

## 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. Hearings may be had at such times and places in the county as the court may deem advisable. The county courts of the state shall be in continuous session and shall be deemed open at all times, except on legal holidays and Sundays.

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 combined probate and county court districts are established: Kittson, Roseau and Lake of the Woods; Marshall, Red Lake and Pennington; Norman and Mahnomem; Cass and Hubbard; Wadena and Todd; Mille Lacs and Kanabec; Big Stone and Traverse; Grant and Douglas; Lincoln and Lyon; Rock and Nobles; Dodge and Olmsted; Lake and Cook; Pine, Isanti and Chisago; Sherburne, Benton and Stearns. Notwithstanding the provisions of this paragraph the separation of combined county court districts by concurrent action of county boards before April 23, 1977, shall continue to be in effect unless the districts are combined pursuant to subdivision 6.

A combined county court district may be separated into single county courts by the supreme court. 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; except the towns of Toivola, Cedar Valley, Kelsey, and Cotton, 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 including the towns of McDavitt, Toivola, and Cedar Valley; 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, and the towns of Kelsey and Cotton, and excluding the town of McDavitt.

(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 following districts shall each elect three judges:

Olmsted and Dodge counties,

Washington county,

Blue Earth county,

Pine, Isanti and Chisago counties;

(4) The following districts shall each elect two county court judges:

Clay county,

Carver county,

Cass and Hubbard counties,

Crow Wing county,

Douglas and Grant counties,

Freeborn county,

Marshall county,

Red Lake and Pennington counties,

Mower county,

Otter Tail county,

Rice county,

Scott county,

Winona county,

Wright county,

Kandiyohi county.

(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; provided that no new judge positions authorized pursuant to this section may be created without specific statutory authorization. Notwithstanding the other provisions of this subdivision, county judge positions created by county board action prior to April 23, 1977, shall be continued unless terminated pursuant to subdivision 6.

Subd. 6. For the more effective administration of justice, the supreme court may combine two or more county court districts into a single county court district. 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 sections 490.121 to 490.132. If the office of a judge who has not qualified for retirement compensation is terminated he shall upon attaining age 62 or more, be entitled to an annuity or proportionate annuity as computed under the provisions of sections 490.121 to 490.132 based upon his years of service as a judge. A judge whose office is terminated shall continue to receive the insurance coverage provided for a judge of the office but shall pay the premiums himself.

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 the term of the judge.

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.

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 222 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 222 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.

**History:** 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; 1977 c 35 s 14; 1977 c 204 s 1; 1977 c 432 s 20-23; 1979 c 41 s 2; 1981 c 224 s 215,216 (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 state in the amount prescribed by section 15A.083. Expenses shall be paid by the state in the same manner and amount as provided for judges of the district court in section 484.54.

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.

**History:** 1971 c 951 s 2; 1975 c 381 s 22; 1977 c 35 s 15; 1977 c 432 s 24

**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 individual 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 204B.06, subdivision 6, 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"

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printed after his name on the ballot pursuant to section 204B.36, subdivision 5, shall retain this right.

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

Subd. 4. [Repealed, 1977 c 432 s 49]

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.

Subd. 6. **Judge positions; creation; abolition.** Upon the occurrence of the first vacancy in the office of county court judge in each of the counties of Carver and Scott, the vacant judgeship is abolished. When each judgeship is abolished, an additional office of judge of district court is created in the first judicial district. The governor shall appoint a qualified person to fill each office until a 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 the appointment.

**History:** 1971 c 951 s 3; 1973 c 679 s 2-4; 1974 c 406 s 50; 1976 c 239 s 119; 1981 c 29 art 7 s 36; 1982 c 398 s 4

**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. Provided that, a lay judge may be assigned to hear marriage dissolution actions in which the custody of children is not at issue.

**History:** 1971 c 951 s 4; 1982 c 608 s 1

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

**487.05** MS 1976 [Repealed, 1977 c 35 s 21; 1977 c 432 s 49]

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

**487.06** MS 1980 [Repealed, 1981 c 224 s 276]

**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.

**History:** 1971 c 951 s 7

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

## **487.08 JUDICIAL OFFICERS; OFFICE ABOLISHED.**

Subdivision 1. The office of judicial officer is abolished.

