

1969 Assembly Bill 430

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CHAPTER 352, LAWS OF 1969

AN ACT to repeal chapter 462, laws of 1965, section 5, and 252.016 (1), (2) (b), (c) and (d) and 253.13 (2); to renumber 252.016 (2) (a), (3), (4), (5) and (6) and 252.017; to amend 48.17, 48.83 (1), 52.06, 52.21 (1), 245.02 (2), 247.01, 252.016 (title), (1) (title), (3) (a) (intro.), (b), (c) and (e) and (5), as renumbered, 253.10 (11), 253.11 (1), 253.13 (1) and 253.18 (2); and to create 48.037, 252.017 and 253.13 (2) of the statutes, creating a "Family Court" in populous counties.

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

SECTION 1. 48.037 of the statutes is created to read:

48.037 JUVENILE COURT; POPULOUS COUNTIES. In any county having a population of 500,000 or more the functions of the juvenile court shall be performed by the "Family Court" established under s. 252.017. Any provisions of this chapter which are in conflict with s. 252.017 shall be of no effect in their application to counties having a population of 500,000 or more.

SECTION 2. 48.17 of the statutes is amended to read:

48.17 Courts of civil jurisdiction shall have concurrent jurisdiction with the juvenile court in proceedings against children for violation of county or municipal ordinances enacted under s. 349.06, except that in counties having a population of 500,000 or more *when the alleged violation is not associated with an alleged act of delinquency* such concurrent jurisdiction shall be vested solely in the traffic-misdemeanor court branch (Branch 12); but disposition of such cases shall be made under s. 48.36 instead of under the ordinance. *When, in counties having a population of 500,000 or more, the alleged violation is associated with an alleged act of delinquency, jurisdiction shall be vested in the "Family Court" under s. 252.017.*

SECTION 3. 48.83 (1) of the statutes is amended to read:

48.83 (1) The county court of the county where the child is shall, upon the filing of a petition for adoption of such child, have exclusive jurisdiction over such child which jurisdiction shall continue until such petition is withdrawn, denied or granted, *except that in counties having a population of 500,000 or more, jurisdiction shall be determined under s. 252.017.* Venue shall be in the county where the child is at the time of the filing of the petition.

SECTION 4. 52.06 of the statutes is amended to read:

52.06 (1) The several county courts shall have concurrent jurisdiction with the circuit courts of offenses arising under s. 52.05, and every such court shall be at all times open to hear, try and determine all cases arising thereunder. Process may issue and proceedings be had for the arrest and examination of offenders under ch. 954. If, upon examination, the defendant is bound over or held for trial the court or officer who conducts the examination shall forthwith transmit the record thereof to the circuit or county court of the county in which the examination was held, and shall order the defendant forthwith to appear before the court to which he has been held, there to stand trial.

(2) *In counties having a population of 500,000 or more, jurisdiction of offenses arising under s. 52.05 shall be determined under s. 252.017.*

SECTION 5. 52.21 (1) of the statutes is amended to read:

52.21 (1) (a) *Except as provided in par. (b)* any judge of a court of record, in vacation as well as in open court, and all court commissioners, ~~except in counties containing cities having a population of 500,000 or more,~~ shall have jurisdiction in all complaints and proceedings arising under ss. 52.21 to 52.45.

(b) *In counties having a population of 500,000 or more, jurisdiction in all complaints and proceedings arising under ss. 52.21 to 52.45, shall be determined under s. 252.017.*

SECTION 6. 245.02 (2) of the statutes is amended to read:

245.02 (2) If either of the contracting parties is under the age of 21 years if a male, or between the age of 16 and 18 years if a female, no license shall be issued without the consent of his or her parents or guardian, or of the parent having the actual care, custody and control of said party, given before the county clerk under oath, or certified under the hand of such parents or guardian as aforesaid, and properly verified by affidavit (or affirmation) before a notary public or other official authorized by law to take affidavits, which certificate shall be filed of record in the office of said county clerk at the time of application for said license. If there is no guardian or parent having the actual care, custody and control of said party, then the judge of the court having probate jurisdiction in the county where the application is pending may, after hearing upon proper cause shown, make an order allowing the marriage of said party *but in counties having a population of 500,000 or more the application shall be made to the family court under s. 252.017 (1).*

SECTION 7. 247.01 of the statutes is amended to read:

247.01 (1) The county courts, ~~except in counties having a population of 500,000 or more,~~ and all circuit courts, *except as provided in sub. (2),* have jurisdiction of all actions affecting marriage and of all actions under s. 52.10 (or concurrent jurisdiction where other courts are vested with like jurisdiction), and have authority to do all acts and things necessary and proper in such actions and to carry their orders and judgments into execution as hereinafter prescribed. All such actions shall be commenced and conducted and the orders and judgments therein enforced according to these statutes in respect to actions in courts of record, as far as applicable, except as provided in this chapter and in s. 52.10. Whenever any court is presiding in any such action affecting marriage it shall be known as the "Family Court Branch".

