

Senate Bill 75

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CHAPTER 276, LAWS OF 1967

AN ACT to repeal 60.58, 60.59, 60.595, 61.30, 61.305, 62.24, 62.26 (6) (a) and (c), 235.19 (2) (e) and 300.20; to amend 26.14 (1), 59.21 (8) (b) 3, 60.54, 62.26 (6) (b), 66.12 (2), 74.11 (1) and (2), 74.12 (1), 95.31, 95.32 (1) and (3), 95.37 (1), 106.01 (4) (e), 107.04, 146.14 (3), 172.04, 172.05, 173.01, 173.03, 173.06, 176.28 (2), 235.35, 235.37, 235.39, 253.015, 253.11 (3), 300.22, 300.23, 300.24, 300.25, 300.26, 301.24, 301.26, 301.27, 960.01, 960.06, 960.30 and 960.34; to repeal and recreate 300.05; and to create 235.19 (2) (j) and chapter 254 of the statutes, implementing the elimination of the constitutional office of justice of the peace.

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

SECTION 1. 26.14 (1) of the statutes is amended to read:

26.14 (1) State forest rangers, town chairmen, emergency fire wardens, conservation wardens and other duly appointed deputies shall take prompt measures against the spread and illegal setting of forest fires. They shall have the power of sheriffs to arrest, without warrant, for violations of the provisions of any section of the statutes relating to such fires. They may execute and serve all warrants and processes issued by any justice of the peace or police magistrate, or by any court having jurisdiction in the same manner as any constable may serve and execute such processes, and to arrest any person detected in the actual violation, or whom such officer has reasonable cause to believe guilty of a violation of any of the provisions of this chapter, and to take such person before any court in the county where the offense was committed and make proper complaint. They shall have authority to ~~may~~ call upon any able-bodied citizen to assist in fighting such fires in such manner as they may direct.

SECTION 2. 59.21 (8) (b) 3 of the statutes is amended to read:

59.21 (8) (b) 3. The grievance committee shall, if the officer requests a hearing, appoint a time and place for the hearing of the charges, the time to be within 3 weeks after the filing of such request for a hearing and the committee shall notify the sheriff or undersheriff or the members of the civil service commission, whichever filed the complaint with the committee, and the accused of the time and place of such hearing. If the accused officer makes no request to the grievance committee, then the committee may take whatever action they deem justifiable on the basis of the charges filed and shall issue an order in writing as provided in sub. (5). The committee may take testimony at the hearing, and any testimony taken shall be transcribed. The chairman of the committee shall issue subpoenas for the attendance of such witnesses as may be requested by the accused. ~~Subpoenas shall be served in the same manner as in justice court.~~

SECTION 3. 60.54 of the statutes is amended to read:

60.54 The constable ~~shall be~~ is a ministerial officer of justices of the peace ~~the municipal justice~~, and ~~it he shall be his duty~~.

(1) ~~To~~ Serve within his county any writ, process, order or notice, and execute any order, warrant or execution lawfully directed to or required to be executed by him by any court or officer.

(2) ~~To~~ Attend upon sessions of the circuit court in his county when required by the sheriff.

(3) ~~To~~ Inform the district attorney of all trespasses on public lands of which he ~~shall have~~ has knowledge or information.

(5) ~~To~~ Impound cattle, horses, sheep, swine and other animals at large on the highways in violation of any duly published order or bylaw adopted at an annual town meeting.

(6) ~~To~~ Cause to be prosecuted all violations of law of which he has knowledge or information.

(6m) ~~To~~ Keep his office in the town, village or city for which he was elected or appointed. No constable who keeps his office outside the limits of such municipality shall receive fees for any service performed during the period such office is maintained.

(7) ~~To~~ Perform all other duties required by any law.

SECTION 4. 60.58, 60.59 and 60.595 of the statutes are repealed.

SECTION 5. 61.30 and 61.305 of the statutes are repealed.

SECTION 6. 62.24 of the statutes is repealed.

SECTION 7. 62.26 (6) (a) and (c) of the statutes are repealed.

SECTION 8. 62.26 (6) (b) of the statutes is amended to read:

62.26 (6) (b) Accused persons may be put in custody of an officer or committed to the jail of the city or of the county where the offense was committed. ~~Persons committed for offenses against city ordinances or upon execution in tort actions shall be committed to the jail of the county in which the action was tried.~~

NOTE: The deleted material is incorporated in the new chapter 254.