Subd. 2. **Exception.** Persons holding the office of judicial officer full time or part time on January 1, 1981, in St. Louis county, Steele county and Carlton

county may continue to serve at the pleasure of the chief judge of the district under the terms and conditions of their appointment. The chief judge of the district may fill vacancies arising in the office of judicial officer, which office was in existence on January 1, 1981.

Subd. 3. The persons holding the office of judicial officer in Nobles and Rock, Brown, Nicollet, Morrison, Goodhue and Wabasha, Scott, and Polk counties on January 1, 1978, may continue to serve at the pleasure of the chief judge of the district under the terms and conditions of their appointments.

Subd. 4. [Repealed, 1Sp1981 c 4 art 3 s 8]

Subd. 5. All judicial officers are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3. They shall be learned in the law, and shall hear and try matters as assigned to them by the chief judge. Their salary shall be fixed by the chief judge, with the approval of the county board or boards of the counties in which they hold office, and shall be paid by the county or counties.

**History:** 1971 c 951 s 8; 1973 c 679 s 5; 1977 c 432 s 25; 1978 c 750 s 3; 1Sp1981 c 4 art 3 s 5,6; 1982 c 608 s 2

**487.09** [Repealed, 1Sp1981 c 4 art 3 s 8]

#### **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. [Repealed, 1977 c 432 s 49]

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.

**History:** 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 salary of a reporter shall be set in accordance with the procedure provided by sections 486.05 and 486.06.

**History:** 1971 c 951 s 11; 1981 c 133 s 2

#### **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.

**History:** 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.

**History:** 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.

**History:** 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 \$15,000, exclusive of interest and costs, except for causes involving title to real estate.

**History:** 1971 c 951 s 15; 1982 c 398 s 5

**487.16 MINOR CIVIL AND CRIMINAL JURISDICTION.**

The county court shall also have jurisdiction in all civil and criminal cases residing, on the effective date of Laws 1971, Chapter 951 and Laws 1973, Chapter 679, in municipal courts other than municipal courts in Hennepin and Ramsey Counties. The county court shall have gross misdemeanor jurisdiction.

**History:** 1971 c 951 s 16; 1973 c 679 s 11; 1979 c 41 s 3; 1982 c 398 s 6

**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 566.175, 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.

**History:** 1971 c 951 s 17; 1973 c 611 s 1; 1975 c 410 s 6; 1979 c 56 s 7

**487.18 CRIMINAL JURISDICTION.**

(a) The county court has jurisdiction to hear, try and determine any charge of violation of a criminal law of this state constituting a misdemeanor or gross misdemeanor committed within the county court district and of 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.

**History:** 1971 c 951 s 18; 1973 c 679 s 12; 1982 c 398 s 7

**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 legal separation, 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;

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

(f) Proceedings for the determination of paternity of and establishment and enforcement of child support payments for an illegitimate child.

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.

**History:** 1971 c 951 s 19; 1973 c 679 s 13; 1977 c 282 s 12; 1978 c 772 s 62

#### **487.191 MERGER WITH DISTRICT COURTS.**

One year following certification to the secretary of state of intention to reorganize the trial courts by a majority of the district judges and a majority of the county or county municipal judges of a judicial district, there shall be one general trial court of the judicial district to be known as the district court, which shall also be a probate court.

Upon the effective date of a judicial district reorganization, the district court, except in the second and fourth districts, shall also exercise the powers, duties, and jurisdiction conferred upon courts by chapters 260, 484, 487, 491, 492, 493, and 525.

Upon the effective date of a judicial district reorganization of the second or fourth districts, the district court shall also exercise the powers conferred upon courts by chapters 488A, 492, and 493.

Notwithstanding any other law, the county or county municipal judges of the district in office on the effective date of a reorganization shall be district judges and shall continue in office for the balance of the term for which they were elected or appointed and shall be entitled to run for reelection as incumbent judges of the district court.

**History:** 1982 c 398 s 8

#### **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.

**History:** 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.

**History:** 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.

**History:** 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. 1a. **Conciliation court forms.** The supreme court shall prescribe by rule forms for use in all the conciliation courts of the state. The forms prescribed shall be uniform so that forms supplied by one conciliation court may be used in any other conciliation court of the state.

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. Obtaining and filing transcript.** 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. **Control of judgment by district court.** 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. **Outstanding writ of execution.** 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.

**History:** 1971 c 951 s 23; 1973 c 679 s 16-22; 1974 c 542 s 1; 1977 c 175 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.

