

No. 759, S.]

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CHAPTER 643

AN ACT to renumber 253.142 (4) and 253.164, as created by chapter 495, laws of 1961; to amend 66.12 (3) (a), as created by chapter 519, laws of 1961; 253.13 (2) (a), as amended by chapter 495, laws of 1961, and (f), as created by chapter 495, laws of 1961, and 252.14 (1), as repealed and recreated by chapter 495, laws of 1961; 251.181 (1), 253.142 (2) and (3), as created by chapter 495, laws of 1961; 261.08 (1), as amended by chapters 140 and 495, laws of 1961; 261.08 (3), as amended by chapter 495, laws of 1961; 288.195 (1) and (2), as created by chapter 495, laws of 1961; 299.05 (3), 299.13 (1), 299.21 (6), 299.25 (1) to (6), as created by chapter 519, laws of 1961; 325.06 and 325.07, and 954.036 (1), 954.038 and 957.054 (2), as created by chapter 561, laws of 1961; to repeal and recreate 299.16, as created by chapter 519, laws of 1961, and 343.10 (1), as amended by chapter 495, laws of 1961; and to create 61.30, 62.24 (5), 253.164

(2), 299.08, 299.25 (11), (12) and (13) and 955.015 of the statutes, relating to the implementation and revision of certain court reorganization provisions.

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

SECTION 1. 61.30 of the statutes is created to read:

61.30 JUSTICE OF THE PEACE; JURISDICTION. The justice of the peace shall within 10 days after his election, take and file the official oath and execute and file an official bond. He shall hold his office for 2 years from the time of his election and until his successor is elected and qualified. He shall have concurrent jurisdiction and powers throughout the county with other justices of the peace. If elected in a village situated in 2 counties said justice of the peace shall have jurisdiction in each of said counties the same as though the village lay wholly therein, and may hold court in one county while exercising jurisdiction in the other. If a defendant resides in either of said counties, venue upon appeal or certiorari in civil cases shall be in such county, otherwise in that one of said counties where the cause of action arose if it arose in either, otherwise in either county. In criminal cases venue upon appeal or certiorari shall be in the county where the offense was committed. In case of removal of a cause, the papers shall be transmitted to the nearest justice of the peace of the village competent to try the same, and if there is none or he is absent or sick, then to the nearest justice of the peace of the county where a defendant was served, and in criminal cases, of the county where an offense was committed.

SECTION 2. 62.24 (5) of the statutes is created to read:

62.24 (5) PROSECUTIONS AGAINST CORPORATIONS. If the defendant is a corporation, the municipal justice or district attorney shall issue a summons returnable not less than 10 days after service; the summons shall be served in the same manner as summonses in civil actions are served on corporations. Upon default of the defendant, or upon conviction, the justice shall enter judgment for a fine, and execution shall issue as in civil cases.

SECTION 3. 66.12 (3) (a) of the statutes, as created by chapter 519, laws of 1961, is amended to read:

66.12 (3) (a) In forfeiture actions for violations of ordinances other than those provided in ss. 345.20 to 345.46 on default of appearance or on a plea of guilty or nolo contendere, the clerk's fee shall be not more than \$2, but if it is necessary to issue a warrant or summons * * * or the action is tried as a contested matter, additional fees may be added, *but the total fee shall not * * * exceed \$3.50*, except that a municipality need not advance clerk's fees, but shall be exempt from payment of such fees until defendant pays costs pursuant to this section. *In forfeiture actions in which a municipality prevails, costs and disbursements shall be allowed to the municipality, subject only to such limitations as the court directs.*

SECTION 3c. 252.14 (1) of the statutes, as repealed and recreated by chapter 495, laws of 1961, is amended to read:

252.14 (1) In each county the circuit and county judges shall appoint such number of court commissioners as the proper transaction of business requires subject to the following exception; in counties having a population of * * * 200,000 or more each circuit judge may appoint not more than 2 such commissioners *and each county judge may appoint not more than one such commissioner*, and in counties having a population of less than * * * 200,000 each Judge shall, as nearly as possible, appoint an equal

number of commissioners within the county. In all counties such appointments shall be subject to the approval of a majority of the circuit judges of such county and a majority of the county judges of such county. Appointments shall be in writing and shall be filed in the office of the clerk of the circuit court. All court commissioners appointed after May 1, 1953, other than official court reporters or persons who have served as official court reporters in any court of record in this state for a period of not less than 5 years, shall be attorneys licensed to practice in this state except in counties where a sufficient number of such licensed attorneys are not available. Each judge shall have power at will and without cause to remove any court commissioner appointed by him or by his predecessor in office. The term of each court commissioner, unless removed by the judge, shall continue until the expiration of the term of the judge who appointed him and until the successor of such commissioner is appointed and qualified. Each commissioner before entering upon the duties of his office shall take and subscribe the constitutional oath of office and file the same duly certified, together with his appointment, in the office of the clerk of the circuit court of the county for which he is appointed.

SECTION 3d. 251.181 (1) of the statutes is amended to read:

251.181 (1) There is created a judicial council of 16 members as follows: A supreme court justice designated by the supreme court; a circuit judge designated by the board of circuit judges; a county judge designated by the board of county judges; a judge * * * designated by the board of criminal court judges; the chairman of the senate judiciary committee or a member of the committee designated by him; the chairman of the assembly judiciary committee or a member of the committee designated by him; the attorney general or one of his assistants designated by him; the revisor of statutes or an assistant designated by him; the deans of the law schools of the University of Wisconsin and Marquette University or a member of the respective law school faculties to be designated by said deans; the president-elect of the state bar of Wisconsin and 3 additional members thereof selected by the association; and 2 citizens at large, appointed by the governor. The last 5 members shall serve 3-year terms except for terms beginning in 1953. Terms of members selected by the Wisconsin bar association in 1953 shall expire in 1954, 1955 and 1956, respectively. Terms of citizens at large appointed by the governor in 1953 shall expire in 1955 and 1956, respectively. The names of the members shall be certified to the secretary of state by the executive secretary. Members shall hold office until their successors have been selected. The members of the council shall receive no compensation, but shall be reimbursed from the appropriation made by s. 20.490 for expenses necessarily incurred by them in attending meetings of the council outside the county of their residence.

SECTION 3m. 253.13 (2) (a) of the statutes, as amended by chapter 495, laws of 1961, is amended to read:

253.13 (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.*

SECTION 3n. 253.13 (2) (f) of the statutes, as created by chapter 495, laws of 1961, is amended to read:

253.13 (2) (f) The sheriff of such county shall upon request of the * * * *county judges* assign such deputy sheriffs, one of whom shall be a woman, who shall be designated as deputy sheriffs of the * * * *county court*, and each of whom shall receive the same salary as is paid to other deputy sheriffs of said county. Such sheriffs shall act as attendants upon said * * * *county court* during its sessions. The * * * *judges* of said * * * *county court shall have* the power to make rules to be entered in full upon the records of said court, concerning the attendance and duties of such deputy sheriffs as the * * * *judges of said court deem* proper, and it is the duty of such deputy sheriffs to conform to the same.

SECTION 4. 253.142 (2) and (3) of the statutes, as created by chapter 495, laws of 1961, are amended to read:

253.142 (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.*

SECTION 5. 253.142 (4) of the statutes, as created by chapter 495, laws of 1961, is renumbered 253.142 (3).

SECTION 6. 253.164 of the statutes, as created by chapter 495, laws of 1961, is renumbered 253.164 (1).

SECTION 7. 253.164 (2) of the statutes is created to read:

253.164 (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.

SECTION 8. 261.08 (1) of the statutes, as amended by chapters 140 and 495, laws of 1961, is amended to read:

261.08 (1) Upon the application of any party, who files his affidavit, that he has good reason to, and does believe, that he cannot have a fair trial on account of the prejudice of the judge, naming him, the court shall request the chief justice of the supreme court or other designated justice to call some other * * * judge to attend and hold court during the current or next term for the purpose of exercising jurisdiction in all actions and proceedings in which applications for change of the place of trial have been made for such reason. And while so in attendance said judge may make all orders and hear all applications and motions that may be brought on for hearing. If no other judge can hold court for such purpose, at either of such terms, an order changing the place of trial shall be entered on the first day of the next term. In no event, however, shall a judge against whom an affidavit of prejudice has been filed be allowed to choose the successor judge.

