

CHAPTER 334

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CHAPTER 334

AN ACT to repeal section 15, as created by chapter 19, laws of 1953; to amend sections 6, 9, 10 and 13; and to repeal and recreate sections 3, 5, 12, 12m and 14 of chapter 193, laws of 1951, relating to the municipal court for the western district of Waukesha county.

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

SECTION 1. Chapter 193, laws of 1951, sections 3 and 5 are repealed and recreated to read:

(Chapter 193, laws of 1951) Section 3. JURISDICTION AND POWERS OF COURT. The municipal court for the western municipal district of Waukesha county is a court of record, and shall have a clerk and a seal, with suitable device, to be procured under the direction of the judge thereof, at the expense of the county of Waukesha. It has and may exercise powers and jurisdiction concurrent with the circuit court of Waukesha county in all paternity proceedings (under sections 52.21 to 52.45 of the statutes), crimes and misdemeanors arising in said district, except murder. Said municipal court is also vested with all powers and jurisdiction of a justice of the peace in the district, in said paternity cases, criminal actions and proceedings, and jurisdiction of all prosecutions for breach of any ordinance of any city, town and village now or which may hereafter be incorporated in said territory; and jurisdiction of all prosecutions for breach of any ordinance enacted by the county board of Waukesha county. The general provisions of law relative to civil, criminal and paternity cases before justices of the peace, shall apply in said court as far as applicable. No justice of the peace, police justice or court commissioner within said district, except when called in to sit as judge of said municipal court as hereinafter provided, shall exercise any jurisdiction in cases of paternity, crimes, misdemeanors or breaches of any town, village, city or county ordinance arising within the limits of said county, and all such jurisdiction within the limits of said district is vested in the municipal court; except that the police justice of any village or town now, or which may hereafter be incorporated, in said territory or if there be no police justice therein, then any justice of the peace of said village or town, has concurrent jurisdiction with said municipal court in all breaches of any ordinance or bylaw of said village or town, and all the general provisions of law as to the arrest, trial and punishment of offenders shall govern so far as applicable in all such actions and proceedings before said police justices or justices of the peace. Whenever any police justice or justice of the peace before whom any such action or proceeding is pending is legally disqualified from any cause to try the same, said action or proceeding shall be sent for trial to any justice of the peace of said village or town or to the said municipal court. The municipal court has also jurisdiction of all cases brought for breach of any recognizance given in said court; but no judgment in any such action shall constitute a lien upon real estate until a transcript thereof is duly docketed in the office of the clerk of the circuit court of said county, in like manner as judgments of circuit courts in civil cases are required to be docketed; and when so docketed, shall have the same lien upon real estate in said county as judgments of the circuit court so docketed have. All judgments of said municipal court may be examined and reviewed by the supreme court in the same manner as judgments of the circuit

court. To carry out its jurisdiction the municipal court has all the powers of the circuit courts, and the municipal judge has the same powers in all matters pertaining to the jurisdiction of said municipal court, as circuit judges.

