

CHAPTER 771—H. F. No. 1355

An act relating to the municipal court of the city of Duluth, amending Minnesota Statutes 1961, Sections 488A.36, Subdivision 3; 488A.42, Subdivisions 1 and 3; 488A.61, Subdivision 3; 488A.69, Subdivisions 1, 2, 5, and 6; 488A.78; and 488A.79, Subdivision 1, as amended.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1961, Section 488A.36, Subdivision 3, is amended to read:

Subd. 3. **Duluth municipal court; special judge.** There shall also be a special judge of said municipal court, having the same powers and qualifications as said other judges, and whose term of office and election thereto, and the filling of any vacancy, shall be the same as those of said other judges. The special judge is empowered to hold court only when directed to do so because of the press of business of said court, or because of the sickness or inability to serve of one of the judges. In case the special judge shall hold court, he shall receive compensation for such service at the rate of \$35 \$50 per day. The special judge may practice in the municipal court and act as attorney in any case tried therein except one in which he sits, or is expected to sit, as presiding judge.

Sec. 2. Minnesota Statutes 1961, Section 488A.42, Subdivision 1, is amended to read:

Subdivision 1. **Appointment.** The judges of said court or a majority of them may employ and appoint one reporter to make in shorthand writing a true record or report of the proceedings and evidence taken upon the trials of issues of fact in said court and of all examinations held therein, and, when required by the court or either of the parties to such trial or examination, to transcribe such record and report into longhand. And when, by reason of pressure of business the services of one or more reporters are required in addition to the reporter regularly appointed as hereinbefore provided, the clerk of said court shall, by direction of the court, procure some competent person or persons to serve as such additional reporter or reporters, and such additional reporter or reporters shall each receive as compensation therefor the sum of \$15 \$20 for each half day or fraction thereof, or \$25 \$30 for a full day, so serving.

Sec. 3. Minnesota Statutes 1961, Section 488A.42, Subdivision 3, is amended to read:

Subd. 3. **Transcripts.** The official or additional reporters

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

of said court shall, upon the written request of either of the parties to an action, proceeding or examination, transcribe his record into ordinary writing or print, and the party requesting such transcription shall pay to said reporter or additional reporter 20 cents per folio of one hundred words for each folio, and five cents per folio of one hundred words for each copy thereof *the same transcript rates as paid to reporters operating in the district courts of this state.*

Sec. 4. Minnesota Statutes 1961, Section 488A.61, Subdivision 3, is amended to read:

Subd. 3. The party appealing to the district court shall pay:

(a) \$1 \$2 to the clerk of the municipal court at the time of the filing of the notice of appeals as a fee of said clerk for preparing and certifying the return to the district court.

(b) \$1 to the clerk of the district court as a fee of said clerk for receiving and docketing such appeal.

The clerk of the district court shall also receive a fee of \$1 for the remittitur and for certifying and returning the record and proceedings on appeal to the clerk of the municipal court to be paid by the party obtaining the same. Such fees shall cover all charges of the respective clerks in connection with and subsequent to taking such appeal, except as otherwise herein provided, and when paid by the prevailing party may be taxed by him as disbursements.

Sec. 5. Minnesota Statutes 1961, Section 488A.69, Subdivision 1, is amended to read:

Subdivision 1. Receiver, appointment; when allowed. The said conciliation court shall have jurisdiction upon the petition of any debtor residing within the territorial jurisdiction of said court to appoint the probation officer *or clerk* of the municipal court of the city of Duluth as personal receiver to receive the personal earnings and income of the debtor and distribute the same to the petitioner and to his creditors in such proportion as may be determined by the court in accordance with the provisions of this act. Provided, however, that said debtor, at the time of the filing of the petition, shall (1) be in the employ of another person, firm or corporation for wages or salary, or on a commission basis, or any combination of wages, salary or commissions, (2) have debts which he is unable to pay, (3) have no income other than that which arises from his current wages or salary, (4) own no property or assets, except such as are exempt from execution under the laws of this state, and (5) a reasonable probability exists that all indebtedness to his creditors can be liquidated within a period of 18 months.

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Sec. 6. Minnesota Statutes 1961, Section 488A.69, Subdivision 2, is amended to read:

Subd. 2. **Probation officer, clerk, duties; petition.** The said probation officer *or said clerk* shall confer with the debtor to determine whether said debtor meets all requirements of subdivision 1 hereof and if so satisfied he shall assist said debtor in the preparation of his petition to the court. Said petition shall be in such form as may be approved by the court and shall be accompanied by an assignment executed in duplicate by the petitioner and in form satisfactory to the court of all the wages, salary and commissions of the petitioner then earned and unpaid and thereafter to be earned to the said probation officer *or clerk* pending the hearing on said petition, and to his successor, if any, after said hearing. In case the petitioner shall leave his employment and accept new employment with a different employer, he shall immediately notify his personal receiver to that effect and shall execute a new assignment of his wages, salary or commission, as the case may be, in favor of the personal receiver, and shall file the same with the clerk of the conciliation court. The said clerk shall give written notice to the employer named in the assignment of any order of the court appointing a personal receiver. One copy of the assignment shall be filed with the said clerk and the duplicate thereof shall be mailed by the said clerk to the employer of the petitioner. Said petition of the debtor shall be verified by the petitioner and shall disclose his assets, his personal earnings and income; the names, ages and relationship of those dependent upon him for support; the names of those, if any, who are contributing to the support of his family and the amounts received monthly from each; and the names of all of his creditors and the amounts of their respective claims, and whether said claims are disputed or not, and such other information as the court shall require. The petition shall be filed with the said clerk.