SECTION 9. 261.08 (3) of the statutes, as amended by chapter 495, laws of 1961, is amended to read:

261.08 (3) The affidavit must be filed and motion thereon made on or before the first day of the term, at which the case is triable, or within 10 days after the case is noticed for trial; except that if the judge so named is the judge of some other * * * *jurisdiction*, the affidavit must be filed and a copy thereof mailed to such judge at least 5 days before any proceeding is had before him in the case in which such affidavit is filed, including any motion upon the affidavit. The filing of such affidavit shall not deprive the presiding judge of the * * * court in which the case is pending, of jurisdiction to determine pending motions made by the party filing such affidavit. No such affidavit shall name more than one * * * judge, except that in a circuit court consisting of more than 3 branches such affidavit may, in cases other than those assigned to and pending in the criminal branches thereof, name 2 judges of said circuit court.

SECTION 10. 288.195 (1) and (2) of the statutes, as created by chapter 495, laws of 1961, are amended to read:

288.195 (1) In forfeiture actions for violations of ordinances, other than those provided in ss. 345.20 to 345.46 on default of appearance or on a plea of guilty or nolo contendere, the clerk's fee shall be not more than \$2, but if it is necessary to issue a warrant or summons * * * *or the action is tried as a contested matter, additional fees may be added, but the total fee shall not * * * exceed \$3.50, except that a municipality need not advance such fees, but shall be exempt from payment of fees until the defendant pays costs pursuant to this section.*

(2) * * * *In forfeiture actions in which a municipality prevails, costs and disbursements shall be allowed to the municipality subject only to such limitation as the court may direct.*

SECTION 11. 299.05 (3) of the statutes, as created by chapter 519, laws of 1961, is amended to read:

299.05 (3) Every summons shall specify a return date and time. The return date shall be not less than 8 days nor more than 17 days from the issue date, and service shall be made * * * *not less than 8 days prior to the return date.* The clerk shall set the day and hour at which the summons is returnable.

SECTION 12. 299.08 of the statutes is created to read:

299.08 CLERK'S FEE. At the time of issuance of every summons or other process in a proceeding not commenced by a summons the plaintiff shall pay to the clerk of said court, a clerk's fee of \$2, except that a municipality need not advance this fee, but shall be exempt from payment of such fee until the defendant pays costs pursuant to this section.

SECTION 13. 299.13 (1) of the statutes, as created by chapter 519, laws of 1961, is amended to read:

299.13 (1) By mailing in the manner following: Service by mail * * * may be made by leaving the original and necessary copies with the clerk of court, together with 50 cents for each defendant to cover the expense of mailing, except that a municipality need not advance the mailing fee, but shall be exempt from payment of such fee until the defendant pays costs pursuant to s. 299.25. The court may by rule require the use of registered mail with return receipt requested, in which event the fee prescribed shall be \$1.50 for each defendant. The clerk shall mail a copy to each defendant at his last * * * *known* address as specified in the summons. Service of the summons is considered completed when it is mailed, unless the envelope enclosing the summons has been returned unopened to the clerk prior to

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the return date. All mailing of summonses shall be done in envelopes upon which the clerk's return address appears, with a request to return to that address.

SECTION 14. 299.16 of the statutes, as created by chapter 519, laws of 1961, is repealed and recreated to read:

299.16 ACTIONS IN REM OR QUASI IN REM; LIMITATION ON JUDGMENT. (1) BASIS. In proceedings in rem or quasi in rem no judgment shall be rendered against the defendant for an amount in excess of the value of the res unless based on service as provided in s. 299.13 (2), or unless the defendant makes a general appearance.

(2) ADJOURNMENT AND PUBLICATION. When the defendant has not been served pursuant to s. 299.13 (2) and does not make a general appearance and the court has jurisdiction over the res, service may be made on the defendant by publication. If service is to be made by publication, the proceeding shall be adjourned to a day certain by the court, and a notice in substantial conformity with sub. (3) shall be published once in a newspaper published in this state likely to give notice to the defendant. Said publication shall be made at least 15 days prior to the adjourned date.

(3) FORMS. (a) Notice in attachment and garnishment.

