

No. 281, S.]

[Published July 14, 1927.]

**CHAPTER 334.**

AN ACT to amend section 325.21 of the statutes relating to testimony of physicians and surgeons.

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

SECTION 1. Section 325.21 of the statutes is amended to read:  
325.21 No \* \* \* *physician or surgeon* shall be permitted to disclose any information \* \* \* he may have acquired in attending any patient in a professional character, \* \* \* necessary to enable him \* \* \* *professionally to serve* such patient \* \* \* *except only (1) in trials for homicide when the disclosure relates directly to the fact or immediate circumstances of the homicide, (2) in all lunacy inquiries, (3) in actions, civil or criminal, against the physician for malpractice, (4) with the express consent of the patient, or in case of his death or disability, of his personal representative or other person authorized to sue for personal injury or of the beneficiary of an insurance policy on his life, health, or physical condition.*

SECTION 2. This act shall take effect upon passage and publication.

Approved July 13, 1927.

No. 381, S.]

[Published July 14, 1927.]

**CHAPTER 335.**

AN ACT to amend subsection 1 of section 5, subsections 3, 4, and 8 of section 12, subsection 2 of section 15, section 16, subsection 2 of section 19, subsection 2 of section 21, subsection 3 of section 23, and subsection 2 of section 27 of chapter 549, Laws of 1909, as amended, relating to the civil court of Milwaukee county.

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

SECTION 1. Subsection 1 of section 5, subsections 3, 4, and 8 of section 12, subsection 2 of section 15, section 16, subsection 2 of section 19, subsection 2 of section 21, subsection 3 of section 23, and subsection 2 of section 27 of chapter 549, Laws of 1909,

as amended, are amended to read: (Chapter 549, Laws of 1909) (Section 5) 1. The said civil court shall have jurisdiction and cognizance of the actions and proceedings set forth and enumerated in section \* \* \* 300.05 and \* \* \* subsections (2) and (4) of section \* \* \* 300.06 of the statutes and the acts amendatory thereof when the amount claimed or involved in such actions or proceedings does not exceed the sum of two thousand dollars; provided that said court shall have jurisdiction of any action founded on an account when the amount claimed shall not exceed two thousand dollars; and of the actions and proceedings mentioned in chapter \* \* \* 291 of the statutes, entitled “\* \* \* Forcible entry and unlawful detainer,” and the acts amendatory thereof; and shall possess, except so far as may be inconsistent with the provisions of this act, the jurisdiction and powers over persons and subject matter possessed by justices of the peace in the county of Milwaukee on the first day of January, 1909; and shall have territorial jurisdiction co-extensive with the county of Milwaukee. *Provided, that the judgments of said court shall be enforceable throughout the state as circuit court judgments are enforced, and the executions and other process of said civil court, including garnishment summonses in aid of execution, may be issued to, executed, and served, and actions and proceedings to enforce collection of its judgments may be commenced and prosecuted in any county in which a transcript of the judgment docket of said civil court judgment, duly certified by the clerk of said court, shall have been filed in accordance with the provisions of section 270.74 and 270.76 of the statutes, to the same extent and with the same force and effect as in actions and proceedings for the collection and enforcement of judgments of the circuit court in similar cases. Provided further that the orders, writs, warrants, subpoenas and other process in bastardy cases pending in said civil court pursuant to subsection 2 hereof may be issued to and executed in any county of the state. Sheriffs and other officers charged with the duty of executing, serving and enforcing summonses, executions, writs, warrants, subpoenas and other process of the circuit court in similar cases shall be charged with the duty and are hereby empowered to execute, serve and enforce the same when issued by the civil court.*

(Chapter 549, Laws of 1909) (Section 12) 3. No constable shall possess any power with respect to said civil court or any

process which may issue from it, but the sheriffs of Milwaukee \* \* \* and other counties to which its process may lawfully issue shall possess all the powers and shall exercise all the duties with respect to said civil court and its process which constables have heretofore possessed or exercised by law with respect to courts of justices of the peace.

4. There shall be paid to the sheriff \* \* \* the following fees for his services in actions or proceedings in said civil court:

8. All such fees earned by or paid to the sheriff of Milwaukee county shall belong to the county of Milwaukee and shall be paid to the treasurer of said county in the same manner as other fees received by said sheriff are now paid.

(Chapter 549, Laws of 1909) (Section 15) 2. Any summons issued to an attorney in such manner, excepting a garnishee summons and summons issued in actions provided for by chapter \* \* \* 291 of the statutes, relating to forcible entry and unlawful detainer, may be served and proof of such service may be made in the same manner as the service of a summons and proof thereof in actions in the circuit court of this state, and when not served by the sheriff, disbursements actually made or incurred for such service shall be taxable as costs in the action, not exceeding, however, the amount allowed to the sheriff for similar service. \* \* \* All summonses of said civil court shall be signed by the clerk or a judge thereof, directed to the defendant or defendants, and shall be in substantially the following form:

STATE OF WISCONSIN

Civil Court of Milwaukee County

.....  
Plaintiff.

vs.

.....  
Defendant.

The State of Wisconsin, to the said defendant (s) (and each of them):

You are hereby summoned to appear on the ..... day of ..... 19...., at nine o'clock in the forenoon, before the civil court of Milwaukee county, to answer to the complaint of the plaintiff (s) above named; and in case of your failure so to do, judgment will be rendered against you according to the demand of such complaint (of which a copy is herewith served upon you).

[Court Seal] .....

