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CHAPTER 800

MUNICIPAL COURT PROCEDURE

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800.01 Commencement of action. (1) In municipal court, personal jurisdiction in municipal ordinance violation cases and cases involving a violation of a resolution or bylaw if the resolution or bylaw is authorized by statute is obtained over a defendant when the defendant:

(a) Is served with a summons and complaint or citation and such documents are filed with the court;

(b) Is arrested and brought before a court; or

(c) Voluntarily appears before a municipal judge.

(2) Service under sub. (1) (a) shall be as provided in s. 968.04 (3) (b) 2 or by personal service by a municipal employe.

History: 1977 c. 305; 1979 c. 32 s. 68.

Judicial Council Committee's Note, 1977: This section sets out the 3 methods in which personal jurisdiction is obtained over a defendant in municipal ordinance violation cases. Personal jurisdiction can be achieved in no other way. The method of service under sub. (1) is made identical with the method for serving a summons in a criminal proceeding under ch. 968. [Bill 1240-A]

800.02 Form of citation, complaint, summons and warrant in municipal ordinance violation cases. (1) ACTION. An action in municipal court for violation of a municipal ordinance, or violation of a resolution or bylaw if the resolution or bylaw is authorized by statute, is a civil action and the forfeiture or penalty imposed by any ordinance of the municipality may be collected in an action in the name of the municipality.

(2) CITATION FORM. (a) The citation shall be signed by a peace officer or endorsed by a municipal attorney or, if applicable, signed by a conservation warden. In addition, the governing body of a municipality authorized to adopt the use of citations may designate by ordinance or resolution other municipal officials who may issue citations with respect to ordinances which are directly related to the official responsibilities of the officials. Officials granted the authority to issue citations may delegate, with the approval of the governing body, the authority to employes. Authority delegated to an official or employe may be revoked only in the same manner by which it is conferred. The citation shall contain substantially the following information:

1. The name, address and date of birth of the defendant.

2. The name and department of the issuing officer.

3. The violation alleged, the time and place of occurrence, a statement that the defendant committed the violation, the ordinance, resolution or bylaw violated and a designation of the violation in language which can be readily understood.

4. A date, time and place for the court appearance, and a notice to appear.

5. Provisions for amount of deposit and stipulation in lieu of a court appearance, if applicable.

6. Notice that the defendant may make a deposit and thereby obtain release if an arrest has been made.

7. Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty and may within 10 days after entry of the plea request a jury trial.

8. Notice that if the defendant makes a deposit and fails to appear in court at the time fixed in the citation, the defendant is deemed to have tendered a plea of no contest and submits to a forfeiture and penalty assessment plus costs, including the fee prescribed in s. 814.65 (1), not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and plea.

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9. Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or a warrant for the defendant's arrest or may enter a default judgment against the defendant.

10. Any other pertinent information.

(b) Except for parking violations, in traffic regulation actions in municipal court, the uniform citation and complaint form specified in s. 345.11 shall be used in lieu of the citation form specified in par. (a). In actions for violations of local ordinances enacted in accordance with s. 30.77, the citation form specified in s. 23.54 shall be used in lieu of the citation form specified in par. (a).

(3) COMPLAINT FORM. The complaint shall be signed by a complainant and shall contain substantially the following information:

(a) The name, address and date of birth of the defendant.

(b) The department permit or license number of the defendant, if applicable.

(c) The name and department of the issuing officer.

(d) The title of the cause, specifying the name of the court and county in which the action is brought and the names and addresses of the parties to the action.

(e) A plain and concise statement of the violation identifying the event or occurrence from which the violation arose and showing that the plaintiff is entitled to relief, the ordinance, resolution or bylaw upon which the cause of action is based and a demand for a forfeiture, the amount of which shall not exceed the maximum set by the statute involved, the penalty assessment and such other relief that is sought by the plaintiff.

(f) Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty and may within 10 days after entry of the plea request a jury trial.

(g) In an action by or against a ch. 180 or 181 corporation, the complaint must state the corporate existence and whether the corporation is a domestic or foreign corporation.

(4) SUMMONS FORM. The summons shall be signed by a municipal judge and shall contain the following information:

(a) The title of the cause, specifying the name of the court and county in which the action is brought and the names of all parties to the action.

(b) A direction summoning and requiring the defendant to appear in a specified court on a particular date not less than 10 days following service of the summons to answer the accompanying citation or complaint.

