

No. 124, A.]

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CHAPTER 57

AN ACT to amend and revise chapter 187, laws of 1951, relating to additional civil and criminal jurisdiction of the county court of Vilas county.

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

Chapter 187, laws of 1951, is amended and revised to read:

SECTION 1. There is hereby conferred on the county court of Vilas county, jurisdiction of the following actions, matters and proceedings:

(1) It shall have and exercise civil jurisdiction concurrent with and equal to the jurisdiction of the circuit court of Vilas county (hereinafter referred to as "county") in all civil actions and special proceedings of every kind and description, both in law and equity, except in action and proceedings in which it is sought to recover a sum in excess of \$50,000, exclusive of interest and costs.

(2) It, and the presiding judge, shall have and exercise jurisdiction concurrent with and equal to the jurisdiction of the circuit court of the county in all bastardy actions, and in all criminal cases except homicide.

(3) It, and the presiding judge, shall have and exercise all of the jurisdiction, powers and authority in civil and criminal actions and proceedings within the county which are possessed by justices of the peace and the courts thereof, including offenses against the ordinances of the county, and of cities and villages therein. All jurisdiction, power and authority in criminal actions and proceedings now possessed by justices of the peace of the county is hereby withdrawn and withheld, except the power and authority to receive complaints in criminal cases and to issue warrants thereon, which warrants shall be made returnable to the said county court, and all complaints and papers relating thereto shall be forthwith certified to said county court.

SECTION 2. It shall be a court of record, and, subject to the exceptions aforesaid, of general jurisdiction, and possess the same powers as the circuit court of the county, including power to issue all writs, orders and process throughout the state.

SECTION 3. The register in probate shall be ex officio the clerk of the court in all respects, with like powers and duties as are exercised by the clerk of the circuit court in the circuit court of the county, and shall perform such other duties as may be required by the court. The register in probate shall file such bond or additional bond to cover the performance of the duties imposed by this act as may be required from time to time by the county board of supervisors of the county. The seal now in use shall be and remain the seal of such court for all the purposes of this act.

SECTION 4. The presiding judge shall appoint and may remove at pleasure a phonographic reporter whose salary shall be as fixed from time to time by said county board. The register in probate may be appointed by the judge as such reporter. The reporter shall take and file in said court the constitutional oath, and shall take stenographic notes of all evidence and proceedings had in said court upon the trial of all issues of fact, and shall perform such other duties as the judge may require. In case of temporary absence or disability of the reporter, the judge may appoint a temporary substitute who shall qualify in like manner.

SECTION 5. The salary of the judge for performing all duties as pertaining to said office shall be as fixed from time to time by said county board. The judge shall receive no other compensation for services as such, and shall not engage in the practice of law or in any other profession or occupation while holding said office.

SECTION 6. The court shall be held at the court house in the city of Eagle River in suitable rooms to be furnished and supplied at the expense of the county under the direction of the county board thereof, and the county shall provide all books, blanks and stationery required by the court. The court shall be open for business on all secular days except legal holidays.

SECTION 7. The sheriff of the county and his deputies shall be officers

of the court and shall attend its sessions whenever required by the presiding judge.

SECTION 8. There shall be a jury list containing the names of jurors who shall be available for service under this act. Such list shall be known and designated as the "county-at-large jury list".

(1) The county-at-large jury list shall be and consist of the names of 200 persons drawn from the list of names prepared and drawn for the circuit court from the county by the jury commissioners for the circuit court, pursuant to chapter 255 of the statutes. The list shall be so drawn from time to time as may be ordered by the judge; and the slips containing the names of jurors so drawn shall be deposited in a box designated the "county-at-large jury list", which box shall be kept in safe custody by the clerk of the county court.

SECTION 9. For the purposes of this act and in the exercise of the jurisdiction thereby conferred, the court is divided into 2 branches: The circuit branch and the justice branch.

