

No. 53, S.]

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CHAPTER 11

AN ACT to confer on the county court of Pierce county civil and criminal jurisdiction.

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

SECTION 1. JURISDICTION CONFERRED ON COUNTY COURT OF PIERCE COUNTY. There is conferred upon the county court of Pierce county, jurisdiction as follows:

(1) The county court of Pierce county and the judge thereof shall take cognizance of and have jurisdiction to hear, try and determine all actions and proceedings at law, except actions wherein the title to real property shall come in question, wherein the claim, debt, damage, penalty or forfeiture shall not exceed the sum of \$2,500; actions to recover the possession of personal property with damages for the unlawful taking or detention thereof wherein the value of the property claimed shall not exceed the sum of \$2,500; actions arising under chapter 291 of the statutes when the amount claimed shall not exceed \$2,500; actions for forfeitures and actions for breach of any recognizance given in the court under the jurisdiction conferred by this act; all charges for criminal offenses arising within the county which are not punishable by commitment to the state prison; and all offenses arising under the charter and ordinances of the county and of all cities, towns and villages within the county.

(2) The judge of the county court shall have power and jurisdiction to cause to be brought before him all persons who may be charged with having committed any criminal offense within the county and to issue process therefor and to commit them to jail or require bail, as the case may require. The judge shall have the jurisdiction, authority, power and rights given by law to justices of the peace, together with the power and right in his discretion to charge the jury upon written charges or otherwise. In the exercise of the jurisdiction conferred by this act the court shall have full power to grant adjournments and continuances.

(3) All criminal warrants issued by justices of the peace of the county may be made returnable before the county court of the county, at Ellsworth, and when the warrants are so issued and returned the county court and the judge thereof shall have jurisdiction to conduct all

further proceedings thereon and to hear, try and determine the same in the same manner as if the warrants had been originally issued by the judge of the county court and made returnable before the court or the judge thereof.

(4) A judgment by confession may be entered before the judge of the county court in any sum not exceeding \$2,500, without action, either for money due or to come due, or to secure any person against contingent liability on behalf of the defendant, or both, if a statement in writing be made, signed by the defendant and verified by his oath, to the following effect:

(a) It must state the amount for which judgment may be entered and authorize the entry of judgment thereof;

(b) If it be money due or to become due it must state concisely the facts out of which it arose, and must show that the sum confessed therefor is justly due or to become due;

(c) If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability, and must show that the sum confessed does not exceed the same.

(5) The county court of Pierce county shall be a court of general jurisdiction and when designated pursuant to law as the juvenile court, shall have the jurisdiction over all cases of neglected, dependent and delinquent children and all powers and authority conferred by law upon juvenile courts in this state.

SECTION 2. PROCESS; SERVICE; PROCEDURE; PRACTICE. (1) The summons in all civil actions in the county court of Pierce county of which jurisdiction is conferred upon it by this act, may be served in the same manner as provided for service of summons in circuit courts, except process shall be confined to the limits of the county, and may be in the following form:

State of Wisconsin }
Pierce county } SS.

The state of Wisconsin, to the sheriff, or any constable of said county, or any other person not a party to the action:

You are hereby commanded to summon A.B. if he shall be found within said county, to appear before the undersigned, the county judge of said county, in the county courtroom at the courthouse in the village of Ellsworth, in said county on the _____ day of _____ A. D. 19_____, at _____ o'clock in the _____ noon, to answer to C.D., plaintiff, to his damage, two thousand five hundred dollars, or under; hereof fail not at your peril.

Given under my hand at Ellsworth, Wisconsin, this _____ day of _____, A. D. 19_____.

County Judge

(2) All other writs, warrants and process necessary to be issued under this act shall be in the form prescribed by law for justice of the peace and justice's courts, so far as applicable, but in and under the name of the county judge of Pierce county. The judge of the court may issue any summons or other process in blank and deliver the same to an attorney duly authorized to practice law in this state, to be issued as such attorney may require, and upon the filing of such summons or other process at any time on or before the day on which the same is made returnable, the judge shall forthwith docket the case, which docket entries

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shall have the same force and effect as if made at the time of issuing such summons or other process. No summons so issued shall be valid, unless the attorney indorses thereon his name or the name of his firm in substantially the following form: Issued by A.B., attorney. All process issued under the provisions of this act shall be made returnable within the same time and in the same manner as provided by law for the return and service of like process in courts of justices of the peace, provided that the maximum time within which all processes under the provisions of this act may be made returnable shall be 36 days.

(3) The parties shall in all cases join an issue of fact or of law at the time when the summons is returnable. The court at that time may order the case tried immediately or may, in its discretion, adjourn the trial until such time and place as he shall see fit. No adjournment shall be granted until issue shall have been joined as herein provided unless the court otherwise directs. Failure to adjourn a case to a day or a place certain shall not deprive or oust the court of jurisdiction or render any judgment void. If on the return date of the summons the plaintiff shall fail to appear the court may summarily dismiss the action on motion of the defendant or on its own motion. If on such return date the defendant shall fail to appear the court may enter a default judgment upon due proof of facts which show the plaintiff entitled thereto.

