

CHAPTER 755

MUNICIPAL COURT

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755.001 Definition. In this chapter, “judge” means municipal judge.

History: 1977 c. 305.

755.01 Option of municipality. (1) There is created and established in and for each city, town and village, a municipal court 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 judge and the operation and maintenance of the court. A permanent vacancy in the office of municipal judge shall be filled under s. 8.50 (4) (fm). Any municipal court established under this section is not a court of record. The court shall be maintained at the expense of the municipality. After July 1, 1978, any authorized municipal court courtroom personnel not in the classified service shall be appointed by the municipal court judge or judges.

(2) The governing body may by ordinance or bylaw abolish the municipal court at the end of any term for which the judge has been elected. The governing body may not abolish the municipal court while an agreement under sub. (4) is in effect.

(3) A municipality may establish as many branches of municipal court as it deems necessary.

(4) Two or more cities, towns or villages of this state may enter into an agreement under s. 66.0301 for the joint exercise of the power granted under sub. (1), except that for purposes of this subsection, any agreement under s. 66.0301 shall be effected by the enactment of identical ordinances by each affected city, town or village. Electors of each municipality entering into the agreement shall be eligible to vote for the judge of the municipal court so established. If a municipality enters into an agreement with a municipality that already has a municipal court, the municipalities may provide by ordinance or resolution that the judge for the existing municipal court shall serve as the judge for the joint court until the end of the term or until a special election is held under s. 8.50 (4) (fm). Each municipality shall adopt an ordinance or bylaw under sub. (1) prior to entering into the agreement. The contracting municipalities need not be contiguous and need not all be in the same county. Upon entering into or discontinuing such an agreement, the contracting municipalities shall each transmit a certified copy of the ordinance or bylaw effecting or discontinuing the agreement to the appropriate filing officer under s. 11.02 (3e). When a municipal judge is elected under this subsection, candidates shall be nominated by filing nomination papers under s. 8.10 (6) (bm), and shall register with the filing officer specified in s. 11.02 (3e).

(5) A municipal court shall appoint a guardian ad litem for any defendant that the court has reason to believe is mentally incompetent. The governing body may by ordinance or bylaw authorize

the appointment of a guardian ad litem by the municipal judge in any other matter within the jurisdiction of the municipal court.

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.01; 1985 a. 89, 304; 1987 a. 389; 1989 a. 274; 1997 a. 208; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 109.

Judicial Council Committee’s Note, 1977: Sub. (1) is amended to make clear that a permanent vacancy in the office of a municipal judge must be filled by election rather than appointment. The office of municipal judge is one of public responsibility and the individual who holds the office should be placed there by the elective process. The subsection is also amended to give municipal judges the appointing authority over personnel in their court.

Section 300.06 governs temporary vacancies in the office of municipal judge. [Bill 1240–A]

755.02 Term. The judges 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 the judge’s election.

History: 1977 c. 187 s. 94; 1977 c. 273, 305, 447; Stats. 1977 s. 755.02.

755.03 Oath and bond. (1) The judge shall, after election, designation or appointment, take and file the official oath as prescribed in s. 757.02 (1) and at the same time execute and file an official bond in an amount to be fixed by the governing body. No judge may act as such until his or her oath and bond have been filed as required by s. 19.01 (4) (c) and the requirements of sub. (2) have been complied with.

(2) The clerk of the circuit court shall, within 10 days after a municipal judge files the oath and bond, execute and mail to the clerk of the city, town or village, where the judge was elected, a certified copy of the bond, which shall be filed and preserved in the office by the city, town or village clerk. The certified copy is presumptive evidence of its execution by the judge and sureties. If the municipal judge is elected under s. 755.01 (4), the clerk of circuit court shall file copies of the bond with each applicable municipal clerk. The clerk of the circuit court shall file a certified copy of the oath with the office of director of state courts within the 10–day time period.

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.03; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1983 a. 192; 1985 a. 89, 304.

755.04 Salary and fees. The governing body shall fix a salary for the judge 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 judge, but shall not be decreased during a term. The salary of a municipal judge who is designated or appointed under s. 8.50 (4) (fm) or 800.06 shall be determined by contract between the municipality and the judge. The judge may not serve until the contract is entered into. Salaries may be paid annually or in equal installments as determined by the governing body, but no judge may be paid a salary for any time during the term during which the judge has not executed his or her official

bond or official oath, as required by s. 755.03, and filed under s. 19.01 (4) (c).

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; Stats. 1977 s. 755.04; 1985 a. 304.

755.045 Jurisdiction. (1) A municipal court has exclusive jurisdiction over an action in which a municipality seeks to impose forfeitures for violations of municipal ordinances of the municipality that operates the court, except as follows:

(a) If the action is transferred under s. 800.04 (1) or 800.05 (3) to a court of record.

(b) If equitable relief is demanded the plaintiff shall bring the action in a court of record.

(c) Whenever the municipal court of a 1st class city in any county having a population of 500,000 or more is not in session, the circuit court has concurrent jurisdiction to hear municipal court cases.