SECTION 9. 66.12 (2) of the statutes is amended to read:

66.12 (2) Appeals in actions to recover forfeitures and penalties imposed by any ordinance, resolution or bylaw of the city or village may be taken either by the defendant or by such municipality to the circuit court. Appeals from justice court shall be taken in the same manner as from judgment in civil actions by justices of the peace. Appeals from county court shall be taken in accordance with the provisions of ch. 299, except that any appeal from wherever taken shall be perfected within 5 days after judgment is entered. If the appeal is taken by the defendant he shall, as a part thereof, execute a bond to the city or village with surety, to be approved by the justice or judge, conditioned that if judgment be affirmed in whole or in part he will pay the same and all costs and damages awarded against him on such appeal. In case such judgment shall be affirmed in whole or in part execution may issue against both defendant and his surety. The appellant shall pay the fees and suit taxes prescribed in s. 306.02 (1). Upon perfection of the appeal the defendant shall be discharged from custody. ~~In all actions brought by a city or village lying in 2 or more counties appeals may be taken to the circuit court of the county wherein the offense was tried. All commitments to county institutions shall be made to such county.~~

SECTION 10. 74.11 (1) and (2) of the statutes are amended to read:

74.11 (1) ~~In case~~ If the treasurer is unable to collect any tax assessed upon personal property he may in his discretion make and file with ~~some a municipal justice of the peace, as defined in s. 990.01 (17m),~~ or the county court of his county an affidavit showing that there is such tax upon personal property, the amount thereof and the name of the person against whom assessed, that he has demanded payment thereof and is unable to collect the same. If commenced in the county court ch. 299 shall apply so far as applicable. Such justice or the judge of such county court shall thereupon issue a summons directed to such person, commanding him to appear forthwith to answer under oath and show cause why he does not pay said tax. Such summons may be served by ~~said the~~ treasurer or any constable in said county on the person to whom the summons is directed ~~in the manner and~~ as required for the exercise of personal jurisdiction under ch. 262 in a civil action in a court of record; upon its appearing by the affidavit of the officer or person serving such summons that the same was duly served upon such person to whom the same was directed, and that he has failed or neglected to appear before said justice or judge for 24 hours after the service of the summons, the ~~said~~ justice or judge shall issue a warrant, directed to the sheriff or any constable of the county, commanding him to forthwith arrest and bring such person before him.

(2) The justice or judge before whom such person appears or is brought shall ~~have jurisdiction of the subject matter to the full amount of the tax against such person, with interest, charges and costs; and he shall enter the cause in his docket if a municipal justice of the peace or~~ if in county court in the manner as provided in ss. 299.07 and 299.10,

as an action wherein the town, city or village in which such tax is assessed shall be plaintiff and the person against whom the same is assessed shall be defendant; and the affidavit of the treasurer shall be deemed the complaint. Such defendant may, on his appearing or being brought before such justice and before submitting to an examination as hereinafter provided, remove such action to the ~~next nearest county court or another~~ municipal justice in the same county upon making and filing with such justice an affidavit stating that from prejudice or other cause he believes such justice will not decide impartially in the matter; and thereupon the justice shall transmit all the papers, with a copy of his docket entries in such action, to such ~~nearest court or~~ justice; and if the defendant is under arrest the officer having him in charge shall take him before such ~~nearest judge or~~ justice. Such ~~nearest judge or~~ justice shall ~~enter the action in his docket take jurisdiction of the case and proceed in the manner as~~ hereinafter provided; if such defendant is not under arrest and fails to appear before such last-named ~~judge or~~ justice within one hour after the receipt of the papers in such action he may issue his warrant, directed to the sheriff or any constable of his county, commanding him to forthwith arrest such defendant and bring him before ~~such justice the court~~. If the action is in county court the defendant may in like manner disqualify the county court judge and in such case another judge shall be required to attend and hold court in the matter, as provided in s. ~~299.95~~ 299.205, and thereupon this section, ~~relating to such nearest justice,~~ shall apply to such other judge.

SECTION 11. 74.12 (1) of the statutes is amended to read:

74.12 (1) In addition to the other remedies provided in this chapter an action of debt or an action of attachment shall lie in name of the town, city or village, and, after the tax is returned as delinquent, in the name of the county, for any tax assessed against any person upon personal property remaining unpaid after February 28. Summons or warrants in such action shall issue at the request of the treasurer of the town, city, village or county ~~as the case may be and shall be subject to all the rules of law and practice applicable to actions of debt or attachment,~~ except that the warrant of attachment shall be issued on the making and filing of an affidavit by the proper treasurer that such taxes are delinquent. Such summons or warrant ~~when issued by a justice of the peace or county court judge may in addition to the other methods of service provided by law in justice's court shall be served in the manner and as required for the exercise of personal jurisdiction under ch. 262.~~ Such summons or warrant shall state that it is issued for the collection of a tax and judgment may be entered and execution issued as provided in this chapter.

