

CHAPTER 487

COUNTY COURTS

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487.01 MS 1957 [Local, Hennepin county, see Laws 1961, Chapter 527]

487.01 PROBATE AND COUNTY COURTS; PROVISIONS. Subdivision 1. A probate court, which shall be a court of record having a seal, and, except in the counties of Hennepin and Ramsey shall also be a county court, is established in each county. The court shall be open for the transaction of business at the county-seat at all reasonable hours. Hearings may be had at such times and places in the county as the court may deem advisable. The necessary and reasonable traveling expenses of judges, judicial officers, referees, reporters, clerks, and employees in attending hearings in places other than the county-seat incident to their duties shall be paid by the county.

Subd. 2. The county board of a county to which sections 487.01 to 487.39 apply shall provide and furnish to the county court the courtrooms, quarters, supplies, equipment and personnel the court finds necessary for its purposes.

Subd. 3. The following probate and county court districts are established: Kittson, Roseau and Lake of the Woods; Marshall, Red Lake and Pennington; Norman, Clearwater and Mahnomen; Cass and Hubbard; Wadena and Todd; Mille Lacs and Kanabec; Wilkin, Big Stone and Traverse; Swift and Stevens; Pope, Grant and Douglas; Lac qui Parle, Yellow Medicine and Chippewa; Lincoln and Lyon; Murray and Pipestone; Jackson and Cottonwood; Rock and Nobles; Dodge and Olmsted; Lake and Cook; Aitkin and Carlton; Sibley, Meeker and McLeod; Martin, Watonwan and Fairbault; Houston and Fillmore; Nicollet and Le Sueur; Winona and Wabasha; Pine, Isanti and Chisago; Sherburne, Benton and Stearns.

A combined county court district may be separated into single county courts by the concurrence of the county boards of the respective counties affected. Vacancies in the office of judge created by such a separation shall be filled in the manner herein provided for the selection of other county court judges.

The single county court districts so created by such separation shall each be entitled to one judge, subject to the provisions of subdivision 5, clause (5), provided, however, that if the number of judges of the combined county court district exceeds the number of counties, then, upon separation into single county court districts, the county having the largest population determined by the last United States census shall be entitled to two judges and in the event there are more judges than counties remaining, the county having the next largest population determined by the last United States census shall also be entitled to two judges.

In each other county except Hennepin and Ramsey, the probate court of the single county is also the county court of the county and shall be governed by the provisions of sections 487.01 to 487.39.

Subd. 4. The provisions of sections 487.01 to 487.39 do not apply to the counties of Hennepin and Ramsey.

Subd. 5. Each county court district shall elect one county court judge except:

(1) The district consisting of St. Louis county shall elect six judges; two of the county court judges shall reside and serve in and be elected at large by the voters of St. Louis county; two of the county court judges shall reside and serve in and be elected by the voters in that part of St. Louis county south of the following described line: South of the south line of township 55; the area to be known as the south district; one county court judge shall reside and serve in and be elected by the voters of an area to be known as the northwest district, which area lies within the following described lines in St. Louis county: North of the south line of township 55 and west of the west line of range 18 and excluding that part of Portage township west of the west line of range 18; and one county court judge shall reside and serve in and be elected by the voters of an area to be known as the northeast district, which area lies within the following described lines in St. Louis county: North of the south line of township 55 and east of the west line of range 18 and including that part of Portage township west of the west line of range 18.

(2) The district consisting of Dakota county, the district consisting of Anoka county and the district consisting of Stearns, Sherburne and Benton shall each elect five judges;

(3) The district consisting of Olmsted and Dodge counties, the district consisting of Winona and Wabasha counties and the district consisting of Washington county shall each elect three judges;

(4) The district consisting of Blue Earth county, the district consisting of Clay county, the district consisting of Sibley, Meeker and McLeod counties, the district consisting of Martin, Watonwan and Faribault counties and the district consisting of Pine, Chisago and Isanti counties shall each elect two county court judges.

(5) The number of judges to be elected may be increased by the county board of the affected county or by the concurrence of the county boards of those affected counties combined into districts.

Subd. 6. For the more effective administration of justice, two or more county court districts may combine their respective county court districts into a single county court district by concurrence of the county boards of the respective counties affected. If districts are combined, the office of a judge may be terminated at the expiration of his term and he shall be eligible for retirement compensation under the provisions of section 487.06.

Subd. 7. When the judicial business of a county court permits, the chief justice of the supreme court, upon the recommendation of all of the county boards of a county court district may, by order filed in the office of the secretary of state, reduce the number of county court judges. The office of any judge shall not be terminated until the expiration of his term and the judge shall be eligible for retirement compensations under the provisions of section 487.06.

Subd. 8. All municipal courts and magistrate courts existing pursuant to a municipal ordinance, charter, or legislative act located in counties covered by sections 487.01 to 487.39 are hereby abolished as of July 1, 1972, except the courts located in St. Louis county are hereby abolished as of January 1, 1974, unless an earlier date is designated by a county board or county boards pursuant to Laws 1971, Chapter 951, Section 45, and no additional municipal courts shall be formed therein pursuant to the provisions of chapter 488.

Subd. 9. (1) All probate judges in office on July 1, 1972 shall be the county court judges of their respective counties and shall continue in office as such for the balance of the terms for which they were last elected and shall be eligible for reelection to office. In counties hereby combined into county court districts and for which only one judge is provided, the probate judge of the county having the largest population determined by the last United States census shall be the judge of the county court if he consents, and files his consent prior to July 1, 1972 in the office of the secretary of state. If he does not consent, the probate judge of the smaller county shall be the judge of the county court. In counties combined into county court districts for which

only one judge is provided, a probate judge in any of the affected counties who at the effective date of this act, is, or before or at the expiration of his then current term of office will become, eligible for retirement pursuant to section 487.06 shall not become county court judge upon the effective date of this act, but he shall serve as a judicial officer until his retirement which shall occur not later than the expiration of his then current term of office. If all probate judges in such a county court district will qualify for retirement pursuant to section 487.06 at or before the expiration of their current term of office as of the effective date of this act, the county court judge shall be selected according to the population of the respective counties in the county court district as hereinbefore provided in subparagraph 1. The probate judge who is not hereby designated as judge of the county court shall continue in office until the expiration of his term and become a part time judicial officer of the county court, hearing and trying matters assigned to him by the judge of the county court but, if he is not learned in the law, then he shall hear and try only matters assigned to him by the judge of the county court he was heretofore authorized by law to hear and try.

(1a) The probate judges of St. Louis county probate court in office on January 1, 1974 shall be county court judges of the county court of St. Louis county and shall continue in office as such for the balance of the terms for which they were last elected and shall be eligible for reelection to office.

