

whatsoever nature, except used passenger motor vehicles and trucks owned by the state, and except an article, material, product, or merchandise the sale or distribution of which is, or may hereafter be, specifically authorized by law or ordinance. Used passenger motor vehicles and trucks owned by the state and not needed for public purposes may be sold to an employee of the state at public auction or by sealed bid, providing the employee is the highest responsible bidder. A state employee may buy only one such vehicle or truck in any 12 month period. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor. Each act prohibited by this section shall constitute a separate violation and offense thereunder.

Sec. 9. **REPEALER.** Minnesota Statutes 1969, Section 16.07, Subdivision 3, is repealed.

Approved June 4, 1971.

CHAPTER 837—H.F.No.1542

[Not Coded]

An act relating to courts in Dakota county except the district and probate courts; creating a municipal court and a conciliation court of Dakota county.

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

Section 1. DAKOTA COUNTY MUNICIPAL AND CONCILIATION COURT; ESTABLISHMENT; JURISDICTION; POWERS; APPEALS. Subdivision 1. **ESTABLISHMENT.** There is hereby created a municipal court of Dakota county with the jurisdiction and powers hereinafter stated.

Subd. 2. **COURT OF RECORD.** The court is a court of record with a clerk and a seal.

Subd. 3. **POWERS OF COURT.** Except as otherwise provided in this act, the court has all the powers of the district courts of this state. It may issue all civil and criminal process necessary or proper to enforce and effectuate its jurisdiction and determinations.

Subd. 4. **CIVIL JURISDICTION.** Excepting causes involving title to real estate, the court has jurisdiction to hear, try and determine civil actions at law in which the amount in controversy does not exceed the sum of \$6,000 exclusive of interest and costs.

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The district court of Dakota county may by rule provide for the transfer of cases which are within the jurisdiction of the Dakota county municipal court, to that court for trial.

Subd. 5. FORCIBLE ENTRY AND UNLAWFUL DETAINER. Whether or not the title to real estate is involved, the court has jurisdiction of actions of forcible entry and unlawful detainer involving land located wholly or in part within Dakota county.

Subd. 6. CRIMINAL JURISDICTION. (a) The 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 of Dakota.

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

(3) Any ordinance, charter provision, rule or regulation of the Minneapolis-St. Paul metropolitan airports commission.

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

(c) Jurisdiction under subparagraphs (1) and (2) of paragraph (a) and under paragraph (b) of this subdivision is exclusive for any violation committed in the county of Dakota.

Subd. 7. EXCEPTIONS TO JURISDICTION. The court does not have jurisdiction: (a) Of any action where the relief asked for in the complaint is purely equitable in its nature;

(b) Of any action for divorce;

(c) To issue a writ of habeas corpus, quo warranto, ne exeat, mandamus, prohibition or injunction; nor

(d) To issue any order in proceedings supplementary to execution.

Subd. 8. TERRITORIAL JURISDICTION. The summons in civil and forcible entry and unlawful detainer actions may be served only within the county of Dakota except that such summons may be served in Ramsey county on state officials for nonresident individuals and corporations under statutes providing for such service. Garnishment summons, subpoenas and all other civil and criminal process and orders may be served and enforced anywhere within the state of Minnesota.

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Subd. 9. **PLACE OF HOLDING COURT.** The board of county commissioners of the county of Dakota shall provide suitable quarters for the holding of regular terms of court at such places in the county as may be designated by a majority of the judges of the court with the approval of the board of county commissioners of the county of Dakota. At the places of holding regular terms of court established by or pursuant to this subdivision, all functions of the court may be discharged, including both court and jury trials of civil and criminal matters.

Subd. 10. **TERMS.** The court shall be open every day, except Sundays and legal holidays. The court shall hold a general term for the trial of civil actions commencing on the first Monday following labor day of each year and continuing until the next general term, with such adjournments as the judges may determine to be necessary and proper.

Subd. 11. **REMOVAL OF CAUSES TO SUPREME COURT.** All causes, civil and criminal, shall be removed from the municipal court to the supreme court of the state of Minnesota in the same manner, upon like proceedings and with like effect as from district courts.

Subd. 12. **TRIAL OF CIVIL ACTIONS.** All civil actions brought in the municipal court of Dakota county shall be tried in the municipality designated by rule of the court.

Subd. 13. **TRIAL OF CRIMINAL ACTIONS.** All charges of traffic and ordinance violations shall be arraigned and tried in the municipality where the alleged violation occurred subject to provisions of section 1, subdivision 9. If there is no designated place of holding court as provided in section 1, subdivision 9, in such municipality, the alleged violation shall be tried in the municipality designated by rule of the court.

Sec. 2. **JUDGES.** Subdivision 1. **NUMBER OF JUDGES.** There are four judges of the municipal court of the county of Dakota.

Subd. 2. **QUALIFICATIONS AND OATH.** Each judge shall be a person learned in the law who is admitted and qualified to practice in the supreme court of this state and is a resident of the county of Dakota in this state. Before entering upon the duties of office, each judge shall take and subscribe on oath, in the form prescribed by law for judicial officers, and shall file that oath in the office of the county auditor.

Subd. 3. **TERMS; VACANCIES; APPOINTMENTS AND ELECTION.** (a) Each elected judge holds office for six years beginning the first Monday in January next succeeding his election.

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(b) 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.

(c) At the general election immediately preceding the expiration of his term, the qualified voters of the county of Dakota shall elect the successor to any elected or appointed judge.

(d) Each judge holds a separate nonpartisan office.

(e) When one or more judges of the court are to be nominated or elected at an election, the notice of election shall state the name of each judge whose successor is to be nominated or elected. The official ballot shall contain the names of all candidates for each such office, state the number of judges to be elected and the number of candidates from whom an elector may vote, and designate each candidacy as "for the office of judge of the municipal court of the county of Dakota to which(name of judge) was elected for the regular term", or: "for the office of judge of the municipal court of the county of Dakota to which (name of judge) was appointed", as the case may be. The official ballots shall show in each space the name of the judge whose successor is to be elected. When any judge is a candidate to succeed himself, the word "incumbent" shall be printed after his name where it appears among the names of the candidates for the office. When voting machines are used and such statements cannot be inserted in full, the designation shall be "successor to..... (name of judge) (elected)" or "successor to..... (name of judge) (appointed)", as the case may be.

(f) Each person desiring to have his name placed upon the primary ballot as a candidate for judge shall state in his affidavit of candidacy the office of the particular judge for which he is a candidate. The filing of this affidavit with the county auditor and a compliance with all other requirements constitutes such person a candidate for that office, and for that office only. No person shall at any election be a candidate for more than one such office.

Subd. 4. **POWERS.** The judges have the general powers of judges of courts of record and all powers necessary to effectuate the purposes of this act. Each judge may administer oaths and take and certify acknowledgements. Each judge is a conservator of the peace and has all powers and authority vested in justices of the peace or magistrates.

Subd. 5. **CONTEMPT OF COURT.** Any judge has the power to punish for contempt of court by a fine not exceeding \$100 or by imprisonment in the county jail not exceeding 90 days.

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Subd. 6. **COURT RULES.** A majority of the judges may promulgate rules of court consistent with this act. Unless the rule forbids, a judge may waive its application.

Subd. 7. **SALARIES.** Each judge shall be paid an annual salary of \$22,500 in semimonthly installments out of the treasury of the county of Dakota. 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.

Subd. 8. **PRACTICE OF LAW.** A judge shall not practice as an attorney or counselor at law, nor shall he be a partner of any practicing attorney in the business of his profession.