**Section 5. POWERS AND JURISDICTION OF THE COURT DEFINED.** Said municipal court has all the powers and jurisdiction heretofore or now vested in justices of the peace, police justices or police courts of the city of Oconomowoc in said municipal district, in all paternity proceedings and crimes and misdemeanors arising in said city, and has jurisdiction of all prosecutions for breach of any ordinance, law, rule, regulation or resolution of said city. To carry on its business the court shall be open, according to circuit court practice, to hear, try and determine in a summary way, all cases which shall be brought before it by the proper officers, either with or without process, for violation of the laws of this state; and in any paternity matter, crime or misdemeanor arising in said city or in said district, or of any breach of any such ordinance, laws, rule or regulation of said city, the said court may, in its discretion, grant such continuance of cases as may be necessary to the ends of public justice, with or without bail. Applications for warrants may be made to the clerk of the court, and he may issue the same under the supervision of the municipal judge. A printed copy of any ordinance, bylaw or resolution passed by any city, town, village or county, in the official newspaper of said city, town, village or county, or in pamphlet or book form, is prima facie evidence of its due passage and publication, and can be received in evidence. After issue joined, and before trial in all cases of misdemeanor cognizable before said court, of which justices of the peace would have jurisdiction, the defendant may demand a jury of not more than 12 nor less than 6 men, and shall designate the number at the time of the demand. The proper officer whom the court directs shall thereupon make a list of twice the number of jurors demanded, who may be qualified to serve as jurors in courts of record in Waukesha county, and the parties shall then alternately strike therefrom so many names as will leave remaining the number desired. The court shall thereupon issue a venire commanding the officer to summon those so remaining to appear before it, at such time as it directs, to make a jury for the trial of the said action, and the court may compel their attendance by attachment. Either party may challenge any juror for cause, and the deficiency occasioned thereby, or by any other cause, shall be supplied by talesmen to be selected and summoned by the officer. In all cases for the breach of an ordinance, bylaws, rule or resolution, if the defendant shall not demand a jury, any city, town, village and the county may demand a jury as above. If no jury is demanded it shall be a waiver of a jury trial. If either party declines to strike from the list the names which he is entitled to strike, the court may appoint some disinterested person to strike the same for said party. Jurors shall be paid and fees taxed in accordance with circuit court practice. Witnesses and jurors shall attend before said court in all paternity proceedings and criminal prosecutions and in actions for the breach of any ordinance, bylaw or resolution, without the payment of fees in advance or tender thereof, upon the process of the court duly served; and in default thereof their attendance may be enforced by attachment. If a jury, after being kept out a reasonable time, should disagree, they shall be discharged and the court shall adjourn the case to a day certain and issue a new venire as aforesaid.

SECTION 2. Chapter 193, laws of 1951, sections 6, 9 and 10 are amended to read:

(Chapter 193, laws of 1951) Section 6. JUDGE; ELECTION; TERM; VACANCIES. The qualified electors of \* \* \* the territory

embraced in the said western municipal district of the county of Waukesha, shall, on the first Tuesday of April, A.D. 1895, and on the first Tuesday of April each 6 years thereafter, elect a suitable person who \* \* \* *has* been admitted to practice in courts of record in said county, and \* \* \* *is* a resident of the district for which he is elected, to the office of judge of said municipal court, to be called "The Municipal Judge," who shall hold \* \* \* office for the term of 6 years from the first Monday in May next succeeding such election, and until his successor is elected and qualified, and who may be removed from office in \* \* \* manner provided in the constitution for the removal of supreme and circuit judges. If a vacancy \* \* \* *occurs* in the office of judge of said court, the governor shall appoint a judge to fill the vacancy until a successor is elected. Elections to fill such vacancies shall be held *and conducted* as provided in \* \* \* *chapter 8 and section 17.21 (2) of the statutes*, and a certificate shall be given, in all respects as is provided by law in the case of the election of county judges.

Section 9. TERMS; SITUS; PROSECUTING OFFICERS. The said municipal court shall hold terms commencing on the first Monday in \* \* \* January and June of each year, at some place in the city of Oconomowoc, to be provided by the \* \* \* county of Waukesha. Grand juries \* \* \* when ordered \* \* \* shall be drawn and summoned \* \* \* as provided in chapter \* \* \* *255 of the statutes*. The district attorney of Waukesha county shall be \* \* \* prosecuting officer in all criminal cases, *paternity proceedings, and in all violations of county ordinances and in all violations of ordinances of any town in the territory of said western district (the town board of any said town, however, may in its discretion, have its own attorney)*, and the city attorney in all prosecutions for the \* \* \* *breach of any city ordinance, bylaw or resolution brought before said court.*

Section 10. REPORTER. The judge of said court may appoint, and from time to time remove, a \* \* \* *stenographic* reporter of said court, who shall not be a relative of said judge, who shall take and subscribe the oath of said office prescribed in the constitution, and who shall be furnished with all necessary stationery and shall attend only when required by said judge, and perform such duties as he \* \* \* *requires*. Said judge shall fix his compensation, not exceeding that of stenographic reporters in the circuit court which shall be in full compensation for his services and for making such transcripts \* \* \* as may be required by the judge; \* \* \* he shall furnish to and may charge persons requiring them, like transcripts at a price \* \* \* *in accordance with circuit court practice*. Three-fourths of said reporter's per diem compensation shall be paid by the county of Waukesha and one-fourth by the city of Oconomowoc \* \* \* quarterly.