(c) A notice that in case of failure to appear, judgment may be rendered against the defendant according to the demand of the citation or complaint, or the court may issue a warrant for the defendant's arrest.

(5) WARRANT FORM. The warrant shall be in the name of the state of Wisconsin, shall be directed to all law enforcement officers in the state, may be addressed to any law enforcement officer in the state, may specify geographical limits for enforcement of the warrant, shall be signed by the municipal judge who authorizes its issuance and shall contain or have attached thereto the following information:

(a) The name of the defendant.

(b) The offense alleged.

(c) A copy of the citation or complaint.

(d) A finding of probable cause that the defendant committed the offense.

(e) A command to arrest the defendant and bring him or her before the municipal judge or other municipal judge or judge of the county.

(f) The date of issuance.

(6) AUTHORITY TO ARREST WITHOUT A WARRANT. A person may be arrested without a warrant for the violation of a municipal ordinance if the arresting officer has reasonable grounds to believe that the person is violating or has violated the ordinance.

History: 1977 c. 305; 1979 c. 22; 1979 c. 32 s. 68; 1979 c. 266; 1981 c. 317; 1983 a. 535.

Judicial Council Committee's Note, 1977: This section sets out the information to be included in the citations, complaints, summonses and warrants used in municipal ordinance violation cases. All the data required for a particular form must be included, although additional information may be included if felt advisable by the person prosecuting a particular ordinance violation.

It is felt that the minimum information required on a citation, complaint, summons or warrant meets any due process requirements of giving a particular defendant sufficient information of the facts and circumstances of the ordinance violation for which he or she is charged. [Bill 1240-A]

800.025 Amended citation and complaint. A citation or complaint under s. 800.02 may be amended once as a matter of course prior to the initial appearance of the defendant. Otherwise, the citation or complaint may be amended only by leave of the court or by written consent of the defendant.

History: 1981 c. 225.

800.03 Stipulation of no contest prior to the initial appearance. (1) If a person is issued a citation in a case specified in s. 800.02 (1), the person may make a stipulation of no contest and deposit as follows:

(a) In traffic regulation cases, as provided in s. 345.27.

(b) In boating violations, as provided in s. 23.67.

(c) In other violations, the person may make such a stipulation and deposit only if the gov-

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erning body of the municipality has approved the deposit schedule under sub. (3). The person may make the stipulation of no contest and deposit to the municipal court at any time prior to the initial appearance.

(2) The person who has made a stipulation and deposit under sub. (1) may appear in court. In such case, the court shall allow the person to withdraw his or her plea of no contest. The person need not appear in court.

(3) The amount of the deposit shall be set by the municipal judge, but shall not be effective until approved by the governing body of the municipality. The amount shall not exceed the maximum penalty for the offense, including any penalty assessment which would be applicable under s. 165.87, plus court costs, including the fee prescribed in s. 814.65 (1).

(4) Notwithstanding sub. (1), a court appearance is required for a violation of a local ordinance in conformity with s. 346.63 (1). If a person fails to make a required appearance under this subsection and the judge issues an arrest warrant, the law enforcement agency which filed the uniform citation and complaint shall file a detailed description of the warrant with the division of law enforcement services of the department of justice.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); 1981 c. 184, 317; 1983 a. 535.

800.04 Initial appearance; stipulation of guilt; deposit. (1) (a) When a defendant appears or is brought before a municipal court, the municipal judge shall read the charge as stated in the warrant, complaint or citation to the defendant and shall explain the range of penalties which may be imposed.

(b) 1. The court shall inform the defendant:

a. That he or she may plead guilty, not guilty or no contest or may request a continuance;

b. Of the effect of a plea of no contest; and

c. Of the right to a jury trial.

2. The defendant shall plead to the charges and the municipal judge shall enter the plea in the court docket. If the defendant refuses to plead, the municipal judge shall enter a plea of not guilty.

(c) If the defendant pleads guilty or no contest, the court shall convict the defendant of the offense charged and render judgment.

(d) If the defendant pleads not guilty and within 10 days after entry of the plea requests a jury trial and pays the required fees, the municipal judge shall promptly transmit all papers and fees in the cause to the clerk of the circuit court of the county where the violation occurred for a jury trial under s. 345.43. The plea of not guilty and request for jury trial may be made by mail. In cases not governed by ss. 345.20 to 345.53, the amount of deposit set out in the citation shall accompany the mailed request. Upon receipt of the request, the circuit court shall set a time for trial. Any deposit made personally or by mail is forfeited upon nonappearance at the time set for trial. The required fee for a jury is prescribed in s. 814.61 (4).

