

## CHAPTER 295

## CONTEMPTS IN CIVIL ACTIONS

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**295.01 Contempt power of courts.** Every court of record may find in contempt any person who disobeys any process or lawful order of the court, violates or neglects an official duty, or is otherwise guilty of misconduct, by which act the rights or remedies of a party in an action or proceeding pending or triable in such court or before a court commissioner for the same county may be impaired, impeded, defeated or prejudiced.

**History:** 1973 c. 272; 1975 c. 401  
See note to 885.12, citing *State v. Balistrieri*, 55 W (2d) 513, 201 NW (2d) 18.  
Contempt of court: some consideration for reform. 1975 WLR 1117

**295.02 Sanctions.** Every court of record may, in the exercise of its equitable powers, enforce the rights or remedies of a party to an action or proceeding by imposing on any person found in contempt under s. 295.01 the following sanctions:

(1) (a) If an actual loss or injury has been produced to any party by the misconduct of the contemnor, which it is not efficacious to remedy by execution or garnishment, the court may order the defendant to pay such party a sum sufficient to compensate the party for losses, costs and expenses, and in such case the payment and acceptance of such a sum shall be an absolute bar to any action by the aggrieved party to recover damages in another action for such injury or loss.

(b) This subsection does not apply to an actual loss or injury arising out of a debt founded in contract or for a tort that is dischargeable in bankruptcy.

(2) (a) If the misconduct proved consists of an omission to perform some act or duty which it is yet in the power of a party to perform in part or in full, including a failure to indemnify another party under sub. (1), the party or, if applicable, the executive officer of a corporation or association may be imprisoned until the party or officer performs such act or duty and pays the costs and expenses of the proceedings.

(b) If the misconduct of the party under par. (a) also constitutes a violation of another statute, the injunction may specify the amount of

forfeiture to be payable to the common school fund under s. 25.21 for each day of violation in the future.

(3) Sanctions imposed under this section may not exceed the following maximums:

(a) No requirement to pay money under sub. (1) may exceed a sum sufficient to compensate an aggrieved party for actual losses, costs and expenses.

(b) No person may be imprisoned under sub. (2) (a) for more than 6 months on the basis of any single finding of contempt.

(c) No forfeiture under sub. (2) may exceed \$2,000 for each day of violation.

(4) A person imprisoned shall be released upon purging by compliance with the court's order.

(5) No person may be imprisoned, nor required to pay any sum of money to the court or to a party, under this chapter except as specified in subs. (1) and (2).

(6) Nothing in this section may prohibit the court from imposing punishment of fine or imprisonment for criminal contempt under ss. 757.03 to 757.07.

**History:** 1975 c. 401, 421; 1977 c. 187 s. 135.  
Damages in civil contempt proceeding must be proved with reasonable certainty. *Getka v. Lader*, 71 W (2d) 237, 238 NW (2d) 87.

See note to Art. I, sec. 7, citing *Ferris v. State ex rel. Maass*, 75 W (2d) 542, 249 NW (2d) 789.

Sub (5) prohibits punitive civil contempt. Civil and criminal contempt discussed. *State v. King*, 82 W (2d) 124, 262 NW (2d) 80.

**295.03 Procedure in civil contempts. (1)**

Upon a verified petition alleging misconduct under s. 295.01, the judge in the principal action, or another judge if the original judge is unable to act, may take jurisdiction of the special proceeding of contempt and issue any necessary process, including but not limited to an order to show cause, an attachment to arrest which shall state whether or not the defendant may post cash bail in a given amount or a property bond to assure attendance at court or a writ of habeas corpus if the defendant is in custody.

(2) The party prosecuting any person for contempt under this chapter shall be required to

prove by a preponderance of the evidence that such person is guilty of misconduct under s. 295.01, and has by that misconduct impeded, impaired, defeated or prejudiced a right or remedy of such party.

(3) Any person charged with contempt under this chapter may plead by answer affirmative defenses to the charge, including but not limited to inability to comply with an order or decree of the court. The defendant setting forth such a defense shall have the burden of proving

such defense by a preponderance of the evidence.

History: 1975 c. 401, 421.

**295.04 When court may act.** The judge of any court of record may make findings of contempt, impose sanctions and carry out all contempt proceedings under this chapter regardless of whether the court is in session, in adjournment or between sessions.

History: 1975 c. 401; 1977 c. 449.