Sec. 3. **CLERKS, DEPUTIES.** Subdivision 1. **APPOINTMENT, TERM, REMOVAL, SUSPENSION.** A majority of the judges shall appoint the clerk of the court for a term of six years from the date of appointment. At any time within six months from the date of his initial appointment the clerk may be removed and his appointment terminated, with or without cause and without prior notice or hearing. At any time the clerk may be suspended without pay for a period not exceeding 30 days with or without cause, after hearing before a majority of the judges. Except as otherwise provided herein, the clerk, during his term, may be removed and his appointment terminated only for cause after notice and a hearing before a majority of the judges. Any termination, removal or suspension provided for in this subdivision shall be made by a majority of the judges.

Subd. 2. **OATH, BOND.** (a) The clerk shall take and subscribe an oath to support the Constitution of the United States and the state of Minnesota and to perform faithfully the duties of his office.

(b) The clerk shall execute to the county of Dakota a penal bond in such sum and with such surety as the county board directs, conditioned that:

(1) He will account to and pay over to the county treasurer as required by law all money belonging to or to be paid to the county.

(2) He will pay over to all persons on demand all money to which they are entitled which comes into his hands as clerk.

(3) At the expiration of his tenure in office he will forthwith pay to such county all money to which it is entitled and to his successor in office all other money then remaining in his hands which came into his hands as clerk.

(c) The clerk may not enter upon his official duties until his appointment, oath and bond are filed with the county auditor.

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Subd. 3. **DEPUTY CLERKS.** (a) The court has one chief deputy clerk and such number of deputy clerks and stenographers as the clerk, with the approval of a majority of the judges, deems necessary from time to time, but no new or additional positions may be created without the consent of the county board.

(b) With the approval of a majority of the judges the clerk shall appoint deputy clerks and stenographers.

(c) Each appointment shall be made under the hand of the clerk and seal of the court and the approval of a majority of the judges shall be endorsed thereon.

(d) Each deputy shall take and subscribe an oath similar to that prescribed for the clerk and shall execute a bond to the county of Dakota for the faithful performance of his duties in such amount and with such terms, conditions, and surety as the county board directs. No deputy may enter upon his office and duties before his appointment, oath and bond are filed with the county auditor.

(e) The appointments of the deputy clerks shall be for terms of six years from their respective dates of appointment and shall not expire or be suspended by reason of the suspension, removal, termination of appointment, death, or other incapacity of the clerk. At any time within six months from the date of his initial appointment, a deputy clerk may be removed and his appointment terminated, with or without cause and without prior notice of hearing. At any time a deputy clerk may be suspended without pay for a period not exceeding 30 days, with or without cause, after hearing before a majority of the judges. Except as otherwise provided herein, a deputy clerk, during his term, may be removed and his appointment terminated only for cause after notice and a hearing before a majority of the judges. Any termination, removal, or suspension provided for in this subdivision shall be made by a majority of the judges.

(f) The clerk shall delegate, supervise and expedite the work and accounting of the deputy clerks. He is not personally responsible for their acts beyond his responsibility for proper delegation and supervision.

(g) Each deputy may administer oaths and affirmations, and take acknowledgments and shall perform the duties and exercise the powers of the clerk which are delegated to him by the clerk or by a majority of the judges in the event of the death or disability of the clerk.

Subd. 4. **POWERS AND DUTIES; SUPERVISION OF JUDGES.** (a) The clerk may administer oaths and affirmations and take acknowledgments. He has all the powers and shall perform all

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of the duties usually incident to the office of a clerk of record or necessary to carry out the purposes of this act.

(b) Under the supervision and approval of a majority of the judges the clerk shall procure at the expense of the county all blanks, stationery, books, furniture, furnishings and supplies necessary for the use of the court and its officers and jurors.

(c) In the performance of all his duties the clerk is subject to the control and supervision of the judges.

Subd. 5. RECORDS, PROCESS AND ACCOUNTS. The clerk shall make minutes, records and indices of all proceedings; enter all orders, judgments and sentences; issue commitments, execution and all other process, keep proper accounts; have the custody and care of all books, files, accounts, exhibits, papers and records of the court, and tax all costs and disbursements.

Subd. 6. DISPOSITION OF FINES, FEES AND OTHER MONEYS; ACCOUNTS. (a) Except as otherwise provided in clause (b) and except as otherwise provided by law, the clerk of the court shall pay to the Dakota county treasurer all fines and penalties collected by him, all fees collected by him for services of himself, all sums forfeited to the court as hereinafter provided, and all other moneys received by the clerk.

(b) The clerk of court 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.

(c) At the beginning of the first day of any month the amount owing to any municipality or county in the hands of the clerk shall not exceed \$500.

(d) 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 in Dakota county all fines or penalties for parking violations and one half of all other fines or penalties collected during the previous month for offenses committed within such municipality or subdivision of government imposed for violation of an ordinance, charter provision, rule or regulation of a city or village. All other fines and forfeitures and all fees and costs collected by the county municipal court shall be paid to the treasurer of Dakota county who shall dispense the same as provided by law.

(e) 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.

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(f) The clerk may receive negotiable instruments 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. 7. PAYMENT OF WITNESS FEES AND MILEAGE. The clerk shall pay such fees and mileage to witnesses as may be ordered by any judge in any action or proceeding involving a charged violation of a criminal law or municipal ordinance. The clerk shall *obtain receipts therefor as vouchers for the sums paid and shall deduct these payments from the amount otherwise due to the county.*

Subd. 8. ABANDONMENT OF DEPOSITS AND BAIL. (a) All sums deposited with the clerk to cover witness fees, jury fees, clerk's fees or the fees of police officers shall be deemed abandoned and forfeited if the witness 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.

(b) Any bail deposited with the clerk and 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. All such forfeited sums shall be paid over by the clerk to the county treasurer promptly.

(c) Any judge may order any sums so forfeited under (a) or (b) to be reinstated for cause and the clerk shall then refund accordingly. The county treasurer shall reimburse the clerk if the clerk refunds the deposit upon such an order and obtains a receipt to be used as a voucher.

Subd. 9. DISPOSITION OF FORFEITED SUMS. All sums collected on any bail, bond or recognizance forfeited by court order shall be paid to the county of Dakota. The receipt of the county treasurer to the clerk shall be a sufficient voucher therefor. Such payments to the county shall be made periodically but not prior to six months from the date of the order for forfeiture. During that six month period, but not thereafter, any judge may set aside the forfeiture order upon proper showing of cause therefor. No obligation to pay to the county sums so ordered forfeited exists unless the forfeiture is not set aside within said six month period.

Subd. 10. ORDER FOR PRISONER RELEASE. When a person is confined to the Dakota county jail and a fine is remitted, a sentence stayed or suspended the person released on parole, or the release of the person secured by payment of the fine in default of

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which he was committed, the prisoner shall not be released except upon order of the court. A written transcript of such order signed by the clerk and under the court's seal shall be furnished to the sheriff.

Subd. 11. FEES PAYABLE TO CLERK. The fees payable to the clerk in civil actions for his services are the same in amount as the fees then payable to the clerk of the district court of Dakota county for like services. The fees payable to the clerk for all other services of himself or the court shall be fixed by rules promulgated by a majority of the judges.

Fees are payable to the clerk in advance.

The following fees shall be taxed in all cases where applicable: (a) The state of Minnesota and any governmental subdivision within the jurisdictional area of any municipal court herein established may present cases for hearing before said municipal court; (b) 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, village or town in Dakota county, all fines, penalties and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted a case for prosecution under ordinance violation and to the county treasurer in all other cases 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:

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

(ii) In arraignments where the defendant waives a preliminary examination, \$10.