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(2) *In counties having a population of 500,000 or more, jurisdiction of all actions affecting marriage and of all actions under s. 52.10 shall be determined under s. 252.017. In such counties any court presiding in such actions affecting marriage shall be known as "Family Court, Domestic Relations Section".*

SECTION 8. 252.016 (title) of the statutes is amended to read:

252.016 SECOND CIRCUIT.

SECTION 9. 252.016 (1), (2) (b), (c) and (d) of the statutes are repealed.

SECTION 10. 252.016 (2) (a), (3), (4), (5) and (6) of the statutes are renumbered 252.016 (1), (2), (3), (4) and (5), respectively, and 252.016 (1) (title), (3) (a) (intro.), (b), (c) and (e) and (5), as renumbered, are amended to read:

252.016 (1) JUDGES CONFER, MAKE RULES.

(3) (a) (intro.) There is created a department of family conciliation. ~~Said department shall be~~ under the direction and supervision of a director of family conciliation. ~~Said~~ The director, ~~through his respective assistants,~~ shall:

(b) All persons in this department shall keep such records as may be provided by the rules of the judges of the ~~family court branches of said court~~ "Family Court". Whenever the judges of ~~said family court branches~~ the "Family Court" deem publication of matters before them contrary to public policy they may by order close the files thereof and make such other orders ~~in their discretion~~ as may be in the interest of children in such matters and the public morals.

c) ~~Said~~ The department of ~~family conciliation~~ shall have such men and women investigators as ~~may from time to time be~~ are authorized by the county board of supervisors of such county. Said investigators shall be appointed by ~~the joint~~ action of ~~at least the majority of the judges of the family court branches of the circuit court~~ "Family Court" under the ~~laws governing~~ civil service in such county.

(e) The county board of supervisors of such county shall provide for such assistants, stenographic and otherwise, as ~~shall be necessary~~ needed to assist the director of family conciliation in carrying out the purpose of subs. ~~(4) to (6)~~ (3) to (5) particularly in regard to the proper disposal of marital complaints. ~~Such~~ The director and all other persons in ~~said~~ the department shall be appointed by ~~action of at least the majority of the judges of the family court branches of the circuit court~~ "Family Court" under the ~~laws governing~~ civil service in such county, except in cases otherwise expressly provided for.

(5) The board of supervisors and county civil service commission shall make suitable reclassifications in positions in said county to accomplish the purpose of subs. ~~(4) to (6)~~ (3) to (5).

SECTION 11. 252.017 of the statutes is renumbered 252.02.

SECTION 12. 252.017 of the statutes is created to read:

252.017 FAMILY COURT. (1) COMPOSITION AND JURISDICTION. The judges of any judicial circuit containing a county having a population of 500,000 or more shall for periods of not less than 2 years designate 2 or more of their number who shall devote their time primarily and regularly to actions affecting marriage and to such other work as is incidental thereto and which is generally described as the work of a family court, and shall also for such periods designate another of their number as auxiliary family court judge to devote his time primarily and regularly to such litigation and work and to other family related court matters. In assigning a judge to family court work, the judges shall, wherever feasible, give due consideration and preference to whoever of their number may indicate a desire or willingness to undertake such work. Any judge

so named may be redesignated for successive terms of 2 years. The judges of such branches shall meet from time to time and divide their work, apportioning to each branch its due portion thereof, and shall compile and publish an annual report of the family court. In case of the absence, sickness or other disability of any of such judges, other judges shall be designated to assist temporarily in the performance of the work of such family court. Of the judges initially designated to devote all or part of their time primarily and regularly to family court work under this paragraph, one shall serve for a term of one year, one for a term of 18 months and one for a term of 2 years, so as to provide continuity in family court work by having the respective terms of such judges so designated expire at not less than separate 6 month intervals. Such circuit court branches and the civil court branches of the county courts of counties having a population of 500,000 or more shall comprise the "Family Court". The "Family Court" shall have concurrent jurisdiction over actions pertaining to welfare fraud and mental commitments and shall have exclusive original jurisdiction over all suits, actions and proceedings pertaining to:

(a) Marriage, divorce, annulment, legal separation, custody, alimony and criminal, civil and reciprocal support and applications under s. 245.02 (2).

(b) Delinquency, dependency, neglect, termination of parental rights, transfer of legal custody of mentally ill and deficient children, and traffic violations by juveniles when associated with an alleged act of delinquency.

(c) Charges of family assault, family battery, family disorderly conduct, family alcoholism, paternity, criminal neglect and adoption of adults.

(d) All family and parental affairs not specifically vested in some other court or branch thereof in the county.

(2) ORGANIZATION. (a) The "Family Court" shall be divided into 3 sections:

1. The domestic relations section to hear matters under sub. (1) (a).
2. The children's section to hear matters under sub. (1) (b).
3. The special section to hear matters under sub. (1) (c) and (d).

(b) The judges of such branches of the circuit court and county courts as comprise the "Family Court" shall meet annually and at the times fixed by the board of judges. They shall elect from their membership a chairman and divide their membership into the 3 sections of the "Family Court", provide the length of terms in each section and the procedure for rotation of judicial manpower among such sections. They may make such rules and institute such measures as they determine will promote justice and expedite business.

