 30. Outagamie
- 45. Winnebago

(c) Four branches:

- 10. Dane
- 30. Racine
- 32. Rock

(m) Twelve branches:

- 5. Milwaukee

(2) Each branch of the county court constitutes a court with all the powers and jurisdiction possessed by county courts having one judge only.

(3) In all counties having more than one branch of the county court the incumbent county judge on January 1, 1962, is the judge of branch No. 1 of the county court; in Jefferson, Walworth and Washington counties and in counties having a population of 500,000 or more the incumbent judge of branch No. 1 of the county court and the incumbent judge of branch No. 2, of the county court on January 1, 1962, are the judges of branches Nos. 1 and 2 of the county court respectively.

(4) Branch No. 1 of the district court of Milwaukee county and branches Nos. 1 and 3 of the civil court of Milwaukee county shall be renamed branches Nos. 4, 5 and 6, respectively, of the Milwaukee county court on January 2, 1962. The judges of these branches of the Milwaukee county court and the judge of the Jefferson, Marathon, Waukesha and Wood county courts, branch No. 2 shall be elected at the spring, 1961,

election. The term of the judge first elected for branch No. 2 of the Jefferson county court shall be for 4 years and to begin on the first Monday in January 1962.

(5) The municipal courts of Douglas, Fond du Lac, Manitowoc, Outagamie, Ozaukee, Rock, Racine, Shawano and Sheboygan counties, the municipal court of the city of Oshkosh and county of Winnebago, the criminal court branch of the municipal court for Brown county, the branch of the municipal court of Kenosha county presided over by the senior judge, and branch No. 1 of the superior court of Dane county shall be renamed branch No. 2 of the county court of their respective counties on January 2, 1962. The small claims court for Dane county, the superior court of Douglas county, the municipal court of the city of Beloit in Rock county and the 2nd branch of the municipal court of Kenosha county shall be renamed branch No. 3 of the county court of their respective counties on January 2, 1962. Branch No. 2 of the superior court of Dane county shall be renamed branch No. 4 of the county court for Dane county on January 2, 1962. Branch No. 2 of the district court of Milwaukee county, branches Nos. 4, 5, 6 and 7 of the civil court of Milwaukee county, the children's court of Milwaukee county and branch No. 3 of the district court for Milwaukee county shall be renamed branches Nos. 3, 7, 8, 9, 10, 11 and 12, respectively, of the Milwaukee county court on January 2, 1962. The incumbent judges of these courts on January 1, 1962, shall serve as judges of the county court until the term for which they were elected expires, and shall be paid the same compensation in the same manner as regularly elected county judges.

(6) (a) The cost of operation of such county court, except for the salaries of the judge and court reporter provided to be paid by the state, and except for the cost assumed by the state pursuant to s. 66.89, and except as otherwise provided, shall be paid by the county.

(b) In counties having a population of 500,000 or more the county shall initially pay all of the operating costs of branches 3, 4 and 12 of the county court including that part of the cost of the clerk of circuit court's office attributable to the operation of such branches. After crediting the revenues received by the clerk as fees from actions brought in these branches, salaries of judges and state aids for court reporters, the balance of the costs or gain then remaining shall be shared annually by the city of the first class in such county and the county equally. This subsection shall not apply if the city of the first class has created and is operating a municipal justice court.

History: 1961 c. 1, 491, 492, 495, 503, 527, 538, 614, 640, 642, 682.

253.05 Judges of county court; election. A county judge shall be elected for each county with the following exceptions:

(1) Florence and Forest counties shall be combined into one district for the purpose of electing a county judge to serve and preside in both the county court of Florence county and the county court of Forest county.

(2) In counties having more than one branch of the county court, a judge shall be elected for each branch.

253.06 Term of office. The term of office of every elected county judge is 6 years, and until his successor is elected and qualifies, which term commences with the first Monday in January next succeeding his election, except that the judges elected for the Rock county court, branch No. 3, and for the Brown county court, branch No. 2, at the spring, 1966, election shall serve for terms commencing the first Monday in May 1966 and ending the first Monday in January 1972; the judge elected for the Rock county court, branch No. 2, at the April 1965 election shall serve for a term commencing on the last Monday in June 1965, and ending the first Monday in January 1971; the judge elected for the Douglas county court, branch No. 2, at the spring, 1965, election shall serve for a term commencing the first Monday in May 1965, and ending the first Monday in January 1971; the judges elected for the Outagamie county court, branch No. 2, and the Douglas county court, branch No. 3, at the spring, 1967, election shall serve for terms commencing May 1, 1967 and ending the first Monday in January 1973; the judge elected for the Milwaukee county court, branch No. 11, at the spring, 1967, election shall serve for a term beginning the first Monday in June 1967, and ending the first Monday in January 1973; the judge elected for the Fond du Lac county court, branch No. 2, at the spring, 1964, election shall serve for a term beginning May 1, 1964, and ending the first Monday in January 1970; the judge elected for the Sheboygan county court branch No. 2, at the spring, 1962, election shall serve for a term beginning the first Monday in June 1962, and ending the first Monday in January 1968; the judge elected for the Ozaukee county court branch No. 2, in the spring 1962 election shall serve for a term commencing the first Monday in July 1962 and ending the first Monday in January, 1968; and the judge elected for the Dane county court, branch No. 3, at the spring, 1961, election shall serve for a term beginning the first Monday in July 1961 and ending the first Monday in

January 1967. The judges of the second branch of county court in La Crosse county and the third branch of county court in Brown county shall be elected at the spring, 1962 election for a term beginning the first Monday in May, 1962 and ending the first Monday in January 1968. The judges of the second branch of county court in Columbia and Sauk counties, of the third branch of county court in Fond du Lac county, and of the fourth branch of county court in Rock county shall be elected at the spring, 1962 election for a term beginning the first Monday in July, 1962 and ending the first Monday in January 1968. The judge of the third branch of county court in Winnebago county shall be elected at the spring, 1962 election for a term beginning the first Monday in May, 1962 and ending the first Monday in January, 1968.