(2) Except as provided in subparagraph 1, the judges required by the application of this section shall be appointed by the governor from among the municipal court judges or magistrates serving pursuant to a municipal ordinance, charter, or legislative act other than special municipal court judges serving within the county who are learned in the law and consent thereto. A judge so appointed shall serve until his successor is elected and qualifies. If there are no serving municipal court judges, such county court judges shall be elected at the next general election following July 1, 1972.

(2a) Except as provided in subparagraph 1a, the judges required by the application of this section in the south district of the county court of St. Louis county shall be appointed by the governor from among the full time judges of the municipal court of the city of Duluth in office on January 1, 1974, and a judge so appointed shall serve until his successor is elected and qualifies; and the judges required in the northwest and northeast districts of the county court of St. Louis county shall be appointed by the governor from among persons learned in the law residing in each district, and a judge so appointed shall serve until his successor is elected and qualifies.

[1935 c 72 s 1; 1971 c 951 s 1; Ex1971 c 19 s 1; Ex1971 c 32 s 30,31; 1973 c 679 s 1] (8992-1)

487.02 MS 1957 [Local, Hennepin county, see Laws 1961, Chapter 527]

487.02 PAYMENT OF EXPENSES. Subdivision 1. The salary and traveling expenses of a judge of the county court shall be paid by the county in which the expenses were incurred from the general revenue fund of the county. If the district consists of more than one county, the county of the judge's residence shall pay the judge and shall be reimbursed each month by the other counties of the district by apportioning the salary and expenses according to the respective population of the counties as determined by the last United States census.

Subd. 2. The county board shall levy taxes annually against the taxable property within the county as necessary for the establishment, operation and maintenance of the county court or courts within the county.

[1971 c 951 s 2; 1975 c 381 s 22]

487.03 MS 1957 [Local, Hennepin county, see Laws 1961, Chapter 527]

487.03 JUDGES. Subdivision 1. **Qualifications; oath.** Each judge shall be learned in the law and a resident of the county court district in which the court has jurisdiction. A probate judge now in office shall be considered learned in the law for purposes of election as a judge of a county court. Before entering upon the duties of office, each judge shall take and subscribe an oath, in the form prescribed by law for judicial officers, and a certified copy of the oath shall be filed in the office of each of the county auditors within the county court district.

Subd. 2. **Election.** Each judge shall be elected at the general election for a term of six years, beginning on the first Monday of the January next following his election and until his successor qualifies. No person shall be a candidate for more than one

county court judgeship at any election.

In any election following reduction of the number of county court judges pursuant to section 487.01, subdivision 7 the requirement contained in section 202A.22, subdivision 3 that a candidate for office of judge state the office for which he is a candidate shall not apply. In such a situation all parties filing for office of judge shall run against each other for the remaining seats. However, each candidate who otherwise would have qualified to have the word "incumbent" printed after his name on the ballot pursuant to section 203A.12, subdivision 6 shall retain this right.

Subd. 3. [Repealed, 1973 c 569 s 6]

Subd. 4. **Chief judge.** If a county court district elects more than one county court judge, the chief justice of the supreme court shall select a chief county court judge who shall serve at the pleasure of the chief justice and for a term of two years and who shall be responsible for assigning the work of the court.

Subd. 5. **Vacancy.** Whenever there is a vacancy in the office of judge, the governor shall appoint a qualified person to fill the vacancy, to hold office until his successor is elected and qualified. The successor shall be elected for a six year term at the next general election occurring more than one year after such appointment.

[1971 c 951 s 3; 1973 c 679 s 2-4; 1974 c 406 s 50; 1976 c 239 s 119]

487.04 MS 1957 [Local, Hennepin county, see Laws 1961, Chapter 527]

487.04 DISQUALIFICATIONS OF LAY JUDGE. A county court judge who is not learned in the law shall not act in hearings, try or dispose of any case or proceeding involving jurisdiction in addition to that exercised by him at the time of the effective date of Laws 1971, Chapter 951. Those matters shall be heard by a judge or judicial officer learned in the law from within the county court district or from any other county, who upon request of the county court agrees to serve or who is assigned to hear the cases or proceedings by the chief justice of the supreme court, or, with the consent of the parties and the district court, such proceedings may be transferred by the county court to the district court.

[1971 c 951 s 4]

487.05 MS 1957 [Local, Hennepin county, see Laws 1961, Chapter 527]

487.05 JUDGE'S SALARY. Except as herein provided the annual salary of a county court judge, learned in the law, is \$27,500 and the annual salary of any other county court judge is \$23,500, or if he is in office July 1, 1972, the salary then received by him, whichever is greater. If a judge dies while in office, the amount of his salary remaining unpaid for the month in which his death occurs shall be paid to his estate. In Anoka, Carver, Dakota, Scott, Washington, and St. Louis counties the annual salary of a county court judge is \$29,000.

[1971 c 951 s 5; 1974 c 495 s 1]

487.06 MS 1957 [Local, Hennepin county, see Laws 1961, Chapter 527]

487.06 RETIREMENT OF JUDGES. Subdivision 1. A probate judge who has served as a probate judge or as a probate judge and as a judge of a court of record, or as a probate judge and a referee in probate, and who is not elected, appointed or does not seek election as a county court judge and whose county has been combined with another county to form a county court district and who has served for a period of 10 years shall, upon reaching the age of 65 years, be entitled to receive one-half of the compensation allotted to his office for the year 1970 for the remainder of his life. The compensation allowed however, shall be reduced by 1/24 for each year less than 24 the judge has served at the expiration of his term as a probate judge.

Subd. 2. If at the expiration of the judge's term as probate judge, he is over 65 years and under 70 years and has served as provided in subdivision 1 for a period of 10 years, he shall, be entitled to receive one-half the compensation allotted to his office for the year 1970, as amended by Extra Session Laws 1971, Chapter 32, Section 26, for the remainder of his life reduced, however, by 1/24 for each year less than 24 that he has served; or if at the end of his term said judge is 70 years of age or more, by 1/20 for each year less than 20 years that he has served. A judge who has served ten or more years, as provided in subdivision 1, and is 70 years of age or more, may retire before the expiration of his term.

Subd. 3. A probate judge who is eligible for a retirement compensation as provided in subdivisions 1 and 2 may also avail himself of the provisions for spouses pension provided for in section 490.12, subdivision 7, by continuing contributions to the retirement fund as therein provided, the contribution to be based on the salary allotted to his office during the year 1970.

Subd. 4. The provisions of sections 490.11 and 490.12, apply to judges of the county court, and to probate judges who have become judicial officers and who have served the required period of time to qualify him for retirement under provisions of said section.

[1971 c 951 s 6; 1973 c 229 s 1,2]

487.07 MS 1957 [Local, Hennepin county, see Laws 1961, Chapter 527]

487.07 PRACTICE OF LAW. A county court judge shall devote his full time to the duties of his office and shall not engage in the practice of law.