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

Subd. 12. SALARIES. (a) The annual salary of the clerk shall be established by the Dakota county board of commissioners.

(b) The classifications and annual salaries of the deputy clerks shall be established by the Dakota county board of commissioners.

(c) All of the foregoing salaries are payable out of the treasury of the county of Dakota in semimonthly installments.

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Subd. 13. **DESTRUCTION OF RECORDS.** (a) Upon order of all the judges the clerk may destroy or dispose of all of the following types of files and records of the court which are more than ten years old:

- (1) Garnishment files, uncontested;
- (2) Motion calendars, special term;
- (3) Unlawful detainer calendars, special term;
- (4) Garnishment calendars, special term;
- (5) General term calendars;
- (6) Court reporters' notebooks;
- (7) Receipt books for prisoners;
- (8) Old receipt books for probation department;
- (9) Criminal and ordinance violations' files;
- (10) Cash books;
- (11) Depositions;
- (12) Traffic tags.

(b) Upon order of all the judges and upon ten days' written notice to the president of the Dakota county historical society, the clerk may destroy or dispose of all files or civil or garnishment actions and actions of forcible entry or unlawful detainer which were commenced more than 20 years prior to the judges' order and in which no proceedings have occurred within ten years prior to the judges' order.

Sec. 4. **PROBATION OFFICERS.** Subdivision 1. **APPOINTMENT; TERM; REMOVAL; SUSPENSION.** All probation responsibilities and personnel shall be integrated with and under the supervision of the Dakota county probation office. There shall be at least one probation officer assigned to the Dakota county municipal court and such other personnel as the chief Dakota county probation officer may from time to time determine. Term of office, removal or suspension from same shall be governed by the Dakota county probation office.

Subd. 2. **DUTIES AND POWERS.** Probation officers shall be present at such sessions of the court as the judge presiding may direct. The probation officers shall take charge of all persons placed on probation or parole and committed to their care during a probation or parole period and supervise them as the court directs. They are not regular members of any police force, but in the execution of their

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official duties, they have all the powers of police officers. The chief probation officer shall supervise the other probation officers and may delegate duties and powers to them.

Subd. 3. **REPORTS TO COURT.** The probation officers shall report to the court verbally or in writing, as the court may direct, regarding the condition, disposition, and other pertinent facts relative to the persons under their care.

Subd. 4. **SALARIES.** The Dakota county board of commissioners shall fix the compensation to be paid the probation officers, clerks, and stenographers. Their compensation is payable in equal semi-monthly installments out of the county treasury.

Sec. 5. **COURT REPORTERS. Subdivision 1. APPOINTMENT; OATH; TENURE; RETIREMENT.** The majority of the judges may appoint as court reporters competent persons skilled in the profession. Each reporter shall take and subscribe an oath to support the Constitutions of the United States and the state of Minnesota and to discharge and perform his duties as a court reporter faithfully and honestly. Each reporter shall file his oath with the county auditor before he enters upon the duties of his office. Each reporter is an officer of the court and holds his office during the pleasure of a majority of the judges notwithstanding any rule or regulation heretofore or hereafter made by any board or commission of the county establishing and fixing a compulsory age for retirement of employees of the county. It is not compulsory for any such court reporter who is a member of the public employees' retirement association to become a member of any municipal pension or retirement fund.

Subd. 2. **DUTIES.** Each reporter shall take or cause to be taken by another skilled court reporter full stenographic notes of all the testimony and other proceedings in all civil actions, all actions for forcible entry and unlawful detainer and all preliminary hearings in criminal actions before the judge so appointing him. Unless directed by the judge to do so, he shall not take notes of the opening statements of the judge or counsel, the questioning or selection of the jurors or the arguments of counsel to the court or jury. When requested by the judge, each reporter shall transcribe such notes or any part thereof for the use of the judge or for such other purpose in furtherance of justice as the judge may order, without charge therefor. Each reporter shall furnish a transcript of his notes, or any part thereof, at the request of any party to the action or any other person. He shall be entitled to charge therefor at the rates then prescribed by law for court reporters of the district court of Dakota county. Whenever a transcript has been filed as required by law, the amount paid by any part for the transcript, if the transcript be used upon a motion for a new trial, appeal, or writ of certiorari, may be taxed and allowed as a disbursement. Each reporter shall act in the

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capacity of a private secretary to the judge so appointing him in the performance of the judge's official duties.

Subd. 3. COURT REPORTER'S SALARY. The annual salary of each reporter shall be established by the Dakota county board of commissioners and is payable in semimonthly installments by the county treasurer from any funds in the county treasury not otherwise appropriated.

Sec. 6. BAILIFFS. Subdivision 1. APPOINTMENT; DUTIES. The sheriff with approval of a majority of the judges shall assign to the court a sufficient number of deputy sheriffs who shall act as bailiffs of the court. A bailiff shall be in attendance at all sessions of the court involving traffic or criminal matters, and serve all process and warrants and perform such other duties as may be directed by the judges of the court. The county board may with the approval of a majority of the judges contract with any municipality upon such terms as agreed upon for the services of police officers of the municipality to act as bailiffs at all sessions of the court in the municipality.

Subd. 2. SERVICE OF PAPERS. No bailiff shall serve or receive for service any summons or other paper in any forcible entry, unlawful detainer or civil action until the complaint has been filed with the clerk. The bailiff to whom a summons or other paper is delivered for service shall make a prompt return to the clerk showing whether or not it has been served and if not served the reason therefor.

Subd. 3. FEES AND MILEAGE. The fees and mileage of bailiffs in civil actions and actions of forcible entry and unlawful detainer are the same as those payable to the sheriff of Dakota county for like services for district court actions. The fees and mileage for all other services of bailiffs shall be fixed by rules promulgated by the state, county or city to bailiffs for their services, except that the county may pay bailiffs for automobile mileage within the limits provided by law when the bailiffs furnish automobiles for use in the performance of their duties. Bailiffs shall make returns showing their fees and mileage after performing such services. The amount of bailiffs' fees and mileage is payable to the sheriff in advance.

Subd. 4. COMPENSATION; GRATUITIES. Except as provided in subdivision 3 above, such bailiffs shall be paid for their services only the compensation payable to them by the county as bailiffs. If any fee, gratuity, or reward is paid to any bailiff for his services while on duty as a bailiff of the court, he shall forthwith pay it over to the clerk of court for the use of the county. Failure to do so is a misdemeanor and is punishable by a fine not exceeding \$100, or by imprisonment in the county jail or city workhouse for not more than 30 days.

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Subd. 5. **TRANSPORTATION OF DEFENDANTS.** The sheriff of Dakota county shall transport defendants pursuant to rules promulgated by the court and orders of the court.

Sec. 7. **PETIT JURORS.** Subdivision 1. **SELECTION FROM JURORS SUMMONED FOR SERVICE BY DISTRICT COURT.** (a) If a court rule so providing is adopted by a majority of the judges of said district court and also by a majority of the judges of the municipal court, all petit jurors to serve in the municipal court of the county of Dakota shall be selected from the petit jurors summoned for jury service by the district court of Dakota county.

(b) A court rule adopted by a majority of the judges of the district court of Dakota county and also by a majority of the judges of the municipal court shall provide the manner in which jurors for the municipal court shall be selected from the jurors summoned by the district court and the period of time during which they shall serve in the municipal court. .

(c) The rule may be amended by a majority of the judges of the district court and a majority of the judges of the municipal court.

(d) The petit jurors summoned 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.

(e) Jurors shall report to and be excused, governed, instructed and controlled by a judge of either the district court or the municipal court as provided in the court rule.