STATE OF WISCONSIN COUNTY COURT COUNTY TO:

You are hereby notified that (an attachment) (a garnishment) has been issued against you and your property (attached) (garnished) to satisfy the demand of amounting to \$.

Now, unless you shall appear in the county court, of County, located in the courthouse in the city of, before the Hon., a judge of said court, or before any judge of said court to whom the said action may be assigned for trial according to the law on the day of, A.D., 19, at o'clock, in the noon, judgment will be rendered against you and your property sold or applied to pay the debt as provided by law.

Dated this day of, 19.

Plaintiff

By Plaintiff's Attorney

(b) NOTICE IN REPLEVIN.

STATE OF WISCONSIN COUNTY COURT COUNTY TO:

You are hereby notified that a replevin action has been issued to recover the possession of the following described goods and chattels, to wit: of which I, the plaintiff, am entitled to possess, but which you have (unjustly taken) (unlawfully detained) from me.

Now, unless you shall appear in the county court, of County, located in the courthouse in the city of, before the Hon., a judge of said court, or before any judge of said court to whom the said action may be assigned for trial according to the law, on the day of, A.D., 19, at o'clock in the noon, judgment will be rendered against you for

the delivery of said property to me and for damages for the (taking and) detention thereof and for costs.

Dated this ----- day of -----, 19--

Plaintiff

By -----
Plaintiff's Attorney.

SECTION 14m. 299.21 (6) of the statutes, as created by chapter 519, laws of 1961, is amended to read:

299.21 (6) If either party demands a trial by a jury of 6 and there is no demand for a trial by a jury of 12, the demanding party shall pay a jury fee of \$12 immediately, *the jury shall be selected as provided in s. 957.054 (1) and (2)* and the trial shall proceed in the same manner as jury trials under title XXV * * * .

SECTION 15. 299.25 (1) to (6) of the statutes, as created by chapter 519, laws of 1961, are amended to read:

(1) * * * *Any suit tax paid.*

(2) * * * *Any clerk's fee paid.*

(3) A mailing fee of 50 cents or \$1.50 as provided in s. 299.13 (1), *if paid.*

(4) A fee of 50 cents for returning the case file and transcript or statement as specified in s. 59.42 (9) (b), *if paid.*

(5) * * * *Any garnishee fee paid.*

(6) Lawful fees or charges * * * *paid to the sheriff, constable or other person for serving the summons or any other document.*

SECTION 16. 299.25 (11), (12) and (13) of the statutes are created to read:

299.25 (11) ADDITIONAL COSTS. Additional costs as may be allowed to a municipality under ss. 66.12 (3) (a) and 288.195 (2).

(12) SECURITY FOR COSTS. When security for costs shall be ordered pursuant to s. 271.28, the maximum amount allowed shall be \$50.

(13) ADDITIONAL COSTS AND DISBURSEMENTS. The court may permit additional costs and disbursements to be taxed pursuant to ch. 271.

SECTION 17m. 325.06 of the statutes is amended to read:

325.06 (1) Except when subpoenaed on behalf of the state *or on behalf of a municipality in forfeiture actions* no person shall be obliged to attend as a witness in any civil action, matter or proceeding unless his fees are paid or tendered to him for one day's attendance and for travel; provided that tender of witness fees in the form of a check drawn by the state, a political subdivision of the state, a municipal corporation of the state or a department or officer of any of them which is payable to bearer or payable to the order of the person named in such subpoena shall oblige the person named in such subpoena to attend as a witness in accordance with the lawful requirements of such subpoena.

(2) No witness on behalf of the state in any civil action, matter or proceeding, or in any criminal action or proceeding, on behalf of either party, *or on behalf of a municipality in forfeiture actions* shall be entitled to any fee in advance, but shall be obliged to attend upon the service of a subpoena as therein lawfully required.