History: 1961 c. 495, 614, 682 s. 19.

253.07 County judges' salaries. (1) Every county judge shall receive from the state the salary specified for him in s. 20.930, provided that in counties having a population of 500,000 or more, such salary shall be paid by the county and the state shall monthly reimburse the county for one-half of his salary specified in s. 20.930. In counties having a population of 500,000 or more the state shall monthly reimburse the county for the employer contributions of the county judges and county court reporters who are members of the retirement system created by chapter 201, laws of 1937, as amended, to the extent of the salary specified in s. 20.930 for each county judge and county court reporter and for all employer social security contributions for such judges and court reporters. The county auditor in such counties shall certify said amounts each month to the department of administration which shall audit these charges and within 30 days certify the same for payment. The county for which each judge is elected, except in counties having a population of 500,000 or more, shall reimburse the state for one-half of his salary. If 2 counties share a single judge, each shall reimburse the state for one-quarter of his salary. On July 1 of each year the department of administration shall certify to the secretary of state a statement of the amount due from each county under this section and mail a duplicate of that statement to the county clerk. These amounts shall then be certified by the secretary of state and levied, collected and paid into the state treasury as a special charge, at the same time as the state taxes.

(2) The county may pay each county judge compensation in addition to that specified in s. 20.930 but such additional compensation shall be the same for each such judge and the total salary of the county judge cannot be more than the total salary of the highest paid circuit judge for the county.

(3) No judge shall receive any salary or fees from the state or any political subdivision thereof other than that specified in this section.

History: 1961 c. 495, 541, 642.

253.08 Expenses. (1) **WHEN SERVING AWAY FROM SEAT OF HIS COURT.** A county judge shall be reimbursed by the county for his actual and necessary itemized expenses incurred in the discharge of judicial duty away from the permanent seat of his court but within the county for which he is elected.

(2) **JUDGE OF FOREST AND FLORENCE COUNTY COURTS.** The judge and court reporter for the Forest and Florence county courts shall be reimbursed, one-half by each county, for the actual and necessary expenses incurred by them in the discharge of their judicial and reportorial duties, respectively, away from the county seat of the county of their residence but within the district specified in s. 253.05 (1).

(3) **WHEN SERVING IN ANOTHER COUNTY OR ATTENDING MEETINGS.** A county judge shall be reimbursed by the state, upon approval by the administrative director of courts, for his actual and necessary expenses incurred in the discharge of judicial duty in a county other than the one for which he is elected, and incurred when attending meetings of the boards of criminal court judges and county judges and of committees thereof.

(4) **OTHER DUTIES.** The county judge who is acting as chairman of the board of county judges shall be reimbursed by state, upon approval by the administrative director of courts, for his actual and necessary expenses, incurred in the performance of his duties as chairman and the county judge who is designated by the board of county judges to serve on the administrative committee under s. 251.182 shall be reimbursed by the state for his actual and necessary expenses, incurred in the performance of his duties on this committee.

History: 1961 c. 495, 642.

253.10 Probate jurisdiction. (1) The jurisdiction of the county court shall extend to the probate of wills and granting letters testamentary and of administration on the estates of all persons deceased who were at the time of their decease inhabitants of or residents in the same county and of all who shall die without the state having any estate

within such county to be administered, and to any other cases authorized by law; to the appointment of guardians to minors and others in the cases prescribed by law; to all matters relating to the settlement of the estates of such deceased persons and of such minors and others under guardianship; to all cases of constructions of wills admitted to probate in such court; and to all cases of trusts and trust powers created by will admitted to probate in such court, including administration under ch. 323 of trusts created in accordance with s. 206.52 (2); and to hearing objections to the granting of licenses to marry, to ordering the refusal of such licenses, and to the granting of stays upon the issuances thereof.

(2) (a) The county court shall have concurrent jurisdiction to hear, try and determine all matters and controversies which may arise between any personal representative, guardian or trustee appointed by such court and any other person relating to title to or interest in real and personal property so far as such matter or controversy is incidental to and necessary for the complete administration of the estate, guardianship or trust, and regardless of who has possession of the property or in whose name it may be, to the same extent and with like effect as such matters and controversies may be heard, tried and determined in courts of general jurisdiction.

(b) The county court shall also have concurrent jurisdiction to hear and determine all matters and proceedings involving inter vivos trusts, and the administration thereof, in the manner provided in ch. 231.

(3) Subsection (2) shall not affect the provisions of chs. 313 and 319 relating to debts of or claims against decedents or persons under guardianship.

(4) The jurisdiction of the county court shall also extend to a determination of the heirs and next of kin of nonresident foreign deceased persons who at the time of their death had an interest in real or personal property within such county and the state.

(5) The jurisdiction of the county court shall also extend to the administration of estates of nonresident foreign deceased persons who at the time of their death had an interest in real or personal property within such county and the state. A claim against the state school fund under s. 318.03 (4) shall be deemed an interest in real or personal property.

(6) For the purposes of this section the situs of intangible personal property found in this state belonging to nonresident foreign deceased persons shall be deemed to be within the state.

(7) All matters arising under this section shall be administered in accordance with the statutes, rules and procedure of the county court applicable to the estates of deceased residents of the state.

(8) All such nonresident foreign persons who have not been heard from for 10 years shall be presumed to be dead.

(9) If a case be originally within the jurisdiction of the county courts of 2 or more counties the court which shall first take cognizance thereof by the commencement of proceedings shall retain the same throughout.