[1971 c 951 s 7]

487.08 MS 1957 [Local, Hennepin county, see Laws 1961, Chapter 527]

487.08 JUDICIAL OFFICERS. When the judicial business of a county court requires, the county court may appoint one or more full or part time judicial officers who shall be learned in the law and whose salary shall be fixed by the county court, with the approval of the county board or boards of the counties of the district, and paid by the county. They shall serve at the pleasure of the county court. They shall hear and try such matters as shall be assigned to them by the county court judge. Before entering upon the duties of office each judicial officer shall take and subscribe an oath, in the form provided by law for judicial officers, and a certified copy of the oath shall be filed in the office of each of the county auditors within the county court district.

[1971 c 951 s 8; 1973 c 679 s 5]

487.09 MUNICIPAL COURT JUDGES AS JUDICIAL OFFICERS. All municipal court judges other than special municipal court judges serving July 1, 1972 shall become part time judicial officers of the county district court of the county in which their municipal courts are located. They shall try and hear matters assigned to them by the county court judge but, if they are not learned in the law, they may try and hear only actions as arise under section 487.16. They shall continue to serve as judicial officers and be paid by the county the salaries theretofore provided or as otherwise increased by the county court with the approval of the county board until the expiration of their terms of office.

All municipal court judges of St. Louis county, other than special municipal court judges, serving as of January 1, 1974 shall become part time judicial officers of the county court. They shall try and hear matters assigned to them by the chief county court judge but, if they are not learned in the law, they may try and hear only actions of forcible entry and unlawful detainer and shall perform such other duties as are assigned to them by the chief judge of the county court. They shall continue to serve as judicial officers and be paid by the county the salaries theretofore provided until the expiration of their terms of office, or as otherwise increased by the county court with the approval of the county board.

[1971 c 951 s 9; 1973 c 679 s 6]

487.10 CLERKS, DEPUTIES, RECORDS. Subdivision 1. The clerk of the district court of each county within the county court district shall have and perform the duties heretofore provided by law for the clerks of the probate, county and municipal courts and other duties as prescribed by law or rule of court. In the performance of those duties the clerk of the district court shall also be known as the clerk of county court.

Subd. 2. The clerks and deputy clerks of the present probate courts and the clerical employees thereof shall become deputy clerks and clerical employees respectively of the clerks of court of the respective counties in which they served.

Subd. 3. [Repealed, 1973 c 679 s 38]

Subd. 4. The county board shall determine the number of permanent full time deputies, clerks and other employees in the office of the clerk of county court and shall fix the compensation for each position. The county board shall also budget for

temporary deputies and other employees and shall fix their rates of compensation. The clerk shall appoint in writing the deputies and other employees for whose acts he shall be responsible, and whom he may remove at pleasure. Before entering upon his official duties, the appointment and oath of each such employee shall be filed with the county recorder.

Subd. 5. The clerk shall keep records and indices of all proceedings; enter all orders, judgments and sentences; issue commitments, execution and all other process as now is permitted by law or rule of court; have custody and care of all records of the court; and tax all costs and disbursements.

Subd. 6. In a county court district having three or more county court judges, the chief judge with the concurrence of a majority of the judges may appoint a court administrator whose salary shall be set by and who shall serve at the pleasure of the majority of the county court judges and whose duties shall be prescribed by the chief judge.

Subd. 7. Notwithstanding the provisions of any other law to the contrary, excepting the clerk, the chief deputy clerks of each division and those classifications specifically exempted by Laws 1941, Chapter 423, Section 6, as amended, every permanent employee of those courts being abolished under Laws 1973, Chapter 679 shall, with the approval of the St. Louis county civil service commission, be transferred as of August 1, 1973 to a position of comparable classification in the classified service of St. Louis county with the equivalent status that he had in the office of his employment immediately prior thereto, and every such employee shall be subject to, and have the benefit of, the classified service as though he had served thereunder from the date of his entry into the service of his office of employment.

[1971 c 951 s 10; 1973 c 679 s 7-10; 1976 c 181 s 2]

487.11 ADDITIONAL EMPLOYEES. Subdivision 1. **Bailiffs.** The sheriff of a county within a county court district shall furnish to the county court deputies to serve as bailiffs within the county as the court may request. The county board may, with the approval of the chief county court judge, contract with any municipality, upon terms agreed upon, for the services of police officers of the municipality to act as bailiffs in the county district court.

Nothing contained herein shall be construed to limit the authority of the court to employ probation officers with the powers and duties prescribed in section 260.311.

Subd. 2. **Transcription of court proceedings.** Electronic recording equipment may be used for the purposes of Laws 1971, Chapter 951 to record court proceedings in lieu of a court reporter. However, at the request of any party to any proceedings the court may in its discretion require the proceedings to be recorded by a competent court reporter who shall perform such additional duties as the court directs. The chief judge of the county court, by order filed with the county board or boards shall fix the salary of a reporter appointed in an amount not to exceed the salary of district court reporters as provided by sections 486.05 and 486.06.

[1971 c 951 s 11]

487.12 EMPLOYEES OF ABOLISHED COURTS. All persons who are full time employees of courts abolished under Laws 1971, Chapter 951 shall be given preference in the employment of personnel required to staff the county court.

[1971 c 951 s 12]

487.13 BUDGET. The county board by resolution shall provide the budget for (1) the salaries of deputies, clerks and other employees in the office of the clerk of county court; (2) other expenses necessary in the performance of the duties of said office and (3) the payment of premiums of any bonds required of the clerk of county court or any deputy, clerk or employee in said office and the board is authorized to appropriate funds therefor and for the salary of the clerk of county court. Appeal from this resolution of the county board may be made in the manner prescribed in section 485.018, subdivision 7.

[1971 c 951 s 13]

487.14 EXCLUSIVE JURISDICTION. The county court shall have exclusive original jurisdiction in the following cases:

(a) In law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings;

(b) The jurisdiction of a juvenile court as provided in chapter 260;

(c) Proceedings for the management of the property of persons who have disappeared, and actions relating thereto, as provided by chapter 576.

[1971 c 951 s 14; 1974 c 447 s 1]

487.15 CIVIL JURISDICTION. The county court may hear, try, and determine actions at law in which the amount in controversy does not exceed the sum of \$5,000, exclusive of interest and costs, except for causes involving title to real estate.

[1971 c 951 s 15]

487.16 MINOR CIVIL AND CRIMINAL JURISDICTION. The county court shall also have jurisdiction in all civil and criminal cases now residing in municipal courts as provided in chapter 488, except that notwithstanding any law to the contrary, no county court shall have gross misdemeanor jurisdiction.