(2) A municipal judge may issue civil warrants to enforce matters which are under the jurisdiction of the municipal court. Municipal judges are also authorized to issue inspection warrants under s. 66.0119.

(3) A municipal judge may order the payment of restitution for violations of ordinances that prohibit conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both. The judge shall use the restitution procedure under s. 800.093.

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.045; 1979 c. 32 s. 92 (17); 1985 a. 179; 1989 a. 261; 1991 a. 40; 1999 a. 150.

Judicial Council Committee's Note, 1977: This section makes clear that, unless transferred to a court of record, a municipal court is a court of exclusive jurisdiction for an action brought by a municipality wishing to impose a forfeiture for violation of one of its municipal ordinances. [Bill 1240–A]

A municipal court has authority to determine the constitutionality of municipal ordinances. *City of Milwaukee v. Wroten*, 160 Wis. 2d 207, 466 N.W.2d 861 (1991).

755.05 Territorial jurisdiction. Every judge has county-wide jurisdiction. If elected in a city or village lying in more than one county, the judge shall qualify and have jurisdiction in each county, the same as though the municipality lay wholly therein, and may hold court in one county while exercising jurisdiction in the other. If elected under s. 755.01 (4) and the contracting municipalities lie in more than one county, the judge shall qualify and have jurisdiction in each county and may hold court in one county while exercising jurisdiction in another county.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; Stats. 1977 s. 755.05; 1985 a. 89.

755.06 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 judge to determine when the court shall be open.

History: 1977 c. 187 s. 94; Stats. 1977 s. 755.06; 1983 a. 192 s. 303 (4).

755.09 Office, where kept. (1) Every judge shall keep his or her office and hold court in any adequate facility provided by the governing body of the city, village or town, other than at a place prohibited under sub. (2). The judge may issue process or perform ministerial functions at any place in the county.

(2) No judge may keep his or her office or hold court in any tavern, or in any room in which intoxicating liquors are sold, or in any room connecting therewith. For any violation of this section the judge shall forfeit \$25 but the violation of the subsection does not make any order or judgment void.

(3) No judge may hold court or keep his or her office with a practicing attorney unless the attorney is his or her law partner, and the partner shall not act as attorney before the judge.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; Stats. 1977 s. 755.09; 1997 a. 27.

755.10 Employees. The judge 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.

History: 1977 c. 187 s. 94; Stats. 1977 s. 755.10; 1983 a. 192 s. 303 (4).

755.11 Papers, how kept. Every judge shall file and keep together all papers in an action, separate from all other papers.

History: 1977 c. 187 s. 94; Stats. 1977 s. 755.11; 1983 a. 192 s. 303 (4).

755.12 Delivery of books to municipal clerk. When a municipal court ceases to operate, the court records, books of account, case files, moneys and bonds belonging to the court shall be delivered to the municipal clerk within 10 days after the vacancy occurs by the person who is in possession. If the municipal court was established under s. 755.01 (4), the person shall separate the court records, books, files, moneys and bonds according to the municipalities involved and deliver them to the appropriate municipal clerk.

History: 1977 c. 187 s. 94; Stats. 1977 s. 755.12; 1985 a. 89; 1995 a. 224.

755.13 Books demanded by municipal clerk. If any materials which should be delivered to the municipal clerk under s. 755.12 are not delivered within the time specified, the municipal clerk shall demand their delivery and may by action compel delivery.

History: 1977 c. 187 ss. 94, 135; Stats. 1977 s. 755.13.

755.14 Duty of clerk on receipt of books. (1) When the municipal clerk receives the court records, books of account and case files of a municipal court which has ceased to operate, he or she shall within 10 days dispose of them as follows:

(a) Deliver them to the clerk of the circuit court of that county if the municipality in which the municipal court was located was within one county.

(b) Deliver the case files of the pending and appealable cases to the clerk of circuit court of the county where the court held office and certified copies of the court records for the past 12 months to the clerk of circuit court of every county in which the municipality lies, if the municipality in which the municipal court was located is in more than one county.

(2) For any pending or appealable cases, the bail shall be delivered along with the case file to the proper clerk of court. Any other moneys received under sub. (1) shall be delivered to the municipal treasurer as provided in s. 800.10 (2).

History: 1977 c. 187 s. 94; 1977 c. 305 s. 65; 1977 c. 449 s. 497; Stats. 1977 s. 755.14; 1979 c. 32 s. 92 (17); 1981 c. 317 s. 2202; 1993 a. 246; 1995 a. 224.

755.15 Pending actions triable by court which receives books. When any action is pending before a judge at the time his or her office becomes vacant and his or her books and papers have been delivered to the circuit court, it may try the action and enter judgment as though the action was begun before it.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; 1977 c. 449 s. 497; Stats. 1977 s. 755.15.

755.16 Continuance on vacancy; notice of trial. All actions before any judge undetermined or appealable when his or her office becomes vacant are continued until the expiration of 10 days from the time when his or her books and papers were delivered to the circuit court. The court shall give 3 days' notice to the parties to the action.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; 1977 c. 449 s. 497; Stats. 1977 s. 755.16.