(10) The jurisdiction assumed by any county court in any case, so far as it depends on the place of residence of any person or the location of his estate, shall not be contested in any action or proceeding whatever except on an appeal from the county court in the original case or when the want of jurisdiction appears on the same record.

(11) In counties having a population of 500,000 or more, the probate jurisdiction, in addition to the foregoing, shall include matters under chs. 50, 51, 142, 157 and 322, and ss. 46.10, 48.81 to 48.97, 52.01, 231.36, 319.31 and 319.61 to 319.71. The jurisdiction of matters under ch. 51 shall be concurrent with branches 3, 4 and 12.

History: 1961 c. 487, 495.

Where one county court has determined that a decedent resided in that county, has issued letters of administration and no appeal is taken, another county court has no jurisdiction over a petition for probate of the will of decedent. Estate of Hertzfeld, 10 W (2d) 333, 102 NW (2d) 838.

In determining the jurisdiction of a county court, which has been given some additional jurisdiction concurrent within certain limits with that of circuit courts, the distinction between the county court acting in probate and one acting under its concurrent jurisdiction must always be kept in mind. (2) is construed as giving such jurisdiction to the county courts as probate courts. A county court, as a pro-

bate court, had jurisdiction to try a controversy arising between an executor and the widow of the testator, relating to the title to real and personal property, and for an accounting or determination of the amount of rent due to the estate from the widow as occupant of the real property. Estate of Elsinger, 12 W (2d) 471, 107 NW (2d) 580.

Under (2) the county court in probate had jurisdiction to hear and determine a claim against an estate which arose out of a controversy concerning a lease of land by the deceased testatrix to the claimant, which claim was for loss of seed oats and plowing. Estate of Kuepper, 12 W (2d) 577, 107 NW (2d) 621.

253.11 Civil jurisdiction. (1) The county court has jurisdiction of all actions to

foreclose a land contract, mortgage, or lien concurrent with the circuit court and of all other civil actions and special proceedings of all kinds concurrent with the circuit court except actions for damages in which a sum in excess of \$25,000 exclusive of interest and costs is demanded in the complaint, provided that in counties having population of 500,000 or more the county court shall not have jurisdiction over any matters arising out of chs. 245 and 247. If a counterclaim or cross complaint for an amount in excess of \$25,000 exclusive of interest and costs is filed, the county court shall order the case transferred to the circuit court and the parties shall proceed as if the action or proceeding had been originally begun in the circuit court. If the party who files the cross complaint or counterclaim is finally adjudged to be entitled to recover less than the amount of \$25,000 exclusive of interests and costs, the circuit court may deny costs or partial costs to that party and, in addition, may impose costs or partial costs on that party.

(2) The county court shall have jurisdiction over all actions for ordinance violations within the county except violations of ordinances of towns, villages or cities which have established municipal justices of the peace.

History: 1961 c. 495, 614.

253.115 Retired judges, service. Any county court judge may appoint a retired county court judge, and any county judge in counties having a population of 200,000 or more may appoint a retired inferior court judge, if licensed to practice law in this state, to serve temporarily in his court during the term for which such retired judge was elected, and while so serving such appointee may exercise all of the jurisdiction of the county in which he serves. He shall receive \$50 per diem for each day on which he actually serves and his actual and necessary expenses, which shall be audited and paid by the county board of the county in which he holds court.

History: 1961 c. 55, 671.

253.12 Criminal jurisdiction. The county court has jurisdiction of all criminal matters except treason, concurrent with the circuit court; except that in any county having a population of 500,000 or more the county court shall have jurisdiction to hear, try and determine all charges for misdemeanors arising within the county, and in addition thereto shall have jurisdiction to hear, try and determine all charges for offenses arising within the county, the punishment whereof does not exceed one year's imprisonment in the state prison or county jail, or a fine not exceeding \$1,000, or both. Said branches shall also have authority and jurisdiction to issue warrants for the apprehension of persons charged with the commission of offenses in said county which are triable before the criminal court branches of the circuit court, and jurisdiction to examine said alleged offenders and commit or hold them to bail.

History: 1961 c. 495.

253.13 Jurisdiction of children and of adoptions. (1) The county court has exclusive jurisdiction of all proceedings under ch. 48 and under ch. 322.

(2) (a) As used in this subsection "county court" or "court" means the county court in counties having a population of 500,000 or more. Branch 11 of the county court (children's court), in addition to the jurisdiction, powers and duties prescribed for juvenile courts under ch. 48, shall also have jurisdiction in actions or proceedings involving the custody of children under 18 years of age whether raised by habeas corpus or otherwise, except such children as are wards of or whose care and custody is under the control of other courts. Where the words "juvenile court" are used in the statutes, they shall be deemed to include said branch 11 of the county court (children's court) or the judge of said court in counties of 500,000 or more, except as otherwise specifically provided.

(b) No person shall be eligible for the office of judge of such court unless for 5 years immediately prior to January 1 of the year of election he has been a resident of the county.

(c) Such court shall be held at the county seat, or at such other place within the county designated by the county board.

(d) Practice and procedure in such branch 11 of the county court shall be the same as is now or may hereafter be provided by law for civil courts.

(e) The court shall have a clerk with such assistants as the county board determines and a stenographic reporter, each of whom shall be appointed pursuant to ss. 63.01 to 63.17, and shall be paid such compensation as the county board determines. The clerk shall be appointed by the clerk of the circuit court. The reporter shall be appointed by the judge of said branch 11. Such clerk shall be an officer of the court and, before entering upon his duties, shall take and subscribe the constitutional oath of office and furnish an official bond in such amount and with such sureties as the county board determines; such oath and bond shall be filed in the office of the clerk of the circuit court of

such county. The reporter of said court shall be an officer of said court and shall take and file a constitutional oath of office. He shall be furnished by the county with all necessary supplies.