(e) If the defendant agrees to immediate trial by the court, and the municipality is prepared for trial, the case may be tried immediately. If trial is not held immediately, the municipal judge shall then set a date for trial or advise the defendant that he or she will later be notified of the date set for trial.

(2) (a) A municipal judge may release a defendant without a deposit.

(b) If the municipal judge determines that the defendant should not be released under par. (a) and the defendant is charged with a traffic or boating violation, the municipal judge shall release the defendant on a deposit in the amount established by the uniform deposit schedule under s. 345.26 (2) (a) or under s. 23.66. For other violations, the municipal judge shall establish a deposit in an amount not to exceed the maximum penalty for the offense, including any penalty assessment which would be applicable under s. 165.87. On failure of the defendant to make a deposit under this paragraph, he or she may be committed to jail pending trial only if the judge finds that there is a reasonable basis to believe the person will not appear in court.

(c) If the defendant has made a deposit under par. (b) or s. 800.03 and does not appear, he or she is deemed to have tendered a plea of no contest and submits to a forfeiture and a penalty assessment imposed by s. 165.87 plus costs, including the fee prescribed in s. 814.65 (1), not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the defendant fails to appear in response to the summons, the court shall issue a warrant under s. 968.09. If the defendant has made a deposit but does appear, the court shall allow the defendant to withdraw the plea of no contest.

(3) (a) If the court accepts a plea of no contest or judgment is entered against a defendant by default, the defendant may move within 6 months after the date set for the appearance to withdraw the plea of no contest, reopen the judgment and enter a plea of not guilty upon a showing to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If on reopening the defendant is found not guilty, the court shall in traffic cases under ss. 345.20 to 345.53 immediately notify the department of

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transportation to delete the record of conviction based on the original proceeding and shall order the defendant's deposit returned.

(b) In this subsection, "default judgment" means only a judgment where there has been a plea of no contest and a forfeiture of a deposit.

(4) If a case is brought before a court that does not have jurisdiction, the case shall be transferred to the proper court.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); 1979 c. 175 s. 50; 1981 c. 183, 317.

Judicial Council Committee's Note, 1977: This section sets out the procedure to be used when a defendant initially appears before a municipal court. Sub. (1) (b) lists various information that must be brought to the defendant's attention at the initial appearance. Provision is made for a defendant to plead guilty or no contest at the initial appearance or to request a continuance. A plea of no contest means admission of guilt for purposes of the ordinance violation only and does not bind the defendant in a civil suit for the same wrong.

Sub. (1) (d) sets out the procedure for the defendant to request a jury trial after pleading not guilty.

Sub. (1) (e) provides that if a defendant pleads not guilty and agrees to immediate trial, the trial may be held at the same time as the defendant makes his or her initial appearance.

Sub. (2) sets out the procedure for a municipal judge to release a defendant with or without a deposit. If a deposit is required, sub. (2) (b) sets out the procedure for determining what the deposit should be.

Sub. (2) (c) sets out the procedure for a municipal judge to follow if a defendant has made a deposit and does not appear at the time of trial. It also allows the defendant to reopen a plea of no contest within 6 months if the plea was originally given due to mistake, inadvertence, surprise or excusable neglect. [Bill 1240-A]

800.05 Substitution of municipal judge. (1) In cases specified in s. 800.02 (1), a person charged with a violation may file a written request for a substitution of a new judge for the municipal judge assigned to the trial of that case. The written request shall be filed not later than 7 days after the initial appearance in person or by an attorney. The municipal judge against whom a request has been filed may set initial bail and accept a plea of not guilty.

(2) Except as provided in sub. (4), no person may file more than one such written request in any one action.

(3) In municipal court, upon receipt of the written request, the case shall be transferred as provided in s. 751.03 (2). Upon transfer, the municipal judge shall transmit to the appropriate court all the papers in the action and the action shall proceed as if it had been commenced in that court.

(4) If upon an appeal from a judgment or order or upon a writ of error the appellate court orders a new trial or reverses or modifies the judgment or order in a manner such that further proceedings in the municipal court are necessary, the person charged with a violation may file a request under sub. (1) within 20 days after the entry of the judgment or decision of the appellate court whether or not another request was filed prior to the time the appeal or writ of error was taken.