SECTION 12. 95.31 and 95.32 (1) and (3) of the statutes are amended to read:

95.31 Whenever it ~~shall be~~ is deemed necessary by the department to slaughter diseased animals, either on the premises or at some designated abattoir or any other place for demonstration purposes, the representative of the department ~~has authority to~~ may agree in writing with the owner as to the value of such animals; in the absence of such agreement, written notice shall be given to the owner, his agent, or the person in charge of such animals, and to a municipal justice ~~of the peace~~ in the county in which the animals ~~may be~~ are, and if there is no municipal justice, then to the county court, of the purpose to order the slaughter thereof, giving the number and description of the animals, and the name of the owner.

95.32 (1) Such notice shall be entered on the docket ~~by the~~ or court record and the county court or municipal justice ~~who~~ shall immediately thereafter notify such owner, agent or possessor of the animals, and summon 3 disinterested citizens of the county not residents of the immediate

neighborhood in which the animals are owned or kept to appraise the value thereof. Every appraiser shall have had experience in the raising and care of livestock, and shall be familiar with the value of livestock, and competent to appraise the same. The appraisers shall, before entering upon the discharge of their duties, be sworn by the *county court or municipal justice* to make a true appraisal without prejudice or favor of the market value of such animals. The appraisers shall immediately make a verified report to the *county court or municipal justice*, giving the number of animals appraised, and the value of each, and if slaughtered on the premises, the appraisers shall certify in their return that they saw the appraised animals slaughtered.

(3) The appraisers shall receive \$2 a day for each day actually employed as such, which amount shall be paid out of the county treasury upon the certificate of *the county court or the municipal justice* by whom they were summoned. The *municipal justice of the peace* and other officers who may perform any duty hereunder, shall have the same fees as are allowed by law ~~in criminal proceedings in justice~~ *municipal courts*, and shall be paid by the county in which their services are performed.

SECTION 13. 95.37 (1) of the statutes is amended to read:

95.37 (1) Claims against the state arising from the condemnation of animals shall be made by delivering to the department, to be forwarded to the department of administration, a copy of the condemnation notice, and of the notice to the *municipal justice of the peace or county court* and return of the appraisers ~~to the justice, which return shall be certified by such the court or justice~~, giving the name and place of residence of the owner, the date on which such animals were condemned and the tag number of each animal, and also a statement of the salvage received and of the sum due from the state and such additional information as the department ~~shall require~~ *requires*. ~~In case~~ *If* the value was fixed by agreement the claim shall be made by delivering to the department to be forwarded to the department of administration the agreement or a sworn copy thereof and a statement of the salvage received and of the amount due from the state and any additional information demanded. The department shall promptly transmit all claims to the department of administration and accompany the same with a report of the sum due from the state and thereupon the claims may be audited and paid.

SECTION 14. 106.01 (4) (e) of the statutes is amended to read:

106.01 (4) (e) If there ~~be is~~ no parent or guardian with authority to sign, then ~~by 2 justices of the peace of the county of the residence of the miner, or~~ by a member of the industrial commission of ~~Wisconsin~~ or a deputy thereof.

SECTION 15. 107.04 of the statutes is amended to read:

107.04 Any miner who ~~shall conceal or dispose~~ *conceals or disposes* of any ores or minerals or mines or diggings for the purpose of defrauding his lessor of his rent or who ~~shall neglect~~ *neglects* to pay any rent on ores or minerals raised by him for 3 days after the notice thereof and claim of such rent, shall forfeit all right to his mines, diggings or range; and his landlord after such concealment or after 3 days have expired from the time of demanding rent, may proceed against him to recover possession of the mines or diggings ~~before a justice of the peace in county court as in the case of a tenant holding over after the termination of his lease as provided by these statutes; and in case.~~ *If* a miner ~~shall neglect~~ *neglects* to work his mines or diggings according to the usages of miners, without reasonable excuse, he shall likewise forfeit his mines or diggings and his landlord may proceed against him in like manner to recover possession of the same.

SECTION 16. 146.14 (3) of the statutes is amended to read:

146.14 (3) If the local board of health or commission ~~be is~~ refused entry to any building or vessel to examine into and abate, remove or prevent a nuisance, any member may complain under oath to a ~~justice of the peace~~ *municipal justice or county judge*, whether or not such justice ~~be or judge is~~ a member of the board or commission, stating the facts in his knowledge and the justice ~~or judge~~ shall issue a warrant commanding the sheriff or any constable of the county to take sufficient aid, and being accompanied by 2 or more ~~members~~ of the board of health or commission, and under their direction, between sunrise and sunset, abate, remove or prevent the nuisance.