(g) Any judge of the county court of such county may hold court with the judge of said branch 11 (children's court) upon request of the judge of said branch 11, and in case of the absence or the disability of the judge of said branch 11 without said request having been made, the senior judge of the county court of such county shall designate some judge of said county court to so hold court, whose duty it shall be to act temporarily in the place of said judge of said branch 11, and while so doing, the judge, so substituting, shall have all of the powers of the regularly elected judge of said branch 11.

(h) The orders and judgments of said branch 11 of the county court (children's court) in all actions and proceedings tried before it may be appealed from, examined and reviewed by either the circuit court of said county, not as a trial de novo, but as a review of the record, or the supreme court in the same manner as other orders and judgments of the circuit court may be appealed from and reviewed.

History: 1961 c. 495, 643, 673.

253.135 Two counties; jurisdiction retained. If a case is originally within the jurisdiction of the county courts of 2 or more counties the court which first takes cognizance thereof by commencement of proceedings shall retain the same throughout.

History: 1961 c. 495.

253.14 May issue process. The several county courts shall have power to issue all summonses, citations, subpoenas, executions, warrants and processes authorized by law which may be necessary to carry into effect any order, judgment or decree thereof, to compel the attendance of witnesses or to carry into execution the powers with which they are vested.

253.142 Disqualification of judge by relationship or interest; by affidavit; procedure. (1) (a) Any person interested in any matter concerning the administration of estates may, either at the time of filing any petition or objection, notice of contest or other paper raising an issue, or at any other time up to and including the day set for hearing such matter, file an affidavit stating that he has good reason to believe and verily believes that from prejudice or other cause the judge of the county court, naming him, will not decide impartially. The judge shall thereupon be disqualified to act in relation to that matter. No person shall be allowed to file an affidavit against more than one judge in any matter.

(b) The person who files such an affidavit of prejudice may be ordered by the court to immediately pay to the adverse party the fees of his witnesses in attendance on the hearing date and an attorney fee of \$10, unless the adverse party was notified in writing at least 5 days prior to the hearing that such affidavit had been or would be filed. Failure to make payment as ordered shall nullify the effect of the affidavit of prejudice. This paragraph does not apply in case an outside judge is presiding at the hearing of such matter unless the affiant has had 8 days' written notice that he was to preside.

(c) Ex parte orders, letters, bonds, petitions and affidavits may be presented to such assigned judge, by mail or in person, for signing or approving, wherever he may be holding court, who shall execute or approve the same and forthwith transmit the same to the attorney who presented it, for filing with the county court of the county where the records and files of the matter are kept.

(2) In civil matters other than those specified in sub. (1) (a) and other than as provided in s. 299.205, the provisions of ss. 261.08 to 261.11 shall apply, except that upon the disqualification of any county judge the case shall be referred to the clerk who, in multi-branch courts, shall determine by lot a judge from another branch of that court to attend and hold court in such matter. In single branch courts, or in multi-branch courts if no other judge is able to serve, the clerk and in probate matters in counties having a population of 500,000 or more, the register in probate shall request the chief justice of the supreme court, pursuant to s. 251.182, to designate and assign another judge to attend and hold court in such matter. In counties having a population of 500,000 or more, upon disqualification of a county judge, probate division, the register in probate shall determine the availability of another county judge to attend and hold court in such matters and shall designate the assignment thereto.

(3) If said matter has been set for hearing the same shall stand continued until the judge so requested or designated to act shall be ready to take it up for disposition. If the matter has not been set for hearing, the judge requested to act shall order a hearing thereon.

History: 1961 c. 495, 643.

253.143 Clerks, etc., not to be appraisers. No clerk or other person employed in the office of any county judge shall be appointed commissioner or appraiser in any matter that is within the jurisdiction of such county judge or of the county court.

History: 1961 c. 495.

253.144 County court reporter. The provisions of s. 252.20 shall apply to county court reporters.

History: 1961 c. 495.

253.145 Matters to circuit court if beyond county court jurisdiction. If an action or special proceeding is brought in the county court which is not within the subject matter jurisdiction (including the jurisdictional amount) of that court, the action or special proceeding shall not be dismissed for lack of jurisdiction of the subject matter but shall be transferred by order of the county court to the circuit court of the same county. All process, pleadings and other papers and copies of all entries and minutes of the clerk shall be certified by him and filed with the circuit court.

History: 1961 c. 495.

253.15 Seals. The county board in each county shall furnish the county court of that county with appropriate seals as specified by the court. The court or, in multi-branch courts the judges of the court by joint action, may, from time to time, alter the inscription and devices on the seal. The seal in use by the county court in each county on January 1, 1962, shall continue to be the seal of that court until changed.

History: 1961 c. 495.

253.16 Where court to be held. (1) Court shall be held regularly at the county seat.

(1m) In Fond du Lac county branch No. 3 is established. Such court shall sit at the county seat, at the city of Ripon, and at such other places in the county as the county board from time to time directs.

(2) In Rock county, branches No. 3 and 4 of the county court shall be established permanently at Beloit instead of at the county seat.

(2r) In Waukesha county, branch No. 2, of the county court shall be held in the city of Oconomowoc not less than 2 days in each week.

(2w) In Winnebago county, a branch of the county court shall be held in a place in the city of Neenah or the city of Menasha not less than 2 days each week.

(3) Provision may be made, by court rule, for holding court in any city or village in the county other than the county seat where the court finds that there are adequate facilities provided and there is sufficient business to warrant holding court, except that jury trials may be held only at cities or villages where a branch of the court is established permanently by the legislature under sub. (2).

(4) When court is held in a city or village located partly in the county for which the judge was elected and partly in another, the judge may hold court for his county, except for trials of criminal offenses, anywhere in that city or village, the same as he could if it were entirely within the county for which he was elected.

History: 1961 c. 503, 527, 640.