(f) Notwithstanding anything to the contrary in Minnesota Statutes Section 593.13, Subdivision 2, the jury commission may select up to two names per 100 persons residing in the county at the last federal census to serve as petit jurors, the exact number to be selected to be determined by rule of the district court.

Sec. 8. **TRAFFIC AND ORDINANCE VIOLATIONS BUREAU.** Subdivision 1. **ESTABLISHMENT.** Traffic and ordinance violation bureaus shall be established at such places as a majority of the judges of the court may establish.

Subd. 2. **SUPERVISION; PERSONNEL; RULES; FINES; TRAFFIC TAGS.** (a) The clerk of municipal court shall supervise the traffic violations bureaus. Subject to approval by a majority of the judges the clerk shall assign one or more deputy clerks to discharge and perform the duties of the bureau.

(b) A majority of the judges 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 for each such violation.

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(c) The traffic violations bureaus shall process all traffic tags, accept all fines payable on traffic tags at the bureaus pursuant to the judges' rules, set dates for arraignment on traffic tag charges to be heard in court, arrange for the issuance of warrants where there is a failure to respond to traffic tags, keep proper records and accounts and perform such other and further duties as the judges or the clerk may prescribe.

Subd. 3. TRAFFIC TAG DEFINED. The term "traffic tag" means a written or printed notice 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 traffic violations bureau within a specified time. The county board of Dakota county may alter by deletion or addition the uniform traffic ticket, provided in Minnesota Statutes, Section 169.99, in such manner as it deems advisable for use in Dakota county.

Subd. 4. 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 in the tag. Such payment of the fine shall be deemed to be the entry of a plea of guilty to the violation charged and a consent to the imposition of a sentence for the violation in the amount of the fine paid. A receipt shall be issued to evidence the payment and the receipt so issued shall be complete satisfaction for the violation charged in that traffic tag.

(b) When a fine is not so paid, the person charged must appear at a bureau within the time specified in the tag, state whether he desires to enter a plea of guilty or not guilty, arrange for a date of arraignment in court and appear in court for arraignment on the date set by the bureau.

Sec. 9. PLEADING, PRACTICE, PROCEDURE, AND FORMS IN CIVIL ACTIONS. Subdivision 1. **GENERAL.** Pleading, practice, procedure, and forms in civil actions are governed by the rules for municipal courts promulgated from time to time by the supreme court of this state or by the statutes governing in the district court of Dakota county insofar as the rules promulgated by the supreme court do not contain any applicable provision. The provisions of this act relating to pleading, practice, and procedure in civil actions shall be effective as rules of court until modified or superseded by a rule hereafter adopted by the supreme court of this state and upon the adoption hereafter of any rule on the same subject by the supreme court, the provisions of this act, insofar as they are in conflict therewith, shall be of no further force or effect.

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Subd. 2. **COURT RULES.** A majority of the judges may adopt rules governing pleading, practice, procedure and forms for civil actions which are not inconsistent with the provisions of this act, the rules for municipal courts promulgated from time to time by the supreme court of Minnesota or governing statutes.

Subd. 3. **NOTE OF ISSUE; DEMAND FOR JURY TRIAL; WAIVER OF JURY TRIAL.** (a) A party desiring to place a 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, whether a jury of 12 or six is demanded, and the names and addresses 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 or if any other party desires trial by a jury of 12 when a jury of six is demanded in the note of issue served upon him, then he shall serve a demand for trial by jury of six or 12 persons 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 of six or 12 persons is not demanded at the time and in the manner provided in this act, all parties waive trial by a jury of six or 12, as the case may be. 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 of Minnesota, as amended from time to time.

Subd. 4. **FIVE SIXTH VERDICT.** In any civil action, 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 the time in his records.

Subd. 5. **COSTS ALLOWABLE.** Costs shall be allowed in civil actions in the same manner and same amount as in civil actions in the district court for Dakota county.

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 the jury has disagreed and has been discharged,

(c) Open the judgment if one has been entered,

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(d) Take additional testimony in a case tried without a jury,

(e) Amend findings of fact and conclusions of law, make new findings and conclusions, and direct entry of a new 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. LIEN OF JUDGMENT; FILING OF TRANSCRIPT.

(a) No judgment of the municipal court shall attach as a lien upon real estate unless and until a transcript thereof is filed and docketed in district court.

(b) 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 such judgment and may file the transcript in the office of the clerk of the district court of Dakota county, who shall file and docket it as in case of transcripts of judgments from the courts of justices of the peace.

(c) Upon the filing and docketing of the certified transcript, the judgment becomes a lien upon the real estate of the debtor to the same extent as a judgment of the district court and 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.

(d) The clerk of municipal court shall not issue such a certified transcript while a writ of execution is outstanding on the judgment. He shall note on the record of such judgment the fact that such transcript has been given and shall not thereafter issue any writ of execution on the same 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 such 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 such debt, or so much thereof as may satisfy the execution, to the officer holding the writ and the receipt of that officer reciting the facts is a sufficient discharge and satisfaction of so much of said debt as is so paid.

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Subd. 10. **GARNISHMENT.** Proceedings against garnishees may be instituted in the same manner as in the district courts of the state. The garnishment summons may be served either by an officer or any person not a party to the action, at any place within the state of Minnesota, and the service shall in all cases be personal. Notwithstanding any other law, such service shall become null and void and ineffective for any purpose unless not later than one day after such service the original or a copy of the summons and complaint in the main action between the parties is filed in the office of the clerk of said court. Any judge may issue an order ex parte dismissing a garnishment and discharging the garnishee upon a showing by certificate of the clerk that the summons and complaint have not been filed within the period of time herein required. The disclosure of the garnishee shall be made and all further proceedings had in the same manner as if the proceedings were in the district court, but the summons shall require disclosure within ten days after service, and service upon the defendant shall be made not later than ten days after the service on the garnishee.

Sec. 10. **PLEADING, PRACTICE, PROCEDURE, AND FORMS IN CRIMINAL PROCEEDINGS.** Subdivision 1. **GENERAL.** Save as otherwise provided in this act, pleading, practice, procedure and forms in actions or proceedings charging violation of a criminal law or municipal ordinance, charter provision, rule or regulation are governed by the statutes and common law rules which govern in a similar action or proceeding in the district court of Dakota county, other than those applying peculiarly to felony or gross misdemeanor charges, or by statutes which govern in courts of justices of the peace in the absence of statutes or common law rules governing in said district court.

Subd. 2. **COURT RULES.** A majority of the judges may adopt rules governing pleading, practice, procedure and forms in actions or proceedings charging violation of a criminal law or a municipal ordinance, charter provision, rule or regulation which are not inconsistent with the provisions of this act or any other statute of this state.

Subd. 3. **COMPLAINTS.** Complaints charging violations of a criminal law of this state or a municipal ordinance shall be sworn to before any judge of the court and shall be filed with the clerk, or deputy clerk.

Subd. 4. **TAB CHARGES.** When a person charged with violating 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 any judge so orders, a formal complaint shall be made and filed.

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Subd. 5. **PLEAS.** The plea of the defendant shall be "guilty" or "not guilty". In case of failure to plead, the clerk shall enter a plea of "not guilty". Former acquittal or conviction for the same offense may be proved under a plea of "not guilty".

Subd. 6. **TRIALS BY JUDGE WITHOUT JURY.** A charge of a violation of any municipal ordinance, charter provision, rule or regulation, other than a violation dealing with driving under the influence of an alcoholic beverage or narcotic drug, speeding, careless or reckless driving that is a third or further offense occurring in one year, or careless or reckless driving where a personal injury is involved, assault, and leaving the scene of an accident, shall be heard, tried and determined by a judge without a jury, and the defendant shall have no right to a jury trial on such a charge, except as otherwise required by law. In the event of such trial without jury, there shall be a right of appeal as provided in section 488.20; and provided further that where there has been a conviction in a trial without jury as provided above, the commissioner of highways shall not by reason thereof revoke or suspend the defendant's driver's license.

