

**801.17 COMMENCEMENT OF ACTION AND VENUE**

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functioning equipment or traffic delays. The committee considered limiting the court's discretion to correct technical errors in the filing of initiating documents, where untimely filing is a jurisdictional issue, but decided against creating a bright-line rule because of occasional exceptions such as *St. John's Home of Milwaukee v. Continental Casualty Co.*, 147 Wis. 2d 764, 788–89 (Ct. App. 1988) and *Granado v. Sentry Ins.*, 228 Wis. 2d 794, 799 (Ct. App. 1999).

Paperless Courts: E-Filing in Wisconsin Circuit Courts. Bousquet & Vandercook. Wis. Law. July 2008.

**801.50 Venue in civil actions or special proceedings.**

(1) A defect in venue shall not affect the validity of any order or judgment.

(2) Except as otherwise provided by statute, venue in civil actions or special proceedings shall be as follows:

- (a) In the county where the claim arose;
- (b) In the county where the real or tangible personal property, or some part thereof, which is the subject of the claim, is situated;
- (c) In the county where a defendant resides or does substantial business; or
- (d) If the provisions under par. (a) to (c) do not apply, then venue shall be in any county designated by the plaintiff.

(3) Except as provided in this subsection, all actions in which the sole defendant is the state, any state board or commission, or any state officer, employee, or agent in an official capacity shall be venued in Dane County unless another venue is specifically authorized by law. All actions relating to the validity or invalidity of a rule shall be venued as provided in s. 227.40 (1).

(3m) Venue in an action under s. 323.60 (8) or (9) related to hazardous substance releases shall be in the county as provided under s. 323.60 (10).

(4) Venue of an action seeking a remedy available by habeas corpus shall be in the county:

- (a) Where the plaintiff was convicted or sentenced if the action seeks relief from a judgment of conviction or sentence under which the plaintiff's liberty is restrained.
- (b) Where the liberty of the plaintiff is restrained if the action seeks relief concerning any other matter relating to a restraint on the liberty of the plaintiff.

(4m) Venue of an action to challenge the apportionment of any congressional or state legislative district shall be as provided in s. 751.035. Not more than 5 days after an action to challenge the apportionment of a congressional or state legislative district is filed, the clerk of courts for the county where the action is filed shall notify the clerk of the supreme court of the filing.

(5) Venue of an action for certiorari to review a probation, extended supervision, or parole revocation, a denial by a program review committee under s. 302.113 (9g) of a petition for modification of a bifurcated sentence, or a refusal of parole shall be the county in which the relator was last convicted of an offense for which the relator was on probation, extended supervision, or parole or for which the relator is currently incarcerated.

(5c) Venue of an action for certiorari brought by the department of corrections under s. 302.113 (9) (d) or 302.114 (9) (d) to review a decision to not revoke extended supervision shall be in the county in which the person on extended supervision was convicted of the offense for which he or she is on extended supervision.

(5m) Venue of an action arising from a consumer credit transaction, as defined in s. 421.301 (10), shall be in any county specified in s. 421.401 (1).

(5p) Venue of an environmental pollution action brought by a person who is not a resident of this state against a commission created under s. 200.23 shall be in the county which contains the 1st class city that is located wholly or partially within the applicable district created under s. 200.23.

(5r) Venue of an action under s. 813.12 growing out of domestic abuse shall be in the county in which the cause of action arose, where the petitioner or the respondent resides or where the petitioner is temporarily living.

(5s) Venue of an action under s. 813.122 or 813.125 shall be in the county in which the cause of action arose or where the petitioner or the respondent resides.

(5t) Except as otherwise provided in ss. 801.52 and 971.223 (1) and (2), venue in a civil action to impose a forfeiture upon a resident of this state for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, shall be in circuit court for the county where the defendant resides. For purposes of this subsection, a person other than a natural person resides within a county if the person's principal place of operation is located within that county. This subsection does not affect which prosecutor has responsibility under s. 978.05 (2) to prosecute civil actions arising from violations under s. 971.223 (1).

(5v) Venue of an action under s. 165.76 (6) shall be in any of the following counties:

- (a) The county where the respondent resides.
- (b) The county in which a court order requiring the respondent to submit a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis was entered.
- (c) The county in which any court proceeding was held that resulted in a requirement that the respondent submit a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis.