253.164 County court terms. (1) Wherever any matter under s. 253.11 in the county court is related to a term of court, "term" shall be construed, for county courts, to mean the first Monday in April or the first Monday in October, whichever is more appropriate in context. Except as otherwise provided herein and in s. 954.005, a regular term of the county court shall be held on the first Tuesday of each month, except July and August.

(2) Special terms may be appointed by a general or special order entered in the minutes of the court; and when any order shall be made and notice given for the hearing of any matter at a term, such order shall be a sufficient appointment of a special term.

History: 1961 c. 495, 643.

253.165 When court to be held. In case any matter appointed to be heard at a specified time is not heard at the time appointed, it stands continued and may be heard at any time, unless the court orders otherwise.

History: 1961 c. 495.

253.17 Adoption of court rules. (1) Whenever the county court adopts or amends rules under s. 253.16 or 253.18, they shall be adopted or amended only after a public hearing, 3 weeks' notice of which has been given by publication in a newspaper likely to give notice of the hearing. In multi-branch courts, such rules shall be adopted or amended by a majority of the judges.

(2) A copy of all court rules or amendments thereto shall be filed with the clerk of circuit court and with the judicial council.

History: 1961 c. 495.

253.18 Administration of work in multi-branch courts. In courts in which there are 2 or more branches, the judges may provide for the distribution of the work and assignment of cases among branches under the following rules:

(1) Branch No. 1 shall be designated as the probate branch. In addition, the judges may designate by court rule particular branches to handle primarily specific types of cases, such as juvenile matters, domestic relations, criminal matters, traffic or small claims.

(2) In counties having a population of 500,000 or more, branches Nos. 1 and 2 shall be the probate branches, branch No. 3 shall be the traffic court branch. Branch No. 4 shall be the misdemeanor court branch. Branch No. 11 shall be the juvenile court branch. Branch No. 12 shall be the traffic-misdemeanor court branch. Branches Nos. 5, 6, 7, 8, 9 and 10 shall be the civil court branches. The revenue from all actions for the violation of ordinances of a city of the first class, in any such county, brought in the county court shall be paid to the city monthly as provided in s. 288.10. Said city of the first class shall have access to all books and records concerned with accounting of revenues and expenditures relating to this chapter.

(3) Regardless of the name given to a particular branch or the type of cases assigned to it, the judge of that branch shall handle other matters assigned to him as time permits.

(4) Whenever a branch is given a particular name by statute, all cases of the type described by the name of the branch shall be assigned initially to that branch by the clerk and shall be reassigned to another branch only in the case of disqualification, illness or vacation of the judge or congestion or vacancy in the branch named by statute.

History: 1961 c. 495.

253.19 Temporary duty. A county judge may act as county judge in another county or as a circuit judge on the written request of the judge of said court; and, when designated and assigned to so act by the chief justice of the supreme court or other designated justice, shall do so. While acting temporarily as a county judge in another county or as a circuit judge, a county judge has the power to hold court, try cases and exercise all the authority of the presiding judge.

History: 1961 c. 261.

253.20 Board of county judges. The county judges of the state constitute the board of county judges and shall meet at least once each year. The board shall elect a chairman, secretary and other officers considered necessary and may establish sections for judges interested in specialized fields of law.

History: 1961 c. 495.

253.21 Uniform forms. (1) **PROBATE FORMS.** (a) The board of county judges or its duly authorized committee shall adopt uniform forms necessary for the administration of proceedings under Title XXIX. Duly authenticated copies of these forms shall be furnished to the secretary of state and kept on file in his office. The secretary of state shall transmit copies of these forms to the register in probate in each county in the state.

(b) The court in its discretion may refuse to accept any legal documents not drafted in compliance with the uniform forms.

(2) **JUVENILE COURT FORMS.** The board of county judges or its duly authorized committee shall adopt uniform forms necessary for the administration of juvenile matters under ch. 48. Duly authenticated copies of these forms shall be furnished to the secretary of state and kept on file in his office. The secretary of state shall transmit copies of these forms to the register in probate in each county in the state and in counties having a population of 500,000 or more to the clerk of the children's court.

History: 1961 c. 495.

253.25 Public administrator. (1) A public administrator shall be appointed for each county. Before entering upon his duties, he shall take the official oath and give bond, with sufficient sureties, to the court, in a sum not less than \$1,000 with conditions substantially like the conditions of administrators' bonds, that he will faithfully perform his duties. The bond and the oath shall be filed and recorded with the register in probate. Additional bonds may be required. The expense of surety upon such bonds shall be paid by the county treasurer out of inheritance tax funds belonging to the state, on the order of the court. The person appointed shall be an attorney, if one is available, and his term shall terminate upon the appointment and qualification of his successor. The appointment of the public administrator and the approval of his bond shall be by the county judge and in multi-branch courts, by the judge of branch No. 1.

(2) In counties having a population of 500,000 or more, 2 public administrators shall be appointed and their bonds approved, one each by the judges of branches No. 1 and No. 2.

History: 1961 c. 495.

253.26 Presumption in favor of orders. When the validity of any order or judgment of a county court in a proceeding under Title XXIX, or to terminate a life estate or joint tenancy, in an inheritance tax proceeding, shall be drawn in question in another action or proceeding, everything necessary to have been done or proved to render the order or judgment valid, and which might have been proved by parol at the time of making the order or judgment and was not required to be recorded, shall, after 20 years from such time be presumed to have been done or proved unless the contrary appears on the same record.

History: 1961 c. 495, 614.