Subd. 7. **WARRANTS.** Any judge of the court may issue warrants.

Subd. 8. **PROBATION, PAROLE, STAY, SUSPENSION.** (a) At the time of imposing sentence, the judge, in his discretion, may stay execution of the sentence for a period not exceeding one year upon such terms and conditions, including probation, as he may deem proper or may order release on parole after part of the sentence has been served. The parole shall be for a period not exceeding one year from the date of commitment and on such terms and conditions, including probation, as the judge may deem proper.

(b) At the time of imposing sentence or at any time thereafter, the sentencing judge, or any other two judges when the sentencing judge is not available, may suspend forever the execution of any sentence or the balance of any sentence which has been executed in part.

(c) When a person has been committed to the county jail, any two of the judges, including the sentencing judge as one of the two, if he is available, in their discretion, may order the release of such person on parole after part of the sentence is served when satisfied that he will thereafter keep the peace and be of good behavior. The parole shall be for a period not exceeding one year from the date of commitment and on such terms and conditions as the two judges deem proper. If a request for parole is denied by any judge then parole of that person may be granted thereafter only by order of a majority of the judges.

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(d) If any person violates any terms or conditions of a stay, parole or probation, or commits a subsequent violation of any law, charter provision or ordinance, any judge may revoke the stay, parole or probation and cause such person to be arrested and committed for the sentence originally imposed or the balance thereof if a portion of the sentence has been previously served. The revocation may be based on such showing, oral or written, sworn or unsworn, as the judge deems sufficient, and may be made without notice or hearing.

Subd. 9. **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 under the laws of the state. A bail bond in such amount 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 so fixed.

Subd. 10. **MINUTES OF PRELIMINARY HEARINGS.** The clerk shall keep minutes of the 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. 11. **PROSECUTING ATTORNEYS.** Except where the county attorney is specifically designated by law as the prosecutor for the particular violation charged, the attorney of the municipality in which the violation is alleged to have occurred shall have charge of the prosecution of all violations of the state laws and municipal charter provisions, ordinances, rules and regulations triable in the municipal court and shall prepare complaints for said regulations.

Subd. 12. **PRESUMPTION OF INNOCENCE; CONVICTION OF LOWEST DEGREE.** In an action or proceeding charging a violation of an ordinance of any subdivision of government in the county of Dakota, if such ordinance is the same or substantially the same as a state law, provisions of Minnesota Statutes, Section 611.02, shall apply.

Sec. 11. **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 a majority of the judges.

Subd. 2. **PROCEDURE; FORMS.** Minnesota Statutes, Sections 566.01 through 566.16, apply to the 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 Minnesota Statutes, Section 566.03, and on the return day of the summons the defendant does not appear, the judge, upon proof of the due service of the summons, shall

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enter an order adjudging the defendant to be in default, and thereafter the clerk shall enter judgment for the plaintiff without the introduction of evidence.

Sec. 12. PAYMENT OF COURT EXPENSES. All salaries of the judges of the municipal court of the county of Dakota, court reporters, the clerk, deputy clerks and all other employees of said court, and all expenses of said court shall be paid from the treasury of Dakota county. The board of county commissioners of Dakota county is authorized to levy taxes annually against each dollar of taxable property as may be necessary for the establishment, operation and maintenance of the court.

Sec. 13. COURTROOMS. The municipal court of the county of Dakota and its probation office shall occupy the courtrooms in such places as are designated by the Dakota county board of commissioners.

Sec. 14. COURTS ABOLISHED. All courts in Dakota county except district and probate courts are abolished as of September 1, 1971, including municipal courts established but not organized under the provisions of Minnesota Statutes, Section 488.03.

Sec. 15. TRANSFER OF CASES PENDING IN OTHER COURTS; TRANSFER OF FUNDS FROM OTHER COURTS; DISPOSITION OF APPEALS FROM OTHER COURTS. (a) All cases pending in courts abolished by this act are hereby transferred as of September 1, 1971, to the municipal court of Dakota county for trial or other disposition according to law. Any case on appeal to any appellate court from any such abolished court shall be treated by the appellate court as though appealed thereto from the abolished court, except that all affirmances, reversals, mandates or remittiturs shall be addressed to the municipal court of Dakota county.

(b) All judges and justices of the peace and all court clerks of such abolished courts shall continue in office after September 1, 1971, solely for the purpose of transmitting to the clerk of the municipal court of Dakota county all pleadings, dockets, and other records in pending cases in such abolished courts and for the purpose of paying over to the clerk of said court all moneys in the possession of such judges, justices of the peace, and clerks by law payable to the state or any subdivision, with proper detail to enable the clerk of the municipal court of Dakota county properly to account to the proper officials for such moneys.

(c) All transmissions of pleadings, dockets, and other records and paying over the moneys referred to shall be completed by the judges, justices of the peace, and clerks of the aforesaid abolished courts within 60 days after the first Monday of September, 1971.

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Sec. 16. EMPLOYEES OF THE MUNICIPAL COURT OF THE COUNTY OF DAKOTA. All employees of the municipal court of the county of Dakota shall be eligible for membership in the public employees retirement association.

Sec. 17. INITIAL JUDGES OF THE COURT. The judges of the municipal courts in the cities of South St. Paul, West St. Paul and Hastings and village of Burnsville as of August 31, 1971, shall continue as judges of the municipal court of the county of Dakota. The original term of office of each of such judges as a judge of the municipal court of the county of Dakota shall expire on the day before the first Monday in January, 1973.

Sec. 18. EXTENSION OF TERMS. Notwithstanding any provisions of law to the contrary, the term of office of any judge, or special judge, or justice of the peace of any court to be abolished hereunder which would otherwise expire between the passage of this act, and September 1, 1971, shall be extended through and include September 1, 1971.

Sec. 19. BAILIFFS, DEPUTY CLERKS AND LAW CLERKS; APPOINTMENT, TENURE; OATH AND BONDS; SALARIES. Notwithstanding the provisions of section 3, subdivision 3, and of section 6, subdivision 1, a majority of judges may appoint an individual or individuals to perform the function of courtroom bailiff, deputy clerk, and law clerk or any combination thereof. The appointment may be terminated by a majority of the judges without hearing or notice. A majority of the judges may establish requirements as to oath and bond. The salary of said individual or individuals shall be set by the Dakota county board of commissioners and shall be paid by the Dakota county treasurer.

Sec. 20. CONCILIATION COURT; ESTABLISHMENT; JURISDICTION; POWERS; COMPUTATION OF TIME. Subdivision 1. **ESTABLISHMENT.** There is hereby established a conciliation court of the county of Dakota with the jurisdiction and powers hereinafter stated.

Subd. 2. **COURT OF RECORD; SEAL; SEPARATE COURT.** The conciliation court is a court of record with its own seal. It is separate from the municipal court of the county of Dakota.

Subd. 3. **JURISDICTION.** Excepting actions involving title to real estate, the court has jurisdiction to hear, conciliate, try and determine civil actions at law where the amount in controversy does not exceed the sum of \$500. The territorial jurisdiction of the court is co-extensive with the geographic boundaries of the county of Dakota.

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Subd. 4. **POWERS, ISSUANCE OF PROCESS.** The court has all powers, and may issue such process as is necessary or proper to carry out the purposes of this act.

Subd. 5. **TERMS OF COURT.** The judges shall hold terms of court from time to time as necessary to hear and dispose of all claims as promptly as feasible after filing.