SECTION 17. 172.04 and 172.05 of the statutes are amended to read:

172.04 The finder shall, within one month from taking them up, if the animals ~~be are~~ of the value of \$10 or more, ~~procure them to be appraised by a justice of the peace of such town~~ *apply to a municipal justice of the county or to the town chairman, village president or city mayor of the municipality where found for the appointment of a disinterested appraiser*; a certificate of such appraisal shall be signed by the ~~justice appraiser~~ and filed in the ~~town~~ *municipal* clerk's office. The finder shall pay the ~~justice fifty cents~~ *appraiser \$3* for the certificate and 10 cents per mile for every mile necessarily traveled in such service.

172.05 The owner or person entitled to the possession of any such animal, at any time within 90 days after such notice is filed with such town clerk, may have such animal restored to him upon proving his right thereto and paying all lawful charges incurred in relation to the same. If such claimant and the finder cannot agree as to the amount of such charges or for the use of such animal either party upon notice to the other may apply to ~~any~~ *the municipal justice of the peace or town chairman* of such town to settle the same, who for that purpose may examine witnesses on oath. If any amount ~~shall be is~~ found due to the finder over the value of the use of such animal the same, with the costs of such adjudication, shall be a lien upon such animal.

SECTION 18. 173.01 of the statutes is amended to read:

173.01 The owner or occupant of any lands may distrain any beast doing damage on his premises, either while upon the premises or upon immediate pursuit of such beasts escaping therefrom and before returning to the enclosure of or to the immediate care of the owner or keeper, and may keep such beasts upon his premises or in some public pound in his town, city or village until his damages ~~shall be are~~ appraised as herein-after provided. If the owner of such beasts ~~be is~~ known to the person distraining and resides within the same town, city or village the person distraining shall give a written notice to such owner within 24 hours, but if he ~~shall reside~~ *resides* in the same county, but not in the same town, city or village, within 48 hours, Sundays excepted, specifying therein the time when and the place where distrained, the number of such beasts and the place of their detention, and that at a time and place, which shall not be less than 12 hours after the serving of such notice nor more than 3 days after such distress, he will apply to some *municipal justice of the peace* of the county (naming him) ~~or to the town chairman, village president or city mayor of the municipality where found~~ for the appointment of 3 disinterested freeholders of such town, city or village to appraise the damages; but if such owner ~~be is~~ unknown or does not reside in the county he shall apply for the appointment of such appraisers without notice and within 24 hours after such distress; and upon such application such justice ~~of the peace, chairman, president or mayor~~ shall appoint in writing 3 disinterested freeholders of such town, city or village to appraise the damages, and shall receive fifty cents therefor.

SECTION 19. 173.03 of the statutes is amended to read:

173.03 Unless the damages so ascertained, together with the fees of the appraisers and justice, ~~shall~~, *chairman, president or mayor*, have been paid within 24 hours after such appraisal the person distraining shall cause the beasts distrained to be put into the nearest pound of the same town, city or village, if there ~~be is~~ one, and if not, then in some secure inclosure therein, where ~~the same~~ *they* shall remain until sold as herein-after directed, or until such damages, fees and the costs of keeping such beasts after appraisal ~~shall be~~ *are* paid or until otherwise seized or discharged according to law. Such beasts shall be furnished with suitable food from the time of seizure until discharged therefrom or sold; and the expense thereof, after the appraisal, shall be added thereto and paid as additional costs; and if such beasts ~~be are~~ put in a pound the certificate of appraisal shall be delivered to the keeper of such pound.

SECTION 20. 173.06 of the statutes is amended to read:

173.06 From the proceeds of such sale the person making it shall retain his fees therefor, which shall be the same as are allowed to constables upon sales of personal property on execution, and the cost of keeping such beasts; and he shall pay to the person who distrained such beasts the damages so certified, with the fees of the appraisers and ~~justices~~ *justice, chairman, president or mayor*, and pay the surplus, if any, to the owner of such beast, if known. If no owner ~~appear~~ *appears* at the time of sale or within one week thereafter and ~~claim~~ *claims* such surplus it shall be paid to the treasurer of such town, city or village. If such money ~~shall~~ *is* not be applied for within one year thereafter the treasurer shall place the same in the town treasury, to be expended in the support of the poor; but if the owner ~~shall apply~~ *applies* therefor and ~~make~~ *gives* proper proof of ownership within 6 years after its receipt by such treasurer it shall be paid over to such owner, deducting 2% for fees.