(1) The justice branch, and the presiding judge thereof, shall have and exercise within the county all of the jurisdiction, powers and authority which are conferred upon the county court by section 1 (3) of this act; and in addition thereto such jurisdiction, powers and authority of the justice branch is extended to all crimes and offenses arising within the county not punishable by imprisonment in the state prison, and to all civil actions and proceedings at law within the county wherein the debt, demand, value of property or damages claimed in the complaint shall not exceed \$1,000, exclusive of interest and costs.

(2) All civil summonses, writs, civil warrants and other civil process of the court, justice branch, may be served throughout the state.

(3) All jurisdiction conferred by this act, except that vested in the justice branch by sub. (1) shall be vested in and exercised by the court, circuit branch and the presiding judge thereof; but the circuit branch shall have jurisdiction on appeal from the justice branch of all matters and proceedings specified in sub. (1).

SECTION 10. (1) Except as herein otherwise provided, all statutes and rules of procedure relating to courts of justices of the peace shall apply to and govern the court, justice branch, in all actions and proceedings, civil and criminal; but the presiding judge thereof shall, in addition have the same power to rule upon the admission of evidence, and, in his discretion, to instruct juries therein, as is possessed by circuit judges.

(2) In all preliminary examinations in which the defendant shall be held to trial for an offense of which trial jurisdiction is conferred by this act, the defendant shall, unless he demand at the close of such examination that he be held for trial to the circuit court, be held to trial in the circuit branch of the county court.

(3) Any party to an action in the court, justice branch, desiring that the issues therein be tried by jury shall be entitled to a jury of 6 upon demand made therefor prior to trial and upon paying to the judge or clerk, in civil cases, the same per diem for each juror as is then allowed by any law to each juror in courts of justices of the peace of the county in civil cases. When a jury is so demanded, the clerk, under direction of the presiding judge, shall draw 18 names from the box designated the "County at Large jury list", and each party shall exercise 6 strikes, in the manner provided by law for obtaining juries in justices' courts. If any of such jurors so chosen shall not attend at the time so summoned to appear or in case there be legal objections raised to any of those who shall appear, the judge may cause additional names to be drawn and jurors summoned to supply the deficiency. Failure to

make such demand for jury trial shall be deemed a waiver of the right to trial of the action by jury.

(4) Except as herein otherwise provided, costs of the court, justice branch, in civil and criminal actions, shall be taxed at \$6 in each action; and there shall be taxed, in addition, the lawful fees of jurors, witnesses and officers, and such other lawful fees, costs and disbursements as may have accrued in the action. In all civil actions and proceedings in the justice branch, a filing fee of \$2 shall be paid in each such action or proceeding at the time of filing or return of the summons, warrant, writ or other process commencing the action or proceeding, such filing fee to be paid to the judge or clerk of said justice branch, and which shall apply on account of the said costs of the court. The remaining \$4 of such costs shall be paid at the time of joining of issue in the action or proceeding, by the plaintiff; and the justice branch shall not allow the matter to proceed further until such \$4 be paid; in case of nonpayment of said balance at said time, the presiding judge of the justice branch may, in his discretion, forthwith render judgment of dismissal without prejudice, taxing said balance against the defaulting party, and issue execution therefor, in the same manner and with the same force and effect as executions issued upon other civil judgments of the justice branch, except that such execution shall state that the same is issued in favor of Vilas county. Otherwise such \$4 balance shall be paid to and collected by the judge or clerk at the time of entry of judgment by default or nonsuit for failure to appear. Provided that in case of dismissal of the action or proceeding by consent or on the request of the plaintiff, prior to the joining of issue, there shall be no costs of court other than the \$2 filing fee.

(5) Judgments entered in the court, justice branch, shall be of the same force and effect as judgments entered in courts of justices of the peace, as provided by law, and the same may be docketed in the circuit court upon transcript in like manner, form and effect as judgments entered in said courts of justices of the peace.