[1971 c 951 s 16; 1973 c 679 s 11]

487.17 FORCIBLE ENTRY AND UNLAWFUL DETAINER. Whether or not title to real estate is involved, the county court has jurisdiction of actions of forcible entry and unlawful detainer or actions for unlawful removal or exclusion pursuant to section 504.25, involving land located wholly or partly within the county court district and of actions seeking relief for code violations pursuant to sections 566.18 to 566.33 involving premises located wholly or partly within the county court district.

[1971 c 951 s 17; 1973 c 611 s 1; 1975 c 410 s 6]

487.18 CRIMINAL JURISDICTION. (a) The county court has jurisdiction to hear, try and determine any charge of violation of

(1) a criminal law of this state constituting a misdemeanor committed within the county court district; of

(2) any ordinance, charter provision, rule or regulation of any subdivision of government in the county court district.

(b) The county court has jurisdiction to conduct preliminary hearings and to exercise all judicial powers incident to preliminary hearing proceedings on the charge of violation of any criminal law committed within the county court district.

(c) The county court has jurisdiction to hear, try and determine any matter constituting a petty misdemeanor.

[1971 c 951 s 18; 1973 c 679 s 12]

487.19 CONCURRENT JURISDICTION. Subdivision 1. The county court shall have concurrent jurisdiction in the following cases:

(a) Proceedings for the administration of trust estates or actions relating thereto;

(b) Proceedings for divorce, annulment, and separate maintenance, and actions related thereto, as prescribed by chapter 518;

(c) Proceedings under the reciprocal enforcement of support act, sections 518.41 to 518.53;

(d) Proceedings for adoption and change of name under chapter 259; and

(e) Proceedings to quiet title to real estate and real estate mortgage foreclosures by action.

Subd. 2. Any action within the jurisdiction of the county court commenced in the district court may be transferred to the county court for trial or other proceedings upon the motion of any party, or upon the motion of the district court.

Subd. 3. Where the county court judge or judges in a county court district are disqualified from hearing a matter within concurrent jurisdiction of the county and district courts, or where the district court judge otherwise agrees to hear a matter, said matter shall be transferred to the district court for further proceedings.

[1971 c 951 s 19; 1973 c 679 s 13]

487.20 ABSENCE OF JURISDICTION. Subdivision 1. Whenever it shall appear to the court that the county court is without jurisdiction in a case pending therein, the

fact shall be recorded and upon order of the court the clerk shall transmit to the clerk of the district court of the county within the county court district in which the case arose a certified transcript of the record and all papers filed in this case. Thereafter, the case shall proceed to judgment in the district court as if it had there been commenced, and the costs shall abide the event.

Subd. 2. If a case is not transferred, it shall not fail for want of jurisdiction, as to any party who was personally served with legal process or other legal notice specifying the relief sought or who voluntarily appeared.

[1971 c 951 s 20]

487.21 TRIAL OF CIVIL AND CRIMINAL ACTIONS. Subdivision 1. The court by rule shall designate the locations within the county court district at which regular sessions of the court shall be held provided, however, that regular sessions of the court shall be held in at least the county seat of each county within the county court district. Upon petition of an incorporated municipality directed to the county board of the county in which the municipality is located and in which resolution the municipality agrees to provide at its own expense suitable facilities for holding court sessions, the county board may direct that court be held in such municipality. Upon petition of at least two governmental units within the district night court shall be held at least once every two weeks during regular session of court, commencing after 7:00 o'clock P.M. at such place in the district that the court shall designate. The court, by rule, may limit the locations at which jury trials shall be conducted provided, however, that the court shall conduct jury trials in not less than one location in each county within the county court district.

Subd. 2. All civil actions shall be tried in the locations designated by the county court rules with the location to be specified in the summons unless, upon a showing of inconvenience, the court orders the case to be heard at another location within the same county court district.

Subd. 3. The trial of all charges of criminal and ordinance violations and all preliminary hearings shall be conducted in the municipality where the alleged violation occurred if the court regularly holds sessions at that location, or in another location within the same county as the court designates by rule.

Subd. 4. If a municipality is located in more than one county court district, or in more than one county within a county court district, the county in which the city hall of the municipality is located determines the county or county court district in which the municipality shall be deemed located for the purposes of sections 487.01 to 487.39 provided, however, that the municipality by ordinance enacted may designate, for those purposes, some other county or district in which a part of the municipality is located.

[1971 c 951 s 21; 1973 c 679 s 14,15]

487.22 SERVICE. All civil and criminal process and orders may be served and enforced anywhere within the state.

[1971 c 951 s 22]

487.23 PLEADING, PRACTICE, PROCEDURE AND FORMS IN CIVIL ACTIONS. Subdivision 1. **General.** Pleading, practice, procedure and forms in civil actions shall be governed by rules of civil procedure for county courts which shall be adopted by the supreme court. Until the rules become effective, such matters are governed by the rules for municipal courts and rules promulgated from time to time by the supreme court or by the statutes governing the district court insofar as the rules promulgated by the supreme court do not contain any applicable provision. The provisions of sections 487.01 to 487.39 relating to pleading, practice and procedure in civil actions shall be effective as rules of court until modified or superseded by the rules hereafter adopted by the supreme court. Rules or statutory provisions modified or superseded by the rules of civil procedure for county courts adopted by the supreme court shall be of no effect in any county court from and after the effective date of said adopted rules.

Subd. 2. **Court rules.** The court may adopt rules governing pleading, practice, procedure and forms for civil actions which are not inconsistent with the provisions of sections 487.01 to 487.39, the rules for county courts promulgated by the supreme court, or governing statutes.

Subd. 3. **Notes of issue; demand for jury trial; waiver of jury trial.** (a) A party desiring to place a civil cause upon the calendar for trial after issue is joined shall serve a note of issue on all other parties and file it with the clerk, with proof of service within ten days after service. The note of issue shall state whether the issues are of law or fact, whether trial by jury is demanded or waived, and the name and address of the respective counsel.

(b) If any other party to the action desires a trial by jury when none is demanded in the note of issue served upon him, he shall serve a demand for trial by a jury on all other parties to the action and file it with the clerk, with proof of service, within ten days after the note of issue was served upon him.

(c) If a jury is not demanded at the time and in the manner provided in sections 487.01 to 487.39, all parties waive trial by jury. Jury trial may be waived also in the manner provided by rule 38.02 of the rules for municipal courts promulgated by the supreme court and rules promulgated by the supreme court from time to time for county courts.

Subd. 4. **Five-sixths verdict.** In all civil cases, after six hours of deliberation, the agreement of five-sixths of any jury is a valid verdict. The deliberation of the jury commences when the officer taking charge of the jury has been sworn. The clerk shall enter that time in his records.

Subd. 5. **Costs allowable.** In all civil actions, costs and disbursements allowed in county court shall be the same as is provided for costs and disbursements in like actions in the district court.

