

No. 156, A.]

[Published March 12, 1943.]

CHAPTER 14.

AN ACT to repeal chapter 301, laws of 1903 and chapter 267, laws of 1905, relating to abolishing the municipal court of Dunn county and conferring on the county court of Dunn county civil and criminal jurisdiction.

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

SECTION 1. *Municipal court of Dunn county abolished; transfer of records.* (1) Chapter 301, laws of 1903 and chapter 267, laws of 1905 and all acts amendatory thereto are repealed, and the municipal court of Dunn county is abolished.

(2) As soon as this act takes effect all records and files of said municipal court shall be transferred to and become the official records of the county court of Dunn county. All actions pending in said municipal court when this act takes effect shall be forthwith transferred to, and jurisdiction therein shall vest in, said county court, and the same shall be tried and concluded in such county court in accordance with the practice governing said municipal court and that herein prescribed for and conferred upon said county court.

SECTION 2. *Jurisdiction conferred on county court of Dunn county.* There is conferred upon the county court of Dunn county, jurisdiction as follows:

(1) The county court of Dunn county and the judge thereof shall take cognizance of and have jurisdiction to hear, try and determine all actions and proceedings at law wherein the claim, debt, damage, penalty or forfeiture shall not exceed the sum of \$2,000; actions to recover the possession of personal property with damages for the unlawful taking or detention thereof where in the value of the property claimed shall not exceed the sum of \$2,000; actions arising under chapter 291 of the statutes when the amount claimed shall not exceed \$2,000; actions for forfeitures and actions for breach of any recognizance given in said court under the jurisdiction conferred by this act; all charges for criminal offenses, * * * arising within said county which are not punishable by commitment to the state prison, and all offenses arising under the charter and ordinances of Dunn county and of all cities, towns and villages within said county.

(2) The judge of said 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 of Dunn and to issue process therefor and to commit them to jail or require bail, as the case may require. Said judge shall have the jurisdiction, authority, power and rights given by law to justices of the peace.

(3) A judgment by confession may be entered before the judge of the county court of the county of Dunn in any sum not exceeding \$2,000, 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 therefor; (b) If it be money due or to come due, it must state concisely the fact 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 fact constituting the liability, and must show that the sum confessed does not exceed the same.

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

SECTION 3. *Process; service; procedure; practice.* (1) The summons in all civil actions in the county court of Dunn county of which jurisdiction is conferred upon it by this act, may be served in the same manner and with like effect as provided for service of summons in circuit courts and may be in the following form:

State of Wisconsin }
Dunn 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 the state of Wisconsin, to appear before the undersigned, the county judge of said county, in the county court

room at the county court house in the city of Menomonie in said county on the day of, A. D., 19....., at o'clock in thenoon, to answer to C. D., plaintiff, to his damage, two thousand dollars, or under; hereof fail not at your peril.

Given under my hand, at *Menomonie*, Wisconsin, this day of A. D., 19.....

.....
County Judge

(2) All other writs, warrants and process necessary to be issued under this chapter, shall be in the form prescribed by law for justice of the peace and justices' courts, so far as applicable, but in and under the name of the county judge of Dunn county. Except as otherwise provided in this act the summons and other process of said county court in actions of which jurisdiction is conferred on said court by 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.

(3) The provisions of law relating to the 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 Dunn county in all like criminal and civil actions and proceedings of which said court is conferred jurisdiction by this act; and appeals from judgments and other determinations of said 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 4. *Situs and seal of court.* The judge of said court when exercising the additional jurisdiction conferred by this chapter, shall hold court at the county court house in the city of Menomonie, and the county of Dunn shall provide said 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 said court under the additional jurisdiction conferred by this chapter. Said court shall be open for all business which may come before it under the additional jurisdiction conferred by this chapter on all secular days except legal holidays.

SECTION 5. *Jurisdiction of justices of the peace limited.* On and after the effective date of this act no justice of the peace in Dunn county shall have jurisdiction of any criminal action, examination or proceeding, including illegitimacy, except that such justice of the peace may issue warrants returnable to said county court. This section shall not be construed to affect the right of any justice of the peace from hearing and determining any action involving the violation of any county or town ordinance pending before him on the effective date of this act.

SECTION 6. *Salary of county judge.* The salary of the county judge of Dunn county for performing all duties pertaining to said office shall be \$4,800 per year, payable in equal monthly instalments out of the treasury of Dunn county, until the governing body of said county shall, by proper action, fix the salary at some other sum, which shall not be less than \$4,800 per year. Said judge shall receive no additional compensation for services as such or as juvenile judge and shall not engage in the practice of law in the state of Wisconsin while holding such office. No person shall be eligible to the office of county judge of Dunn county unless he shall be licensed to practice law in the state of Wisconsin and is a qualified elector of said county.

SECTION 7. *Clerk; duties; fines; fees; records.* (1) The clerk of the circuit court of Dunn County, without additional compensation therefor, shall be clerk of said county court, with like powers and duties to those prescribed for and exercised in said circuit court, and shall perform such other duties as may be required by the county court in respect to all civil and criminal matters, including juvenile matters, of which the said county court is conferred jurisdiction by this act.

(2) In respect to all actions and proceedings in said county court under the additional jurisdiction conferred by this chapter, all fines, 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. All such fines, costs, penalties and court fees taxed by said judge in actions for violations of the laws of this state and ordinances, rules, bylaws and regulations of the county of Dunn and in civil actions and all fines, costs and court fees taxed in actions or proceedings for the violations of the charter, ordinances, bylaws, rules and regulations of the cities, villages or towns of the county of Dunn shall be paid to the clerk of said court.

(3) The clerk of said court shall file monthly with the county clerk of said county full and complete statements of all such fines, costs, penalties and fees collected by him which belong to the county and with the clerk of the city of Menomonie a full and complete statement of all fees collected by him which belong to said city.

(4) All fines and penalties and the costs, fees and disbursements collected by the clerk for violations of the ordinances, charter provisions, bylaws, rules or regulations of any city, village or town, or of the county of Dunn, shall be paid to the treasurer of such city, village or town or the treasurer of Dunn county, as the case may be, on the first secular day of the month following such collections. All such fines and penalties, including costs in any criminal action or proceeding, under the general laws of the state, shall be paid to the treasurer of Dunn county as herein provided. All such costs and fees taxed and allowed by the judge and collected by the clerk in civil cases shall be paid to the treasurer of said county.

(5) The documents and records of said county court shall be public records and open to the inspection of all persons at any and all reasonable hours. All papers, depositions, certificates, acknowledgments, examinations and other documents executed or signed by the judge or clerk of said county court, when sealed with the seal of the court, shall be of the same force and effect as if executed or signed by a court of record, and shall be receivable as evidence in like manner.

SECTION 8. *Stenographic reporter.* In cases under the additional jurisdiction conferred by this chapter, the county judge may, in his discretion, on the written request of either party to a civil action, or on like request by the district attorney in a criminal case or examination, call in a stenographic reporter, skilled in the art of shorthand, to take the testimony in such action or proceeding and may file the said reporter's notes in lieu of the testimony required by law to be taken by justices of the peace in like proceedings. In case of appeal in any civil action or proceeding, when so requested by the appellant, said reporter shall transcribe said testimony in long hand and the fees for such transcribing, not to exceed 5 cents per folio, shall be taxed as a part of the costs in the case. Said reporter shall receive such compensation for taking testimony as shall be allowed by the said county judge, not to exceed \$5 for each day,

and \$2.50 for each half day actually engaged in taking testimony to, and until the first regular meeting of the county board of supervisors of Dunn county, and said reporter shall thereafter have and receive such compensation as shall be then fixed by the said county board, and it shall be the duty of the said board to fix the compensation of the said stenographic reporter at said time. Said compensation shall be paid out of the county treasury upon a certificate of the county judge. Section 252.20 of the statutes of 1941 shall apply to said reporter. The amount of such compensation shall be taxed and collected as part of the costs in the case.

SECTION 9. *Process servers and court officers.* The sheriff of Dunn county and his deputies shall be officers of said court, and the sheriff or any of his deputies or any constable of said county 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 state of Wisconsin and shall be entitled to receive the lawful fees therefor; provided that the chief of police and all policemen of any city in said county, and the village and city marshals and their deputies shall have authority to serve and execute the civil and criminal processes of said court within the limits of the village or city in which such officers reside, except draw juries or attend such court as its officer during trials, and shall have authority and be required to serve and execute all processes issued out of said court wherein said village or city is a party plaintiff, and shall be entitled to receive the lawful fees therefor.

SECTION 10. *Attorney fees allowed.* In all civil actions under this chapter in the county court in the county of Dunn, the plaintiff, if he shall obtain judgment, shall be entitled to recover attorney fees as follows: On all judgments taken in actions wherein the defendant does not appear, answer or demur, when the amount of the judgment does not exceed \$100, \$5; when the amount of the judgment exceeds the sum of \$100, \$10 on the first \$100 and 5 per cent on the amount of the judgment in excess of \$100; provided, that in no case shall the amount of the attorney fee exceed the sum of \$50. And in case of 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 amount of attorney fees exceed the sum of \$50. The provisions of this section shall apply to proceedings for the recovery of possession of personal property, and the value of the property, as found, if judgment be for the plaintiff, and as claimed, if judgment be for the defendant, shall be the basis for the taxation of attorney fees; and in all other civil actions not herein provided for, an attorney fee of \$10 shall be allowed to the party in whose favor judgment is rendered; provided, however, that no attorney fees shall be allowed unless the party who recovers the judgment shall appear by an attorney of a court of record. This section shall not apply to actions for violations of charters, ordinances, bylaws, rules and regulations of the cities, villages and towns of Dunn county, or ordinances of the county of Dunn.

SECTION 11. *Sickness; absence; disability; prejudice.* (1) In case of sickness, absence or temporary disability of the judge of said court, he may by an order in writing, filed in said court, appoint any court commissioner of said county or a qualified judge of an adjoining county, to discharge the duties of said office conferred by * * * this chapter during such sickness, absence or disability, and the person so appointed shall have the powers of such judge conferred by this chapter while administering such office.

(2) No action, examination or other proceedings shall be removed from said 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 county 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 said county judge shall notify a court commissioner in said county, or a qualified judge of an adjoining county, not disqualified to hear said examination, trial or other proceeding, whereupon it shall be the duty of the said judge or court commissioner to forthwith appear at the court room of the said county court, and discharge the duties of the judge of said court on the trial of said case or the hearing of said examination or other proceeding, as the case may be, with like effect, as the said county judge would if not disqualified to act.

(3) Any person so called in and acting for the county judge of Dunn county shall receive as full compensation therefor \$5

for each day actually and necessarily spent in performance of the duties of the county court of Dunn county under the additional jurisdiction conferred by this chapter, regardless of how many matters he may hear or determine, and shall be paid therefor out of the treasury of Dunn county upon certificate of the county judge of Dunn county.

SECTION 12. *Jurors; meals.* Whenever a jury shall be deliberating at meal time in an action or proceeding of which jurisdiction is conferred upon the county court of Dunn county under this chapter, the court may, in its discretion, interrupt deliberations of the jury for such time as is necessary to permit the jurors to eat.

SECTION 13. This act shall take effect January 3, 1944.
Approved March 10, 1943.

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CHAPTER 15.

AN ACT to amend 74.03 (5) and 74.17 of the statutes, relating to the date of settlement by local treasurers.

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

SECTION 1. 74.03 (5) of the statutes is amended to read:

74.03 (5) Out of the general property taxes collected the town, city or village treasurer shall on or before * * * March 15, first set aside and pay over to the county treasurer the full amount due on state trust fund loans of every character levied on the property in such town, city or village, unless the governing body thereof shall have extended such loan pursuant to * * * section 74.03 (5a). The town, city or village treasurer shall then pay to each school district treasurer such proportions of the school levy of such district as the balance of the general property taxes collected in such town, city or village bears to the total general property tax levy therein for all purposes included in the tax roll, exclusive of levies for state trust fund loans not extended pursuant to law, and shall pay to the county treasurer a like proportion of the state taxes, state special charges, county school tax, other county taxes and county special charges and shall retain in his hands a similar proportion for the town,