**History:** 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 but subject to the provisions of section 480.059, pleading, practice, procedure and forms in actions or proceedings charging violation of a criminal law or a municipal ordinance, charter provision or rule are governed by the rules of criminal procedure.

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 or rule. The rules shall be consistent with the rules of criminal procedure, the provisions of sections 487.01 to 487.39 and any other statute of this state.

Subd. 3. [Repealed, 1979 c 233 s 42]

Subd. 4. [Repealed, 1979 c 233 s 42]

Subd. 5. [Repealed, 1979 c 233 s 42]

Subd. 6. **Jury trials; imprisonment.** In any prosecution brought in a county court or a county municipal court in which conviction of the defendant for the

offense charged could result in imprisonment, the defendant has the right to a jury trial.

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. [Repealed, 1979 c 233 s 42]

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.

**History:** 1971 c 951 s 25; 1973 c 679 s 24,25; 1977 c 432 s 26; 1979 c 233 s 5,6

#### 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]

**History:** 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 253B. 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.

**History:** 1971 c 951 s 27; 1973 c 679 s 27; 1974 c 447 s 2; 1975 c 263 s 1; 1982 c 581 s 24

#### 487.28 MISDEMEANOR VIOLATIONS BUREAU.

Subdivision 1. **Establishment.** The county court may establish, consistent with Rule 23 of the rules of criminal procedure, misdemeanor violation bureaus at the places it determines.

Subd. 2. **Supervision.** The judge shall supervise and the clerk shall operate the misdemeanor violations bureaus in accordance with Rule 23 of the rules of criminal procedure. The clerk shall assign one or more deputy clerks to discharge and perform the duties of the bureaus.

**History:** 1971 c 951 s 28; 1979 c 233 s 14

#### 487.29 MISDEMEANOR OFFENSES.

A person who receives a misdemeanor citation 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 misdemeanor citation shall be signed by the person charged.

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

**History:** 1971 c 951 s 29; 1973 c 679 s 28; 1979 c 233 s 15

**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 \$1,250 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. 1a. A complaint or counterclaim in the uniform form prescribed by the supreme court pursuant to section 487.23 shall be accepted by any conciliation court clerk and shall be forwarded together with the entire filing fee, if any, to the clerk of the appropriate conciliation court.

Every conciliation court shall accept a uniform complaint or counterclaim which has been properly completed and which has been properly forwarded to the court by another conciliation court.

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.

Subd. 3. Notwithstanding the provisions of subdivision 1 or any rule of court to the contrary, the conciliation court of the county has jurisdiction to determine an action brought pursuant to section 504.20 for the recovery of a deposit on rental property located in the county, and the summons in the action may be served anywhere within the state of Minnesota.

Subd. 4. **Jurisdiction; worthless checks.** The conciliation court has jurisdiction to determine a civil action commenced by a plaintiff, resident of the county, to recover the amount of a worthless check issued in the county within the meaning of section 609.535, notwithstanding that the defendant or defendants are not residents of the county provided that the notice of nonpayment or dishonor required by section 609.535, subdivision 3, is sent to the maker or drawer as specified therein and the notice states that the payee or holder of the check or other order of payment of money may commence a conciliation court action in the county where the worthless check was issued to recover the amount of the check. This subdivision does not apply to a check or other order for payment of money that has been dishonored by a stop payment order. Notwithstanding any law or rule of civil procedure to the contrary, the summons in any action commenced under this subdivision may be served anywhere within the state of Minnesota. The conciliation court clerk shall attach a copy of the dishonored check or other order for payment of money to the summons before it is issued.

**History:** 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; 1977 c 129 s 1; 1977 c 175 s 2; 1982 c 398 s 9; 1982 c 542 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.

**History:** 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.

**History:** 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.

**History:** 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.

**History:** 1971 c 951 s 34; 1974 c 261 s 1

#### **487.35 JUSTICES OF THE PEACE; ABOLISHED.**

Subdivision 1. The office of justice of the peace is abolished.

