TITLE XLVI.

Criminal Procedure.

CHAPTER 954.

ARREST AND EXAMINATION.

954.005 Term, county court. Wherever in this title an act is related to a term of court, term shall be construed, for county courts, to mean the first Monday in April, or the first Monday in October, whichever is more appropriate in context.

History: 1961 c. 561.

954.01 Process, who issues. For the arrest of persons accused of crime, the judges of courts of record, court commissioners, municipal justices and other officers expressly empowered thereto are authorized to issue process. The officials mentioned are referred to generally in chs. 954 to 963 as magistrates.

History: 1967 c. 181, 276 s. 39.

A review of Wisconsin criminal procedure. 1966 WLR 430.

954.015 Multi-branch courts; magisterial power. Wherever in this chapter, except s. 954.09, a magisterial power or duty is conferred, any judge of a county court may act as the magistrate, even though another judge of that court is specifically named as magistrate in the warrant or summons.

History: 1961 c. 561.

954.017 Corporations; summons against in misdemeanor cases. If the defendant is a corporation, a summons may be issued in misdemeanor cases as is provided in s. 954.02, returnable not less than 10 days after service; the summons to be served in the same manner as summonses in civil actions are served on corporations. Upon default of the defendant or upon conviction, judgment for the amount of the fine shall be entered, and execution may issue as in civil cases.

History: 1961 c. 643 s. 20.

954.02 Complaint and warrant or summons; service; return. (1) A complaint is a written statement of the essential facts constituting the offense charged and may be upon information and belief. Except as provided in sub. (3), it shall be made upon oath before a magistrate.

(2) If it appears from the complaint that there is probable cause to believe that a crime has been committed and that the accused committed it, the magistrate shall issue a warrant or summons.

(3) A complaint may be subscribed and sworn to before the district attorney and thereupon he may issue a summons returnable before a named judge of the county court. The district attorney shall forthwith deliver the complaint to the clerk of court for that county. If the defendant fails to appear in response to the summons, a warrant may be applied for pursuant to subs. (1) and (2).

(4) The magistrate may issue a summons instead of a warrant. If the defendant fails to appear in response to the summons, the magistrate shall issue a warrant.

(4m) If the defendant has previously been validly arrested without warrant and is still in custody, no summons or warrant is required and the defendant may be brought before a judge of the county court with a complaint subscribed and sworn to before either the district attorney or a magistrate.

(5) (a) The warrant shall be signed by the magistrate and shall contain the name of the defendant or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. The warrant shall contain the charge stated in the complaint. It shall command that the defendant be arrested and brought before the magistrate, or it shall command that he be brought before a named judge of the county court. In counties having a population of 200,000 or more the complaints, warrants, recognizance, commitments, attachments, venires, subpoenas and all other writs and papers in county court pertaining to criminal matters shall be in substance in the form hitherto used in the district, superior and municipal courts of such counties, except as otherwise provided by law or by rule of the court.

(b) The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before the magistrate or a named judge of the county court at a stated time and place.

(6) (a) The warrant or summons may be served anywhere in the state. The warrant is served by arresting the defendant. The officer need not have the warrant in his possession, but upon request it shall be shown to the defendant as soon as possible. An arrest may be made by a peace officer when advised by any other peace officer that a warrant has been issued. In such case the officer shall inform the defendant of the crime with which he is charged.

(b) The summons may be served by any person except the complainant. It shall be served by delivering a copy to the defendant personally or by leaving a copy at his usual place of abode with a person of discretion residing therein or by mailing a copy to the defendant's last known address.

(c) The officer serving the warrant shall make return thereof to the magistrate before whom the defendant is brought. An unserved warrant shall, at the request of the district attorney, be returned to the magistrate and canceled. On or before the return hour the person who served the summons shall make return to the magistrate who issued it.

(d) At the request of the district attorney a warrant or summons which is returned unserved may be again delivered for service.

(7) The complaint and warrant and summons may be in the forms prescribed by s. 960.36.