(6) No action, examination or other proceeding, civil or criminal, shall be removed from the court, justice branch, upon change of venue or disqualification of the presiding judge; but in case of the disqualification of the presiding judge to hear, try or determine any matter pending in the justice branch, or in case of his sickness, temporary absence or disability, he shall by written order filed in said court, appoint a circuit court commissioner of the county or some qualified judge of an adjoining county, not otherwise disqualified, to discharge the duties of said presiding judge relative to such action, examination or proceeding, or during such sickness, temporary absence or disability. The court commissioner or judge so appointed shall have all of the powers of the county judge in such branch concerning actions and proceedings that may so come before him. He shall receive for his services \$12.50 for each half day so devoted, payable out of the treasury of Vilas county upon the certificate of the county judge; the term "services" including travel time to and from the justice branch.

(7) Appeals from judgments of the county justice branch may be made, at appellant's election, either to the circuit court of Vilas county or to the circuit branch of said county court; and in either case, all of the laws relating to appeals from justices' courts shall apply thereto. An appeal to either court is a waiver of the right to appeal to the other court, but not of the right to appeal from the decision on said appeal to the supreme court.

SECTION 11. (1) The general statutes, laws and rules of court governing like proceedings and practice in the circuit court shall, so far as applicable and not herein otherwise provided, apply to and govern all actions and proceedings in the court, circuit branch, and whenever the term

“circuit court”, “circuit judge”, “court”, “presiding judge of the circuit court”, “judge of the circuit court”, “presiding judge”, or “judge” appears in any statute the same shall be deemed to apply to said county court of Vilas county and the judge thereof in any action or proceeding within the jurisdiction of said court, except as herein otherwise provided.

(2) (a) In the event of the absence, sickness or other disability of the county judge, and upon his request, any circuit judge, or the judge of any court exercising civil and criminal jurisdiction (even though limited) according to circuit court practice and procedure within this state, may hold court in the circuit branch during such absence, sickness or disability, and while so acting shall possess the powers and duties therein of said county judge, receiving for his services the sum of \$12.50 for each half day so devoted, payable out of the treasury of Vilas county, the term “services” including travel time to and from the circuit branch.

(b) In case of a vacancy in the office of judge, or in case of his absence or disability for more than 10 days without his having designated some other judge to act in the circuit branch, the circuit judge of Vilas county may on his own motion or upon application made to him therefor, act as judge of said circuit branch or designate some other qualified judge to act therein during such vacancy, absence or disability.

(c) The provisions of law applicable to change of venue in the circuit courts of this state shall be applicable to actions and proceedings in the court, circuit branch, except that when the venue of any action shall be so changed because of the prejudice of the judge, it shall be changed to the circuit court of Vilas county; and such change of venue shall not prevent the granting by the circuit court of further change, as provided by chapter 261 of the statutes.

(d) Whenever a counterclaim is interposed demanding relief beyond the jurisdiction of the circuit branch, the judge shall certify and transfer such case to the circuit court of Vilas county for trial.

(e) If in an action pending in the justice branch its jurisdiction is exceeded, the judge shall by written order transfer it to the circuit branch for trial, requiring such additional pleadings as may be necessary.

(f) The jurisdiction of the court, circuit branch, shall be determined from the pleadings in action or proceeding at the time the case is called for trial, and no subsequent amendments thereto or proofs thereafter offered shall operate to deprive the circuit branch of jurisdiction.