Subd. 6. **RULES OF PLEADING, PRACTICE, AND PROCEDURE.** A majority of the judges may promulgate rules governing pleading, practice, and procedure which are not inconsistent with the provisions of this act.

Subd. 7. **COMPUTATION OF TIME.** In computing any period of time prescribed or allowed by this act, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Sundays and holidays shall be excluded in the computation.

Sec. 21. JUDGES; CLERKS; REPORTERS; SALARIES; QUARTERS. Subdivision 1. JUDGES OF MUNICIPAL COURT SERVE AS JUDGES; REFEREES FOR CONCILIATION COURT.

(a) The judges of the municipal court of the county of Dakota shall serve as judges of the conciliation court for such periods and in such rotation as the judges may determine. While so serving they shall act and be known as conciliation judges.

(b) The municipal judge who conducts the conciliation court hearing shall act upon any applications to vacate a judgment or an order for judgment whatever the grounds may be and shall sign the certificate upon a removed cause, but any other municipal judge may act upon such an application or sign such a certificate in the event that the judge who conducted the hearing has not previously denied the application promptly or signed the certificate due to expiration of his term, death, disability, absence from the courthouse or any other cause.

(c) A majority of the judges of municipal court may appoint one or more suitable persons to act as referees in conciliation court. A majority of the judges of municipal court shall establish qualification for the office, specify the duties and length of service of referees, and fix their compensation not to exceed \$35 per day or any part thereof. This compensation shall be payable by the county treasurer at the same time and in the same manner as salaries of the judges of conciliation court.

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Subd. 2. CLERK OF CONCILIATION COURT; DUTIES; RECORDS. (a) The clerk of the municipal court shall serve as the clerk of the conciliation court. He shall delegate deputy clerks of the municipal court to assist him in performing his duties under this act. The clerk shall keep such records and accounts and perform such duties as may be prescribed by the judges. He shall account for and pay over to the county of Dakota all fees received by him in the same fashion as required in his capacity as clerk of municipal court.

(b) The clerk may, upon the consent of all of the judges of municipal court of the county of Dakota, destroy or dispose of all the following files and records of the conciliation court, which have been on file for more than 20 years:

- (1) Complaint files;
- (2) Transcript receipts;
- (3) Cash receipt books;
- (4) Cancelled checks.

Subd. 3. COURT REPORTER, DUTIES. Each court reporter appointed by a judge of municipal court shall assist that judge in performing his duties as conciliation judge, but, unless ordered to do so by that judge he shall not take official notes of any trial or proceedings in conciliation court.

Subd. 4. SALARIES; OATHS; BONDS. The judges, clerk, deputy, clerks and court reporters shall receive only their salaries payable for serving as officers of municipal court while serving in conciliation court. All oaths taken and bonds given by the judges, clerk, deputy clerks, and court reporters for their respective offices in municipal court include their acts as officers of conciliation court, whether or not so expressed therein.

Subd. 5. QUARTERS FOR COURT, SUPPLIES. The county of Dakota shall provide suitable quarters for the court, and court shall be held at that place. The clerk shall procure and furnish all necessary blanks, stationery, books, furniture, furnishings, and other supplies for the use of the court and the officers thereof at the expense of the county with the consent of the county board and under the supervision and approval of a majority of the judges.

Sec. 22. COMMENCEMENT OF ACTION; FILING FEE; REQUISITES OF CLAIM; SUMMONS; COUNTERCLAIM; REPLEVIN. Subdivision 1. **COMMENCEMENT OF ACTION.** An action is commenced against each defendant when the complaint is filed with the clerk of conciliation court and a filing fee of \$3 is paid to the clerk or the prescribed affidavit in lieu of filing fee is filed.

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Subd. 2. FILING FEE, AFFIDAVIT OF INABILITY TO PAY. If the plaintiff or the defendant signs and files with the clerk an affidavit that he has no money or property and is unable to pay a filing fee, no fee shall be required for the filing of his claim or counterclaim. If the affiant prevails on his claim or counterclaim, the amount of the filing fee which would have been payable by him shall be included in the order for judgment and paid to the clerk of conciliation court by the affiant out of any money recovered by him on the judgment.

Subd. 3. CLAIM, VERIFICATION, CONTENTS. The claim must be verified by the plaintiff or his attorney and shall contain a brief statement of the amount, date of accrual, and nature of the claim and the name and address of the plaintiff, the plaintiff's attorney, if any, and the defendant. If the plaintiff is not represented by an attorney, the clerk shall draw up the claim on request.

Subd. 4. HEARING, DATE; SUMMONS. When an action has been properly commenced, the clerk shall set a date for court hearing and advise the plaintiff of the date set. The clerk shall promptly summon the defendant by mail or by personal service in the manner then provided for personal service of a summons of said municipal court. The summons shall state the amount and nature of the claim; shall require the defendant to appear at the hearing; shall specify that if he does not appear judgment by default will be entered against him for the relief demanded and shall summarize the requirements for filing a counterclaim. Unless otherwise ordered by a judge, the hearing date shall be not less than ten days from the date of mailing or service of the summons.

Subd. 5. COUNTERCLAIM. (a) The defendant may interpose as a counterclaim any claim within the jurisdiction of the court which he has against the plaintiff whether or not arising out of the transaction or occurrence which is the subject matter of the plaintiff's claim.

(b) The counterclaim shall be interposed by filing with the clerk a brief statement of the amount, date of accrual and nature of the counterclaim, certified by the defendant or his attorney, and paying a filing fee of \$3 to the clerk. If the defendant is not represented by an attorney the clerk shall draw up the counterclaim on request.

(c) The clerk shall note the filing of the counterclaim on the original claim, promptly notify the plaintiff or his attorney by mail of the filing, and set the counterclaim for hearing on the same date as the original claim.

(d) The counterclaim shall be filed not less than five days before the date set for court hearing. The judge, in his discretion, may thereafter allow the filing of a written or oral counterclaim. The

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judge, in his discretion, may require the payment of absolute or conditional costs up to \$25 by the defendant as a condition of allowing late filing in the event that a continuance is requested by the plaintiff and is granted because of such late filing.

(e) If the defendant has a counterclaim arising out of the same transaction or occurrence which exceeds the jurisdiction of the court and the defendant files an affidavit by himself or his attorney with the clerk not less than five days before the date set for court hearing showing that he has filed with the clerk of a specified other court of competent jurisdiction a complaint seeking recovery from the plaintiff on the counterclaim and stating the nature and amount thereof, the clerk shall strike the action from the calendar and so advise the plaintiff or his attorney by mail. If the plaintiff not less than 30 days nor more than three years after the filing of such an affidavit shall file an affidavit showing that he has not been served with a summons in the other action or that the other action has been finally determined, the clerk shall again set the cause for court hearing and summon the defendant in the same manner as for the initial hearing and the court shall proceed to hear and determine plaintiff's claim. If no such counteraffidavit is filed by plaintiff within three years, his original claim is dismissed without prejudice without any further action by the clerk or any judge. Prior to the expiration of this three year period the plaintiff's original claim may be dismissed by plaintiff or by the court order at a hearing upon motion of the defendant.

Subd. 6. **REPLEVIN.** If the controversy concerns the ownership or possession, or both, of personal property the value of which does not exceed the sum of \$500, the judge in his discretion, may direct an officer of the court to take possession of the property immediately and hold it subject to the further order of the court, without the giving of any bond whatever.

Sec. 23. **HEARING; ATTORNEYS; EVIDENCE; CONCILIATION; DETERMINATION, DEFAULT; DISMISSAL; CONTINUANCE.** Subdivision 1. **TESTIMONY, EXHIBITS.** At the court hearing a conciliation judge shall hear the testimony of the respective parties and consider all exhibits offered by them and may also hear any witnesses produced by either party.