(4) The provisions of law relating to procedure and practice in civil and criminal actions or proceedings in courts of justices of the peace, so far as applicable and not inconsistent with this act, shall govern the practice and procedure in the county court of Pierce county in all like criminal and civil actions and proceedings of which the court is conferred jurisdiction by this act; and appeals from judgments and other determinations of the county court in all such actions and proceedings may be taken at the same time, in the same manner and with like effect as is provided by law for taking appeals from like judgments and determinations of justices of the peace.

SECTION 3. SITUS AND SEAL OF COURT. The judge when exercising the additional jurisdiction conferred by this act, shall hold court at the courthouse in the village of Ellsworth and the county of Pierce shall provide the court necessary dockets, records, stationery and blanks for the proper transaction of the business of said court. The seal of the county court now in use shall be the seal of the court under the additional jurisdiction conferred by this act. The court shall be open for all business which may come before it under the additional jurisdiction conferred by this act on all secular days except legal holidays.

SECTION 4. SALARY OF COUNTY JUDGE. The salary of the county judge of Pierce county for performing all duties pertaining to the office shall be fixed by the county board of said county but shall not be less than \$6,000 per year, payable in equal monthly instalments out of the treasury of Pierce county. The judge shall receive no additional compensation for services as such or as juvenile judge. No person shall be eligible to the office of county judge of Pierce county unless he shall be licensed to practice law in this state and is a qualified elector of said county.

SECTION 5. COSTS; FINES; FEES; RECORDS. (1) In respect to all actions and proceedings under the additional jurisdiction conferred by this act, court fees shall be taxed in the following amounts:

(a) In civil actions the plaintiff shall pay the sum of \$1 upon filing the summons or other process by which the action is commenced, and the prevailing party shall pay the further sum of \$2 upon entry of money judgment in any sum not to exceed \$1,000, or the further sum of \$4

upon entry of money judgment in any sum above the amount of \$1,000. Upon the entry of any judgment other than a money judgment the prevailing party shall pay such fee as is comparable to fees for money judgments when the value of the subject of the action is considered or the additional sum of \$2 if no other fee is determinable. If such action be dismissed without trial or hearing the parties shall pay no further fee.

(b) In actions for the violation of the laws of this state and ordinances, by-laws, rules and regulations of Pierce county and the towns, cities and villages of said county, a court fee shall be assessed in the sum of \$3.

(2) In respect to all actions and proceedings under the additional jurisdiction conferred by this act, all fines, forfeitures, costs, penalties and court fees shall be taxed and allowed in the same manner and amount as would be allowed in justice court except as herein otherwise provided.

(3) All fines, forfeitures and penalties and the costs, fees and disbursements, except court fees, collected for violations of the ordinances, by-laws, rule and regulations of any city, village or town shall be paid to the treasurer of such city, village or town. All fines, penalties, costs, fees and disbursements in criminal actions or proceedings under the general laws of the state, all forfeitures, penalties, costs, fees and disbursements for violations of the ordinances of Pierce county, and all court fees in all actions or proceedings under the jurisdiction conferred by this act shall be paid to the treasurer of Pierce county.

SECTION 6. PROCESS SERVERS AND COURT OFFICERS. The sheriff of Pierce county and his deputies shall be officers of the court and the sheriff and his deputies or any person authorized by law to serve process in circuit court may serve its processes and carry out its lawful orders and judgments throughout the county and shall be entitled to receive the same fees therefor as for service of like process of the circuit court, provided that the police officers of any city in the county and the village marshal of any village in the county and their deputies shall have authority to serve and execute the civil and criminal processes of the court within the limits of the village or city in which such officers reside, except draw juries or attend the court as its officer during trials, and shall have authority and be required to serve and execute all processes issued out of the court wherein the village or city is a party plaintiff, and shall be entitled to receive the lawful fees therefor.

SECTION 7. ATTORNEY FEES ALLOWED. In all civil actions in the county court of Pierce county under the provisions of this act an attorney's fee shall be allowed to the plaintiff if he shall recover judgment, as follows: If the judgment does not exceed \$100, a sum equal to 10 per cent of the judgment; when the judgment exceeds \$100, \$10 on the first \$100 and 5 per cent of the amount in excess of \$100; provided that in no case shall the amount of the attorney fee exceed the sum of \$50. In case judgment shall be for the defendant, he shall be entitled to recover attorney fees equal in amount to that which the plaintiff would have been entitled under this section if he had recovered judgment for the amount of his claim, but in no case shall the attorney fees exceed the sum of \$50. In actions of replevin the value of the property as proved shall govern the amount of attorney's fees in case judgment shall be for the plaintiff; and the value of the property as claimed shall govern the amount of attorney's fee in case judgment is for the defendant. If judgment shall be by default the attorney's fee shall be one-half what it would have been if the matter had been contested. In all civil actions not herein provided for an attorney's fee of \$10 shall be allowed to the party in whose favor judgment is rendered. No attorney's fee shall be allowed unless the prevailing party shall appear by an attorney of a court of record.

SECTION 8. SICKNESS; ABSENCE; DISABILITY; PREJUDICE.