SECTION 21. 176.28 (2) of the statutes is amended to read:

176.28 (2) The person to whom the selling to, or purchasing or procuring for, any such intoxicating liquors or fermented malt beverages has been prohibited may be arrested on complaint of the wife of such person or of any supervisors, trustee, alderman, county ~~superintendent of the poor~~ *welfare director*, mayor, chairman of the county board or district attorney and brought before any *municipal justice of the peace or the county judge* of the county to testify as to where and from, through or by whom or by whose agency, he obtained or procured intoxicating liquor or fermented malt beverages, and if he ~~shall refuse~~ *refuses* to testify he shall be committed to the county jail or house of correction to be detained therein until he ~~shall so testify~~ *so testifies* or ~~be is~~ discharged by order of the court.

SECTION 22. 235.19 (2) (e) of the statutes is repealed.

SECTION 23. 235.19 (2) (j) of the statutes is created to read:

235.19 (2) (j) A municipal justice; or

SECTION 24. 235.35 of the statutes is amended to read:

235.35 If any grantor residing in this state ~~shall refuse~~ *refuses* to acknowledge his conveyance the grantee or any person claiming under him may apply to ~~any justice of the peace~~ *the county judge* in the county where the land lies or where the grantor or any subscribing witness to the conveyance resides, who shall thereupon issue a summons to the grantor to appear at a certain time and place before said ~~justice~~ *judge* to hear the testimony of the subscribing witnesses to the conveyance; and the summons, with a copy of the conveyance annexed, shall be served at least 7 days before the time therein assigned for proving the same. At the time mentioned in such summons or at any time to which the hearing may

be adjourned the due execution of the conveyance may be proved by the testimony of one or more of the subscribing witnesses; and if proved to the satisfaction of the ~~justice~~ *judge* he shall certify the same thereon, and in such certificate he shall note the presence or absence of the grantor as the fact may be.

SECTION 25. 235.37 of the statutes is amended to read:

235.37 The court ~~or justice~~ before whom any conveyance may be presented to be proved, as provided in ~~the preceding sections ss. 235.34 to 235.36~~, may issue subpoenas to the subscribing witnesses or others, as the case may require, to appear and testify touching the execution of such deed, which subpoenas may be served in any part of this state; and every person so subpoenaed who ~~shall~~, without reasonable cause, ~~neglect~~ *neglects* to appear or ~~refuse~~ *refuses* to answer on oath touching the matters aforesaid shall be liable to the party injured in the sum of \$100 damages and for such further damages as the party may sustain thereby, and may also be punished as for a contempt by the court ~~or justice~~.

SECTION 26. 235.39 of the statutes is amended to read:

235.39 A certificate of the acknowledgment of any conveyance or of the proof of the execution thereof before a court of record ~~or justice of the peace~~, signed by the clerk of such court ~~or by the justice~~ before whom the same was taken shall entitle such conveyance with the certificates aforesaid to be recorded in the office of the register of deeds of every county in which any of the lands lie.

SECTION 27. 253.015 of the statutes is amended to read:

253.015 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~~ *judges* of the Shawano-Menominee county court shall serve as county ~~judge~~ *judges* of the district. The books, papers and records of the office of such county ~~judge~~ *judges* shall be kept at the county seat of the county in which ~~he each~~ has his principal office, or, at the discretion of the county ~~judge~~ *judges*, 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, *branch one*, 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 be eligible to vote 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 *municipal 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 a municipal justice in~~ 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 *municipal 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~~ *but* 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 10th 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.

SECTION 28. 253.11 (3) of the statutes is amended to read:

253.11 (3) Except for municipal ~~justice~~ court concurrent jurisdiction as to garnishment under s. ~~62.24~~ *300.05*, the county court shall have the exclusive jurisdiction of garnishment actions where the amount involved is under \$500.

SECTION 29. Chapter 254 of the statutes is created to read:

CHAPTER 254.

MUNICIPAL COURT.

254.01 OPTION OF MUNICIPALITY. (1) There is created and established in and for each city, town and village, a municipal judge designated "Municipal Court for the (city, town or village) of (name of municipality)". This court shall become operative and function when the city council, town board or village board adopts an ordinance or bylaw providing for the election of a justice and the operation and maintenance of the court. Any municipal court established pursuant to this section is not a court of record. The court shall be maintained at the expense of the municipality. In cities of the 1st class more than one justice may be provided for. If any city which has established a municipal court

consolidates with or has previously consolidated with another municipality which also had created such a court, that city may provide for the election of 2 municipal justices.