SECTION 3. Chapter 193, laws of 1951, sections 12 and 12m, are repealed and recreated to read:

(Chapter 193, laws of 1951) Section 12. SHERIFF; OFFICER OF COURT; PROCESS SERVERS; COMMITMENTS. The sheriff of Waukesha county shall be the officer of said court; shall serve its process and carry into effect its orders and judgments; and the constables residing in said municipal district may serve its process in actions for breach of village and town ordinances, and chief of police and policemen of the city of Oconomowoc may serve its process in prosecutions for the breach of ordinances, bylaws or resolutions of said city and in all actions and proceedings in which justices of the peace formerly had jurisdiction; but

such chief of police, policemen or constables shall receive no compensation from Waukesha county for such services. The municipal court has the power to commit or bail over to an existing term, or to its next regular term, such persons as on examination are found to be indictable or subject to information, and such witnesses as may be necessary.

Section 12m. ABSENCE OF JUDGE. If the judge of said court desires to be absent from said court, or in case of his sickness, press of business, at a regular term, or of his inability for any cause to attend, he may designate and appoint, by order, entered in the minutes of said court one of the justices of the peace of said county, a resident in said municipal district, to temporarily discharge the duties of judge of said court, except holding the term or any part thereof, for the trial of the indictments, informations, or appeals, and his acts shall be of the same force as if performed by the judge. And the clerk shall make a like record of his proceeding; and such justice of the peace shall receive for his services \$5 per day, to be paid by said county; provided, that any and all sums in excess of \$100 so paid by said county for any one year because of the voluntary absence of the judge, shall be deducted from the salary of said judge by said county. The municipal judge shall not voluntarily absent himself from the duties of his office more than 6 weeks in any one year, except from sickness. Any circuit judge, or judge of any municipal court having jurisdiction in criminal cases, equal to or greater than the judge of said municipal court for said western district, may hold court as judge of said municipal court in term time, for the trial cases, in case of absence, sickness or other disability or upon request of the judge of said municipal court, and while so doing shall have the same powers as if elected judge of said court. In case of sickness, absence, or inability arising from any cause, of the municipal judge for said western district, including application for change of venue on account of prejudice of said judge or when the said judge for any cause deems it improper for him to hear or try any proceeding of the municipal court of his district, or before him as the judge of said court, he may request the county judge of said county to hold court, and hear and try any matter or proceeding as a court or judge of said western district, and the said county judge is authorized and empowered, upon said request, to hold said municipal court and perform any act thereof as fully as said municipal judge is authorized or empowered to do. In case of the inability of said judge to make said request, or in case of a vacancy in the office of said judge, said county judge shall so act and fulfill the duties of such municipal judge at the request of the circuit judge of said county, or the clerk of said municipal court, until such inability ceases or until such vacancy is filled. Whenever said county judge acts as municipal judge for said district, he shall be compensated for his services in like amount and in like manner as county judges are compensated for holding court in other courts as provided in section 253.07 of the statutes. Whenever any circuit, municipal or county judge acts in said district, under request, as municipal judge, he shall be designated in all proceedings as "Acting Municipal Judge".

SECTION 4. Chapter 193, laws of 1951, section 13, is amended to read:

(Chapter 193, laws of 1951) Section 13. FEES. The fees of witnesses, jurors, sheriff and other officers, and taxable costs of suits, except as herein provided, shall be the same as in circuit court \* \* \*. The costs shall be paid in *all* criminal prosecutions in the name of the state, by the county, and in city \* \* \*, village *and town* prosecutions, by the respective city \* \* \*, village *or town* prosecuting the same.

SECTION 5. Chapter 193, laws of 1951, section 14 is repealed and recreated to read:

(Chapter 193, laws of 1951) Section 14. SALARY OF JUDGE AND CLERK. The salary of the judge and the clerk of said municipal court shall be set from time to time by the county board of Waukesha county, and be paid three-fourths out of the county treasury of Waukesha county and one-fourth out of the treasury of the city of Oconomowoc, to be paid monthly at the end of each month.

SECTION 6. Chapter 193, laws of 1951, section 15, as created by chapter 19, laws of 1953, is repealed.

Approved August 26, 1959.

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