SECTION 17n. 325.07 of the statutes is amended to read:

325.07 Every witness on behalf of the state in any civil action or proceeding may file with the clerk of the court where the same is pending his affidavit of attendance and travel, and his fees shall, upon the certifi-

cate of such clerk, countersigned by the attorney general, district attorney, or acting state's attorney, be paid out of the state treasury, and shall be charged to the legal expense appropriation to the attorney general. *In forfeiture actions by municipalities it shall be the duty of the clerk to tax witness fees; however witness fees for police officers of any such municipality when collected shall be paid by the clerk to the treasurer of the municipality.*

SECTION 17. 343.10 (1) of the statutes, as amended by chapter 495, laws of 1961, is repealed and recreated to read:

343.10 (1) If a person has had his chauffeur's license revoked he may file a petition with the commissioner for a limited chauffeur's license as provided in s. 343.126. If a person who was licensed as a chauffeur at the time of the offense and who is no longer employed as a chauffeur surrenders his chauffeur's license to the department, or a person not licensed as a chauffeur has had his license revoked because he has been convicted of operating a motor vehicle while under the influence of intoxicating liquor, and if such person is engaged in an occupation or trade making it essential that he operate a motor vehicle, he may after complying with sub. (2) file with a judge of a court of record having criminal jurisdiction in the county of residence a verified petition setting forth in detail his need for operating a motor vehicle. Thereupon, if the petitioner has not been convicted of any such offense within the 18-month period immediately preceding the present conviction, the judge may order the commissioner to issue an occupational license to such person. The order for issuance of an occupational license shall contain definite restrictions as to hours of the day (not to exceed 12), type of occupation and areas or routes of travel to be permitted under the license. A copy of the petition and the order for the occupational license shall be forwarded to the department. No order for an occupational license shall be issued until at least 90 days have elapsed since the date of conviction, or, in the case of an appeal which is subsequently dropped or affirmed, until at least 90 days have elapsed since the date of revocation following the dropping or affirmance of the appeal.

SECTION 18. 954.036 (1) of the statutes, as created by chapter 561, laws of 1961, is amended to read:

954.036 (1) If a defendant charged with a misdemeanor is brought, according to the warrant, before a magistrate or judge who does not preside over a court with jurisdiction to try the crime, he shall be committed to jail to await trial in county court, or be bailed. *But in counties over 500,000 population, if the case is not within the trial jurisdiction of the county court, a preliminary examination shall be held in the county court unless waived, and the defendant may be bound over to the circuit court for trial as in felony cases.*

SECTION 19. 954.038 of the statutes, as created by chapter 561, laws of 1961, is amended to read:

954.038 NO PRELIMINARY EXAMINATION ON MISDEMEANOR CHARGE; EXCEPTION. There shall be no preliminary examination on a charge of a misdemeanor, *except in counties over 500,000 population in cases of which the county court does not have trial jurisdiction.*

SECTION 20. 955.015 of the statutes is created to read:

955.015 CORPORATIONS; SUMMONS AGAINST IN MISDEMEANOR CASES. If the defendant is a corporation, a summons may be issued in misdemeanor cases as is provided in s. 954.02, returnable not less than 10 days after service; the summons to be served in the same

manner as summonses in civil actions are served on corporations. Upon default of the defendant or upon conviction, judgment for the amount of the fine shall be entered, and execution may issue as in civil cases.

SECTION 20m. 957.054 (2) of the statutes, as created by chapter 561, laws of 1961, is amended to read:

957.054 (2) Jurors may all be residents of a municipality in which the court is held unless the defendant demands a county-wide jury. For this purpose a municipal jury list may be established, known as the "----- jury list", which shall be con-

(name of municipality)
stituted as follows: the jury commissioners appointed by the circuit court of the county in which the municipality is located shall, immediately when this section becomes effective, and thereafter from time to time as required by the county court, provide and furnish a list containing the names of 200 jurors selected by them from citizens residing within the municipality involved. *The judge or judges of county court may by court order direct the jury commissioners to furnish a list of less than 200 jurors, but in no event shall such list contain less than 50 names.* Except as herein provided, the provisions of s. 255.04, relating to the preparation of jury lists for the circuit court, so far as applicable, shall apply to and govern the preparation of such list, but the slips containing the names of jurors so selected shall be deposited in a box designated the "----- jury list."

(name of municipality)

SECTION 21. This act shall take effect on the first Monday in January, 1962, and changes made by this act in chapter 299 of the statutes, created by chapter 519, laws of 1961, shall apply regardless of when the cause of action arose or when the action was commenced and shall apply to all subsequent proceedings in actions pending on the first Monday in January, 1962.

Approved January 17, 1962.
