

1999 DRAFTING REQUEST**Bill**Received: **01/13/99**Received By: **nelsorp1**Wanted: **As time permits**

Identical to LRB:

For: **Daniel Vrakas (608) 266-3007**By/Representing: **Greg Hubbard**This file may be shown to any legislator: **NO**Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Courts - courts/judges**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Municipal court; remove right to jury in OWI cases

Instructions:


See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	nelsorp1 01/22/99	ptellez 01/26/99	jfrantze 01/26/99	_____	lrb_docadmin 01/26/99		Local
/1	nelsorp1 03/30/99	jgeller 03/30/99	ismith 03/31/99	_____	lrb_docadmin 03/31/99	lrb_docadminLocal 04/15/99	

FE Sent For:

<END>


 06-10-99

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1 3/30 jlg

*IS
3/3/99*

*IS/WLJ
3/31/99*

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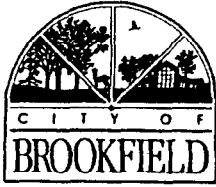
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1?	nelsorp1	/P1 rat 1/25/99	1/26	Jb / Cp 1/26			

FE Sent For:

<END>



MUNICIPAL COURT
2000 North Calhoun Road
Brookfield, Wisconsin 53005-5000
(414) 796-6660

RICHARD J. STEINBERG
MUNICIPAL JUDGE

414-781-1266

December 17, 1998

State Representative Dan Vrakus
Wisconsin Legislature
Wisconsin State Capitol
123 West State Capitol
Madison, WI 53702

Dear Dan:

The following legislation has been endorsed the Wisconsin Municipal Judges Association and we appreciate it if you have it drafted and submitted to me for review.

This can be added to the Municipal Judges' package.

PEN

1. A Trailer Bill be inserted which will cause 4th and later OAR Offenses to be treated as criminal matters and be removed from Municipal Court Jurisdiction.

2. Removed of the provision for a Jury Demand in OWI cases on the grounds that all defendants should be treated equally in all cases.

JEO

3. That Municipal Courts have full jurisdiction over both juvenile and adult drug and drug paraphernalia cases.

LRB4615 ->

4. Abolishment of mandatory appearances in OWI cases so that a default judgment can be taken if defendant fails to appear.

Crime Assisted
Amended

The Wisconsin Municipal Judges Association has also passed a resolution to amend the law to allow for a 4 (four) year term for Municipal Judges and desires that this be the No. 1 priority.

Will you kindly have your researchers insert the appropriate statutory sections and contact me for any other information.





[D-NOTE]

[Handwritten signature]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen. cat.

1 AN ACT ...; relating to: jury trials in municipal court.

Analysis by the Legislative Reference Bureau

Under current law, in municipal court a person charged with a violation of either of the following ordinances has the right to request a jury trial: ^{that}

1. An ordinance that is in conformity with the state law ~~that~~ prohibits the operation of a motor vehicle while under the influence of an intoxicant, controlled substance or other drug (OWI).

2. An ordinance that is in conformity with the state law ^{that} ~~that~~ prohibits the operation of a commercial motor vehicle while the person has a blood alcohol concentration of 0.04~~x~~ or more but less than 0.1~~x~~.

*%
(twice)*

If the violator requests a jury trial and pays the required fees, currently, the municipal court is required to transfer the case to the clerk of circuit court in the county where the violation occurred. The circuit court is then required to set a date for a jury trial.

This bill removes the right to a jury trial in municipal court cases.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

2 SECTION 1. 345.43 (1) of the statutes is amended to read:

1 345.43 (1) ~~If a case has been transferred under s. 800.04 (1) (d), or if in circuit~~
 2 court either party files a written demand for a jury trial within 10 days after the
 3 defendant enters a plea of not guilty under s. 345.34 and immediately pays the fee
 4 prescribed in s. 814.61 (4), the court shall place the case on the jury calendar of the
 5 circuit court. The number of jurors shall be 6. If no party demands a trial by jury,
 6 the right to trial by jury is permanently waived.

History: 1971 c. 278; 1973 c. 218; Sup. Ct. Order. 67 W (2d) 585, 773 (1975); 1975 c. 231, 291; 1977 c. 187 s. 135; 1977 c. 305, 318, 447, 449; 1979 c. 32 s. 92 (17); 1979 a. 89, 128; 1981 c. 317; 1985 a. 170; 1987 a. 389; 1991 a. 271, 315; 1995 a. 427; Sup. Ct. Order No. 96-08, 207 W (2d) xv (1997).

