

No. 832, A.]  
Corrected Copy]

[Published September 15, 1959.  
[Republished October 23, 1959.

CHAPTER 437

AN ACT to renumber chapter 190, laws of 1951, section 28; to amend chapter 190, laws of 1951, sections 5, 8 and 15 (3) and (7); to repeal and recreate chapter 190, laws of 1951, section 1 (including subsection (1) thereof, as amended by chapter 609, laws of 1953), and sections 12, 17 and 18; and to create chapter 190, laws of 1951, section 28 (2), relating to the additional jurisdiction of and an additional judge for the county court of Washington county, and to authorize the circuit court clerk to be ex officio clerk of the county court and related matters.

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

SECTION 1. Chapter 190, laws of 1951, section 1 (including sub. (1) thereof, as amended by chapter 609, laws of 1953), is repealed and recreated to read:

(Chapter 190, laws of 1951) Section 1. The county court of Washington county has the following additional jurisdiction:

(1) Jurisdiction of all actions and proceedings under ch. 291, 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 \$10,000, exclusive of interest and costs, is demanded in the complaint.

(2) Jurisdiction of all criminal matters, except treason, concurrent with the circuit court.

(3) Exclusive jurisdiction of all prosecutions for breach of any ordinances of Washington county and of the towns, villages and cities of the county.

(4) No justice of the peace or police justice within Washington county shall exercise any jurisdiction in criminal cases or prosecutions for the breach of any ordinances of Washington county or of the towns, villages or cities of the county.

SECTION 2. Chapter 190, laws of 1951, section 5, is amended to read:

(Chapter 190, laws of 1951) Section 5. \* \* \* The attendance of witnesses upon the trial of any person \* \* \* shall be secured in the same manner as provided by law in the circuit court, and said court \* \* \* may appoint any attorney or counselor to defend a person charged with any offense properly triable before said court in the same manner and upon the same conditions as the circuit court may now or hereafter appoint any attorney or counselor to defend persons charged with any offense.

SECTION 3. Chapter 190, laws of 1951, section 8 is amended to read:

(Chapter 190, laws of 1951) Section 8. All orders and judgments of said county court may be reviewed by the supreme court in the same manner and with like effect that judgments and orders of the circuit court may be reviewed; and the supreme court shall have the same power and jurisdiction over such actions, proceedings, orders and judgments in the county court of said county, and the parties shall have the same rights to writs of error and appeal from said county court to the supreme court

of this state as now, or may hereafter be, allowed by law from circuit courts of this state and may demand and shall be entitled to receive \* \* \* a bill of exceptions \* \* \* and have the same settled in the same manner and under the same restrictions as in the circuit court and the same shall be heard and settled within the same time as now required or may hereafter be required in the circuit court.

SECTION 4. Chapter 190, laws of 1951, section 12, is repealed and recreated to read:

(Chapter 190, laws of 1951) Section 12. (1) The provisions of law applicable to change of venue in circuit courts of this state, except section 261.08 of the statutes and except as herein otherwise provided, shall be applicable to the county court. In any action or proceeding in which the county court exercises jurisdiction concurrent with the circuit court, if an affidavit of prejudice is filed within the time prescribed therefor against one of the judges the case shall be heard by the other judge and in any such action or proceeding in the county court if affidavits of prejudice are filed within the time prescribed against both judges, then the venue in the action shall be changed to the circuit court of Washington county. The filing of an affidavit or affidavits of prejudice shall not prevent the granting of a change of venue as provided in section 261.04 of the statutes or be construed as abrogating the right to the change of venue provided in section 261.03 of the statutes and when such change of venue is made it shall be made by the county court direct to the proper county for the trial of the action. No party shall be entitled to name in an affidavit of prejudice more than one county judge and no party shall be entitled to file more than one affidavit of prejudice in the same action.

(2) With respect to any action or proceeding in which the county court exercises jurisdiction concurrent with the circuit court an affidavit of prejudice must be filed and motion made thereon:

(a) On or before the first day of the term as to all cases on the calendar at the commencement of the term.

(b) Within 10 days after the date of the order advancing for trial any case triable by court and jury which does not appear on the calendar at the commencement of the term and which is advanced for trial during the term.

(c) As to cases triable before the court without a jury and noticed for trial too late to be placed on the calendar within 10 days after the case is noticed for trial.

