

1999 ASSEMBLY BILL 767

February 17, 2000 – Introduced by Representatives SCHOOFF, RYBA, BERCEAU and HUBER, cosponsored by Senators ROBSON and ERPENBACH. Referred to Committee on Judiciary and Personal Privacy.

- 1 **AN ACT** *to renumber and amend* 800.04 (2m); and *to create* 800.04 (2m) (b) of
2 the statutes; **relating to:** default judgments in municipal court cases.

Analysis by the Legislative Reference Bureau

Under current law, a municipal court may enter a default judgment against a defendant only if all of the following conditions are met:

1. The defendant has not appeared at the time scheduled for the initial appearance.
2. The defendant has not made a plea of no contest and deposited the appropriate amount of money with the municipality.
3. The municipality has had the citation or summons personally served on the defendant or on an appropriate person at the defendant's usual place of abode.

This bill adds an additional way that a municipal court may enter a default judgment against a defendant. If the conditions in paragraphs 1. and 2., above, are met and if the following additional conditions are met, a default judgment may be entered:

1. The municipality has the summons or citation served on the defendant by first class mail.
 2. The envelope enclosing the document has the return address of the sender.
 3. The envelope is not returned unopened to the sender.
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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 767

1 **SECTION 1.** 800.04 (2m) of the statutes is renumbered 800.04 (2m) (a) and
2 amended to read:

3 **800.04 (2m) (a)** If a defendant does not appear at the initial appearance, the
4 court may issue a warrant to bring the defendant before the court. Upon proof of
5 personal service of the summons or citation under s. 800.01 (1), or upon proof of
6 service of the summons or citation under s. 801.11 (1) (b), the court may enter a
7 default judgment by reason of the failure of a defendant to respond to a citation under
8 s. 800.02 (2) (a) or a summons under s. 800.02 (4). If a warrant is issued for a
9 defendant under this ~~subsection~~ paragraph, the defendant may be detained in jail
10 prior to the initial appearance.

11 **SECTION 2.** 800.04 (2m) (b) of the statutes is created to read:

12 **800.04 (2m) (b)** Notwithstanding par. (a), the court may enter a default
13 judgment by reason of the failure of a defendant to respond to a citation under s.
14 800.02 (2) (a) or a summons under s. 800.02 (4) if all of the following occur:

15 1. The defendant does not appear at the initial appearance.

16 2. The defendant has not made a plea of no contest and a deposit under s. 800.03
17 (1).

18 3. Service was by 1st class mail to the defendant's last-known address.

19 4. The envelope enclosing the summons or citation includes the sender's return
20 address.

21 5. The envelope enclosing the summons or citation is not returned unopened
22 to the sender before the scheduled date of the court hearing.

23 **SECTION 3. Initial applicability.**