Subd. 6. **New trial or other determination.** In civil actions, the court may:

- (a) Grant a new trial to all or any of the parties and on all or part of the issues;
- (b) Grant a motion for judgment notwithstanding the verdict or notwithstanding that the jury has disagreed and been discharged;
- (c) Open the judgment if one has been entered;
- (d) Take additional testimony in a case tried without a jury;
- (e) Make amended findings of fact and conclusions of law and direct entry of an amended judgment;
- (f) Correct clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission; or
- (g) Relieve a party or his legal representative from a final judgment, order or other proceeding.

Subd. 7. [Repealed, 1973 c 679 s 38]

Subd. 7a. **Lien of judgment.** Every judgment of the county court requiring the payment of money shall be docketed by the clerk of county court upon the entry thereof. From the time of such docketing the judgment shall be a lien, to the amount unpaid thereon, upon all real property in the county then or thereafter owned by the judgment debtor, except that no judgment rendered in conciliation court shall become a lien upon real estate until docketed in county court. Such judgment shall survive, and the lien thereof continue, for the period of ten years next after its entry, and no longer. No judgment, except for taxes, shall be docketed until the judgment creditor, or his agent or attorney, shall have filed with the clerk an affidavit, stating the full name, occupation, place of residence, and post office address of the judgment debtor, to the best of affiant's information and belief; and, if such residence be within an incorporated place having more than 5,000 inhabitants, the street number of both his place of residence and place of business, if he have one, shall be stated. If the clerk shall violate this provision, neither the judgment nor the docketing thereof shall be invalid, but he shall be liable to any person damaged thereby in the sum of \$5.

Subd. 7b. Any person who holds a judgment for an amount exceeding \$10, exclusive of interest and costs, may obtain from the clerk a certified transcript of the judgment and may file the transcript in the office of the clerk of the district court. If a transcript is given, the clerk of the county court shall note that part on the record of the judgment and shall not thereafter issue a writ of execution of the same judgment.

Subd. 7c. Upon the filing and docketing of the certified transcript the judgment thereafter is exclusively under the control of the district court and may be enforced by its process as though originally rendered by the district court.

Subd. 7d. The clerk of court shall not issue a certified transcript while a writ of execution is outstanding on the judgment.

Subd. 8. **Writs of replevin, attachment and execution.** Writs of replevin, attachment and execution may be issued in accordance with the practice and procedure for those writs in district court, but a judge rather than a sheriff or police officer shall approve all bonds requiring approval.

Subd. 9. **Satisfaction of execution.** When a writ of execution has been delivered to an officer for enforcement, any person indebted to the judgment debtor may pay the amount of the debt, or as much of it as will satisfy the execution, to the officer holding the writ and the receipt of that officer reciting the facts when filed with the clerk shall be sufficient authority for the clerk to discharge or satisfy the debt or as much of the debt as is paid, which the clerk shall do forthwith upon the filing of such receipts.

Subd. 10. **Garnishment.** Proceedings against garnishees may be instituted in the same manner as in the district courts of the state.

[1971 c 951 s 23; 1973 c 679 s 16-22; 1974 c 542 s 1]

487.24 FORCIBLE ENTRY AND UNLAWFUL DETAINER ACTIONS. Subdivision 1. **Return days.** Return days for forcible entry and unlawful detainer actions may be fixed by rule promulgated by the court.

Subd. 2. **Procedure; forms.** Sections 566.01 to 566.16 apply to the county court. The forms therein prescribed, with appropriate modifications, may be used.

Subd. 3. **Default judgments.** Whenever a duly verified complaint in an action of forcible entry or unlawful detainer shows one of the causes of action set forth in section 566.03, and on the return day of the summons the defendant does not appear, the judge of the county court, upon proof of the due service of the summons, may find the defendant in default and file an order for judgment accordingly.

[1971 c 951 s 24; 1973 c 679 s 23]

487.25 PLEADING, PRACTICE, PROCEDURE AND FORMS IN CRIMINAL PROCEEDINGS. Subdivision 1. **General.** Except as otherwise provided in sections 487.01 to 487.39, pleading, practice, procedure and forms in actions or proceedings charging violation of a criminal law or a municipal ordinance, charter provision, rule or regulation are governed by the law applicable in a like action or proceeding in the district court for the county in which the alleged violation occurred or by statutes which govern in courts of justices of the peace in the absence of applicable law governing in the district court.

Subd. 2. **Court rules.** The court may adopt rules governing pleading, practice, procedure and forms in actions or proceedings charging a violation of a criminal law or a municipal ordinance, charter provision, rule or regulation which are consistent with the provisions of sections 487.01 to 487.39 or any other statute of this state.

Subd. 3. **Complaints.** Complaints charging violations of a criminal law of this state or a municipal ordinance, charter provision, rule or regulation may be sworn to before any judge of the county court or judicial officer and shall be filed with the clerk or deputy clerk; provided, however, the clerk and deputy clerks of court may also perform such duties when the offense alleged to have been committed is a violation of a petty misdemeanor law of this state or of a municipal ordinance which is punishable, upon conviction, by a sentence to the payment of a fine only.

Subd. 4. **Tab charges.** When a person charged with violating a petty misdemeanor law, or a criminal law, the violation of which is punishable as a misdemeanor, or a municipal ordinance, charter provision, rule or regulation is brought or voluntarily appears before the court without process, the clerk shall enter upon the records a brief statement of the offense charged. This brief statement stands in place of a complaint, but if the judge orders, or if requested by the person charged, a formal complaint shall be made and filed.

Subd. 5. **Pleas.** The plea of the defendant shall be "guilty" or "not guilty". In case of a failure to plead, the clerk shall enter a plea of "not guilty."

Subd. 6. **Trials by jury; ordinances.** In a trial upon a charge of a violation of any municipal ordinance, charter provision, rule or regulation, the defendant shall have a right to a trial by jury.

Subd. 7. **Probation.** At the time of imposing sentence the judge may stay imposition or execution of sentence and place the defendant on probation with the same powers, in the same manner, and upon like terms and conditions and with the same effect, provided by law in any criminal case in the district court. If sentence of imprisonment is imposed and execution thereof ordered, the court may at any time suspend the further execution thereof, and order the release of the defendant upon probation under similar terms and conditions. If the defendant who has been placed on probation violates the terms or conditions thereof, the stay of imposition or execution of sentence may be revoked in the manner provided in section 609.14.

Subd. 8. **Bail.** Any judge may set the amount of bail for any violation of a law of this state or a municipal ordinance, charter provision, rule or regulation for which bail is allowed. A bail bond in the amount set may be posted or the person, to give bail, in lieu of bail bond, may deposit with the clerk a sum of money equal to the amount of the bail fixed.