Subd. 2. **APPEARANCE OF PARTIES, ATTORNEYS.** Any party may appear in his own behalf without an attorney, or may retain and be represented by a duly admitted attorney who may participate in the hearing to the extent and in the manner that the judge, in his discretion, deems helpful to accomplish the purposes of this act.

Subd. 3. **EVIDENCE ADMISSIBLE.** At the hearing the judge normally shall receive only evidence admissible under the rules of evidence, but in the interests of justice and the summary determination of causes before him he may receive evidence not so admissible.

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Subd. 4. **CONCILIATION.** The judge may attempt to conciliate the parties. If the parties agree on a settlement the judge shall order judgment in accordance with that settlement.

Subd. 5. **DETERMINATION, ORDER FOR JUDGMENT.** If the parties do not agree upon a settlement, the judge shall summarily hear and determine the cause and order judgment.

Subd. 6. **SATISFACTION OF JUDGMENT BY INSTALLMENT PAYMENTS.** Any judgment ordered may provide for satisfaction by payments in installments in such amounts and at such times, not exceeding one year for the last installment, as the judge determines to be just and reasonable. If any installment is not paid when due, the entire balance of the judgment order becomes immediately due and payable.

Subd. 7. **DEFENDANT, FAILURE TO APPEAR.** If the defendant, after being summoned as provided by this act, fails to appear at the time set for hearing, the judge may hear the plaintiff or his attorney and order judgment by default, or he may fix a later date for hearing in accordance with what appears just and reasonable. If a later date be set for hearing the clerk shall notify the defendant by mail.

Subd. 8. **PLAINTIFF FAILING TO APPEAR, DEFENDANT APPEARING.** (a) If the plaintiff fails to appear at the time set for hearing and the defendant does appear, the judge may hear the defendant and order judgment of dismissal on the merits, order the cause dismissed without prejudice, fix a later date for hearing, or make such other disposition as is just and reasonable.

(b) If both parties are present or represented at the hearing, the judge, in his discretion, on motion of the plaintiff, may grant dismissal without prejudice either before or after hearing evidence.

(c) If a later date be set for hearing the clerk shall notify by mail any party not present or represented at the hearing.

Subd. 9. **CONTINUANCE, FURTHER HEARING, RESETTING.** On proper showing of good cause, a continuance, further hearing or resetting may be ordered on motion of either party. The court may require payments of costs, conditional or absolute, not to exceed \$25, to the other party as a condition of such an order. The clerk shall give notice of any continuance, further hearing, or resetting by mail to any party who does not have other notice thereof.

Sec. 24. **NOTICE OF ORDER FOR JUDGMENT; ENTRY OF JUDGMENT; COSTS AND DISBURSEMENTS; PAYMENTS; VACATING; DOCKETING.** Subdivision 1. **NOTICE OF ORDER.** The clerk shall promptly mail to each party a notice of the order for judgment which the judge enters. The notice shall state the number

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of days allowed for obtaining an order to vacate where there has been a default or for removing the cause to municipal court.

Subd. 2. ENTRY OF JUDGMENT. The clerk shall enter judgment forthwith as ordered by the court, dating the judgment entry the same date as notice is mailed to the parties. Unless (1) otherwise ordered by a judge, (2) payment has been made in full, (3) removal to municipal court has been perfected or (4) an order vacating the prior order has been filed, the judgment so entered by the clerk becomes finally effective ten days after the mailing of notice.

Subd. 3. COSTS AND DISBURSEMENTS. The judge, in his order for judgment, shall include any filing fee paid by the prevailing party, may include any disbursements incurred by the prevailing party covering items taxable in civil actions in the municipal court, and may include or adjust for any sum which he deems proper to cover all or part of conditional costs previously ordered to be paid by either party. No other costs shall be allowed to a prevailing party.

Subd. 4. PAYMENT OF JUDGMENT, RECORD. The losing party may pay all or any part of the judgment to the clerk for the benefit of the prevailing party or may pay the prevailing party directly and so advise the clerk. The clerk shall make an appropriate entry on his records when any payment has been made to him or when satisfied that any payment to the prevailing party has been made.

Subd. 5. VACATION OR ORDER FOR JUDGMENT WITHIN TEN DAYS. When a default judgment or a judgment of dismissal on the merits has been ordered for failure to appear, the judge, within ten days after notice thereof was mailed, may vacate the order for judgment ex parte and grant a new hearing, if the defaulting party shows lack of notice, mistake, inadvertence, or excusable neglect as the cause of his failure to appear. Absolute or conditional costs not exceeding \$25 to the other party may be ordered as a prerequisite to that relief. The clerk shall notify the other party by mail of the new hearing date.

Subd. 6. VACATION OF JUDGMENT AFTER TEN DAYS. When a defendant shows that he did not receive a summons before the hearing within sufficient time to permit a defense and that he did not receive notice of the order for default judgment within sufficient time to permit him to make application for relief within ten days or shows other good cause, a judge may vacate a default judgment after notice to the plaintiff and grant a new hearing on the merits with or without payment of absolute or conditional costs. The clerk shall notify the parties by mail of the new hearing date.

Subd. 7. ABSOLUTE OR CONDITIONAL COSTS; FILING OF ORDERS. When a judge orders payment of absolute or condition-

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al costs as a condition of an order under any provision of this act, the amount shall be paid to the clerk before the order becomes effective or is filed. Every such order is invalid unless filed with the clerk within five days after its date. Conditional costs shall be held by the clerk to abide the final order entered in the cause. Absolute costs shall be paid over by the clerk forthwith to the other party as his absolute property.

Subd. 8. DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT. When a judgment has become finally effective under subdivision 2 of this section, the judgment creditor may obtain a transcript of the judgment from the clerk of conciliation court on payment of a fee of \$3 and file it with the clerk of the municipal court of the county of Dakota without additional fee. After filing of the transcript, the judgment becomes, and is enforceable as, a judgment of the municipal court. A transcript of a judgment payable in installments may not be so obtained and filed until 20 days after default in the payment on an installment. No writ of execution or garnishment summons may be issued out of conciliation court.

Sec. 25. REMOVAL OF CAUSE TO MUNICIPAL COURT.
Subdivision 1. TRIAL DE NOVO. Any person aggrieved by an order for judgment entered by a conciliation judge after a contested hearing may remove the cause to the municipal court of the county of Dakota for trial de novo.

Subd. 2. PROCEDURE FOR REMOVAL OF CAUSE. No cause shall be so removed unless all of the following acts are performed by the aggrieved party within ten days after the date the clerk mailed to him notice of the order for judgment:

(a) Serve on the opposing party or his attorney a demand for removal of the cause to the municipal court for trial de novo stating whether trial by a jury of six or 12 persons or by the court without a jury is demanded. Service shall be made upon a party in accordance with the provisions for personal service of a summons in the municipal court or shall be made upon the party's attorney in accordance with the provisions for service of a notice of motion upon an attorney in the municipal court. The demand shall show the office address of the attorney for each party and the residence address of each party who does not have an attorney.

(b) File with the clerk of conciliation court the original demand for removal and 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

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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.

(c) File with the clerk of conciliation court an affidavit by the aggrieved party or his attorney that the removal is made in good faith and not for the purpose of delay.

(d) Pay to the clerk of conciliation court the fees required to be paid in civil actions as provided in section 3, subdivision 11 of this act.

