

1999 DRAFTING REQUEST

Bill

Received: **07/06/1999**

Received By: **nelsorpl**

Wanted: **As time permits**

Identical to LRB:

For: **Dan Schooff (608) 266-9967**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **nelsorpl**

May Contact:

Alt. Drafters:

Subject: **Courts - civil procedure**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Service of summons in municipal court

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>Reauired</u>
/?	nelsorp 1 08/27/1999	csicilia 09/07/1999		_____			
/1			hhagen 09/08/1999	_____	lrb_docadmin 09/08/1999	lrb_docadmin 02/08/2000	

FE Sent For:

<END>

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*99-2687 4615 9/801
4067 --*

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/?	nelsorp 1	<i>1 9/18 jlg</i>	<i>9/8</i>	<i>km 9/8</i>			

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<END>

CITY OF BELOIT, WISCONSIN



53511

100 STATE STREET AREA CODE 608 / 364-6600
 MUNICIPAL COURT • 100 STATE STREET • (608) 364-6613

GATEWAY TO WISCONSIN
 February 19, 1999

Judy Robson
 Stake Senator
 P. O. Box 7882
 Madison, Wisconsin 53707-7882

Representative to the Assembly
 Dan Schoof
 P. O. Box 8953
 Madison, Wisconsin 53707-8953

Dear Judy and Dan:

I spoke with you both sometime ago about the possibility of changing the law to **allow service of municipal citations** by mail. Section **800.01(1)** of the Wisconsin Statutes **provides** that a Municipal Court has personal **jurisdiction** over the defendant in **municipal ordinance violation cases** when the defendant: (a) is served with a summons and **complaint or citation** and such **documents** are filed **with or transmitted** to the court; (b) is arrested and **brought before** the court personally; **or (c) voluntarily** appears **before** a municipal judge,

Some municipal citations **are mailed** to defendants. If they appear in court, I have jurisdiction to continue with the case. **On** the other hand, **if** they fail to appear in court, I cannot enter a default judgment against them if the citation was sent to them by mail.

Section **800.04(2m)** provides that if the defendant fails to appear in court, a default judgment may be entered:

(1) Upon proof of personal service of **the** summons or citation under section **800.01(1)**; or

(2) Upon proof of service of the summons or citation, under section **801.11(1)(b)**.

This means that the defendant must then be personally served with the citation under section **800.01(1)** or service must be made by leaving a copy of the citation at the defendant's usual place of abode:

Judy Robson
Dan Schoof

-2-

February 19, 1999

(1) 'In the presence of some competent *member of the family* at least 14 years of age; or

(2) *In the presence of* A competent adult *currently* residing in the abode of the defendant,

Since I cannot take a default judgment, we then have to have someone try to personally serve the defendant.

One area where we run into many problems with this is in the code enforcement area. Quite **often, the owner of a** home that is not in compliance does not live **on the premises** so cannot easily be personally served with a citation';

The citations in municipal **court are** all for money forfeitures and, they are considered to be civil actions. 'It **seems** to me it is a similar situation to small claims where summons and complaints can be served by mail. Under section **799.12(3)** of the Wisconsin **Statutes, if** authorized by court rule, service may be made by **mail** by the clerk, of Courts.

It **seems to** me that a **municipality** should be able to serve by **mail for municipal ordinance** violations either by regular mail or **certified** mail; I would appreciate it if you would consider sponsoring a bill **to** change the law to allow service by mail **in municipal ordinance** violations so **that default** judgments could be taken, **even** when the **defendants did** not appear in court.

Very truly yours,

William T. Henderson
Municipal Judge

WTH:kl

bc: John Raisbeck
Chief Richard Thomas
Thomas Casper
Bonnie Cosgrove

E. J. CASKEY (1917-1971)
DAVID Y. COLLINS
WILLIAM T. HENDERSON

COLLINS & HENDERSON
LAW OFFICES
416 EAST GRAND AVENUE.
POST OFFICE BOX 777
BELOIT, WISCONSIN 53512-0777

TELEPHONE
608-365-6614
FAX
608-365-3066

FAX COVER SHEET

TO: DAN SCHOOF

FROM: William T. Henderson

DATE: June 18, 1999 TIME: _____

RECIPIENT'S FAX NUMBER: 608-282-3645

This transmission contains a total of 4 pages including this cover sheet,

If there are any questions, please call Sender at 608-365-6614. Sender's FAX number is 608-365-3066.

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DAVIDY COLLINS
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June 18, 1999

Dan **Schoof**
Representative to the Assembly
P. O. box 8953
Madison, Wisconsin 537074953 **TRANSMISSION BY FAX**

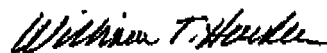
Dear Dan:

Enclosed is a copy of the letter I sent you regarding service by mail of **municipal** citations, If there is **anything** else you need, please let me know,

I appreciate your help on this.

Very truly yours,

COLLINS & HENDERSON



William T. Henderson

WTH:kl
Enclosure

1999-2000

1997-1998 LEGISLATURE

3258/1

LRB-2887/2

RPN:jlg:arm

Jr. + jlg

1999 BILL

1997 SENATE BILL 287

WFO prob
all amendments
w/ starts

September 4, 1997 – Introduced by Senators PLACHE and ROESSLER, cosponsored by Representatives MUSSER, ROBSON, UNDERHEIM and PLOUFF. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

Regen

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:

- first 1. The municipality has the summons or citation served on the defendant by
1. that 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.

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

* **SENATE BILL 287**

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.**

SENATE BILL 287

actions commenced in municipal court
ordinance violations committed

1

(1) This act first applies to ~~ordinance violations committed~~ on the effective date

2

of this subsection.

3

(END)