History: 1977 c. 305, 447; 1977 c. 449 s. 496; 1979 c. 32 ss. 68, 92 (17).

Judicial Council Committee's Note, 1977: This section sets out the procedures to be used when a defendant requests a substitution of a new judge in an ordinance violation case. The request must be made not later than 7 days after the initial appearance in the case by the defendant.

The section also provides that the same administrative procedure for assignment of judges in courts of record when a request for substitution has been made will also be used in assigning a municipal judge to replace a municipal judge for whom a request for substitution has been made. [Bill 1240-A]

800.06 Illness, absence or vacancy; pending actions triable by court which receives papers; continuance on vacancy and notice of trial. (1) If any municipal judge is to be temporarily absent or is sick or disabled, the municipal judge may by written order, filed in the court and with the chief judge of the judicial administrative district for approval, designate another municipal judge of the county to perform his or her duties for a single period not to exceed 30 days or the municipal judge may deliver the docket and all papers relating to any pending action to the circuit court of the county and the circuit court may try the action and enter judgment as though the action was begun before that court.

(2) If any municipal judge is incompetent, unable or fails to act, or in the event of a vacancy, s. 751.03 (2) applies. The parties and their attorneys shall be notified of the transfer to another municipal judge or to circuit court prior to trial. The municipal judge designated or the circuit judge to whom the case is transferred may, while in possession of the docket, issue execution upon or give a certified transcript of any unsatisfied judgment appearing therein.

History: 1977 c. 305; 1977 c. 449 s. 497; 1979 c. 32 ss. 68, 92 (17).

Judicial Council Committee's Note, 1977: This section governs the procedures to be followed when a municipal judge is temporarily absent from court or is sick or disabled. Another municipal judge may be designated to perform the duties of his or her court for a period not to exceed 30 days.

If a municipal judge is incompetent, unable or fails to act, or if the office of municipal judge is vacant, the provisions of s. 751.03 (5) [(2)] for assignment of another municipal judge to the court applies. [Bill 1240-A]

800.07 Discovery in municipal court. Neither party is entitled to pretrial discovery, except that if the defendant moves within 7 days after the initial appearance in person or by an attorney and shows cause therefor, the court may order that the defendant be allowed to inspect documents, including lists of names of witnesses, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed.

History: 1977 c. 305; 1979 c. 32 s. 68.

Judicial Council Committee's Note, 1977: Discovery prior to trial in municipal court in ordinance violation cases is lim-

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ited to the court ordering, upon cause shown by a party, production of documents, including lists of names of witnesses, under s. 804.09 or the inspection of any devices used by the prosecutor in determining whether an ordinance violation has occurred. [Bill 1240-A]

800.08 Procedure at trial. (1) In a trial before a municipal court, the municipality may provide a prosecutor who is an attorney authorized or licensed to practice law in this state. The municipality shall first offer evidence in support of the citation or complaint. The defendant may offer evidence after the municipality has rested. If the municipality and the defendant have offered evidence upon the citation or complaint, the parties may then respectively offer rebuttal testimony only, unless the court permits them to offer evidence upon their original case. Both parties shall have the opportunity to question all witnesses.

(2) (a) Before testifying in a municipal court, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation administered in a form calculated to awaken his or her conscience and impress the witness with the duty to testify truthfully.

(b) The oath may be administered by the municipal judge or his or her designee substantially in the following form: Do you solemnly swear that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth, so help you God.

(c) Every person who declares that he or she has conscientious scruples against taking the oath, or swearing in the usual form, shall make a solemn declaration or affirmation, which may be in the following form: Do you solemnly, sincerely and truly declare and affirm that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth; and this you do under the pains and penalties of perjury.

(d) The assent to the oath or affirmation by the person making it may be manifested by the uplifted hand.

(3) The standard of proof for conviction of any person charged with violation of any municipal ordinance, bylaw or resolution specified in s. 800.02 (1) shall be evidence that is clear, satisfactory and convincing.

(4) Municipal courts shall be bound by the rules of evidence specified in chs. 901 to 911.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17).

Judicial Council Committee's Note, 1977: This section sets out the procedure to be followed at trial before a municipal court in ordinance violation cases.