Subd. 3. LIMITED REMOVAL OF CAUSE, PROCEDURE. (a) When a motion for vacation of a judgment or an order for judgment under subdivision 5 or 6 of section 25 has been denied, the aggrieved party may demand limited removal to the municipal court of the county of Dakota for hearing de novo of his motion. The demand for limited removal and notice of the hearing de novo must be served by the aggrieved party on the other party in accordance with the provisions of subdivision 2(a) of this section and the original demand and notice, with proof of service, must be filed with the clerk of conciliation court within ten days after the motion has been denied, or the original and one copy of the demand and notice, together with an affidavit similar to that required by subdivision 2(b) of this section must be filed with the clerk of conciliation court within said ten day period. When such an affidavit is filed, the clerk shall then mail the copy of the demand and notice to the other party at his last known residence address. The aggrieved party shall pay a fee of \$3 to the clerk of conciliation court for filing the demand and notice and this fee shall not be recoverable as a disbursement. The notice shall set a date of hearing de novo at a special term of the municipal court not less than ten days nor more than 30 days subsequent to the date of filing the original demand and notice.

(b) The clerk of conciliation court thereupon shall pay over to the municipal court the \$3 fee and shall file in municipal court the removal demand and notice together with all orders, affidavits, and other papers filed in conciliation court. The clerk of municipal court shall then place the cause on the special term calendar of the municipal court for hearing on the date specified in the notice.

(c) A municipal judge, other than the conciliation judge who denied the motion, shall hear the motion de novo at special term and may deny the motion, without allowance of costs, or grant the motion, with or without the allowance of absolute or conditional costs. At the hearing de novo the municipal judge shall consider the entire file of the conciliation court together with any subsequent affidavits of showing made by either party.

(d) The clerk of municipal court shall send a copy of the order made after the de novo hearing to both parties and return the file to the clerk of conciliation court.

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Subd. 4. **DEMAND FOR TRIAL BY JURY.** If the opposing party desires trial by jury of six or 12 persons when none or a jury of only six persons is demanded in the demand for removal, he shall: (a) serve a demand for trial by a jury of six or 12 persons on the aggrieved party, (b) file the demand with proof of service with the clerk of conciliation court within ten days after the demand for removal was served upon him, and (c) pay to the clerk of conciliation court at the time of such filing the fee required as provided in section 3, subdivision 11 of this act.

Subd. 5. **WAIVER OF TRIAL BY JURY.** If a jury of six or 12 persons is not demanded within the time limits and in the manner provided in this act, all parties waive trial by a jury of six or of 12 persons as the case may be.

Subd. 6. **REMOVAL, WHEN PERFECTED; VACATION OF ORDER FOR JUDGMENT; CERTIFICATE BY JUDGE.** When all removal papers have been properly filed and all requisite fees have been paid by the aggrieved party as herein provided, the removal is perfected. Thereupon the conciliation judge shall make and file an order vacating the order for judgment in conciliation court and a certificate setting out in general terms the proceedings had, the issues tried, and the order entered.

Subd. 7. **CLERK'S DUTIES UPON REMOVAL.** After the judge's order and certificate have been filed, the clerk of conciliation court shall pay over to the municipal court the removal and jury fees paid to him hereunder and shall file in municipal court all claims, orders, certificates, and other papers filed in conciliation court in connection with the cause and its removal to municipal court.

Subd. 8. **NOTE OF ISSUE NOT NECESSARY.** No note of issue for trial in municipal court need be filed. The removed cause *shall be brought on for trial in the same manner and substantially the same order as though a note of issue had been filed in municipal court on the date the claim was filed in conciliation court.*

Subd. 9. **ISSUES FOR TRIAL, AMENDMENTS.** The issues for trial in municipal court shall be those in conciliation court as set forth in the judge's certificate, but a party may be allowed to amend the issues in municipal court on motion following the same procedure and subject to the same limitations as would apply if the motion were for amendment of the pleadings after a responsive pleading had been served in action originally brought in municipal court. The court may grant an amendment which increases the amount claimed by either party to an amount in excess of the jurisdiction of conciliation court but not in excess of the jurisdiction of municipal court. The court may allow pleadings to be amended to add a new cause of action by way of counterclaim or otherwise if the new cause of action has

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not been barred by a statute of limitation of action before the date when the motion for amendment is heard by the court.

Subd. 10. COSTS AND DISBURSEMENTS FOR PREVAILING PARTY. (a) The prevailing party in a removed cause may tax and recover from the other party costs as provided in section 9, subdivision 5 of this act.

(b) For the purpose of this subdivision, an “aggrieved party” means the party who demands removal to municipal court and means the first party who serves, or files in lieu of serving, a demand for removal if another party also demands removal, and an “opposing party” means any party as to whom the aggrieved party seeks a reversal in whole or in part by removal of the cause to municipal court.

(c) The aggrieved party is the prevailing party in municipal court:

(1) If the aggrieved party recovers any amount or any property in municipal court when the aggrieved party had been denied recovery of any amount or any property by the conciliation judge;

(2) If the opposing party does not recover any amount or any property from the aggrieved party in municipal court when the opposing party had recovered some amount or some property by the order of the conciliation judge;

(3) If the aggrieved party recovers an amount or value of property in municipal court which is at least \$25 in excess of the amount or value of property which the aggrieved party recovered by the order of the conciliation judge; or

(4) If the opposing party recovers from the aggrieved party an amount or value of property in municipal court which is at least \$25 less than the amount or value of property which the opposing party recovered by the order of the conciliation judge.

(d) In all other situations the opposing party shall be deemed to be the prevailing party in municipal court.

(e) Costs or disbursements in the conciliation or municipal court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision.

Subd. 11. PLEADING, PRACTICE, AND PROCEDURE. Except as otherwise expressly provided in this act, pleading, practice, and procedure in a removed cause are the same as in an action originally brought in municipal court.

Subd. 12. APPEAL TO SUPREME COURT. Causes removed to municipal court from conciliation court may be removed from

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municipal court to the supreme court of Minnesota in the same manner, upon like proceedings, and with the same effect as causes originally brought in the municipal court.

Sec. 26. **APPLICATION.** Ninety days after the effective date of any general law providing for a county court system or for the merger of the probate courts and municipal courts in any county not exempted therefrom, the provisions of this act shall be null and void, and the provisions of such general law shall apply to probate courts and municipal courts of Dakota county.

Approved June 4, 1971.

CHAPTER 838—H.F.No.1995

An act relating to taxation; providing for declarations of value attached to transfers of real property; amending Minnesota Statutes 1969, Section 287.241.

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

Section 1. Minnesota Statutes 1969, Section 287.241, is amended to read:

287.241 TAXATION; DEED TAX; CERTIFICATE OF VALUE; STATEMENT OF TAX DUE OR EXEMPTION; RECORDING OR REGISTERING OF DOCUMENTS. Subdivision 1. No deed, instrument, or writing, taxable under the provisions of section 287.21, shall be recorded or registered by the register of deeds or the registrar of titles unless it shall contain the statement of the grantor or grantee, or any successor in interest, setting forth the amount of tax due under this chapter or that it is exempt from tax. The register of deeds or registrar of titles shall record or register any such document when the statement sets forth that the transfer is tax exempt, and shall refuse to record or register any such document on which documentary stamps in the amount stated thereon have not been affixed. The validity or effectiveness of an instrument as between the parties thereto, and as to any person who would otherwise be bound thereby, shall not be affected by the failure to comply herewith; nor if an instrument is accepted for recording or filing contrary to the provisions hereof, shall the failure to comply herewith destroy or impair the record thereof as notice.

Subd. 2. No deed or instrument providing for the transfer of title to real estate as subject to the tax as provided in section 287.21, shall be recorded in the office of the register of deeds or the registrar

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