253.30 Clerk of circuit court; duties, powers. (1) The clerk of circuit court shall keep the books and records under s. 59.39 and ch. 299 and perform the duties under s. 59.395 for all matters in the county court except those under ch. 48 and Title XXIX. In counties having only one county judge, with the written approval of the circuit judge, the county judge may appoint the clerk of court register in probate. Such appointments shall be revocable at the pleasure of the county judge. Appointments and revocations shall be in writing and shall be filed in the office of the register in probate. When appointed for this purpose, the clerk shall have the powers and duties of registers in probate under ss. 253.32 and 253.33. In prosecutions of ordinance violations in the county court in counties having a population of 500,000 or more, the chief deputy clerk, criminal division, or one of his deputies, shall enter upon the records of the court a statement of the offense charged, which shall stand as the complaint, unless the court directs formal complaint be made. The defendant's plea shall be guilty or not guilty, and shall be entered as not guilty on failure to plead, which plea of not guilty shall put all matters in such case at issue, any other provisions of law notwithstanding.

(2) In counties with multi-branch county courts, the clerk of circuit court may appoint one or more deputies for each branch except branch No. 1 and, in counties having a population of 500,000 or more, branch No. 2, which appointments shall be approved by the judge of the branch which the deputy will serve. A deputy appointed to serve a particular branch may serve any other branch of the county court.

(3) In counties having a population of 500,000 or more the clerk of the circuit court shall:

(a) Appoint, pursuant to ss. 63.01 to 63.16, a chief deputy clerk, criminal division for the exclusive handling of the clerk's work in all criminal and ordinance matters in circuit and county courts, provided that the clerk of the circuit court or such chief deputy clerk, criminal division shall sign all extradition requisition papers as required by law. The incumbent clerk of the municipal and district courts of such counties in office December 31, 1961, shall be appointed the first such chief deputy clerk, criminal division provided that he shall have served at least 2 consecutive years in such former capacity.

1. Said chief deputy clerk or one of his deputies shall be present at each session of the criminal branches of the circuit court and the misdemeanor and traffic branches of the county court and shall perform all ministerial acts required of him by and under the direction of the judges of said courts, and when the misdemeanor and traffic branches of the county court are not in session, shall have power to take bail for the appearance of any person under arrest before said courts, subject to revision by said courts; he, or one of his deputies, shall issue all processes under his hand and the seal of the court and attest it in the name of the judge, signing it by his title of office, and shall tax costs; he, or one of his deputies, may issue warrants upon complaint filed in writing and upon oath in all cases. The complaints, warrants, recognizance, commitments, attachments, venires, subpoenas and all other writs and papers in said courts shall be in substance in the form provided by rules duly adopted and published by the county board of judges.

2. In prosecutions of ordinance violations in the county court, said clerk, or one of his deputies, shall enter upon the records of the court a statement of the offense charged, which shall stand as the complaint, unless the court directs formal complaint to be made; then the defendant's plea shall be guilty or not guilty, and shall be entered as not guilty on failure to plead, which plea of not guilty shall put all matters in such case at issue, any other provision of law notwithstanding.

3. Such clerk and his deputies and the police officers attending said criminal branches of the circuit court and misdemeanor and traffic branches of the county court and serving its process shall receive no fee.

(b) Appoint, pursuant to ss. 63.01 to 63.16, a chief deputy clerk county court, civil division for the exclusive handling of the clerk's work in all civil matters in county court excluding probate and juvenile matters. The incumbent clerk of the civil court of such counties on December 31, 1961, shall be appointed the first chief deputy clerk county court, civil division provided that he has served at least 2 consecutive years in such former capacity.

(c) Appoint, pursuant to ss. 63.01 to 63.16, a chief deputy clerk, children's court division, for the exclusive handling of the clerk's work in the children's court branch of such county court. The incumbent clerk of the children's court of such county on December 31, 1961, shall be appointed the first such chief deputy clerk, children's court division, provided that he has civil service status on such date in such former capacity.

(d) All other clerks and assistants in such courts having civil service status on January 1, 1962 shall automatically continue in such service in the county court and retain their civil service status. The county board shall fix and pay the salaries of all such clerks and assistants.

(e) The clerk of the circuit court shall be deemed to be the department head of the clerk of courts department of the circuit and county courts of the county, except branches 1 and 2 of such county court, as to all personnel, procurement, budget and related matters.

(f) All clerks and assistants in the municipal and district courts having civil service status in a city of the first class in such county on the effective date of the abolition of such courts, shall automatically be transferred to county civil service in the county and circuit courts and retain their civil service status, including without limitation the right to go to the maximum step in the range of salaries as set forth in the city civil service salary ordinance as of July 1, 1961. Unless required by federal social security law, such city employes, upon entrance into county civil service, shall not be required to come under social security if they had determined while in city service that they did not elect to do so. Subject to the exception above stated, the county board shall fix and pay the salaries of all such clerks and assistants.

History: 1961 c. 495.

253.31 Appointment and compensation of registers in probate. (1) In each county, the county judge, or in multi-branch courts the judge of branch No. 1 shall appoint and may remove a register in probate, who, before entering upon his duties, shall take and subscribe the constitutional oath of office and file it, together with the order of appointment, in the office of the clerk of circuit court.

(2) One or more deputies may be appointed in like manner.

(3) The salary of the register in probate and of any deputies shall be fixed by the county board and paid by the county.

(4) In counties having a population of 500,000 or more, the appointment under subs. (1) and (2) shall be made by joint action of the judges of branches Nos. 1 and 2, but such judges shall not have the power to remove said register in probate and deputy registers, except through charges for dismissal made and sustained pursuant to s. 63.10.

History: 1961 c. 33, 495.

253.32 Duties of registers in probate. The register in probate shall:

(1) File and keep all papers properly deposited with him unless required to transmit such papers.

(2) Keep a book called a court record and enter therein every proceeding in the court under Title XXIX under its proper title, a brief statement of the nature of the proceeding and of all papers filed therein, with the date of filing and a reference to the volume and page of the minute book where minute records can be found or to the microfilm file where papers have been recorded so that the court record is a complete index or brief history of each proceeding from beginning to final disposition.