(8) In counties having a population of 500,000 or more the words "A named judge of the county court" as used in this section shall in the case of misdemeanor, except for traffic violations, refer to the judge of Branch 4 of the county court and in the case of traffic violations shall refer to the judge of Branch 3 of said court.

History: 1961 c. 561, 616; 1967 c. 181.

Where a complaint and warrant contain several counts, the warrant is sufficient to sustain defendant's arrest and detention if one count properly charges an offense. On collateral attack a complaint should be liberally construed in favor of jurisdiction. Wolke v. Fleming, 24 W (2d) 606, 129 NW (2d) 841.

A warrant need not be issued for a defendant already properly arrested and he can be brought before a magistrate who then acquires jurisdiction over his person. Pillsbury v. State, 31 W (2d) 87, 142 NW (2d) 187.

Objection to a complaint because not made by an authorized person is waived if not made before pleading to the information. A defect in the issuance of a complaint concerns jurisdiction over the person, not the subject matter. Galloway v. State, 32 W (2d) 414, 145 NW (2d) 761, 147 NW (2d) 542.

A complaint charging a defendant with rendering false and fraudulent income tax returns did not show probable cause sufficient to support issuance of a warrant of arrest where executed by an unidentified person who predicating his charge (allegedly based on personal knowledge) that the taxpayer reported less income than he actually received during designated years merely averred that he, the complainant, acquired such information as a result of investigating the taxpayer's records—but was patently deficient in (1) failing to identify the complainant as a person qualified to make the investigation or form the opinion expressed therein; (2) failed to establish that a sufficiently thorough investigation was made to permit anyone, no matter how qualified, to form a meaningful opinion; and (3) failed to establish under what circumstances the investigation was made. State ex rel. Pflanz v. County Court, 36 W (2d) 550, 153 NW (2d) 559.

954.021 Officer making arrest to secure and care for stolen property. The officer who arrests a person who has stolen property shall, if possible, secure the property al-

leged to have been stolen; if a warrant has been issued he shall annex a schedule thereof to the return of the warrant. Upon conviction of such person for burglary, robbery or theft, the court shall allow the officer who secured and kept the stolen property his actual and necessary expense in so doing, such expenses to be paid by the county.

954.025 John Doe proceeding. If a person complains to a magistrate that he has reason to believe that a crime has been committed within his jurisdiction, the magistrate shall examine the complainant on oath and any witnesses produced by him and may, and at the request of the district attorney shall, subpoena and examine other witnesses to ascertain whether a crime has been committed and by whom committed. The extent to which the magistrate may proceed in such examination is within his discretion. The examination may be adjourned and may be secret. Any witness examined under this section may have counsel present at the examination but such counsel shall not be allowed to examine his client, cross-examine other witnesses or argue before the magistrate. If it appears probable from the testimony given that a crime has been committed and who committed it, the complaint shall be reduced to writing and signed and verified; and thereupon a warrant shall issue for the arrest of the accused. The record of such proceeding and the testimony taken shall not be open to inspection by anyone except the district attorney unless it is used by the prosecution at the preliminary hearing or the trial of the accused and then only to the extent that it is so used.

History: 1965 c. 505.

A witness in a John Doe proceeding need not be informed of the substance of the complaint nor the extent of the inquiry intended. A requirement by the magistrate that the witness not discuss the proceeding with anyone but his attorney does not violate constitutional guaranties of free speech. State ex rel. Jackson v. Coffey, 18 W (2d) 529, 118 NW (2d) 939.

A secrecy order is binding on the magistrate as well as the witnesses and he will be restrained from improper disclosures. State ex rel. Niedziejko v. Coffey, 22 W (2d) 392, 126 NW (2d) 96, 127 NW (2d) 14.

The validity of a John Doe proceeding does not depend on written or oral complaint naming someone; the statute requires only that the person making the complaint have reason to believe a crime has been committed within the magistrate's jurisdiction; it does not require that person to know who committed the crime. Wolke v. Fleming, 24 W (2d) 606, 129 NW (2d) 841.

954.03 Arrest without warrant. (1) WHEN LAWFUL. An arrest by a peace officer without a warrant for a misdemeanor or for the violation of an ordinance is lawful whenever the officer has reasonable grounds to believe that the person to be arrested has committed a misdemeanor or has violated an ordinance and will not be apprehended unless immediately arrested or that personal or property damage may likely be done unless immediately arrested. This subsection is supplemental to s. 62.09 (13) and shall not in any way limit any powers to arrest granted by that section.

(2) ARREST UNDER WARRANT NOT IN OFFICER'S POSSESSION. An arrest by a peace officer acting under a warrant is lawful even though the officer does not have the warrant in his possession at the time of the arrest, but, if the person arrested so requests, the warrant shall be shown to him as soon as practicable. An arrest may lawfully be made by a peace officer when advised by any other peace officer in the state that a warrant has been issued for the individual.

"Reasonable grounds to believe" means a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man in believing the accused guilty, but the word "suspicion" does not mean mere suspicion. "Probable cause," or "reasonable cause to believe," does not depend on the outcome of the subsequent prosecution resulting from the arrest. There exists a privilege based on public policy on behalf of the government not to disclose the names of the informers in a criminal case, but the privilege is not absolute and has limitations. Stelloh v. Liban, 21 W (2d) 119, 124 NW (2d) 101.

An officer may temporarily stop a person and ask for information or ask him to appear at a police station without having this constitute an arrest, unless there is an intent to take into custody and the person so understands. Huebner v. State, 33 W (2d) 505, 147 NW (2d) 646.

954.034 Bail upon arrest. (1) BAIL IN ANOTHER COUNTY. (a) If the crime charged is not punishable by imprisonment in the state prison and the arrest is made in a county other than the county from which the warrant issued and the defendant requests to be brought before a magistrate of the county in which arrested, for the purpose of giving bail, the officer having him in custody shall take him before such a magistrate for that purpose and the magistrate may admit him to bail on his bond with sureties, to appear before the magistrate named in the warrant at a time and place stated in the bond.

(b) If the defendant is bailed, the magistrate shall certify the facts upon the warrant; and the warrant and bail bond shall be forthwith delivered by the officer to the magistrate before whom the defendant is bound to appear.

(2) BAIL BY OFFICER. (a) The person issuing the warrant may fix the amount of the bail and indorse it on the warrant. If the defendant offers to give bail, the arresting officer may take his bond, with sufficient sureties, for his appearance before the magistrate at a time and place stated in the bond. In lieu of sureties, the defendant may deposit with the officer the amount of the bail required.

(b) If the defendant is so admitted to bail, the officer shall certify the facts upon the warrant and shall forthwith deliver the warrant and the bond and any deposit to the magistrate named in the warrant.

(3) PROCEEDING IF BAIL NOT GIVEN. If the prisoner is not bailed, the officer shall take him before the magistrate named in the warrant or, in his absence, another magistrate of the county in which the warrant was issued.

An accused has a constitutional right to reasonable bail and the amount should be determined solely in regard to assurance of his appearance. It is not a matter of barter or negotiation and is error to reduce bail in return for a waiver of preliminary examination. Whitty v. State, 34 W (2d) 278, 149 NW (2d) 557.

Continued detention of defendant before trial without being admitted to bail did not violate his constitutional right to reasonable bail where it appeared that defendant was held upon an order of the department of public welfare as a parole violator and hence was not entitled to bail. Gaertner v. State, 35 W (2d) 159, 150 NW (2d) 370.

954.035 When accused to be held in state prison. Any incarceration pending arraignment and all commitments prior to the final disposition of the prisoner charged with any offense or crime referred to in s. 53.02 while in the county whose courts have jurisdiction shall be in the institution, located in such county, wherein the alleged crime or offense was committed and the warden or superintendent of such institution shall be subject to the same laws and court orders as the sheriff of such county would be in a criminal case, and the officer who arrests such prisoner or who shall have him in his custody before arraignment shall forthwith deliver him to such institution unless he can be sooner arraigned.

954.036 Initial appearance of defendant charged with misdemeanor. (1) If a defendant charged with a misdemeanor is brought, according to warrant, before a magistrate who does not preside over a court with jurisdiction to try the crime, he shall be committed to jail to await trial in county court or be bailed, and a copy of the docket together with all the papers shall be transmitted forthwith to the county court.

(2) If the magistrate presides over a court with jurisdiction to try the crime, the magistrate shall commit him to await trial later, or shall bail him, or, if the defendant asks for or does not object to immediate trial, the court may proceed with the trial.

History: 1961 c. 561, 643; 1965 c. 519.

954.037 Arrest on charge of felony. When the crime charged in a warrant is a felony, the officer making the arrest in some other county shall convey the prisoner to the county where the warrant issued, and he shall be proceeded with in the manner directed in the following sections.

954.038 No preliminary examination on misdemeanor charge; exception. There shall be no preliminary examination on a charge of a misdemeanor.

History: 1961 c. 561, 643; 1965 c. 519.

954.04 Prisoner taken before magistrate. Except as provided otherwise in s. 954.034, every person arrested upon a warrant shall be taken before the magistrate before whom it is returnable or if he is unable to attend before another magistrate of the same county. In cases not triable before the magistrate, the defendant shall not be required to plead.

Cross Reference: For the handling of juveniles, see 48.29.

Reasonableness of detaining suspect before taking him before magistrate discussed. 1960 WLR 164.

954.05 Adjournments of hearing. (1) The magistrate may adjourn the examination from time to time, but not exceeding 10 days at one time without the consent of the defendant, and to any place in his county, and the defendant shall be committed in the meantime unless he is bailed.

(2) If he is not bailed, the magistrate shall order him committed to await examination on a day named in the commitment. On the appointed day he shall be brought before the magistrate.

A committing magistrate before whom an accused was brought charged with attempted murder who, over the objection of the latter's counsel, adjourned the preliminary hearing from time to time for periods exceeding 10 days, lost jurisdiction of both the subject matter and person of the accused. The magistrate's loss of jurisdiction did not preclude the state from initiating a new prosecution for the same offense, absent a running of the statute of limitations. State ex rel. Klinkiewicz v. Duffy, 35 W (2d) 369, 151 NW (2d) 63.

954.06 Forfeiture of bail. If the defendant does not appear for his preliminary examination as required by the bail bond, the magistrate shall record the default and shall certify the bond with the record of default to the circuit or county court; and like proceedings shall be had therein as upon a breach of a bond for appearance before that

court. The magistrate may reissue the warrant or capias or issue another warrant for the arrest of the defendant.

History: 1961 c. 561.

954.08 Preliminary examination; separation of witnesses; transfer of examination. (1) WITNESSES EXAMINED AND CROSS-EXAMINED. As soon as may be, the magistrate shall swear and examine or permit the district attorney to examine the witnesses for the state, in the presence of the defendant, in relation to the crime charged in the complaint; and they may be cross-examined. Then the witnesses for the defendant shall be sworn and examined and may be cross-examined. The defendant may be assisted by counsel.

(2) SEPARATION OF WITNESSES. During the examination, the magistrate may exclude from the place of examination all witnesses until they are called to testify; and he may also direct that persons who are expected to be called as witnesses be kept separate until called; and he may prevent them from communicating with one another until they have been examined.

(3) TRANSFER OF EXAMINATION. If it is inconvenient or impractical for the magistrate before whom the defendant is first brought to proceed with the examination within 10 days, the magistrate may transmit the case to another qualified magistrate of the county and he shall proceed with the examination.

Cross Reference: See 960.01 for provision to the effect that a municipal justice may not hold preliminary examinations in felony cases.

A delay of 27 days before a preliminary examination is held is not ground for dismissal where the delay was caused by defendant's request for assigned counsel and special Milwaukee procedures as a result. Wolke v. Rudd, 32 W (2d) 516, 145 NW (2d) 786.

Where, before a preliminary, the magistrate is informed that the defendant may not be mentally capable of standing trial, the magistrate, without requiring a plea, should bind him over to the court for determination of the sanity issue. The court should hold a hearing to determine probable guilt; if found, the court should proceed under 957.13; if not found, he should be detained for civil proceedings under ch. 51 to determine mental competency. State v. McCredden, 33 W (2d) 661, 148 NW (2d) 33.

At a preliminary the defendant must be allowed to call as a witness a person present in court even though not under subpoena, where there was no indication that he was only attempting pretrial discovery of the state's evidence. State v. McCarter, 36 W (2d) 608, 153 NW (2d) 527.

954.09 Change of venue. If a defendant files an affidavit before the examination begins that he believes that the magistrate will not decide impartially in the matter, the magistrate shall transmit the case to the nearest magistrate qualified to conduct the examination, except that if the magistrate is a judge of a multi-branch court, then the matter shall be referred to the clerk of said court who shall, in accordance with the rules of court, assign said matter to another branch of that court to attend and conduct the examination in said matter. If the crime is bailable, and sufficient bail is given, the removing magistrate shall bail the defendant for his later appearance before the magistrate to whom the case is transmitted. No case shall be removed after a second adjournment, and only one removal shall be allowed. No such affidavit shall name more than one county judge. If there are 2 or more defendants and less than all join in the affidavit of prejudice then the examining magistrate shall be changed as to all the defendants.

History: 1961 c. 561, 614.

954.10 Exclusion of public. If the defendant is accused of a crime against chastity or morality or decency, the magistrate may exclude from the hearing all persons not officers of the court or otherwise required to attend.

954.11 Testimony to be written. The testimony shall be written by the magistrate or under his direction.

954.12 Discharge; when complainant to pay costs. If it appears to the magistrate upon the examination that no crime has been committed or that there was no probable cause for charging the defendant with a crime, he shall be discharged. If the magistrate certifies in his docket that the complaint was malicious and without probable cause, he shall enter judgment against the complainant and in favor of the county for the taxable costs of the proceeding, and thereafter proceedings shall be as provided in s. 960.22.

A discharge on a preliminary examination under 954.12, or a discharge under 955.17 (2), where the district attorney determines that no information should be filed after a preliminary hearing, does not bar further prosecution. State v. Fish, 20 W (2d) 431, 122 NW (2d) 381.

954.13 Commitment, trial, bail. (1) If it appears probable that a felony has been committed and that the defendant is probably guilty, he shall be committed to await trial in either county court or circuit court at the discretion of the magistrate, except in counties having a population of 500,000 or more he shall be committed to await trial in the circuit court. If the felony is bailable by the magistrate and a sufficient bail is offered he shall be released.

(2) If it appears probable that a misdemeanor has been committed and that it is within the trial jurisdiction of the court over which the magistrate presides, he shall amend the complaint and warrant to conform to the evidence; and the court shall thereupon proceed to try the defendant as though the proceedings had originated before it. But if the court over which the magistrate presides has no jurisdiction to proceed with the trial, the magistrate shall amend the warrant and complaint, commit to jail, or bail the defendant, and transmit all the papers and a copy of his docket to the county court of that county, and the defendant shall be tried as though the proceeding had originated before the county court. If the county court does not have jurisdiction over the matter then it shall be transferred to the circuit court of said county.

History: 1961 c. 561.

See note to 253.12, citing State ex rel. Sucher v. County Court, 16 W (2d) 565, 115 NW (2d) 611.

954.14 Bail in case of life imprisonment. Any justice of the supreme court or the presiding circuit or county judge may admit to bail a person charged with a crime punishable by imprisonment for life.

History: 1965 c. 82.

954.15 Bail, sureties, lien. (1) Except as provided in this section, no bail bond shall bind property. The bail bond shall be sufficient to secure the appearance of the defendant for trial.

(2) In case of murder the bond shall be signed by the defendant and at least 2 sureties who severally swear that each owns real property in this state not exempt from execution, worth a named sum, which sums shall aggregate double the penalty in the bond. No surety shall be accepted who does not justify in at least one-third of the penalty, and when required by the district attorney or by the court, he shall describe such real property.

(3) In case of murder, the bond shall be filed in the office of the clerk of the circuit court and entered in the judgment docket the same as judgments are docketed. A transcript of the docket may be filed in every county where any of such real property is located. From the time the bond is docketed it shall be a charge upon the real property, except the homesteads, of the parties wherever the same is located, until fully paid and satisfied or otherwise discharged.

954.16 Bail of prisoners. Except as otherwise provided in s. 954.14, any judge of a court of record may admit to bail a prisoner who is committed for a bailable offense. He may admit to bail any person committed because he failed to find sufficient surety to insure his appearance as a witness. The judge may increase or decrease the amount of bail that has been required.

954.17 Examinations returned to court. All examinations and the evidence and bonds taken by a magistrate shall be certified and returned by him within 10 days to the clerk of the court before which the defendant is bound to appear.

954.20 Bail for witness. If it appears by affidavit that the testimony of a person is material in any criminal proceeding and that it may become impracticable to secure his presence by subpoena, the court or examining magistrate may, if he is in court, require him to give bail for his appearance as a witness. If the witness is not in court a warrant for his arrest may be issued and upon return thereof the court may require him to give bond for his appearance as a witness. If he fails to give bail, he may be committed to the custody of the sheriff pending final disposition of the proceeding. His release may be ordered if he has been detained for an unreasonable length of time; and the court may at any time modify the bail requirement. The general rule as to the form and conditions of the bail bonds of persons accused of crime and forfeiture and enforcement thereof shall apply to bail under this section.

954.30 Forfeiture of bail. When any person under bail to appear and answer or to prosecute an appeal or to testify fails to perform the condition of his bail, his default shall be recorded and an action may be commenced to enforce the penalty in the bond.

954.31 Surety may satisfy default. Any surety may, after default and by leave of the court, pay to the clerk of the court the amount for which he was bound, with such costs as the court directs, and thereupon be discharged.

954.32 Remission of penalty. In an action on a bail bond and if the penalty is adjudged forfeited, the court may remit part or the whole of the penalty; and may render judgment for the state according to the circumstances and the situation of the party and upon such terms and conditions as to the court seem just.

954.33 Actions not barred. No such action shall be defeated by reason of failure to record the default; nor by reason of any defect in the form of the bail bond if it sufficiently appears therefrom at what court the defendant or witness was bound to appear and that the court or magistrate taking the bond had authority to take it.

954.34 Examination waived. A defendant may waive a preliminary examination; and, except in murder cases, may give bond with sufficient sureties to be approved by the magistrate for his appearance at the trial court.

954.36 Bail to appear for trial; form. (1) A defendant's bail for his appearance in the trial court shall be conditioned for his appearance at the current term and from term to term thereafter until discharged.

(2) The bail bond may be in substantially the following form:

STATE OF WISCONSIN,
.... County,
Town (city, village) of ....

The State of Wisconsin,

v.

Name of defendant.

We, A. B., C. D. and E. F. hereby give bail in the sum of .... (the amount fixed as bail) dollars for the appearance of A.B. at the current term of the .... (insert the name of the trial court) to answer a criminal prosecution for (state the crime) and from term to term thereafter until discharged.

Dated ...., 19...

(Signed) A. B.
C. D.
E. F.

Approved ....

Judge, etc.

954.38 Entry of bail. Bail given in open court shall have the same force and effect as a formal bail bond and may be entered on the minutes thus:

A. B., C. D. and E. F. came into court and gave bail in the sum of .... dollars for the appearance of said A.B., at the current term and from term to term thereafter until discharged, to answer a criminal prosecution for (state the crime).

954.39 Bonds valid; their effect. Bail bonds given or entered in substantially the form prescribed by s. 954.36 or 954.38 shall bind the principal and sureties jointly and severally for the appearance of the defendant from day to day during the current term and on the first day of each subsequent regular term and from day to day thereafter during each term, unless the defendant is excused from such daily attendance, and for like appearance at any court to which the case may be removed for trial until he is discharged; and that the defendant shall do and receive what the court enjoins upon him, and not depart the court without leave.

954.40 Oath of sureties. The oath required of the sureties on a bail bond may be subjoined to the bond in substantially the following form:

STATE OF WISCONSIN,
.... County.

C. D. and E. F., the sureties above named, being severally duly sworn, each for himself says that he owns unencumbered real estate within this state, not exempt from sale on execution, worth at least .... dollars (total amount to be double the sum at which the bail is fixed).

(Signed) C. D.
E. F.

Subscribed and sworn to before me, this .... day of ...., 19...

....
Judge, etc.

954.42 Surety company bond or deposit of money. Where bail is required of any person for his appearance to answer a criminal charge (except murder) or as a witness, he may furnish a bail bond executed by himself and a surety company authorized to do business in this state, using the usual form for that purpose, which bond shall be accompanied by a certified copy of the certificate of the commissioner of insurance; or such person may give his personal bond without sureties upon depositing with the court the amount thereof in money, which deposit, on forfeiture of such bond, shall be paid into the

county treasury in discharge of the bond. In case of a witness it shall be refunded to the depositor upon his appearance according to the terms of his bond; and in the case of a defendant, it shall be applied by the magistrate or court before whom the accused is tried, in satisfaction of so much of the judgment as requires the payment of money, rendering the surplus money to the depositor. If money is deposited with a magistrate, it shall be paid over with his return to the clerk of the court in which he is bound to appear.

954.43 Surrender of principal by sureties. (1) When the sureties desire to be discharged from the obligations of their bond, they may arrest the principal and deliver him to the keeper of the jail to which he was committed, or if he has not been so committed he may be surrendered to the officer who had him in custody at the time he was admitted to bail.

(2) The sureties shall at the time of surrendering the principal deliver to the officer into whose custody he is surrendered a certified copy of the original commitment, if any, and of the order admitting him to bail and of the bond thereon; and such delivery of copies shall be sufficient authority for the officer to receive and detain the principal until he is otherwise bailed or discharged.

(3) Upon such surrender to an officer not the keeper of the jail in which the principal is to be detained, the officer shall forthwith convey him to the jail of the county in which the crime is triable, and he shall be received and detained therein as though he had been originally committed there.

(4) Upon such delivery of the principal, the sureties may apply to the court for an order discharging them from liability as sureties; and, upon satisfactory proof being made that this section has been complied with, the court shall make an order discharging them from liability.

954.44 Guaranteed traffic arrest bonds. (1) SURETY COMPANIES AUTHORIZED TO GUARANTEE. (a) Any domestic or foreign surety company which has qualified to transact surety business in this state may, in any year, become surety in an amount not to exceed $200 with respect to any guaranteed arrest bond certificates issued in such year by an automobile club, association or by an insurance company authorized to write automobile liability insurance within this state, by filing with the commissioner of insurance an undertaking thus to become surety.

(b) An association providing a guaranteed arrest bond certificate may obligate itself in an amount not to exceed $1,000 for violations of ch. 348. All courts in this state must accept such guaranteed arrest bond certificate. When a state traffic patrol officer or state inspector or any local law enforcement officer stops an operator of a vehicle, having in his possession a valid guaranteed arrest bond certificate, he shall obtain the necessary information for his citation and if such guaranteed arrest bond covers the fine for the violation such officer shall release such vehicle and operator.

(2) FORM OF BOND. Such undertaking shall be in the form prescribed by the commissioner of insurance and shall state the following:

(a) The name and address of the automobile clubs, association or companies with respect to the guaranteed arrest bond certificates of which the surety company undertakes to be surety.

(b) The unqualified obligation of the surety company to pay the fine or forfeiture in an amount not to exceed $200, or $1,000 as provided in sub. (1) (b), of any person who, after posting a guaranteed arrest bond certificate with respect to which the surety company has undertaken to be surety, fails to make the appearance to guarantee which, the guaranteed arrest bond certificate was posted.

(c) The term "guaranteed arrest bond certificate" as used herein means any printed card or other certificate issued by an automobile club, association or insurance company to any of its members or insureds, which card or certificate is signed by the member or insureds and contains a printed statement that such automobile club, association or insurance company and a surety company, or an insurance company authorized to transact both automobile liability insurance and surety business, guarantee the appearance of the persons whose signature appears on the card or certificate and that they will in the event of failure of the person to appear in court at the time of trial, pay any fine or forefeiture imposed on the person in an amount not exceeding $200, or $1,000 as provided in sub. (1) (b).

(d) A guaranteed arrest bond certificate under sub. (1) (b) need not be secured by a surety company. The commissioner of insurance may promulgate rules to insure such bond if he feels it necessary.

(3) Any guaranteed arrest bond certificate with respect to which a surety company has become surety, or a guaranteed arrest bond certificate issued by an insurance company authorized to transact both automobile liability insurance and surety business within

this state as herein provided, shall, when posted by the person whose signature appears thereon, be accepted in lieu of cash bail or other bond in an amount not to exceed $200, or $1,000 as provided in sub. (1) (b), as a bail bond, to guarantee the appearance of such person in any court in this state, including all municipal courts in this state, at such time as may be required by such court, when the person is arrested for violation of any vehicle law of this state or any motor vehicle ordinance of any county or municipality in this state except for the offense of driving under the influence of intoxicating liquors or of drugs or for any felony committed prior to the date of expiration shown on such guaranteed arrest bond certificates; provided, that any such guaranteed arrest bond certificates so posted as bail bond in any court in this state shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in criminal cases as otherwise provided by law or as hereafter may be provided by law, and that any such guaranteed arrest bond certificate posted as a bail bond in any municipal court of this state shall be subject to the forfeiture and enforcement provisions, if any, of the charter or ordinance of the particular county or municipality pertaining to bail bonds posted.

History: 1963 c. 68; 1965 c. 521.

954.46 Arrest of witnesses for perjury. If it appears to the trial judge that a witness so testified before him as to induce a reasonable belief that he committed perjury, the judge may order his arrest, stating in the order the reason for the arrest; and such order shall stand as a criminal complaint upon which the clerk of the court shall issue a warrant. Notice of the proceedings shall be given to the district attorney. The accused shall be brought before the judge issuing the order for a preliminary examination. Thereafter the procedure shall be as in other cases. If any paper, book or document was produced which is needed in the prosecution for perjury, the judge may order a certified copy made, which copy shall have the same effect as the original.

This section does not apply to a magistrate conducting a preliminary examination, but where defendant pled guilty to an amended information charging perjury he waived the issuance of a complaint and preliminary examination. Pillsbury v. State, 31 W (2d) 87, 142 NW (2d) 187.

954.47 Car conductor, police power. The conductor or other person in charge of a public passenger conveyance may arrest any person on such conveyance violating s. 945.02 (1) and (3), 945.03 (2) to (5), 947.01 (1) or 947.04 and deliver him to any policeman, constable, or other peace officer at the earliest reasonable opportunity, and such officer shall bring the offender before a magistrate of the county where the crime was committed and make complaint against him. For such arrest the person in charge of the conveyance shall have the powers of a sheriff.

954.48 Summary arrest at fish hatchery. The person in charge of any fish hatchery is empowered to arrest any person who in his presence violates s. 29.515, and shall deliver him to some peace officer for prosecution.