Sub. (1) states the order of presentation of evidence. After the municipality offers evidence in support of the violation, the defendant may present evidence. After each side has offered evidence upon the violation, only rebuttal testimony is allowed unless the court permits otherwise.

Every witness testifying in a municipal court must be sworn. Subsection (2) sets out the method of swearing a witness.

Sub. (3) states that the standard of proof for conviction in a municipal court shall be evidence that is clear, satisfying and convincing.

Sub. (4) states that the Wisconsin Rules of Evidence, chs. 901 to 911, shall apply in municipal court. [Bill 1240-A]

800.09 Judgment; failure to appear; plea of guilty. (1) JUDGMENT. If a municipal court finds a defendant guilty it may render judgment by ordering payment of a forfeiture and the penalty assessment imposed by s. 165.87 plus costs of prosecution, including the fee prescribed in s. 814.65 (1), and by imprisonment in default of the payment. Persons who fail to pay forfeitures, penalty assessments and costs shall be committed to a jail or a house of correction in the county in which the cause of action arose for not more than 90 days and shall be kept at the expense of the municipality. Any person committed under this section may be accorded privileges under s. 56.08. The court may defer payment of any judgment for not more than 60 days. At the time the judgment is rendered, the court shall inform the defendant of the date by which payment of the forfeiture, penalty assessment and costs must be made, and of the possible consequences of failure to make the payment in timely fashion.

(2) JUDGMENT ON PLEA OF GUILTY OR NO CONTEST OR ON FAILURE TO APPEAR. (a) If the defendant pleads guilty or no contest, the court shall convict the defendant of the offense charged and render judgment.

(b) If the person arrested and released fails to appear personally or by an attorney at the time fixed for hearing of the case, the defendant may be deemed to have entered a plea of no contest and the money deposited, if any, or such portion thereof as the court determines to be an adequate penalty, plus the penalty assessment and costs, including the fee prescribed in s. 814.65 (1), may be declared forfeited by the court or may be ordered applied upon the payment of any penalty which may be imposed, together with the penalty assessment and costs. In either event, any remaining money shall be refunded to the person who made the deposit.

(c) This subsection shall not apply to violations of parking ordinances. Bail given for appearance to answer a charge under any such ordinance may be forfeited as determined by the municipality.

History: 1977 c. 305; 1979 c. 32 s. 68; 1981 c. 317.

Judicial Council Committee's Note, 1977: Sub. (1) governs the procedure for rendering judgment upon a finding of guilty of a defendant. A court may allow the defendant up to 60 days to pay a judgment. Failure to pay a judgment exposes a person to possible commitment to a jail or house of correction for not more than 90 days. If a defendant is indigent and unable to pay the forfeiture, the defendant cannot be imprisoned for nonpayment. The defendant must demonstrate that his or her inability to pay the fine is a result of indigency and must be afforded a hearing to determine his or her ability to pay the fine. See State ex rel. Pedersen v. Blessinger, (1972) 56 Wis. 2d 286, 201 N.W. 2d 778.

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Sub. (2) provides that a municipal judge shall convict a defendant of the violation for which he or she is charged if the defendant pleads either guilty or no contest. If the defendant fails to appear at the time that the offense is to be heard by a municipal judge, the judge may deem the defendant to have entered a plea of no contest and then determine the appropriate penalty. Payment for the forfeiture and penalty assessment may be secured from any deposit made by the defendant. Any money remaining from a deposit after payment of the forfeiture, penalty assessment and costs shall then be refunded to the person making the deposit. [Bill 1240-A]

800.10 Fees and costs in municipal court. (1) Fees and costs in municipal court are prescribed in s. 814.65.

(2) All forfeitures, fees, penalty assessments and costs paid to a municipal court under a judgment before a municipal judge shall be paid to the municipal treasurer within 7 days after receipt of the money by a municipal judge or other court personnel. At the time of the payment, the municipal judge shall report to the municipal treasurer the title of the action, the offense for which a forfeiture was imposed and the total amount of the forfeiture, fees, penalty assessments and costs, if any. The treasurer shall disburse the fees as provided in s. 814.65 (1).

History: 1981 c. 317.