SECTION 2. 800.02 (2) (a) 7. of the statutes is amended to read:

800.02 (2) (a) 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.

History: 1977 c. 305; 1979 c. 22; 1979 c. 32 s. 68; 1979 c. 266; Stats. 1979 s. 800.02; 1981 c. 317; 1983 a. 535; 1987 a. 27; 1987 a. 200 s. 4; 1987 a. 389; 1989 a. 170; 1991 a. 39, 40; 1993 a. 16, 112, 320, 437; 1997 a. 27.

SECTION 3. 800.02 (3) (a) 6. of the statutes is amended to read:

800.02 (3) (a) 6. 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.

History: 1977 c. 305; 1979 c. 22; 1979 c. 32 s. 68; 1979 c. 266; Stats. 1979 s. 800.02; 1981 c. 317; 1983 a. 535; 1987 a. 27; 1987 a. 200 s. 4; 1987 a. 389; 1989 a. 170; 1991 a. 39, 40; 1993 a. 16, 112, 320, 437; 1997 a. 27.

SECTION 4. 800.04 (1) (b) 1. c. of the statutes is repealed.

SECTION 5. 800.04 (1) (d) of the statutes is repealed.

(END)

Handwritten notes: "7" with an arrow pointing to the history line, and "insert 2-7" with a circle around the number 7.

Insert ~~Z-7~~ ✓

Section #. 755.045 (1) (a) of the statutes is amended to read:

755.045 (1) (a) If the action is transferred under s. ~~800.04 (1)~~ or 800.05 (3) to a court of record.

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.045; 1979 c. 32 s. 92 (17); 1985 a. 179; 1989 a. 261; 1991 a. 40.

[end of insert]

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1761/P1dn
RPN.f.g.t...

Please review this draft carefully to ensure that it complies with your intent. I am not sure that I accurately cited the law in the analysis, so share this draft with municipal court experts.

Robert P. Nelson
Senior Legislative Attorney
267-7511

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1761/P1dn
RPN:pgt:jf

January 26, 1999

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Robert P. Nelson
Senior Legislative Attorney
267-7511



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1761/71
RPN:pgt/1111:jf

jlg + pgt

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1999 Bill

Regen

1 AN ACT to repeal 800.04 (1) (b) 1. c. and 800.04 (1) (d); and to amend 345.43 (1),
2 755.045 (1) (a), 800.02 (2) (a) 7. and 800.02 (3) (a) 6. of the statutes; relating
3 to: jury trials in municipal court.

Analysis by the Legislative Reference Bureau

Under current law, in municipal court a person charged with a violation of either of the following ordinances has the right to request a jury trial:

- 1. An ordinance that is in conformity with the state law that prohibits the operation of a motor vehicle while under the influence of an intoxicant, controlled substance or other drug (OWI).
- 2. An ordinance that is in conformity with the state law that prohibits the operation of a commercial motor vehicle while the person has a blood alcohol concentration of 0.04% or more but less than 0.1%.

If the violator requests a jury trial and pays the required fees, currently, the municipal court is required to transfer the case to the clerk of circuit court in the county where the violation occurred. The circuit court is then required to set a date for a jury trial.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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SECTION 1

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6 circuit court. The number of jurors shall be 6. If no party demands a trial by jury,
7 the right to trial by jury is permanently waived.

8 **SECTION 2.** 755.045 (1) (a) of the statutes is amended to read:

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10 a court of record.

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12 800.02 (2) (a) 7. Notice that the defendant may by mail prior to the court
13 appearance enter a plea of not guilty ~~and may within 10 days after entry of the plea~~
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16 800.02 (3) (a) 6. Notice that the defendant may by mail prior to the court
17 appearance enter a plea of not guilty ~~and may within 10 days after entry of the plea~~
18 ~~request a jury trial.~~

19 **SECTION 5.** 800.04 (1) (b) 1. c. of the statutes is repealed.

20 **SECTION 6.** 800.04 (1) (d) of the statutes is repealed.

21

(END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/31/99

To: Representative Vrakas

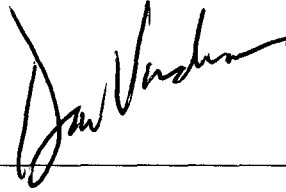
Relating to LRB drafting number: LRB-1761

Topic

Municipal court; remove right to jury in OWI cases

Subject(s)

Courts - courts/judges



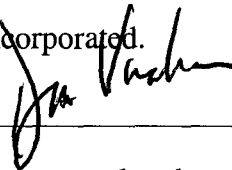
1. **JACKET** the draft for introduction _____

in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____



If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-7511