

83 WisACT 231

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1983 Senate Bill 331

Date of enactment: April 20, 1984

Date of publication: April 26, 1984

1983 Wisconsin Act 231

AN ACT to amend 345.36 and 345.51; and to create 345.36 (2) (b) and (3) of the statutes, relating to entry of default judgments in certain traffic forfeiture actions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 345.36 of the statutes is amended to read:

345.36 (title) Not guilty plea; continuance; failure to appear. (1) If the defendant pleads not guilty and requests a continuance the court shall set a date for trial or advise the defendant that ~~he~~ notice will later be ~~notified sent~~ of the date set for trial. ~~The defendant shall be released~~ The court shall release the defendant if he or she posts a bond for his an appearance bond, or the court may release ~~him on his own~~ the defendant on recognizance, or ~~the court may release him~~ without bail; if he is. A defendant not so released he shall be committed to jail to await trial.

(2) If a defendant fails to appear at the date set under ~~this section~~ sub. (1), the court shall ~~issue~~ either:

(a) Issue a warrant under ch. 968 and, if the ~~alleged violator~~ defendant has posted bond for his appearance at that date, the court may order the bond forfeited; or

SECTION 2. 345.36 (2) (b) and (3) of the statutes are created to read:

345.36 (2) (b) Deem the nonappearance a plea of no contest and enter judgment accordingly. If the defendant has posted bond for appearance at that date, the court may also order the bond forfeited. The court shall promptly mail a copy of the judgment to the defendant. The judgment shall allow not less than 20 days from the date thereof for payment of any forfeiture, penalty assessment and costs imposed. If the defendant moves to open the judgment within 20 days after the date set for trial, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect, the court shall open the judgment, reinstate the not guilty plea and set a new trial date. The court may impose costs under s. 814.07. The court shall immediately notify the department to delete the record of conviction based upon the original judgment.

(3) If the offense involved is a nonmoving traffic violation and the defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

SECTION 3. 345.51 of the statutes is amended to read:

345.51 Reopening of default judgment. Except as provided in ~~s. ss. 345.36 and~~ 345.37, there shall be no reopening of default judgments unless allowed by order of the trial court after notice and motion duly made and upon good cause shown. The notice of motion must be filed within 6 months after entry of judgment in the case docket. Default judgments for purposes of this section include pleas of guilty, no contest and forfeitures of deposit.