(3) In all civil trials, in the circuit branch, the jury shall consist of 12, but the parties may stipulate that the jury shall consist of a lesser number. A jury may be demanded by either party by service of written notice and demand on the attorney for the opposite party at least 6 days before the day set for trial, which notice shall fix the time for drawing a jury not less than 2 nor more than 4 days before the day set for trial; and if no demand is served by either party within the time above specified, a jury is deemed waived; but the court may on notice and just terms, allow a jury demand to be interposed at any time. If objection is made at the time fixed for drawing a jury that the issues are not triable by jury, the court shall forthwith determine whether a jury shall be drawn. In criminal cases, the jury in the circuit branch shall consist of 12, but the state and defendant may in any case stipulate that the jury shall consist of a lesser number. The provisions for service of notice and demand and fixing time for drawing of juries as provided herein for civil cases in the circuit branch do not apply to criminal trials therein; and the jury in such criminal actions shall be drawn as in circuit court, except as otherwise herein provided. All juries in the circuit branch shall be drawn from the county-at-large list and box.

(4) Costs and fees shall be taxed and collected in all matters in the court, circuit branch, the same as in circuit court.

(5) All orders, judgments and decrees made and entered in the court, circuit branch, shall be recorded and judgments and decrees docketed by the clerk in the same manner, and in like books, that orders, judgments and decrees of the circuit court of Vilas county are recorded and docketed, and with equal force, lien and effect, and shall be enforceable in said county court in the same manner. Executions shall issue upon judgments in the same manner and with the same effect as out of said circuit court.

(6) Appeals from the court, circuit branch, shall be to the supreme court, as from circuit court; and all orders, judgments and decrees of the circuit branch may be reviewed by the supreme court in the same manner and with like effect as orders, judgments and decrees of the circuit court. Bills of exceptions shall be settled as in circuit court. The applicable provisions of chapter 252 of the statutes shall apply to obtaining and furnishing of transcripts of court proceedings in the circuit branch.

(7) Court commissioners for the circuit court of Vilas county shall have the same powers and be subject to the same duties pertaining to actions and proceedings in county court, circuit branch, as in actions and proceedings in said circuit court.

SECTION 12. (1) (a) The court shall hold a regular term of the circuit branch thereof on the second Tuesday of February, April, June, August, October and December of each year. Each regular term shall continue until the commencement of the succeeding term. The clerk of said court shall prepare such calendars of cases and give such notices of cases pending, by posting, mail or otherwise, as the judge directs.

(b) At each term all civil cases pending in the circuit branch which have been noticed for trial shall come for trial at such term. Upon the expiration of 10 days after service of notice of trial of a case, the court may at any time, upon its own motion or upon application of a party after written notice of at least 2 days to all other parties who have appeared therein, set a day for the trial of such case, and unless the same be adjourned or continued it shall stand for trial and disposition on the day so fixed.

(c) At such terms all cases pending in the justice branch wherein a jury has been demanded shall come on for hearing. A proper demand for a jury in a cause pending in the justice branch shall (unless specifically adjourned to an earlier date) operate as an adjournment of the cause to the next regular term of the circuit branch.

(d) The county judge may, by order, adjourn any term of the court for a period not exceeding 2 weeks.

(2) All fines, fees and costs, except those payable to parties litigant or lawfully paid direct to others, shall be paid to the clerk of said court, who shall account therefor and pay the same over on the first days of February, May, August and November of each year to the county treasurer of Vilas county or to the proper authorities thereto lawfully entitled. All fines, fees and costs paid to or collected by the judge shall be paid over by him to said clerk, who shall account for and pay over the same as required in this subsection concerning other fines, fees and costs collected by said clerk.

(3) Jurors serving in the justice branch shall be compensated as in justices' courts of the county; and jurors serving in the circuit branch shall be compensated as in circuit court of the county. All jurors shall be compensated by the county upon certificate of the judge or the clerk of county court determining the same. Service as jurors in the county court shall not constitute an exemption from further jury service.

SECTION 13. Any unfinished business under the jurisdiction, powers and duties, conferred by chapter 187, laws of 1951, shall be completed under the jurisdiction, powers and duties conferred by this act, or if

this act is not sufficient for the purpose, then under the jurisdiction, powers and duties as they existed prior to this act.

SECTION 14. This act shall be effective on the first day of the month following its passage and publication.

Approved April 30, 1957.