Subd. 2. [Repealed, 1977 c 432 s 49]

Subd. 3. [Repealed, 1977 c 432 s 49]

Subd. 4. [Repealed, 1977 c 432 s 49]

Subd. 5. [Repealed, 1977 c 432 s 49]

Subd. 6. [Repealed, 1977 c 432 s 49]

**History:** 1971 c 951 s 35; 1977 c 432 s 27

#### **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.

**History:** 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.

**History:** 1971 c 951 s 37; 1973 c 679 s 35

#### **487.38 JUDGES' MEETINGS.**

The county court judges in meeting assembled may formulate and revise the general rules of practice in county courts as they deem expedient, conformable to law, and not inconsistent with the county court act or the rules for county courts promulgated by the supreme court. Any other proper business pertaining to county courts may also be transacted. The actual and necessary expenses incurred by attending judges shall be paid as provided in section 487.02. The judges shall also have the powers conferred by section 525.06, upon judges of the probate courts, and the powers conferred upon judges acting as juvenile court judges by section 260.103.

**History:** 1971 c 951 s 38; 1979 c 41 s 4

#### **487.39 APPEALS.**

Subdivision 1. An aggrieved party may appeal to the district court from a determination of a county court or a county municipal court. The provisions of this section govern all appeals from the county court and the county municipal court; appeal provisions of all other statutes are inapplicable except as stated in section 484.63.

(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 the party's attorney. Written notice of the court's determination shall be served by the clerk of court upon the aggrieved party or the party's attorney within 45 days 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 service shall be filed with the clerk of county court or county municipal court in the county in which the action was heard not more than three days after the service of notice on the opposite party or the party's attorney. The appeal shall be heard and determined by a district court appellate panel pursuant to section 484.63.

Subd. 2. The appeal shall be confined to the typewritten record. By stipulation of all parties, the record may be shortened. The district court shall, upon request, hear oral argument and receive written briefs. The district court 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 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 panel hearing appeals from a county court or county municipal court. Until otherwise provided, the rules of appellate procedure applicable to appeals to the supreme court shall apply to the district court hearing appeals from a county court or a county municipal court, except as provided in this section. An appeal may be taken from the determination of a district court to the supreme court with leave of the supreme court.

Subd. 3. [Repealed, 1977 c 432 s 49]

**History:** 1971 c 951 s 39; 1973 c 679 s 36; 1977 c 432 s 28; 1982 c 641 art 1 s

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**NOTE:** Subdivisions 1 and 2 were amended by Laws 1982, Chapter 501, Sections 18 and 19 effective August 1, 1983 if the constitutional amendment proposed in Laws 1982, Chapter 501, Section 1 is adopted. The subdivisions, as amended, would read as follows:

"Subdivision 1. An aggrieved party may appeal to the court of appeals from a determination of a county court or a county municipal court. The provisions of this section govern all appeals from the county court and the county municipal court; appeal provisions of all other statutes are inapplicable except as stated in section 484.63.

(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 or county municipal 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."

"Subd. 2. The appeal shall be confined to the record. By stipulation of all parties, the record may be shortened. The court of appeals 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 court of appeals 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."

#### 487.40 NOTICE TO REMOVE.

Subdivision 1. **Interest or bias of judge.** No judge shall sit in any cause if he be interested in its determination, or if he might be excluded for bias from acting therein.

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. **Initial and subsequent disqualification.** (a) Any party or his attorney, to a cause pending in a court, 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 or order to show cause, may make and file with the clerk of the court in which the

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action is pending and serve on the opposite party a notice to remove. Thereupon, without any further act or proof, the chief judge of the judicial district shall assign any other judge of any court within the district to preside at the trial of the cause or the hearing of the motion or order to show cause, and the cause shall be continued on the calendar, until the assigned judge can be present. In criminal actions the notice to remove shall be made and filed with the 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 the cases the presiding judge shall be incapacitated to try the cause. In criminal cases, the chief judge for the purpose of securing a speedy trial, may in his discretion change the place of trial to another county.

(b) After a litigant has once disqualified a presiding judge as a matter of right under this subdivision, he may disqualify the substitute judge, but only by making an affirmative showing of prejudice. A showing that the judge might be excluded for bias from acting as a juror in the matter constitutes an affirmative showing of prejudice. If a litigant makes an affirmative showing of prejudice against a substitute judge, the chief judge of the judicial district shall assign any other judge of any court within the district to hear the cause.

**History:** 1971 c 951 s 40; 1973 c 679 s 37; 1978 c 647 s 1; 1979 c 233 s 16,17

**487.41** [Repealed, 1977 c 432 s 49]