800.11 Municipal court docket and transcript entries. (1) Every municipal judge shall keep a docket in which he or she shall enter, in actions to which they relate:

(a) The title of every action commenced before the municipal judge, including the name and address of the defendant;

(b) The process issued, date and place where it issued, when returnable and the return of the officer;

(c) A brief statement of the charges, including the nature and time of the offense and the section of law violated;

(d) Every adjournment, stating at whose request and to what time;

(e) The date and time trial was held;

(f) The names of witnesses sworn, stating at whose request;

(g) The judgment rendered by the municipal judge, including the penalties imposed, the date and time of rendering judgment and the costs assessed in the action;

(h) The record of contempt convictions under s. 800.12;

(i) The amount of bail and names and addresses of sureties, if any;

(j) The time of ordering any stay of execution;

(k) The time of issuing execution and the name of the officer to whom delivered;

(m) The return of every execution and when made and every renewal of an execution, with the date thereof;

(n) The date and reason of removal of the action to another court;

(o) The date of giving transcript of judgment;

(p) The date of an appeal made from judgment; and

(q) All motions made in the action, the decision thereon and all other proceedings in the action which the municipal judge may think useful.

(2) Failure of the municipal judge to keep a docket properly shall not affect the jurisdiction of the municipal court or render the judgment void.

(3) The transcript of judgment shall contain the following:

(a) The name and location of the court.

(b) The title of action.

(c) The name, address and vocation of defendant.

(d) The date of judgment.

(e) The amount of judgment, costs and fees.

(f) The certification that it is a true copy of the judgment.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17).

Judicial Council Committee's Note, 1977: Sub. (1) lists the various docket entries that are to be made by a municipal judge.

Sub. (2) makes clear that failure to properly docket a matter does not adversely affect the jurisdiction of a municipal court or a judgment rendered therein.

Sub. (3) lists the items that must be included in a transcript of judgment. [Bill 1240-A]

800.12 Municipal court contempt procedure. (1) A municipal judge may impose a sanction authorized under sub. (2) for contempt of court, as defined in s. 785.01 (1), in accordance with the procedures under s. 785.03.

(2) A municipality may by ordinance provide that a municipal judge may impose a forfeiture for contempt under sub. (1) in an amount not to exceed $50 or, upon nonpayment of the forfeiture and the penalty assessment under s. 165.87, a jail sentence not to exceed 7 days.

History: 1977 c. 305; 1979 c. 32 s. 68; 1979 c. 257.

800.13 Recording in municipal court. (1) Every proceeding in which testimony is taken under oath in a municipal court shall be recorded by electronic means for purposes of appeal.

(2) Notwithstanding sub. (1), a municipal court is not a court of record.

History: 1977 c. 305; 1979 c. 32 s. 68; 1979 c. 237.

Judicial Council Committee's Note, 1977: Sub. (1) requires that all testimony taken under oath in municipal court must be recorded by electronic means. Electronic means requires only a tape recorder and a microphone or microphones sufficient to pick up all testimony given under oath. The capacity of the recorder is defined to assure compatibility of equipment upon appeal. The municipal judge has the responsibility to make sure that the recorded testimony in his or her court is done in such a way that the individual giving the testimony can be readily identified.

Sub. (2) makes clear that the municipal court is not a court of record. The only purpose of recording testimony in

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municipal court by electronic means is to establish a record for appeal to a court of record. [Bill 1240-A]

800.14 Appeal from municipal court decision. (1) Appeals from judgments of municipal courts may be taken by either party to the circuit court of the county where the offense occurred. The appellant shall appeal by giving the municipal judge written notice of appeal within 20 days after judgment.

(2) On appeal by the defendant, the defendant shall execute a bond to the municipality with or without surety, approved by the municipal judge, that if the judgment is affirmed in whole or in part the defendant shall pay the judgment and all costs awarded on appeal.

(3) On meeting the requirements for appeal, execution on the judgment of the municipal court shall be stayed until the final disposition of the appeal.

(4) Upon the request of either party within 20 days after notice of appeal under sub. (1), or on its own motion, the circuit court shall order that a trial de novo without a jury be held in circuit court.

(5) If there is no request or motion under sub. (4), an appeal shall be based upon a review of a transcript of the proceedings. The municipal judge shall direct that the transcript be prepared from the electronic recording under s. 800.13 (1) and shall certify the transcript. The costs of the transcript shall be paid for under s. 814.65 (5). The electronic recording and the transcript shall be transferred to the circuit court for review.

(6) The disposition of the appeal shall be certified to the municipal court by the reviewing court within 30 days of the judgment of the reviewing court.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); 1979 c. 237; 1981 c. 317 s. 2202.