

1973 Assembly Bill 1090

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**CHAPTER 278, Laws of 1973**

AN ACT to create 256.68 of the statutes, relating to creation of the office of judicial court commissioner in counties having a population of 500,000 or more.

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

SECTION 1. 256.68 of the statutes is created to read:

**256.68 Judicial court commissioners in populous counties.** (1) OFFICE CREATED; QUALIFICATIONS, APPOINTMENT. In counties having a population of 500,000 or more, there is created in the classified service the office of judicial court commissioner. The county board shall establish the number of positions and set the salary for the office. The chairman of the county board of judges shall be the appointing power and shall

assign and supervise the work of such commissioners who shall be members of the bar residing in such county. Each judicial court commissioner shall take and file the official oath before performing any duty of the office.

(2) **DUTIES.** Judicial court commissioners shall, by virtue of their respective positions and to the extent required for their duties, have the powers of a court commissioner. The chairman of the county board of judges shall assign judicial court commissioners to the various branches of circuit and county court to assist the judges in the performance of their judicial duties and facilitate the work of the courts and the office of family court commissioner under s. 247.13 (2) whenever needed and requested by him. In addition to the duties assigned under s. 247.13 (2), assistant family court commissioners shall be assigned the work and duties of judicial court commissioners by the chairman of the county board of judges whenever necessary to assist and facilitate judicial performance within other branches of county and circuit court.

(3) **ASSIGNMENT AND FUNCTION.** (a) When assigned to children's court a judicial court commissioner may, under ch. 48, issue summonses and warrants, order the release or detention of children apprehended, conduct detention and shelter care hearings, conduct preliminary appearances and impose informal disposition. Waiver hearings under s. 48.18 and dispositional hearings under ss. 48.33 to 48.35 shall be conducted by a children's court judge. When acting in his official capacity and assigned to the children's court center, a judicial court commissioner shall sit at the children's court center or such other facility designated by the chairman of the county board of judges. Any determination, order or ruling by the commissioner may be certified to the branch of children's court to whom such case has been assigned upon a motion of any party for a hearing de novo.

(b) When assigned to the misdemeanor, traffic or misdemeanor-traffic branches of county court, a judicial court commissioner may conduct such hearings and proceedings as authorized by the judge of the branch to which he is assigned but the commissioner shall not preside over any trial, except that default judgments and stipulations may be entered and approved by him. In addition he shall perform the following duties when directed to do so by the presiding judge:

1. Inform the defendant of his rights under the United States and Wisconsin constitutions when necessary.

2. If the defendant does not waive his right to counsel, refer the matter of the appointment of an attorney, if the defendant is indigent, to the public or legal defenders when the defendant is willing to accept these services or otherwise to the judge for appointment of private counsel.

3. If the defendant wishes to enter a plea, with intelligent waiver of rights, direct the case to a designated court for trial in this division.

4. If a not guilty plea is entered, adjourn the case to a day certain for trial in a designated branch of court.

5. Set bail on a schedule established by the judges and a procedure agreed to by the judges with the right of immediate judicial hearing, if requested.

6. Dispose of cases which have been found to have no merit from the complaint or on motion of the district or city attorney.

7. Issue warrants and capiases for those who do not appear as summoned.

(c) When assigned to other branches of circuit or county court, a judicial court commissioner may be authorized by the presiding judge to engage in conciliation and

pretrial work. In addition, he may hear all applications for mental examinations under ss. 51.01 and 51.04 (1); appoint counsel for the person alleged to be mentally ill if indigent; advise the person of his rights under the United States and Wisconsin constitutions; and determine probable cause for further detention at the preliminary hearing to determine any mental condition.

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