(3) The filing of an affidavit of prejudice shall not deprive the judge against whom the affidavit is filed of jurisdiction to determine pending motions made by the party filing such affidavit.

(4) If any person charged upon indictment or information with a criminal offense has procured a change of venue to the circuit court of Washington county, the county court shall commit or hold the party to bail to appear at the current term of the circuit court, and the clerk of said county court shall transmit all papers and a copy of the records and proceedings in said case properly certified to be such under the seal of the court, to the circuit court, which shall then have full jurisdiction of the action. All recognizances previously made in such cases and returned to the county court may be enforced by the circuit court as fully as if they had been originally certified and returned thereto.

SECTION 5. Chapter 190, laws of 1951, section 15 (3) and (7) are amended to read:

(Chapter 190, laws of 1951) Section 15. (3) In case of any action or proceeding in which a jury trial may be had the clerk shall draw from the panel of jurors selected for such term \* \* \* 18 names and make a list of the same. From such list of \* \* \* 18, each party shall be entitled to \* \* \* 3 peremptory challenges, to be made alternately, \* \* \* the plaintiff having first challenge. When either party \* \* \* declines to challenge in his turn, such challenge shall be made by the clerk by lot, and the 12 remaining unchallenged shall be the jury panel for such action. At the trial each party shall be entitled to 3 additional peremptory challenges and the 6 remaining shall be the jury for such action. When a jury \* \* \* has been selected as aforesaid, or otherwise agreed upon or ordered by the court, a venire therefor returnable at such time as the judge presiding at the trial may direct shall be issued by the clerk to the sheriff of said county.

(7) The jurors selected for any case shall be summoned in the same manner as in the circuit court, and the county judge presiding at the trial may direct at what time jurors shall be summoned to appear.

SECTION 6. Chapter 190, laws of 1951, section 17 is repealed and recreated to read:

(Chapter 190, laws of 1951) Section 17. (1) Commencing on the first Monday in January 1960, the county court of Washington county shall have 2 branches. The judge now in office and his successors shall be known as the judge of branch 1. The judge of branch 2 shall be elected under the same provisions as other county judges at the spring 1960 election to take office the first Monday of June 1960 for a term to expire on the first Monday in January 1966. Thereafter the terms of office shall be the same as those provided for county judges.

(2) Both judges shall have the qualifications specified in the statutes for county judges and their salaries shall be equal and shall be fixed by the county board and paid by Washington county.

(3) The judges jointly shall provide for the distribution of the work and the assignment of cases between the branches, except that branch 1 shall be designated as the probate branch and all matters under Title XXIX of the statutes shall be assigned to that branch, and shall be re-assigned to branch 2 only in case of disqualification, illness or vacation of the judge or congestion or vacancy in branch 1.

(4) All appointments and removals authorized to be made by the county judge under chapter 253 of the statutes shall be made by the judge of branch 1. All appointments and removals authorized to be made by the county judge under this chapter shall be made by the judges of the county court.

(5) In all other matters of administration of the court, the judges may act together or separately as they consider proper.

(6) The Washington county board shall provide a suitable court room for branch 2 and other necessary offices and rooms at the county seat for the judge and other personnel thereof, and equipment, supplies, stationery and such other supplies, and salaries and expenses as may be necessary in the due operation of the branch.

(7) Provision may be made, by court rule, for holding court by branch 2 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 the county seat.

SECTION 7. Chapter 190, laws of 1951, section 28 is renumbered section 28 (1).

SECTION 8. Chapter 190, laws of 1951, section 28 (2) is created to read:

(Chapter 190, laws of 1951) Section 28. (2) When exercising jurisdiction over the actions and proceedings specified in chapter 254 of the statutes and over prosecutions for the breach of ordinances of Washington county and of the towns, villages and cities of the county, the rules of procedure, costs and fees prescribed in chapter 254 of the statutes apply to the county court.

SECTION 9. Chapter 190, laws of 1951, section 18 is repealed and recreated to read:

(Chapter 190, laws of 1951) Section 18. The clerk of the circuit court shall be ex officio the clerk of the county court and shall keep the books and records under section 59.39 of the statutes and perform the duties under section 59.395 of the statutes for all matters in the county court except those under chapter 48 and Title XXIX.

SECTION 10. This act shall take effect on the first Monday in June 1960, except that the provision for election of a judge of branch 2 of the Washington county court shall take effect upon passage and publication.

Approved September 9, 1959.