(3) Keep a book called a minute book and enter therein a brief statement of all proceedings of the court under Title XXIX during its sessions, all motions made and by whom, all orders granted in open court or otherwise, and the means of all witnesses sworn or examined. If this information is all included in the court record, the judge may direct that the minute book be no longer kept.

(4) Keep a record book or books and record therein in full all wills admitted to probate with the certificate of probate, all letters and all judgments rendered. The judge may require any other documents to be recorded therein. Any documents may be recorded on microfilm instead of in a record book. These records shall be kept irrespective of s. 59.715 (20) (c) unless recorded on microfilm.

(5) Keep an alphabetical index to the court record and the file containing the original documents or microfilm copies thereof.

(6) Perform any other administrative duties as the judge directs.

(7) Except in counties having a population of 500,000 or more, perform the duties of clerk of the juvenile court under ch. 48 unless these duties are performed by a person appointed under s. 48.04.

(8) When appointed deputy clerk pursuant to s. 253.344, perform such duties as the clerk of circuit court directs.

(9) In counties having a population of 500,000 or more, the register in probate shall be the department head as to all personnel, procurement, budget and related matters with reference to his office as register in probate of branches Nos. 1 and 2 of the county court. The register in probate shall appoint pursuant to ss. 63.01 to 63.16 as many deputy clerks as may be authorized by the county board for branch No. 1 and branch No. 2 of the county court, provided that such appointment shall be approved by the judge of the branch which such deputy shall serve. Such deputy clerks shall aid the register in probate and deputy registers in probate in the discharge of their duties.

History: 1961 c. 33, 495.

253.33 Powers of registers in probate. (1) The register in probate:

(a) May make orders for hearings when the judge is away from the county seat or unable to discharge his duties or when given authority in writing by the judge and an application is made to the court in a proceeding under Title XXIX requiring notice of hearing. The order and notice when signed "by the court, . . . , register in probate" has the same effect as if signed by the judge.

(b) Has the same powers as clerks of court to certify copies of papers, records and judicial proceedings. Copies certified by registers in probate are receivable in evidence as if certified by clerks of court.

(c) Has the power to administer any oath required by law.

(d) Has, when appointed for this purpose, the powers of deputy clerks as provided in s. 59.38.

(e) Has, when appointed for this purpose, the powers and duties of court reporters and assistant reporters specified in s. 253.35 (2).

(2) Subsection (1) applies to duly authorized deputy registers in probate.

History: 1961 c. 33, 495.

253.34 Fees in probate matters. (1) The register in probate shall collect the following fees:

(a) For filing a petition whereby any proceeding in estates of deceased persons is commenced, when the gross estate or value of the property is \$1,000 or less, no fee; when the gross estate is more than \$1,000 and less than \$10,000, a fee of \$3; when the gross estate is \$10,000 or more and less than \$25,000, a fee of \$6; when the gross estate is \$25,000 or more and less than \$100,000, a fee of \$25; when the gross estate is \$100,000 or more, a fee of \$100. Such fees shall be paid at the time of the filing of the inventory, or other documents, setting forth the value of the estate in such proceedings. The fees fixed in this subsection shall also be paid in survivorship proceedings and in such survivorship proceedings the value shall be based on the value of the property passing to the survivors.

(b) For a certificate terminating a life estate or homestead interest, \$1, but the fee shall not be collected if such termination is consolidated with probate or administration proceedings.

(c) For a certificate or judgment of descent of lands the same fees shall be charged and collected as are charged in estate proceedings in par. (a) based upon the valuation of the property passing by said certificate or judgment of descent.

(d) For filing objections to the probate of a will, \$10, except that this fee may be waived by the court when objection is filed by a guardian ad litem or attorney for a person in military service. The court may order a refund of said fee to the objector from the assets of the estate.

(e) For receiving a will for safekeeping, except under s. 310.02, \$1.

(f) For each certificate issued by the registers in probate or county judges, 50 cents.

(g) For copies of records or other papers in the custody and charge of registers in probate at the rate of 50 cents a page; and for the comparison and attestation of such copies as are not provided by the registers, 25 cents for each page, but the minimum charge in each of the above mentioned instances is \$1, including the certificate.

(h) In counties having a population of 500,000 or more, for filing claims against estates, \$1, except that the state or the political subdivisions thereof and bureaus and boards of the state and its political subdivisions shall be exempt from the payment of this fee.

(2) For purposes of determining fees payable under sub. (1), the following shall apply:

(a) U.S. government bonds which by their terms are payable to another person upon death of the original registered owner are included in his gross estate and not subject to the fee for terminating a life estate.

(b) Life insurance, retirement benefits or annuities are excluded unless paid or payable to the estate or personal representative in which case they are included.

(c) When survivorship proceedings are pursued independent of probate or administration, a fee shall be collected for each, such fee not to be less than that payable if the proceedings were consolidated.

(d) Proceedings to administer assets subsequent to entry of final judgment in an estate are subject to fees as separate proceedings which fees shall not be less than those which would have been chargeable if such assets had been included in the original proceedings.

(e) The value of decedent's interest in real estate shall be diminished by the unpaid balance on duly recorded or filed liens and mortgages.

(f) Special administrations are subject to filing fees, such fees to be credited upon fees for subsequent general administration or probate.

(3) The register in probate shall, on the first Monday of each month, pay into the office of the county treasurer all fees collected by him and in his hands and still unclaimed as of said day. Each county treasurer of a county having a population under 500,000 shall make a report under oath to the state treasurer on or before the fifth day of January, April, July and October of all fees received by him under sub. (1) (a) to (e) up to the first day of each of said months and shall at the same time pay 65 per cent of such fees to the state treasurer for deposit in the general fund. Each county treasurer shall retain the balance of fees received by him under this section for the use of the county. In counties having a population of 500,000 or more all fees paid under this section shall be kept for use by the county.