(c) All actions arising under sub. (1) shall be brought initially in the court of the "Family Court" designated to hear the matter by the "Family Court" judges.

(3) CHILDREN'S SECTION; COUNTY COURT. A county court branch which is assigned by the family court judges to the children's section shall, for the duration of the assignment, be governed by the following:

(a) Such court shall be held at the county seat, or at such other place within the county designated by the county board.

(b) Practice and procedure in such court shall be the same as is now or may hereafter be provided by law for civil courts.

(c) The court shall have a clerk with such assistants as the county board determines and a stenographic reporter, each of whom shall be appointed pursuant to ss. 63.01 to 63.17, and shall be paid such compensation as the county board determines. The clerk shall be appointed by the clerk of the circuit court. The reporter shall be appointed by the judge of said court. The clerk shall be an officer of the court and, before entering upon

his duties, shall take and subscribe the constitutional oath of office and furnish an official bond in such amount and with such sureties as the county board determines; such oath and bond shall be filed in the office of the clerk of the circuit court of such county. The reporter shall be an officer of the court and shall take and file a constitutional oath of office. He shall be furnished by the county with all necessary supplies.

(d) Any other judge of the county court of such county may hold court with the judge of such court (assigned to children's section), at his request and in case of his absence or disability, without such request having been made, the senior judge of the county court of such county shall designate some judge of said county court to act temporarily in the place of said judge and while so doing, the judge, so substituting, shall have all of the powers of the regularly elected judge of said branch.

(e) The orders and judgments of such court in all actions and proceedings tried before it may be appealed from, examined and reviewed by either the circuit court of said county, not as a trial de novo, but as a review of the record, or the supreme court in the same manner as other orders and judgments of the circuit court may be appealed from and reviewed.

(4) CENTRAL FILE INDEX. (a) The county board of any county having a population of 500,000 or more may establish a central file index of the records of the following persons or agencies:

1. The department of family conciliation under s. 252.016 (3);
2. The children's court center under s. 48.06 (1);
3. Probation officers under s. 57.025;
4. The county department of public welfare under s. 49.51 (2) (a);
5. Trustees under s. 52.43; and
6. Such other agencies, both private and public, as may thereafter be included by the county board.

(b) All records or information maintained in such a central file index shall be kept confidential and shall be available only to the persons or agencies specified in par. (a) and to the "Family Court". The location of such a central file index shall be determined by the county board.

SECTION 13. 253.10 (11) of the statutes is amended to read:

253.10 (11) In counties having a population of 500,000 or more, the probate jurisdiction, in addition to the foregoing, shall include matters under chs. 50, 51, 142, and 157 ~~and 322~~, and ss. 46.10, 48.81 to 48.97, 52.01, 231.36, 319.31 and 319.61 to 319.71. The jurisdiction of matters under ch. 51 shall be concurrent with branches 3, 4 and 12 *and with the family court under s. 252.017 (1).*

SECTION 14. 253.11 (1) of the statutes is amended to read:

253.11 (1) The county court has jurisdiction 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 \$100,000 exclusive of interest and costs is demanded in the complaint, ~~provided that in counties having population of 500,000 or more the county court shall not have jurisdiction over any matters arising out of chs. 245 and 247 except as otherwise provided in s. 252.017 for actions in counties having a population of 500,000 or more.~~ If a counterclaim or cross complaint for an amount in excess of \$100,000 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 \$100,000 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.

SECTION 15. 253.13 (1) of the statutes is amended to read:

253.13 (1) The county court, *except in counties having a population of 500,000 or more*, has exclusive jurisdiction of all proceedings under ~~chs. 48 and under ch. 322.~~

SECTION 16. 253.13 (2) of the statutes is repealed.

SECTION 17. 253.13 (2) of the statutes is created to read:

253.13 (2) In counties having a population of 500,000 or more, jurisdiction of all proceedings under chs. 48 and 322 shall be determined under s. 252.017.

SECTION 18. 253.18 (2) of the statutes is amended to read:

253.18 (2) In counties having a population of 500,000 or more, branches 1 and 2 shall be the probate branches, branch 3 shall be the traffic court branch. Branch 4 shall be the misdemeanor court branch. ~~Branch 11 shall be the juvenile court branch.~~ Branch 12 shall be the traffic-misdemeanor court branch and shall in addition to all jurisdiction otherwise prescribed or conferred by ss. 253.11 (2) and 253.12 have such jurisdiction as set forth in ss. 48.17 and 48.18 (2). Branches 5, 6, 7, 8, 9 ~~and, 10, 11 and 13~~ shall be the civil court branches. The revenue from all actions for the violation of ordinances of a city of the 1st class, in any such county, brought in the county court shall be paid to the city monthly as provided in s. 288.10. Said city of the 1st class shall have access to all books and records concerned with accounting of revenues and expenditures relating to this chapter.

SECTION 19. Chapter 462, laws of 1965, section 5 is repealed.

Approved January 12, 1970.
