

No. 270, S.]

[Published May 8, 1917.

CHAPTER 163

AN ACT to amend sections 4086 and 4109, relating to depositions, and section 4854 relating to escape of prisoners; and to create section 4853a of the statutes, relating to the right of officers of other states to convey persons in their custody through the state of Wisconsin.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Sections 4086, 4109 and 4854 of the statutes are amended to read: Section 4086. 1. Depositions may be taken in the manner and according to the regulations provided in this chapter to be used before any court, including the supreme court, magistrate or any other person authorized to examine witnesses or hear testimony in any action or proceeding or any motion therein, or in any other civil matter or proceeding.

2. In all criminal or quasi criminal cases *or examinations held* in courts of record *or before a judge thereof*, the defendant, on notice to the district attorney, may apply to the court or the presiding judge thereof for leave to take the deposition of any material witness within the state who is in imminent danger of death or who * * * *resides without the state or is to be without the state at the time of the examination or the trial*; and the state on notice to the defendant's attorney, if an attorney shall have entered his appearance of record for the defendant, or to the defendant personally in any event, may so apply for leave to take the deposition of any witness within the state who is in imminent danger of death, *or who resides without the state or is to be without the state at the time of the examination or the trial*; and if it appears to the satisfaction of the court or judge that due diligence has been used in making such application, that such witness is material, and is in such danger *or that he resides without the state or is to be without the state at the time of the examination or the trial*, and that his attendance cannot, by the use of due diligence, be procured upon *the examination or the trial*, such leave may be granted; and such court or judge shall determine whether such deposition *shall* be taken on verbal or written interrogatories and cross-interrogatories, and the same when so taken may be used on *the examination or the trial* in the same manner as in civil cases; but in case the deposition is to be taken on behalf of the state, the defendant at the time of the service of the notice required by section 4102, of the statutes, shall be notified that he is required to personally attend at the taking of such

deposition and that in event of his failure so to do such failure shall constitute a waiver of his right to meet face to face the witness whose deposition is to be taken, and such failure shall constitute such waiver unless the court be satisfied when the deposition is offered in evidence that the defendant was physically unable to attend; and in case the defendant be not then in jail he shall be paid, to cover his expense of travel and attendance at the taking of the deposition, such sum as will equal witness fees for such travel and attendance; but in case the defendant be confined in jail the sheriff at the request of the district attorney shall at the expense of the county convey the defendant to and have him in attendance at the taking of such deposition. *In all cases where the defendant is in custody leave to take such deposition on behalf of the state outside of the state shall not be granted, unless all states through which the sheriff will travel with the defendant in going to the place where such deposition is to be taken shall have conferred upon the officers of this state the right to hold and convey the said defendant in custody through each of said states.*

3. In case the defendant is destitute of means to employ counsel the court shall on being satisfied thereof before such deposition is taken appoint counsel to defend at the expense of the county in time to enable such counsel to attend at the taking of such deposition; and the court may allow compensation at the rate of ten dollars per day and traveling expenses for such attendance in addition to the compensation permitted by section 4713 of the statutes.

Section 4109. Any witness may be subpoenaed and compelled, according to the provisions of this chapter, to attend and give his deposition * * * before any justice of the peace, court commissioner or other person authorized to take depositions in this state, or before any commissioner appointed under the authority of * * * any other state, territory or country, or any * * * court thereof, * * * in any action, cause or proceeding pending in such other state, territory or country. *This act does not apply to any action pending in any other state, territory or country whose laws do not contain provisions similar to this act requiring persons within its borders to give their testimony by deposition in actions pending in Wisconsin.*

Section 4854. Any * * * and all persons who shall in any manner aid * * * any person so being held or conveyed in or through the state of Wisconsin by the officers of any state by virtue of any such writ or warrant or commitment to

escape, or shall resist any officer or person while engaged in * * * *holding or conveying* any such prisoner through this state shall be liable to the same penalties as now provided by the laws of this state against persons aiding prisoners to escape or resisting officers of this state.

SECTION 2. A new section of the statutes is created to read: Section 4853a. The officers of all other states, territories or countries are given the right to hold and convey all persons in their custody and charged with crime in their states into and through the state of Wisconsin. It shall be a sufficient answer to a writ of habeas corpus sued out in this state by any such person in custody of an officer of such other state that the officer holds such person in custody by authority of a warrant or a commitment of such other state, a copy of which warrant or commitment shall be attached to the answer of such officer. This act does not apply to the officers of any state, territory or country whose laws do not give officers of Wisconsin the right to convey and to hold in custody persons who are charged with crime in Wisconsin while within the borders of such other state, territory or country.

SECTION 3. This act shall take effect upon passage and publication.

Approved May 3, 1917.

No. 286, S.]

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CHAPTER 164

AN ACT to repeal section 4438a of the statutes and to create section 4438a of the statutes, relating to the giving of checks, or drafts, on any bank or other depository, wherein the person so giving such checks or drafts, shall not have sufficient funds or credit for the payment of same, and providing a penalty.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 4438a of the statutes is repealed.

SECTION 2. There is added to the statutes a new section to read: Section 4438a. 1. Any person who, with intent to defraud, shall make or draw, or utter or deliver, any checks, drafts, or order, for the payment of money, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering, that the maker, or drawer, has not sufficient funds in, or credit with, such bank or other depository, for the payment of such check, draft, or order, in full, upon its presentation, shall be guilty of a misdemeanor, and punishable by im-