(6) Venue under this section may be changed under s. 801.52. **History:** 1983 a. 204, 228, 389, 538; 1985 a. 234, 291; 1987 a. 208; 1993 a. 318, 319; 1997 a. 283; 1999 a. 150 s. 672; 2001 a. 30 s. 108; 2001 a. 109; 2007 a. 1; 2009 a. 28, 42, 261; 2011 a. 21, 38, 39.

**Cross-reference:** See s. 813.02 (4) for exception to sub. (1) as to venue.

**Judicial Council Note, 1983:** Sub. (1) is designed to separate questions of venue from questions of jurisdiction and competency. A defect in venue is not jurisdictional and does not affect the competence of the court. The cure for a defect in venue is to change the place of trial.

Sub. (2) liberalizes the present venue statute by providing the plaintiff with a broader range of initial venue choices. This subsection also deletes many of the archaic distinctions in the former statute.

The following list contains many, but not all, of the specialized venue provisions not found in chapter 801: s. 48.185 (children's code proceedings); s. 48.83 (adoption of minors); s. 51.45 (13) (n) (civil mental commitments); s. 767.65 (11) Revised (proceedings under the uniform reciprocal enforcement of support act); s. 77.12 (forest croplands tax act); s. 111.60 (Wisconsin employment relations act); s. 144.73 (4) [now s. 291.95 (4)] (hazardous waste act); s. 185.44 (1) (cooperative contracts); s. 195.07 (railroad regulation act); s. 196.44 (3) (public utilities regulation act); s. 198.12 (2) (municipal power and water district act); s. 215.02 (5) (savings and loan association act); s. 227.16 (1) (administrative procedure act); s. 232.38 (solid waste recycling authority act); s. 234.22 (housing finance authority act); s. 345.31 (motor vehicle act); s. 421.401 (Wisconsin consumer act); s. 645.04 (1) (insurers rehabilitation and liquidation act); s. 655.19 (health care liability and patients compensation); s. 701.14 (4) (living trusts); s. 752.21 (court of appeals); s. 753.065 (naturalization proceedings); s. 757.89 (Wisconsin judicial commission); s. 776.13 (annulment of corporate charters); s. 779.20 (log liens); s. 799.11 (small claims actions); s. 800.15 (municipal court appeals); s. 880.05 (guardianship actions); s. 882.03 (adult adoptions); s. 971.19 (criminal proceedings); s. 979.01 (inquests of the dead); s. 23.90 (conservation act); s. 45.50 (3) (soldiers and sailors civil relief); and s. 753.34 (5) (Menominee and Shawano counties).

Sub. (3) remains the same in substance.

Subs. (4) and (5) remain unchanged.

Sub. (6) recognizes the authority of the judge to change venue under s. 801.52. [Bill 324-S]

"Substantial business" under sub. (2) (c) is discussed. *Enpro Assessment Corp. v. Enpro Plus, Inc.* 171 Wis. 2d 542, 492 N.W.2d 325 (Ct. App. 1992).

"Where the liberty of the plaintiff is restrained" under sub. (4) (b) is the county where the plaintiff is confined. *State ex rel. Frederick v. McCaugherty*, 173 Wis. 2d 222, 496 N.W.2d 327 (Ct. App. 1992).

A certiorari proceeding to review a probation revocation must be heard in the circuit court of conviction, but it need not be heard by the same branch. *Drow v. Schwarz*, 225 Wis. 2d 362, 592 N.W.2d 623 (1999), 97-1867.

Sections 801.50 and 801.51, the general venue statutes, do not apply to actions arising from consumer credit transactions. Rather, the venue provision in s. 421.401 applies. *Brunton v. Nuvel Credit Corporation*, 2010 WI 50, 325 Wis. 2d 135, 785 N.W. 2d 302, 07-1253.

Wisconsin's revised venue statutes. Fullin, WBB September, 1984.

**801.51 Challenges to improper venue.** Any party may challenge venue, on the grounds of noncompliance with s. 801.50 or any other statute designating proper venue, by filing a motion for change of venue:

