

No. 675, S.]

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CHAPTER 621

AN ACT to amend 253.02 (1) and (3) of the statutes, as created by chapter 315, laws of 1959; and to repeal and recreate section 1, 1, of chapter 188, laws of 1951, as amended by chapter 211, laws of 1953 and section 1, 2, of chapter 188, laws of 1951, as repealed and recreated by chapter 211, laws of 1953, relating to the additional jurisdiction and a judge for the county court of Walworth county, conforming the same to the court reorganization act of 1959, and related matters.

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

SECTION 1. An additional judge for the county court of Walworth county is authorized. The judge now in office and his successors shall be known as the county judge of branch No. 1, and the judge herein authorized and his successors shall be known as the county judge of branch No. 2, and shall be vested concurrently with the same powers, authority and duties as the judge of branch No. 1.

SECTION 2. A judge for branch No. 2 of the county court of Walworth county shall be elected in said county on the first Tuesday in April 1960, in accordance with the laws relating to the election of county judges, to take office on the first Monday in January 1961, and for the term provided for county judges. Thereafter the office of the judge for branch No. 2 shall be filled as other offices of county judge.

SECTION 3. There shall be appointed in said court, in addition to the appointments authorized by statute, an additional shorthand reporter and such other employes as may be deemed necessary. All appointments and removals which would, but for this act, be made by the county judge of said county, shall be made by the judges of said court acting jointly.

SECTION 4. Said judges may act together or separately as they may determine, and may make such division of matters in said court as to them appears proper, subject to the following:

(1) Branch No. 1 shall be designated as the probate branch. In addition, the judges may designate by court rule particular branches to handle primarily specific types of cases, such as juvenile matters, domestic relations, criminal matters, traffic or small claims.

(2) Regardless of the name given to or the designation of a particular branch or the type of cases assigned to it, the judge of that branch shall handle other matters assigned to him as time permits.

SECTION 5. The county board of Walworth county shall provide a suitable court room wherein said additional judge may hold court and such other suitable rooms as may be necessary for the proper discharge of his duties.

SECTION 6. The compensation of the judge of branch No. 2 shall be the same as that of the judge of branch No. 1, and the compensation of the additional employes shall be as near in amount as possible to salaries for like services of employes in other counties performing like services; and the county board of Walworth county shall provide for the payment of said judge's salary, and shall fix and provide for the payment of the salaries of such other employes.

SECTION 7. Provision may be made, by court rule, for holding court by branch No. 2 in any city or village in the county other than the county seat where the court finds that there are adequate facilities provided and there is sufficient business to warrant holding court, except that jury trials may be held only at the county seat.

SECTION 8. Section 1, 1, of chapter 188, laws of 1951, as amended by chapter 211, laws of 1953, and section 1, 2, of chapter 188, laws of 1951, as repealed and recreated by chapter 211, laws of 1953, are repealed and recreated to read:

(1) Of all actions to foreclose a land contract, mortgage, or lien concurrent with the circuit court and of all other civil actions and special proceedings of all kinds concurrent with the circuit court except actions for damages in which a sum in excess of \$25,000 exclusive of interest and costs is demanded in the complaint. If a counterclaim or cross complaint for an amount in excess of \$25,000 exclusive of interest and costs is filed, the county court shall order the case transferred to the circuit court and the parties shall proceed as if the action or proceeding had been originally begun in the circuit court. If the party who files the cross complaint or counterclaim is finally adjudged to be entitled to recover less than the amount of \$25,000 exclusive of interests and costs, the circuit court may deny costs or partial costs to that party and, in addition, may impose costs or partial costs on that party.

(2) Of all criminal matters except treason, concurrent with the circuit court.

(3) And exclusive jurisdiction of all proceedings under chapter 48 and under chapter 322 of the statutes.

SECTION 9. No justice of the peace in Walworth county shall have jurisdiction of garnishee actions and actions by warrant of attachment nor shall such justices of the peace have jurisdiction over matters set forth in section 300.05 (8), (9) and (10) of the statutes.

SECTION 10. Except as otherwise provided in this act, justices of the peace in Walworth county shall have jurisdiction throughout the county to hold court to try and determine all charges under sections 940.20 and 947.01 of the statutes.

SECTION 11. (1) (a) The common council of any city in Walworth county may by ordinance provide for the election of a justice of the peace to be "municipal justice of the peace" in addition to justices of the peace otherwise provided for by law. Such municipal justice of the peace shall be elected at large as provided by the council. He shall qualify pursuant to section 62.09 (4) of the statutes.

(b) The council shall fix a salary for such justice which shall be in lieu of fees and costs. Such salary may be increased by such governing body before the start of the second year of service of the 2-year term of the justice, but shall not be decreased during the term of the justice. Salaries may be paid annually or in equal instalments as determined by such governing body, but no justice shall be paid a salary for any time during his term during which such justice has not executed and filed his official bond, or official oath as required by sections 60.58, 61.30 or 62.09 (4) of the statutes.

(c) In case of his absence, sickness or disability, he may, by written order filed in his court, designate a justice of the peace to perform his duties during such time.

(2) (a) The municipal justice of the peace shall have the jurisdiction, both as to subject matter and as to territory, of any other justice of the peace and in addition shall have:

1. The exclusive jurisdiction of offenses against ordinances of the city;
2. Jurisdiction of actions to recover the possession of personal property, with damages for the unlawful taking or detention thereof, wherein the value of the property claimed does not exceed \$200;
3. Jurisdiction of actions for forcible entry and unlawful detainer;
4. Jurisdiction of actions for a penalty or forfeiture, not exceeding \$200, given by statute;
5. Jurisdiction of crimes arising within the county, the penalty for which is not more than \$200 or 6 months, or both;
6. Jurisdiction to accept pleas of guilty if the defendant upon arraignment requests to enter a plea of guilty and the offense is one punishable by not more than \$500 or 6 months, or both, or is for violation of sections 348.15, 348.16 or 348.17 of the statutes regardless of the monetary penalty involved;
7. Jurisdiction to cause the laws for the preservation of peace to be kept, to cause to come before him persons who break or attempt to break the peace and commit such persons to jail or bail; to cause to come before him the keepers of houses of ill fame and frequenters of the same or common prostitutes, and compel them to give security for good behavior, to cause to come before him persons who are charged with committing any crime and commit them to jail or bail.
8. Jurisdiction of garnishment actions and actions commenced by warrant of attachment against the property of a debtor, as provided by and subject to the limitations set forth in chapter 304 of the statutes. Justices of the peace, other than municipal justices of the peace, shall not have jurisdiction of such actions.
  - (b) The municipal justice of the peace may punish a violation of a city ordinance by ordering payment of a forfeiture plus costs of prosecution or by imprisonment in case the forfeiture and costs are not paid, and may sentence any person convicted of a misdemeanor, to pay a fine and the costs of prosecution or be imprisoned in the county jail, and may order the prisoner, if able, to be kept at hard labor. Prisoners confined in the county jail or in some other penal or correctional institution for violation of a city ordinance shall be kept at the expense of the city and such city shall be liable therefor.
  - (c) Civil actions, except actions under city ordinances, may be removed to another justice of the peace or, if the justice of the peace does not have jurisdiction, to the county court the same as such actions may be removed from one justice of the peace to another justice of the peace.
  - (e) In criminal and ordinance violation actions where affidavit of prejudice shall be filed as provided by section 954.09 of the statutes, the municipal justice of the peace shall call in another municipal justice of the peace to try the case or shall transfer the case to the county court. A municipal justice of the peace so called in shall receive such compensation as the council shall determine, to be paid by the city.
- (3)
  - (a) The court of the municipal justice of the peace shall be called the "Municipal Justice Court." It shall be open daily except Sundays and legal holidays.
  - (b) The procedure shall be the same as is applicable to other justices of the peace, except as otherwise provided.
  - (c) The municipal justice of the peace shall keep a criminal docket wherein shall be entered the substance of every complaint, date of the issuance of warrant, and date and substance of return thereon, plea of the accused, name of the witnesses, names and verdict of the jury, if any, and the judgment.

(d) Juries shall be selected in criminal cases in the same manner as in other justice courts except that either side may challenge 2 talesmen peremptorily.

(e) The taxable costs shall be the same as in other justice courts, and shall be paid into the city treasury in the manner directed by the common council.

(4) The council may by ordinance abolish the municipal justice court at the end of any term for which the municipal justice of the peace has been elected.

SECTION 12. The town board of any town in Walworth county may create the office of municipal justice of the peace as provided by SECTION 11, and thereupon such court shall have the jurisdiction provided by SECTION 11, including the exclusive jurisdiction of violations of town ordinances.

SECTION 13. The village board of any village in Walworth county may create the office of municipal justice of the peace as provided by SECTION 11, and thereupon such court shall have the same jurisdiction as provided by SECTION 11, including the jurisdiction with respect to village ordinances as for city ordinances under SECTION 11 irrespective of section 61.30 of the statutes.

SECTION 14. 253.02 (1) and (3), as created by chapter 315, laws of 1959, are amended to read:

253.02 (1) The county courts of Brown, Fond du Lac, Manitowoc, Marathon, Outagamie, Ozaukee, Racine, Shawano, Sheboygan, *Walworth*, Waukesha, Winnebago and Wood have 2 branches. The county courts of Dane, Douglas, Kenosha and Rock have 3 branches. The county court of Milwaukee has 11 branches.

(3) In all counties having more than one branch of the county court the incumbent county judge on January 1, 1962, is the judge of branch No. 1 of the county court; *in Walworth county and* in counties having a population of 500,000 or more the incumbent judge of branch No. 1 of the county court and the incumbent judge of branch No. 2 of the county court on January 1, 1962, are the judges of branches Nos. 1 and 2 of the county court respectively.

SECTION 15. Actions, proceedings and other matters brought under the Walworth county court's additional jurisdiction prior to the first Monday in January 1961 and of which the court does not have jurisdiction after said date because of the changes effected by this act, shall be disposed of as follows:

(1) Where noticed for trial prior to the first Monday in January 1961 they shall be disposed of in said county court under the jurisdiction it had under chapter 188, laws of 1951, and chapter 211, laws of 1953, as the case may be.

(2) Where not noticed for trial prior to the first Monday in January 1961 they, and all records (or copies thereof), files and papers pertaining thereto, shall be transferred to the circuit court for Walworth county and there disposed of as though originally brought therein.

SECTION 16. All actions, proceedings and other matters pending before justices of the peace in Walworth county on December 31, 1960, which are not within their jurisdiction under sections 300.05, 300.06 and 960.01 of the statutes, as modified for the purposes of this act, are transferred to the county court.

SECTION 17. Except for the election provided for in SECTION 2, this act shall take effect on the first Monday in January 1961.

Approved December 29, 1959.