Subd. 9. **Minutes of preliminary hearings.** The clerk shall keep minutes of preliminary hearings on indictable offenses and make proper return to the court before which the person charged with the offense may be bound to appear.

Subd. 10. **Prosecuting attorneys.** Violations of state law which are misdemeanors or of a municipal ordinance, charter provision, rule or regulation shall be prosecuted by the attorney of the municipality where the violation is alleged to have occurred if that municipality has an attorney. All other offenses shall be prosecuted by the county attorney of the county in which the alleged violation occurred.

Subd. 11. **Presumption of innocence.** In an action or proceeding charging a violation of an ordinance of any subdivision of government and the ordinance is the same or substantially the same as a state law, the defendant is presumed innocent until the contrary is proved and, in case of a reasonable doubt, is entitled to acquittal.

[1971 c 951 s 25; 1973 c 679 s 24,25]

487.26 PETIT JURORS. Subdivision 1. **Mode of selection.** Petit jurors for the trial of all types of actions shall be selected as provided in this section.

Subd. 2. **Selection; list.** All petit jurors to serve in the county court in the county shall be selected from the petit jurors listed for jury service by the district court. Petit jurors listed for service in both courts shall have the same qualifications and shall be selected by the district court under the same procedure as is now provided by law for selecting jurors for service in the district court. Jurors summoned for service in the county court shall report to and be excused, governed, instructed and controlled by the chief judge of the county court or his designee.

Subd. 3. [Repealed, 1973 c 679 s 38]

Subd. 4. **Failure to attend.** Failure to attend as a juror when duly drawn and summoned is punishable as contempt of court.

Subd. 5. [Repealed, 1973 c 679 s 38]

Subd. 6. **Compensation.** Jurors shall be paid from the county treasury the same compensation and mileage as jurors in the district court of the county where the county court is located. The clerk of court shall deliver to the county auditor a certificate showing the number of days of service and the mileage for which each is entitled to receive compensation. This certificate shall be filed with the county auditor who shall issue his warrant on the county treasurer for the amount due. Any juror regularly summoned who actually attends at the time named in the summons is entitled to his per diem and mileage whether or not sworn as a juror.

Subd. 7. [Repealed, 1973 c 679 s 38]

[1971 c 951 s 26; 1973 c 679 s 26]

487.27 DIVISIONS. Subdivision 1. Subject to the provisions of section 260.311 and rules of the supreme court, a county court shall establish a probate division, a family court division, and a civil and criminal division which shall include a conciliation court, and may establish within the civil and criminal division a traffic and ordinance violations bureau.

Subd. 2. The family court division shall include all cases and proceedings arising under the juvenile court act of this state and all cases within the jurisdiction of the court arising out of or affecting the family relationship including the civil commitment of persons pursuant to chapter 253A. For the purpose of carrying out the duties of

this division, the court, unless otherwise not permitted by law, may utilize the services of the county welfare department and the services provided in section 260.311, to obtain social investigations, reports, recommendations, supervision and other assistance as may be directed by the court.

Subd. 3. The probate division shall include all cases and proceedings relating to the administration of estates of deceased persons, of persons under guardianship, and proceedings for the administration of trust estates or actions relating thereto. It shall also include all cases and proceedings relating to the management of the property of persons who have disappeared.

Subd. 4. The civil and criminal division shall consist of all cases and proceedings within the jurisdiction of the court not included in another division.

[1971 c 951 s 27; 1973 c 679 s 27; 1974 c 447 s 2; 1975 c 263 s 1]

487.28 TRAFFIC AND ORDINANCE VIOLATIONS BUREAU. Subdivision 1. **Establishment.** The county court may establish traffic and ordinance violation bureaus at the places it determines.

Subd. 2. **Supervision; personnel; rules; fines; traffic tags.** (a) The judge shall supervise and the clerk shall operate the traffic violations bureaus. The clerk shall assign one or more deputy clerks to discharge and perform the duties of the bureaus.

(b) The court shall issue rules governing the duties and operation of the bureaus. These rules shall specify the violations for which fines may be paid to the bureaus without appearance before a judge and shall set the fine or bail for each violation.

(c) The traffic violations bureaus shall process all traffic tags, accept all fines payable on traffic tags at the bureaus pursuant to the court's rules, set dates for arraignment on traffic tag charges to be heard in court, accept bail, keep proper records and accounts and perform other and further duties as the court prescribes.

[1971 c 951 s 28]

487.29 TRAFFIC OFFENSES. Subdivision 1. **Traffic tag defined.** The term "traffic tag" means the uniform traffic ticket specified in section 169.99 served upon a person charged with the violation of a traffic law or municipal ordinance, charter provision, rule or regulation or affixed conspicuously to a motor vehicle operated, parked or standing in violation thereof, which requires appearance before a court at a specified time or before a traffic violations bureau thereof without a specified time.

Subd. 2. **Procedure by person receiving traffic tag.** A person who receives a traffic tag shall proceed as follows:

(a) If a fine for the violation may be paid at the bureau without appearance before a judge, the person charged may pay the fine in person or by mail to the bureau within the time specified. The payment of the fine shall be deemed to be the entry of a plea of guilty to the violation charged and the plea of guilty and waiver on the reverse side of the traffic tag shall be signed by the person charged.

(b) When a fine is not so paid, the person charged must appear before the court at the time specified in the traffic tag. If appearance before a traffic violation bureau is designated in the tag, the person charged must appear within the time specified in the tag and arrange a date for arraignment in the county court.

[1971 c 951 s 29; 1973 c 679 s 28]

487.30 CONCILIATION COURT. Subdivision 1. The conciliation court shall hear and determine civil claims if the amount of money or property which is the subject matter of the claim does not exceed \$1,000 for the determination thereof without jury trial and by a simple and informal procedure. The rules of the supreme court shall provide for a right of appeal from the decision of the conciliation court to the county court for a trial on the merits. The territorial jurisdiction of a conciliation court shall be coextensive with the county in which the court is established.

Subd. 2. The county board in the case of a single county court district and the respective county boards in the case of a combined county court district may direct conciliation court sessions to be held at specified times during the evening and on Saturday and at specified locations throughout the district.

[1971 c 951 s 30; 1973 c 219 s 1; 1973 c 679 s 29; 1975 c 263 s 2; 1975 c 269 s 1]

487.31 FEES PAYABLE TO CLERK. Subdivision 1. The fees payable to the clerk for the following services in civil actions are:

In all civil actions within the jurisdiction of the county court, the fees payable to the clerk in county court shall be the same as in district court. The county court shall determine by rule the fees payable in cases heard in the conciliation division of the county court.

