

the Canadian Border to be designated by the commissioner, but at the same time as the season for taking deer.

(4) *Deer, by bow and arrow only, between October 15th and November 15th in a year and area when the commissioner has provided that deer may not be taken by legal firearms in that year in that area.*

Approved May 24, 1967.

CHAPTER 734—S. F. No. 1746

An act relating to the municipal and conciliation courts of Hennepin county; amending Minnesota Statutes 1965, Sections 488A.09, Subdivision 3; 488A.10, Subdivision 8; 488A.14, Subdivisions 1 and 5; and 488A.17, Subdivisions 2, 4, and 10.

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

Section 1. Minnesota Statutes 1965, Section 488A.09, Subdivision 3, is amended to read:

Subd. 3. **Hennepin county; municipal and conciliation courts; 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 name and address of the respective counsel.

(b) If any other party to the action desires a trial by jury when none is demanded in the note of issue served upon him 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 a 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) The party demanding a jury trial shall pay to the clerk a jury fee of ~~\$3~~ \$5 for a jury of six or ~~\$5~~ \$10 for a jury of 12 at the time of filing his note of issue or demand. If a party demands a jury of 12 when the note of issue previously served demanded a jury of six, he shall pay a fee of ~~\$2~~ \$5 to the clerk at the time of filing his demand.

Changes or additions indicated by italics, deletions by strikeout.

(d) 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 of 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.

Sec. 2. Minnesota Statutes 1965, Section 488A.10, Subdivision 8, is amended to read:

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~~ *judge* 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 city workhouse or county jail, ~~any two of the judges (including the sentencing judge as one of the two, if he is available), in their discretion, the sentencing judge, or any other judge when the sentencing judge is not available, in his 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 judge deems proper. If a request for parole is denied by any judge the sentencing judge, or any other judge when the sentencing judge is not available, in his discretion,* then parole of that person may be granted thereafter only by order of a majority of all the judges.

(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.

Changes or additions indicated by italics, deletions by strikeout.

Sec. 3. Minnesota Statutes 1965, Section 488A.14, Subdivision 1, is amended to read:

488A.14 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 ~~\$4~~ \$2 is paid to the clerk or the prescribed affidavit in lieu of filing fee is filed.

Sec. 4. Minnesota Statutes 1965, Section 488A.14, Subdivision 5, is amended to read:

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, verified by the defendant or his attorney, and paying a filing fee of ~~\$4~~ \$2 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 before or after hearing the merits of the claim and counterclaim. The 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*

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

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 counter affidavit 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 court order at a hearing upon motion of the defendant.

Sec. 5. Minnesota Statutes 1965, Section 488A.17, Subdivision 2, is amended to read:

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 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 stating that the removal is made in good faith and not for the purpose of delay.

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

(d) Pay to the clerk of conciliation court \$2 when the demand is for trial by court, plus ~~\$3~~ \$5 additional when the demand is for trial by a jury of six persons or ~~\$5~~ \$10 additional when the demand is for trial by a jury of 12 persons.

Sec. 6. Minnesota Statutes 1965, Section 488A.17, Subdivision 4, is amended to read:

Subd. 4. **Demand for trial by jury.** If the opposing party desires trial by a jury of six or twelve 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 twelve 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 a fee of ~~\$3~~ \$5 if he demands a jury of six persons, ~~\$5~~ \$10 if he demands a jury of twelve persons or ~~\$2~~ \$5 if he demands a jury of twelve persons instead of the six persons previously demanded by the aggrieved party.

Sec. 7. Minnesota Statutes 1965, Section 488A.17, Subdivision 10, is amended to read:

Subd. 10. **Costs and disbursements for prevailing party.**

(a) The prevailing party in a removed cause may tax and recover from the other party \$5 as costs together with his disbursements incurred in conciliation and municipal court; *except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed \$25 as costs.*

(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

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

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.

Approved May 24, 1967.

CHAPTER 735—S. F. No. 1790

An act relating to the municipal court of Hennepin county, and the salaries of the judges thereof; amending Minnesota Statutes 1965, Section 488A.021, Subdivision 8.

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

Section 1. Minnesota Statutes 1965, Section 488A.021, Subdivision 8, is amended to read:

Subd. 8. **Hennepin county; municipal court; judges' salaries.** Each judge shall be paid an annual salary of ~~\$17,000~~ *\$20,000* in semimonthly installments out of the treasury of the county of Hennepin. 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.

Approved May 24, 1967.

Changes or additions indicated by italics, deletions by strikeout.