(2) The governing body may by ordinance or bylaw abolish the municipal court at the end of any term for which the justice has been elected.

254.02 TERM. The justices shall be elected at large for a term of 2 years unless a longer term, not exceeding 4 years, is provided by ordinance or bylaw. The term shall commence on May 1 of the year of his election.

254.03 OATH AND BOND. (1) The justice shall, after his election or appointment to fill a vacancy, take and file the official oath as prescribed in s. 256.02 (1) and at the same time execute and file an official bond in an amount to be fixed by the governing body. No justice shall act as such until his oath and bond have been filed. The oath and bond shall be filed as required by s. 19.01 (4) (c).

(2) The clerk of the circuit court shall within 10 days after the filing with him of said oath and bond, execute and mail to the clerk of the city, town or village, wherein such justice was elected, a certified copy of said bond, which certified copy shall be filed by said city, town or village clerk, and preserved in his office, and the same shall be presumptive evidence of its execution by such justice and his sureties.

254.04 SALARY AND FEES. The council shall fix a salary for such justice which shall be in lieu of fees and costs. Fees and taxable costs shall be paid into the municipal treasury as the governing body directs. The salary may be increased by the governing body before the start of the 2nd or a subsequent year of service of the term of the justice, but shall not be decreased during a term. Salaries may be paid annually or in equal instalments as determined by the governing body, but no justice shall be paid a salary for any time during his term during which such justice has not executed his official bond or official oath, as required by s. 254.03, and filed pursuant to s. 19.01 (4) (c).

254.05 TERRITORIAL JURISDICTION; APPEALS. (1) Every justice shall have county-wide jurisdiction. If elected in a city or village lying in more than one county, he shall qualify and have jurisdiction in each, the same as though the municipality lay wholly therein, and may hold court in one county while exercising jurisdiction in the other. If a defendant resides in either of such counties, venue on appeal or certiorari in civil cases, except actions brought by cities or villages, shall be in that county, otherwise in that one of the 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 all actions brought by a city or village appeals may be taken to the circuit court of the county where the action was tried. Juries may be impaneled of persons qualified as jurors in either county.

(2) In case of a change of venue of a civil action to another court it shall be within the county where the defendant was served, and in criminal actions, within the county where the offense was committed.

(3) Appeals from municipal court shall be to the circuit court.

254.06 SESSIONS OF COURT. The municipal court shall be open daily or as directed by the governing body, but the governing body may by ordinance or bylaw allow the justice to determine when the court shall be open.

254.07 REMOVAL OF CASES. If an affidavit of prejudice is filed or the justice is disqualified, the justice shall call in another municipal justice of the county to try the case or transfer it to the county court.

254.08 ILLNESS OR ABSENCE OF JUSTICE. If any justice is to be absent or if he is sick or disabled, he may by written order filed in his court designate another municipal justice of the county to perform his duties or he may deliver his docket and all papers relating to any pending action to the county court of the county. When the incumbent justice is incompetent, unable or fails to act, the mayor, village president or town chairman may call in another justice or transfer the case. The parties, their agents or attorneys, shall be notified of the transfer prior to trial. The justice called in or the judge to whom the case is transferred may, while the docket remains in his possession, issue execution upon or give a certified transcript of any unsatisfied judgment appearing therein.

254.09 SENTENCES IMPOSED. The municipal justice may punish a violation of an ordinance or bylaw by ordering payment of a forfeiture plus costs of prosecution or by imprisonment in case the forfeiture and costs are not paid, and may sentence any person convicted of a misdemeanor to pay a fine and the costs of prosecution or be imprisoned in the jail of the county in which the offense was committed. Persons committed for offenses against ordinances or bylaws shall be committed to the jail of the county in which the offense was tried. Prisoners confined in the county jail or in some other penal or correctional institution for violation of an ordinance or bylaw shall be kept at the expense of the municipality and the municipality shall be liable therefor.

254.10 EMPLOYEES. The justice shall in writing appoint such clerks and deputy clerks as are authorized by the council or board. Their salaries shall be fixed by the council or board. The clerks shall, before entering upon the duties of their offices, take the oath provided by s. 19.01 and give a bond if required by the council or board. The cost of the bond shall be paid by the municipality. Oaths and bonds of the clerks shall be filed with the municipal clerk.