The fees payable to the clerk for the following services in petty misdemeanors or criminal actions are governed by the following provisions:

In the event the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town within the county court district; all fines, penalties and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted a case for prosecution except where a different disposition is provided by law, in which case payment shall be made to the public official entitled thereto. The following fees shall be taxed to the state or governmental subdivision which would be entitled to payment of the fines, forfeiture or penalties in any case, and shall be paid to the clerk of the court for disposing of the matter. The clerk shall deduct the fees from any fine collected and transmit the balance in accordance with the law, and the deduction of the total of such fees each month from the total of all such fines collected is hereby expressly made an appropriation of funds for payment of such fees:

(1) In all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without a trial \$5

(2) In arraignments where the defendant waives a preliminary examination \$10

(3) In all other cases where the defendant stands trial or has a preliminary examination by the court \$15

(4) The court shall have the authority to waive the collection of fees in any particular case.

Subd. 2. Fees payable to the clerk for all other services shall be fixed by court rule.

Subd. 3. Except as provided in subdivision 1, fees are payable to the clerk in advance.

Subd. 4. The clerk shall charge and collect fees in proceedings brought under section 487.14, clause (a) and pay them to the county in the manner and at the times prescribed by the county board but not less often than once each month.

[1971 c 951 s 31; 1973 c 123 art 5 s 7; 1973 c 679 s 30-32]

487.32 ABANDONMENT OF DEPOSITS AND BAIL. Subdivision 1. All sums deposited with the clerk to cover fees shall be deemed abandoned if the fees are not disbursed or the services covered by the fees are not performed and the person entitled to refund thereof does not file a written demand for refund with the clerk within six months from the date of trial, dismissal or striking of the cause as to jury fees and from the date of deposit as to other fees.

Subd. 2. Any bail not forfeited by court order shall be deemed abandoned and forfeited if the person entitled to refund does not file a written demand for refund with the clerk within six months from the date when he became entitled to the refund.

Subd. 3. A judge of a county court may order any sums forfeited to be reinstated and the county treasurer shall then refund accordingly. The county treasurer shall reimburse the clerk if the clerk refunds the deposit upon a judge's order and obtains a receipt to be used as a voucher.

[1971 c 951 s 32]

487.33 DISPOSITION OF FINES, FEES AND OTHER MONEYS; ACCOUNTS. Subdivision 1. Except as otherwise provided by sections 487.01 to 487.39 the clerk of county court shall pay to the county treasurer all fines, penalties and fees collected by him, all sums forfeited to the court and all other moneys received by him.

Subd. 2. At the beginning of the first day of any month, the amount owing to the county in the hands of the clerk shall not exceed \$5,000.

Subd. 3. Amounts represented by checks issued by the clerk or received by the clerk which have not cleared by the end of the month may be shown on the monthly account as having been paid or received, subject to adjustment on later monthly accounts.

Subd. 4. The clerk may receive checks in payment of fines, penalties, fees or other obligations as conditional payments, and is not held accountable therefor until collection in cash is made and then only to the extent of the net collection after deduction of the necessary expense of collection.

Subd. 5. The clerk shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed for each fine or penalty and the total amount of fines or penalties collected for each such municipality or other subdivision of government. On or before the last day of each month the county treasurer shall pay over to the treasurer of each municipality or subdivision of government within the county all fines or penalties for parking violations for which complaints and warrants have not been issued and one-half of all fines or penalties collected during the previous month for offenses committed within such municipality or subdivision of government imposed for violations of state statute or of an ordinance, charter provision, rule or regulation of a city except as provided in section 299D.03, subdivision 5, or as otherwise provided by law. All other fines and forfeitures and all fees and costs collected by the clerk of court shall be paid to the county treasurer of the county in which the funds were collected who shall dispense the same as provided by law.

Subd. 6. All fines, fees and penalties for parking violations collected prior to August 1, 1975 shall be retained as property of the governmental subdivision in possession on that date, if collected pursuant to agreement with the county or on the basis of a municipal ordinance establishing a parking use or other fee except that the governmental subdivision may not retain any moneys for any parking violations where the county court has taken action or incurred expense.

[1971 c 951 s 33; 1973 c 123 art 5 s 7; 1973 c 679 s 33; 1975 c 137 s 1,2]

487.34 PAYMENT OF WITNESS FEES AND MILEAGE. The payment of fees and mileage to witnesses as ordered by a county court judge in actions or proceedings involving a charged violation of a criminal law or municipal ordinance shall be in accordance with the provisions of section 357.24.

[1971 c 951 s 34; 1974 c 261 s 1]

487.35 JUSTICES OF THE PEACE. Subdivision 1. **Abolished.** On the date Laws 1971, Chapter 951 becomes effective in a county court district the office of justice of the peace is abolished within every municipality in which the county court holds regular sessions or establishes an ordinance and traffic violations bureau. For purposes of this subdivision, the term municipality includes any township, part of which is within the boundaries of an affected municipality.

Subd. 2. **Powers.** All other justices of the peace within a county court district shall be elected or appointed in the manner prescribed by law, except that not more than one justice shall be elected at any such election after the effective date of Laws 1971, Chapter 951. He shall have the power and authority to:

(a) Receive and accept pleas of guilty in cases arising under a municipal ordinance, charter provision, rule or regulation or the traffic laws of this state and to impose sentences of a fine and costs pursuant to a schedule established by the county court or, if he deems a sentence of imprisonment may be desirable or when required by law, he shall refer the case to the county court within the county. If a defendant pleads not guilty, the justice shall transfer the case to the county court within the county to be disposed of in accordance with the provisions of sections 487.01 to 487.39.

(b) Release a defendant with or without bail in accordance with law if he is charged with a misdemeanor and receive and accept pleas of guilty in such cases, provided, however, that the county district court may by rule specify the cases in which a plea of guilty may not be accepted by a justice of the peace. Such cases shall be transferred to the county district court to be disposed of in accordance with sections 487.01 to 487.39. If a defendant pleads not guilty or the justice deems a sentence of imprisonment may be desirable or when otherwise required by law, the case shall be transferred to the county court within the county.

(c) If he is a member of the bar, issue warrants and other criminal process as provided by law provided, however, that no justice of the peace shall conduct preliminary hearings or exercise any judicial power incident to preliminary hearing proceedings on the charge of any violation of any criminal law. The court may regulate by rule the jurisdiction of a justice of the peace to issue any criminal process.

(d) Exercise civil jurisdiction as prescribed by law provided, however, that if the defendant appears in the proceedings the action shall be transferred to the county court or to the conciliation division thereof if established within the county.

(e) Perform the marriage ceremony.

Subd. 3. Reports. A justice of the peace shall report, in writing, monthly or at such other times as the county district court may require, concerning his work as a justice of the peace.

Subd. 4. Local option. The office of justice of the peace may be abolished at any general or special election by the electorate.

Subd. 5. Fines, bail. All fines and bail received by a justice of the peace shall be transmitted to the clerk of court at intervals determined by the clerk of court.