*If issued in actions provided for by chapter 291 of the statutes the summons shall state also that the complaint has been filed.*

(Chapter 549, Laws of 1909) Section 16. In all cases if either party shall file with the clerk an affidavit stating that from prejudice or other cause he believes the judge to whom such case is assigned or before whom the same is pending will not decide impartially in the matter, the same \* \* \* shall be transferred by the clerk to another branch of said court and heard, tried, and determined by another of said judges qualified to act in such matter. But such affidavit must be filed before the commencement of the trial or hearing of such case. A party shall be entitled to but one transfer of a case under this section, but in such affidavit may specify not more than two \* \* \* judges of said court \* \* \* *who* he believes will not decide impartially in the matter.

(Chapter 549, Laws of 1909) (Section 19) 2. Either party to any civil action in said civil court, \* \* \* *upon* first paying to the clerk the sum of six dollars, may demand that the action be tried by a jury of six men; and either party may also, \* \* \* *upon* first paying to the clerk the sum of twelve dollars, demand that the action be tried by a jury of twelve men. *Provided that such demand shall be made at the time of joining issue or prior thereto; and any neglect to make such demand shall be a waiver of the right to trial by jury.* And the action shall thereafter be tried by a jury drawn in accordance with the provisions of this act. And the court may in its discretion order a trial by jury of any issue of fact unless waived by the parties.

*If the action be not tried, or if for any reason the court, or a judge thereof, shall so order, the fee so prepaid shall be returned to the party making such demand by the county treasurer. The clerk shall issue a certificate showing the payment of the fee, the reason for the return thereof, and the name of the person to whom the same is to be paid. Upon the filing of such certificate with the county clerk, the county clerk shall issue an order on the county treasurer for repayment thereof. Said certificate shall be issued without fee.*

(Chapter 549, Laws of 1909) (Section 21) 2. Every action or proceeding brought in said court shall be called at the time specified in the order or process by which it is commenced or as soon thereafter as the business of the court will permit, *except that if the time stated shall fall on a Sunday or a day, the whole*

*of which is declared to be a legal holiday under the provisions of section 256.17 of the statutes, the clerk shall adjourn such action or proceeding to, and it shall be called on the following day.* Except in a case where an appeal has been taken, the court may in a proper case and in the furtherance of justice, vacate, modify or correct a judgment rendered in said court at any time within six months after the same was docketed; and may correct or amend a return upon an appeal on such terms as may be just. Section \* \* \* 269.05 of the statutes, relating to the consolidation of actions, sections \* \* \* 260.09 to \* \* \* 260.21 \* \* \* of the statutes, relating to the parties to civil actions and proceedings and Rule XV of the Rules of Court, adopted by the supreme court for the circuit courts of this state, relating to the tender and payment of money into court, shall be applicable to said civil court of Milwaukee county.

(Chapter 549, Laws of 1909) (Section 23) 3. Where a summons is issued by an attorney pursuant to section 15 of this act, the court fees for issuing the same must be paid at the time such summons is issued by the clerk. All fees paid into court or included in any judgment therein, except witness and interpreter's fees, shall belong to the county of Milwaukee, and no such judgment shall be satisfied until such fees are paid into said court. But fees prepaid by either party recovered by any judgment in his favor and paid into court shall be refunded to him by the county treasurer on orders drawn by the county clerk pursuant to certificates drawn by the clerk of said court and deposited with said county clerk; and, upon due cause shown, the court may direct the clerk to refund in the same manner fees which may have been paid for the process of said court where the same has been paid for and not served, or for other good and sufficient reason. *Provided further that if in an action wherein the fees have been prepaid, money shall be paid into court on behalf of a defendant or garnishee defendant and duly applied in satisfaction of the judgment in the action, the amount of fees prepaid shall be paid directly by the clerk of said court to the plaintiff, together with any other sum due the plaintiff included in the amount so applied in satisfaction. If the fees have not been prepaid the clerk shall retain the amount thereof and remit the same to the county treasurer.*

(Chapter 549, Laws of 1909) (Section 27) 2. Such summons shall be issued under the seal of and made returnable be-

fore said court, *shall be directed to the defendant*, shall be signed by the clerk or a judge thereof, shall be otherwise substantially in the form provided by section \* \* \* 304.23 of the statutes and shall be served by the sheriff of said Milwaukee county on the garnishee personally at least six days before the return day thereof. A copy of such summons shall be served on the defendant within the time service thereof is required to be made on the garnishee. If the defendant cannot be found or is not a resident of the state then service may be made upon him by publication as provided in sections \* \* \* 304.12 and \* \* \* 804.14 of the statutes, with like effect, unless he shall have a known agent or attorney residing within the jurisdiction of the court or some member of his family of suitable age and discretion shall reside within the same, when service may be made on such agent or attorney or some such member of the defendant's family. The notice to the defendant may be substantially in the form prescribed in section \* \* \* 304.24 of the statutes.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 13, 1927.

No. 416, S.]

[Published July 14, 1927.

## CHAPTER 336.

AN ACT to amend section 146.02 of the statutes, relating to the sale of narcotics and providing penalties.

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

SECTION 1. Section 146.02 of the statutes is amended to read: 146.02 State narcotic law. (1) Subsections (1) to (29) of this section shall be known and may be cited as the "State Narcotic Law." No person except those \* \* \* *registered by federal authority* so to do shall sell, furnish or deliver any cocaine, opium, morphine, heroin, alpha or beta eucaine, or any salt or combination of the same, or any mixture, preparation or compound containing any cocaine, or more than two grains of opium, one grain of codeine, one-fourth grain of morphine, one-eighth grain of heroin, one-eighth grain or alpha or beta eucaine in one ounce, fluid or avoirdupois ounce except *in pursuance of a writ-*