History: 1961 c. 495, 614, 674.

253.344 Register in probate may be appointed deputy clerk. With the written approval of the county judge or, in multi-branch county courts, of the judge of branch No. 1 of the county court, and of the judge or judges of the circuit court, the clerk of circuit court may appoint the register in probate a deputy clerk. Appointments by the clerk under this section shall be revocable by him at pleasure. Such appointments and revocations shall be in writing and shall be filed in the clerk's office.

History: 1961 c. 495.

253.345 County court reporters as registers in probate. County court reporters may be appointed registers in probate or deputy registers by the county judge, except that in multi-branch county courts the appointment shall be by the judge of branch No. 1 of the county court, with the consent of the judge of the branch in which the reporter serves. Appointments by the county judge under this section shall be revocable by him at pleasure. Appointments and revocations shall be in writing and shall be filed in the office of the register in probate.

History: 1961 c. 495.

253.35 Appointment of reporter and assistants. (1) (a) Every county judge may appoint a competent phonographic reporter and as many assistant reporters as necessary, and may remove them at pleasure, provided that in counties having a population of 500,000 or more, appointments and removals shall be pursuant to ss. 63.01 to 63.17. The register in probate or deputy register may be appointed such reporter or assistant reporter.

(b) In counties having a population of 500,000 or more, the judges of branches Nos. 1 and 2 of the county court may appoint 2 reporters. In counties having a population of 50,000 or more, in which the county court is a single branch court, the county judge may appoint 2 reporters.

(2) (a) When qualified under s. 252.18 every court reporter and assistant reporter shall attend the sessions of the court for which he was appointed and, on request of the judge appointing him, sessions of court presided over by that judge in other counties and shall perform any other duties as the judge directs. When any witness is sworn and examined in any contested matter or proceeding in any county court such testimony shall be taken by the reporter and in the event of an appeal, shall upon request of any party be transcribed and the stenographic reporter of such court shall receive the fees provided by law for transcripts of testimony in circuit court; provided, that nothing herein shall prohibit the judge in his discretion from causing the testimony to be so reduced to writing even in the absence of an appeal. In counties having a population of

500,000 or more, the court may order transcripts to be filed in noncontested matters; reporters appointed to the misdemeanor and traffic branches shall report all preliminary examinations held before said courts, but in all cases of prosecutions for misdemeanors, ordinance violations and traffic forfeitures, said reporters shall not be required to report such trial or proceeding, nor shall it be necessary for said judge of said court to take minutes of the evidence given before him; but said misdemeanor or traffic branch judge may require said reporters to report and transcribe the evidence given upon any trial or proceeding, other than preliminary examinations, which may be had before said court. Any such transcript in a noncontested matter ordered filed by the court shall be paid for by the county treasurer upon the certificate of the clerk of court or register in probate. Any court reporter or assistant reporter may act in any circuit or county court of the state on request of the judge of that court and with permission of the judge by whom he was appointed.

(b) County court reporters when appointed pursuant to s. 253.345 shall have the powers and duties of registers in probate or deputy registers, as the case may be, and, when appointed pursuant to s. 253.36, shall have the powers and duties of deputy clerks.

(3) Except as hereinafter provided for reporters in counties having a population of 500,000 or more, every reporter appointed under sub. (1) shall receive from the state the salary specified for him in s. 20.930. The county for which each reporter is appointed shall reimburse the state for one-half of his salary as described in s. 253.07 (1). The county may pay an equal amount to each county court reporter in addition to that specified in s. 20.930. If 2 counties share a single reporter, each shall reimburse the state for one-quarter of his salary. Compensation paid to any assistant reporter appointed under sub. (1) shall be paid by the county.

(4) In counties having a population of 500,000 or more every reporter appointed under sub. (1) shall receive the salary specified for him by s. 20.930, directly from the county. The state shall monthly reimburse the county for one-half of his salary specified in s. 20.930. The county may pay each county court reporter compensation in addition to that specified in s. 20.930, but such additional compensation shall be the same for each such reporter. All reporters of the district, civil, county and children's court of such county who have civil service status in such county on December 31, 1961, shall retain such status as reporter in the county court. Such reporters who are members of the county employes' retirement system on said date shall remain as members subject to all provisions of the retirement system law included in chapter 201, laws of 1937, as amended, and all such reporters thereafter appointed shall likewise be members of said system. In no event shall any of the aforesaid reporters be considered members of the Wisconsin retirement system.

(5) Every reporter appointed under sub. (1) shall furnish to any party a transcript of the testimony taken by him in any matter or proceeding in the manner and for the fees provided in s. 252.20.

(6) The provisions of s. 253.08 shall apply with respect to expenses of a county court reporter and assistant reporter.

History: 1961 c. 495, 642.

253.36 County court reporters as deputy clerks. A county court reporter or assistant reporter may be appointed a deputy clerk by the clerk of circuit court with the written approval of the county judge of the branch in which he serves, and of the judge or judges of the circuit court. Appointments by the clerk under this section shall be revocable by him at pleasure. Appointments and revocations shall be in writing and shall be filed in the clerk's office.

History: 1961 c. 495.

253.40 Office and records to be kept at county seat. Every county judge in this state shall maintain in his office the books, papers and records of the county court at the county seat of the county in which he holds his office, which office and the books, papers and records thereof shall at all reasonable times be open to access and inspection by any person having any business therewith except as otherwise provided by law. Provision may be made by court rule that duplicate copies of matters within county court jurisdiction, which are heard by branch No. 3 of the Rock county court in Beloit, may be kept in Beloit.

History: 1961 c. 495.