Subd. 6. Removal from office. Persistent violation by a justice of the peace of the provisions of this section are grounds for removal from office of the justice of the peace by the chief judge of the county court, reasonable notice of the charges and an opportunity to be heard being first given.

[1971 c 951 s 35]

487.36 TRANSFER OF RECORDS; TRANSFER OF FUNDS. All judges and justices of the peace and all court clerks of courts abolished by Laws 1973, Chapter 679 shall, by January 1, 1974, or within 60 days after the establishment of a county court, whichever is later, transmit to the clerk of the county court all pleadings, dockets and other records in pending cases in the abolished courts and shall pay over to the clerk of court all moneys in the possession of the judges, justices of the peace and clerks payable to the state or any subdivision with proper detail to enable the clerk of the county court to account to the proper officials for the moneys.

[1971 c 951 s 36; 1973 c 679 s 34]

487.37 TRANSFER OF ACTIONS. (a) All proceedings within the jurisdiction of a county court which are pending in the district court on the date of the establishment of a county court may be transferred to the county court in the manner provided by this section.

(b) A case within the jurisdiction of the county court commenced in the district court may be transferred to the county court for trial or other proceedings upon the motion of any party or upon the motion of the district court.

(c) A mandate of an appellate court issued on or after the date of the establishment of a county court in respect of a case within the jurisdiction of the county court determined by the district court within the county shall be issued to that district court. Thereafter, the case may be transferred to the county court of the county in which the action arose, and all files, records and funds relating thereto shall be transferred to the clerk of court.

(d) A mandate of an appellate court issued on or after the date of the establishment of a county court in respect of a case determined by a municipal court abolished shall be issued to the county court of the county within which the action arose and all files, records and funds relating thereto shall be transferred to the clerk of court.

[1971 c 951 s 37; 1973 c 679 s 35]

487.38 JUDGES' MEETINGS. The county court judges in meeting assembled shall have the powers conferred by section 525.06, upon judges of the probate courts, the powers conferred by section 488.18, upon judges of the municipal courts of the state, and the powers conferred upon judges acting as juvenile court judges by section 260.103.

[1971 c 951 s 38]

487.39 APPEALS. Subdivision 1. An aggrieved party may appeal to a district court judge from a determination of a county court. The provisions of this section govern all appeals from the county court; appeal provisions of all other statutes are

inapplicable except as stated in subdivision 3.

(a) Except as provided in clause (b), the appeal in a civil case shall be taken by filing written notice thereof with the clerk of court of the county in which the action was heard not more than 30 days after written notice of the court's determination has been served upon the aggrieved party or his attorney, or in any event within three months after the determination in a civil case.

(b) In the appeal of petty misdemeanor, ordinance or criminal cases the written notice of appeal shall be filed with the clerk of court of the county in which the action was heard within ten days of the conviction or other determination, and sentencing thereon, appealed from.

(c) A written notice of appeal shall be served by the appellant upon all parties to the original proceedings or their attorneys not more than five days after filing a written notice of appeal and proof of such service shall be filed with the clerk of county court in the county in which the action was heard not more than three days after the service of such notice on the opposite party or his attorney. The appeal shall be heard and determined by a district court judge.

Subd. 2. The appeal shall be confined to the typewritten record. By stipulation of all parties, the record may be shortened. The district court judge shall, upon request, hear oral argument and receive written briefs. The district court judge may affirm, reverse or modify the judgment or order appealed from, or take any other action as the interests of justice may require. On appeal from an order, the district court judge may review any order affecting the order from which the appeal is taken and an appeal from a judgment may review any order involving the merits or affecting the judgment. The supreme court shall formulate rules of appellate procedure applicable to a district court judge hearing appeals from a county court. Until otherwise provided, the rules of appellate procedure applicable to appeals to the supreme court shall apply to a district court judge hearing appeals from a county court, except as provided in this section. An appeal may be taken from the determination of a district court judge to the supreme court with leave of the supreme court.

Subd. 3. Notwithstanding the provisions of subdivisions 1 and 2, an appeal from a determination of the county court in a case in which the presiding judge or judicial officer was not learned in the law shall be to the district court under the provisions of law now governing appeals from probate court and the case shall be heard de novo.

[1971 c 951 s 39; 1973 c 679 s 36]

487.40 CHANGE OF VENUE; AFFIDAVIT OF PREJUDICE. Subdivision 1. **Interest or bias of judge.** No judge shall sit in any cause, except to hear a motion to change the venue, if he be interested in its determination, or if he might be excluded for bias from acting therein as a juror. If he be the only judge of the court or district, he shall grant a change of venue when, upon a motion therefor, his interest or bias shall be made to appear, unless before the motion is heard the governor shall have assigned another judge to try such cause. This sole judge may order the venue changed upon his own motion when he deems it improper to sit in the cause.

Subd. 1a. **Application.** The provisions of sections 542.01 to 542.12 and 542.17 shall apply to actions in the county court.

Subd. 2. **Affidavit of prejudice.** Any party or his attorney, to a cause pending in a court, on or before ten days prior to the first day of a general, or five days prior to a special, term thereof, or, in any district having two or more judges, within one day after it is ascertained which judge is to preside at the trial or hearing thereof, or at the hearing of any motion, order to show cause, or argument on demurrer, may make and file with the clerk of the court in which the action is pending and serve on the opposite party an affidavit stating that, on account of prejudice or bias on the part of such judge, he has good reason to believe, and does believe, that he cannot have a fair trial or hearing thereof, and thereupon such judge shall forthwith, without any further act or proof, secure some other judge of the same or another district to preside at the trial of such cause or the hearing of the motion, demurrer, or order to show cause, and shall continue the cause on the calendar, until such judge can be present. In criminal actions such affidavit shall be made and filed with such clerk by the defendant, or his attorney, not less than two days before the expiration of the time allowed him by law to prepare for trial and in any of such cases such presiding judge shall be incapa-

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citated to try such cause. In criminal cases, such judge for the purpose of securing a speedy trial, may in his discretion change the place of trial to another county.

[1971 c 951 s 40; 1973 c 679 s 37]

487.41 ASSIGNMENT OF JUDGES. The chief justice may temporarily assign for good cause a judge of a county court to another county court district or to a municipal court in a county having a city of the first class. The county court judge so assigned shall be reimbursed by the county court district or the governmental subdivision responsible for the expenses of the municipal court for his reasonable expenses in the amount and in the manner otherwise provided for by law. The county court district shall also be reimbursed by the county court district to which he is temporarily assigned at the rate of \$100 per day for each day the judge is on temporary assignment.

Each county court judge temporarily assigned shall furnish the chief justice with such reports as he may require concerning the temporary assignment.

[1973 c 596 s 3]