SECTION 30. 300.05 of the statutes is repealed and recreated to read:

300.05 JURISDICTION. Every justice has exclusive jurisdiction over offenses against ordinances of his city, town or village and in addition has jurisdiction:

(1) Of actions for a penalty or forfeiture, not exceeding \$200, given by statute;

(2) Of crimes arising within the county, the penalty for which is not more than \$200 or 6 months or both;

(3) To accept pleas of guilty if the defendant upon arraignment requests to enter a plea of guilty and the offense is one punishable by not more than \$500 or 6 months, or both, or is for violation of s. 348.15, 348.16 or 348.17 regardless of the monetary penalty involved;

SECTION 31. 300.20 of the statutes is repealed.

SECTION 32. 300.22, 300.23, 300.24, 300.25 and 300.26 of the statutes are amended to read:

300.22 When the office of a justice becomes vacant, the books and papers belonging to his office shall be delivered, within 10 days after the vacancy happens, to the ~~town~~ municipal clerk, by the person who is in possession thereof.

300.23 If any books or papers which should be delivered to the ~~town~~ municipal clerk pursuant to s. 300.22 are not delivered within the time ~~there~~ specified, the ~~town~~ municipal clerk shall demand their delivery to him and may by action compel such delivery.

300.24 When any ~~town~~ municipal clerk receives the books or any papers of any justice he shall, within 10 days after receiving them, deliver them to ~~some justice of the town or, if there is no justice in the town,~~

~~then to some justice in the county~~ *the proper county court.* The ~~town~~ *municipal* clerk shall publish a class 1 notice, under ch. 985, in the county, specifying the name of the justice whose books and papers have been so delivered ~~and to what justice~~ and when the same were delivered.

300.25 When any action is pending before any justice at the time his office becomes vacant and his books and papers have been delivered to ~~any other justice pursuant to law, the last named justice~~ *the county court,* it may try such action and enter judgment and issue execution thereon, as though the action had been begun before ~~him.~~ *He may issue it.* Execution and transcripts *may be issued* upon any judgment appearing upon said books.

300.26 All actions before any justice undetermined when his office becomes vacant are continued until the expiration of 10 days from the time when his books and papers were delivered to ~~another justice~~ *the county court;* of which time the ~~justice to whom the books and papers were delivered~~ *court* shall give at least 3 days' notice to the parties to the action who are within the county.

SECTION 33. 301.24 of the statutes is amended to read:

301.24 *In civil actions, except actions under municipal ordinances, if the defendant, on the return day of the process and before any proceedings are had on his part, makes oath that, from prejudice, he believes the justice will not decide impartially in the action and pays to the justice \$1 for making a copy of his docket and transmitting the papers, then the justice shall immediately transmit all the papers in the action to the nearest justice in the same county who can be found, who shall proceed in the action as if ~~the~~ said action had been commenced before him. If there is no other justice in the county, the papers shall be transmitted to the county court with like effect. In case of removal of actions under municipal ordinances the justice shall call in another justice to try the case or transfer it to the county court. A justice so called in shall receive such compensation as the governing body determines, to be paid by the municipality. This section shall not extend to a 2nd removal.*

SECTION 34. 301.26 and 301.27 of the statutes are amended to read:

301.26 If, previous to joining issue in any action, either party, his agent or attorney makes affidavit that the justice before whom the action is pending is a material witness, without whose testimony he cannot safely proceed to trial, or if it appears that the justice is near of kin to either party, the justice shall ~~transmit the action and all papers therein to some other justice of the county, who shall thereupon proceed as if the action had been commenced before him~~ *proceed as provided in s. 301.24.*

301.27 A garnishment action and the original action are always in the same court. If the venue of either is changed, the other action (by operation of law) is also changed and all the papers go with it. The justice or judge to whom the actions are moved shall proceed as though the actions had been commenced before him.

SECTION 35. 960.01 of the statutes is amended to read:

960.01 ~~Except as otherwise provided in this chapter, justices of the peace shall have jurisdiction throughout their respective counties to hold court to try and determine all charges under ss. 940.20 and 947.01. Municipal justices of the peace shall not have jurisdiction to hold preliminary examinations in felony cases.~~

SECTION 36. 960.06 of the statutes is amended to read:

960.06 On the return of the warrant with the defendant or on the defendant's appearing pursuant to a summons, the justice shall proceed to

try the action, unless continued for cause. If the defendant, before he pleads to the complaint, makes oath that from prejudice he believes the justice will not decide impartially in the action, the justice shall ~~transmit~~ all the papers and a copy of his docket entries to the nearest justice of the county who is able to try the action, and he shall proceed with the action as though originally begun before him, and call in another justice to try the case or transfer the case to the county court. The defendant, if in custody, shall be taken before such nearest justice court. A justice so called in shall receive such compensation as the governing body determines, to be paid by the municipality.