(1) In case of sickness, absence or temporary disability of the judge of the court, he may, by an order in writing, filed in his court, appoint any county judge of an adjoining county, or a court commissioner or justice of the peace of Pierce county, to discharge the duties of the office conferred by this act during such sickness, absence or disability, and the person so appointed shall have the powers of judge conferred by this act while administering the office.

(2) No action, examination or other proceedings shall be removed from the court except as hereinafter provided; if prior to joining issue in any case and prior to any examination or other proceeding it shall appear by affidavit that the judge is a material witness or is in any way related to either of the parties, or from prejudice he will not decide impartially in the matter, the judge shall notify a county judge of an adjoining county, or a court commissioner or a justice of the peace in Pierce county not disqualified to hear the examination, trial or other proceeding, whereupon it shall be the duty of the judge, court commissioner or justice of the peace notified to forthwith appear at the courtroom of the county court of Pierce county and discharge the duties of the judge of the court on the trial of the case or the hearing of the examination or other proceeding as the case may be, with like effect as the county judge would if not disqualified to act.

(3) Any person so called in and acting for the county judge shall receive as full compensation therefor \$5 for each day actually and necessarily spent in performance of the duties of the judge of the county court under the additional jurisdiction conferred by this act; regardless of how many matters he may hear or determine, and his expenses of travel and meals, and shall be paid therefor out of the treasury of Pierce county upon certificate of the county judge.

SECTION 9. CHANGE OF VENUE. The provisions of law applicable to change of venue in the circuit courts of this state shall be applicable to said county court. When the venue of any action shall be changed pursuant to section 261.04 of the statutes it shall be changed to the circuit court of the proper county; and such change of venue shall not prevent the granting by the circuit court of a further change of venue as provided in section 261.04 or section 261.08 of the statutes.

SECTION 10. REMOVAL OF ACTIONS FROM JUSTICE COURT. Whenever any action or proceeding, civil or criminal, shall be removed from any justice of the peace of Pierce county upon the oath of the defendant, his agent or attorney, if the defendant shall request in writing that the action or proceeding be removed to the county court of the county, then the justice shall forthwith transmit all papers in the action or proceeding to the county court and the action or proceeding shall be heard, tried and considered in the county court.

SECTION 11. COURT REPORTER. The county judge may appoint a phonographic reporter, skilled in the art of shorthand reporting, for the court and may remove him at pleasure and appoint another in his place. Every person so appointed shall be deemed an officer of the court and shall, before entering upon the duties of his office, take and subscribe the constitutional oath, and file the same duly certified with the clerk of the circuit court of Pierce county. The reporter shall attend the county court whenever requested by the county judge and perform such duties as the county judge may require. It shall be the duty of the reporter, when requested by the county judge, to take and transcribe all testimony given or taken before the court or the judge thereof in any and all actions, hearings, examinations or proceedings pending or being tried, determined or disposed of before the court or the judge thereof, under this act or under any other law of this state. It shall be the duty

of the reporter to assist the county judge in recording, copying, comparing, filing and indexing all records of all actions, hearings, examinations or proceedings before the court or the judge thereof under this act or under any other law of this state. In all matters heard or determined by the county court, under the provisions of this act, the reporter's shorthand notes shall be filed in lieu of the minutes of testimony required by law to be taken by justices of the peace in like proceedings; provided, that in case of appeal in civil actions, the reporter when requested by either party shall file a transcribed copy of his shorthand notes, which shall be returned as the testimony in the case; and the fees for transcribing the testimony, not exceeding 5 cents per folio, shall be taxed as part of the costs in the circuit court. In criminal cases tried before the county court, which are appealed to the circuit court, a transcribed copy of the reporter's notes shall, upon the request of either the district attorney or the defendant, be certified with the record to the circuit court as the testimony in the case, and, in case of conviction of the defendant in the circuit court, the cost of such transcript, not exceeding 5 cents per folio, may be taxed with the other taxable costs in the case and shall belong to the county. In preliminary examinations held and conducted before the county court or the judge thereof, when the defendant is held for trial in the circuit court, a transcribed copy of the reporter's notes shall be transmitted with the record to the circuit court as the testimony in the case, and in case the defendant is convicted in the circuit court and costs are taxed against him, then the costs of such transcript shall be taxed in the circuit court with the other taxable costs in the case at the same rate as on return in like cases from other magistrates. The reporter shall receive the salary fixed by the county board of the county, to be paid monthly out of the county treasury as the salaries of other county officers are paid. In all contested cases, except in preliminary examinations, a reporter's fee at the rate of \$3 per day for the time actually consumed on the trial shall be taxed as part of the costs in the case, and shall be in lieu of the fees allowed by law to justices of the peace for taking testimony. Such reporter's fees and all fees for transcribing testimony in civil actions appealed to the circuit court shall be paid over to the reporter, and shall be in addition to his salary. Section 327.11 of the statutes shall apply to transcribed copies of the testimony and proceedings taken by the reporter under this act in the county court.

SECTION 12. EFFECTIVE DATE. This act shall take effect January 1, 1956.

Approved March 16, 1955.