Sec. 7. Minnesota Statutes 1961, Section 488A.69, Subdivision 5, is amended to read:

Subd. 5. **Receiver, bond, duties, supplies.** The official bond of the said probation officer *or said clerk of court* shall be conditioned upon the fulfillment of the trust as such personal receiver. Said personal receiver shall make such reports as the court may require and shall be provided with the necessary books, blanks, stationery, postage and other expense for the execution of his duties in the same manner as other expenses incident to the court are provided for.

Sec. 8. Minnesota Statutes 1961, Section 488A.69, Subdivision 6, is amended to read:

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Subd. 6. **Filing fee.** Upon the filing of the petition and assignment executed by the petitioner, the said petitioner shall pay to the clerk of the said conciliation court as a filing fee therefor the sum of \$1 \$2 for each creditor named in the petition.

Sec. 9. Minnesota Statutes 1961, Section 488A.78, is amended to read:

488A.78 Costs; filing transcript of judgment in municipal court. Whenever a transcript of any judgment of the said conciliation court is filed in the municipal court proper, as hereinbefore provided, costs in favor of the judgment creditor shall be, without notice to the judgment debtor, taxed and allowed by the clerk of said municipal court and inserted in said judgment by said clerk, as follows:

1. When the amount of the judgment of the said conciliation court, exclusive of disbursements, does not exceed \$25, the sum of \$2.50.

2. When the amount of the judgment of the said conciliation court, exclusive of disbursements, exceeds \$25, the sum of \$5.

Upon filing any transcript of any judgment of the said conciliation court with the municipal court, the party filing the same shall pay to the clerk thereof the sum of fifty cents \$1 as a filing fee therefor, which fee shall be for the use and benefit of the said city of Duluth. Said transcript fee shall be taxed and allowed by said clerk and inserted in said judgment.

Sec. 10. Minnesota Statutes 1961, Section 488A.79, as amended by Laws 1963, Chapter 366, Section 1, Subdivision 1, is amended to read:

488A.79 Duluth conciliation court; appeals; procedure. Subdivision 1. Any party aggrieved by the judgment rendered by the conciliation judge after a contested hearing at which he has appeared and submitted evidence may have his cause removed to the municipal court for trial de novo, but no cause shall be so removed unless within ten days after such judgment is rendered, and after the clerk shall have delivered or mailed notice of the entry of judgment to each of the parties thereto, which notice shall be delivered or mailed immediately and shall specify the day on which the time for removal of said cause shall expire; the party so removing same shall do the following things, to wit:

(a) Serve upon the opposite party or his attorney a written demand for trial of the cause in the municipal court, said demand to be served in the same manner now provided by law for the

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service of a summons in the municipal court and file with the clerk of the conciliation court such original demand with proof of service thereof. If the opposing party or his attorney cannot be found and service of the demand be made within the ten day period the aggrieved party may file with the clerk within the ten day period the original and a copy of the demand, together with an affidavit by himself or his attorney showing that due and diligent search has been made and that the opposing party or his attorney cannot be found and the filing of this affidavit shall serve in lieu of making service and filing proof of service. When such an affidavit is filed, the clerk shall mail the copy of the demand to the opposing party at his last known residence address. Such original demand or proof of service shall show the office address of the attorney for each party that has such attorney, and the addresses of all parties to the action.

- (b) Pay to the clerk of the conciliation court \$2 \$3.
- (c) File with the clerk of conciliation court an affidavit by the aggrieved party or his attorney stating that the removal is made in good faith and not for the purpose of delay.

Approved May 25, 1965.

CHAPTER 772—H. F. No. 1443

An act abolishing dower and courtesy and statutory interest in lieu of dower and courtesy in all lands conveyed prior to January 1, 1950, and limiting the time for the commencement of actions for the recovery of estates in dower or by the courtesy or estates in lieu of dower or by the courtesy, and limiting the time for the commencement of actions by any person claiming by reason of failure of a spouse to join in a conveyance of land which constituted the homestead of the grantor at the time of the conveyance where such conveyance was made prior to January 1, 1950; amending Minnesota Statutes 1961, Sections 519.09, and 519.101.

Be it enacted by the Legislature of the State of Minnesota:

Section 1, Minnesota Statutes 1961, Section 519.09, is amended to read:

519.09 Conveyances; dower and courtesy abolished. All inchoate estates or statutory interests in lieu of dower and courtesy in all lands in this state which have been conveyed prior to January 1,

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