755.17 Decorum in municipal court. (1) A municipal judge shall be properly attired in a robe or other suitable clothing when officially presiding in a municipal court.

(2) The courtroom for a municipal judge shall be provided by a municipality. The courtroom shall be in a public building if a suitable public building is available within the municipality. The courtroom shall be designed and furnished to create and promote the proper atmosphere of dignity and decorum for the operation of the court.

History: 1977 c. 305.

Judicial Council Committee's Note, 1977: This section governs proper decorum in a municipal court.

Sub. (1) makes certain that a municipal judge will be properly attired when officially presiding in municipal court.

Sub. (2) gives direction to a municipality that the courtroom it provides for a municipal judge must be designed and furnished to help assure the proper dignity and decorum when a municipal court is operating. [Bill 1240–A]

755.18 Municipal judge training. (1) Municipal judges shall participate in a program of continuing judicial education as required by the supreme court.

(2) Municipalities shall bear the cost of programs under sub. (1) provided by the court. All moneys collected by the supreme court under this section shall be deposited in s. 20.680 (2) (i).

(3) This section does not apply to a municipal judge appointed under s. 8.50 (4) (fm) nor to a former municipal judge or former circuit judge to whom cases are assigned under s. 800.06 during the 6-month period following the date on which the judge receives his or her initial assignment.

History: 1983 a. 27; 1985 a. 304.

755.19 Municipal court commissioners. (1) APPOINTMENT. First class cities may create the office of municipal court commissioner. The municipal court commissioner shall be an attorney licensed to practice in this state and shall complete annual educational credits consistent with supreme court requirements for municipal judges. The common council shall establish the number of positions and set the term, the additional qualifications and the compensation for the office. The presiding judge of the municipal court shall be the appointing authority and may terminate the employment of a municipal court commissioner at will and without cause. The municipal court commissioner shall be supervised by the judge whose cases the commissioner is hearing. Each municipal court commissioner shall take and file the official oath in the office of the clerk of the municipal court of the 1st class city for which appointed before performing any duty of the office.

(2) POWERS AND DUTIES. Under the supervision of a municipal judge, a municipal court commissioner may do all of the following:

(a) Under ss. 800.04 and 800.095 (4) and (5), conduct initial appearances and receive noncontested forfeiture pleas, order the revocation or suspension of driving privileges and impose forfeitures, impose community service and restitution according to the schedule adopted by the municipal court where appointed, and issue dispositional and sanction orders pursuant to ch. 938.

(b) Issue warrants for those who do not appear as scheduled or as summoned.

(c) Conduct hearings on warrant returns.

(d) Schedule indigency hearings.

(e) Make a finding on the indigency of defendants.

(f) Enforce alternative judgments for failure to comply with court orders.

(g) Conduct court proceedings and exercise any power authorized by statute.

(3) NEW HEARINGS AND APPEALS OF MUNICIPAL COURT COMMISSIONER RULINGS. A motion for a new hearing or appeal of a con-

tested ruling by a municipal court commissioner shall be filed with the municipal court no later than the 20th day after the commissioner makes the ruling. The motion shall be heard by the supervising municipal judge under the procedure consistent with the procedure adopted by the judicial district on motions to reopen judgments before the municipal court. Nothing in this subsection shall be construed as altering the time periods for filing a notice of appeal from a final judgment or filing a motion of relief from judgment.

History: 1997 a. 27.

755.20 Contributions to certain organizations and agencies. (1) If a municipal court finds in a forfeiture action that a person violated an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment, the municipal court may require the person to make a contribution not to exceed the maximum amount of the forfeiture that may be levied to an organization or agency specified in s. 973.06 (1) (f) 1. if the court determines that the violator has the financial ability to make the contribution.

(2) If the court does require a person to make a contribution to an organization or agency specified in s. 973.06 (1) (f) 1. but does not require the person to pay a forfeiture or court costs, the court shall state on the record the reasons why it is not requiring the person to pay the forfeiture or court costs. All contributions made under this section shall be made to the municipal court for distribution to the organization or agency specified in s. 973.06 (1) (f) 1. The municipal court may not require a person to make a contribution under this section to an organization or agency specified in s. 973.06 (1) (f) 1. that has not complied with the provisions of s. 757.17.

History: 1995 a. 28; 1999 a. 58, 69, 186.

755.21 Collection. The municipal court may contract with a collection agency for the collection of unpaid forfeitures, assessments, and surcharges under s. 66.0114 (1) (a). The contract shall provide that the collection agency shall be paid from the proceeds recovered by the collection agency. For each violation for which a forfeiture, assessment, or surcharge is imposed, the municipal court shall determine the amount to be distributed to each entity under s. 66.0114 (1) (bm) and (3) (b) and (c) as follows:

(1) Calculate the percentage of the total violation amount to which the entity is entitled before the collection agency is paid.

(2) Subtract from the amount collected for the violation the amount paid to the collection agency to collect the violation amount.

(3) Multiply the remainder under sub. (2) by the percentage under sub. (1).

History: 2003 a. 140; 2005 a. 305.