SECTION 37. 960.30 of the statutes is amended to read:

960.30 If in the progress of a trial before a justice under this chapter it appears to the justice from the evidence that there is probable cause to believe the defendant guilty of a crime of which the justice ~~has~~ does not have trial jurisdiction and that the defendant ought to be put upon trial for a crime cognizable before another court, the justice shall stop the trial and bind the defendant over or commit him to jail to answer to said court in the same manner as he would have done had the defendant been brought before the justice for a preliminary examination for the crime of which the justice finds there is probable cause to believe him guilty.

SECTION 38. 960.34 of the statutes is amended to read:

960.34 All fines imposed by a justice court, municipal justice of the peace or other magistrate, if paid before the defendant is committed, shall be received by the ~~court~~ justice or magistrate. The amount thereof, the date when received and the title of the action shall be entered on the docket or other record required to be kept and be paid to the county treasurer within 30 days after the receipt thereof. ~~And~~ The ~~court~~ justice or magistrate shall at the same time report in writing to the treasurer the date of conviction, the title of the action and the crime for which the fine was imposed.

SECTION 39. Wherever the term "justice", "justice of the peace", "justices of the peace" or "municipal justice of the peace" appears in the following sections, the term "municipal justice", "a municiple justice" or "municipal justices" is substituted: 13.24 (1), 17.02 (3), 17.25 (1), 19.01 (4) (c), 30.76 (1), 35.85 (3), 56.18 (1) and (3), 59.17 (3), 59.395 (2) and (4), 59.40, 59.72 (1), 59.77 (2), (3), (4) (intro.) and (a), (5) (intro.), (6) and (7), 59.82, 60.02, 60.20, 60.225, 60.28, 60.32, 60.45 (4) and (11), 60.55 (9), 61.197 (1) (intro.), 61.25 (2), 61.28, 66.114 (1), 66.12 (1) (a) and (2), 86.04 (3) (a), 110.07 (1), 126.63, 170.03, 170.04, 170.08, 171.03, 171.04 (1), 171.05, 171.06, 176.01 (5), 176.36, 194.12, 253.11 (2), 256.02 (1), 256.22 (3), (4) and (5), 256.34, 256.54 (1), 261.07, 270.75, 270.95, 272.05 (intro.) and (6), 288.05, 288.11, 288.12, 288.13, 288.14, 288.15, 288.18, 289.20 (1), 289.21 (1), 289.29, 289.30, 289.57 (1), 289.65, 289.66 (2), 290.07, 290.08, 290.09 (2), 291.11, 291.16, 291.17, 300.001 (1), 300.12, 300.14, 300.15, 301.17, 301.19, 301.23, 302.11, 302.34, 303.03, 303.10, 304.04, 304.13, 304.23, 304.24, 304.32 (2) and (3), 305.01, 307.01, 885.01 (1), 885.02 (1), 885.04, 885.05 (1) (a), 885.10, 887.01 (1), 887.09 (1) (a), 887.20, 887.23 (1), 887.26 (7), 889.13, 895.34, 946.15, 954.01 (1), 958.01, 960.25, 960.36, 962.01, 966.01 and 966.02.

SECTION 40. Wherever the term "justice court", "justice of the peace court" or "municipal justice court" appears in the following sections, the term "municipal court" is substituted: 56.08 (7) (a), 59.42 (intro.) and (3), 59.77 (4) (a), 62.25 (1) (c), 66.12 (2), 86.04 (2), 170.04, 200.24, 255.04 (2) (c), 270.12 (4), 270.125 (3), 270.75, 271.01 (2), 271.08 (1) and (2), 288.09 (2), 289.20 (2), 289.30, 289.57 (3), 289.58 (1) and (2), 289.65, 289.66 (2), 290.07, 291.07, 291.15, 300.12, 300.14, 300.15, 300.30, 301.17,

301.19, 301.20, 301.23, 301.245, 301.35 (intro.) and (4), 302.11, 302.34, 303.07, 303.10, 304.04, 304.13, 304.23, 304.24, 304.32 (2) and (3), 304.41, 305.01, 306.01, 306.19 (1) and (2), 307.10, 889.13, 960.04 (2), 960.25, 960.36 and 966.14.

SECTION 41. All municipal justices of the peace elected and serving as such prior to the effective date of this act shall continue in office as municipal justices for the balance of the term for which elected.

Approved December 28, 1967.