

1999 DRAFTING REQUEST

Bill

Received: **11/24/98**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC 6-9791**

By/Representing: **Laura Rose**

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

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Courts - civil procedure**

Extra Copies: **Legislative council- Joyce Kiel**

Pre Topic:

No specific pre topic given

Topic:

Time for service of answer in cases of substituted service

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 12/1/98	jgeller 12/1/98	lpaasch 12/2/98	_____	lrb_docadmin 12/2/98		
/1	nelsorp1 06/3/99	jgeller 06/3/99	martykr 06/4/99	_____	lrb_docadmin 06/4/99	lrb_docadmin 06/4/99	

FE Sent For:

<END>

Not Needed

1999 DRAFTING REQUEST

Bill

Received: 11/24/98

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Legislative Council - LRC 6-9791

By/Representing: Laura Rose

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - civil procedure

Extra Copies: Legislative council- Joyce Kiel

Pre Topic:

No specific pre topic given

Topic:

Time for service of answer in cases of substituted service

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 12/1/98	jgeller 12/1/98	lpaasch 12/2/98	_____	lrb_docadmin 12/2/98		
/1	nelsorp1 06/3/99	jgeller 06/3/99	martykr 06/4/99	_____	lrb_docadmin 06/4/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: 11/24/98

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Legislative Council - LRC 6-9791

By/Representing: Laura Rose

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - civil procedure

Extra Copies: Legislative council- Joyce Kiel

Topic:

Time for service of answer in cases of substituted service

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 12/1/98	jgeller 12/1/98	lpaasch 12/2/98	_____	lrb_docadmin 12/2/98		

FE Sent For:

1/6/3 jlg
 Km 6/4
 JF
 Km 6/4
 <END>

1999 DRAFTING REQUEST

Bill

Received: 11/24/98

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Legislative Council - LRC 6-9791

By/Representing: Laura Rose

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - civil procedure

Extra Copies: Legislative council- Joyce Kiel

Topic:

Time for service of answer in cases of substituted service

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>
1/?	nelsorp1	1/1 12/1 Jlg	12-2 LP	12-2 LP JK			

FE Sent For:

<END>

November 13, 1998

Dear LRB Drafter, *Bob*

It's Law Revision time again. Actually, we're sending stuff over quite a bit earlier this time around. Gordon Anderson and I met with the LRB Team Leaders earlier this week regarding Law Revision issues. Our goal for the LRC for the upcoming session is to get as much of this out of the way as possible before the budget passes. Obviously, we understand that this may or may not be possible depending on the drafting workloads that each of you are confronted with, but to the extent we can accomplish this, it would be great.

Therefore, we'd like these drafts back by February if possible, but the sooner the better. Then we can insert our SECTION notes and present them to the LRC for review and vote. Please draft each agency item as a separate draft at this time. The approved drafts will be combined into one bill after the LRC meets. For re-introductions of last year's drafts that didn't pass, just keep the drafts as is.

We've pre-screened all of these and have crossed out the ones we won't be presenting to the LRC. Just draft the ones that aren't crossed out.

One final thing – these should all be drafted with the LRC's boilerplate prefatory note, and the end of the relating clause should read: "(suggested as remedial legislation by the [department name here])".

Please call me at 266-9791 or Gordon at 266-2230 if you have any questions.

Thanks,

Laura Rose
Leg. Council

*Bob, I hope you're the right person to give this to. Thanks,
Law*

Rose, Laura

From: Rose, Laura
Sent: Friday, November 13, 1998 10:34 AM
To: 'rblumer@mail.state.wi.us'; 'rdean@mail.state.wi.us'
Cc: Anderson, Gordon
Subject: FW: possible remedial legislation proposal

Dear Mr. Blumer and Mr. Dean:

The Legislative Council has been notified of this drafting oversight by the LRB. Do either or both of you wish to include this in your remedial legislation packages? Please let me know. Thank you,

*Laura Rose
Senior Staff Attorney
Wisconsin Legislative Council Staff
One East Main Street, Suite 401
PO Box 2536
Madison, WI 53701-2536
(608) 266-9791
Fax: (608) 266-3830
laura.rose@legis.state.wi.us*

-----Original Message-----

From: Kiel, Joyce
Sent: Friday, November 13, 1998 10:29 AM
To: Rose, Laura
Subject:

Laura,

1997 Wisconsin Act 187 amended s. 802.06 (1), Stats., which now provides that a defendant has 45 days (instead of 20 days) after service of a complaint to serve an answer. Thus, you can't get a default judgment until at least 45 days has expired.

However, when there is substituted service of the complaint through the Office of the Commissioner of Insurance (or through the Department of Financial Institutions in some cases), s. 601.73 (2) (c), Stats., says you can't get a default judgment until the expiration of 20 days from the date OCI or DFI mailed the process to the insurer. Bob Nelson at the LRB told me it was a drafting oversight not to have changed s. 601.73 (2) (c), Stats., in Act 187.

Joyce L. Kiel, Senior Staff Attorney
Wisconsin Legislative Council Staff
Suite 401, One East Main Street
Madison, WI 53701-2536
608-266-3137
Joyce.Kiel@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1033/P1

RPN...:1:...

JKg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 *gen cat*
 AN ACT ...; relating to: time limits on the service of process on the commissioner
 2 of insurance (suggested as remedial legislation by the joint legislative council).
 3

Analysis by the Legislative Reference Bureau

Under current law, as amended by 1997 Wisconsin Act 187, a defendant has 45 days after the receipt of a complaint to answer the complaint. Before 1997 Wisconsin Act 187, the defendant had 20 days after the receipt of a complaint to answer the complaint. Under current law, the commissioner of insurance is constituted as the attorney to receive service of a summons, orders and other legal pleadings for any insurer who does not have a registered agent for service of process in this state. Current law provides that a default judgment may not be entered against a defendant who has been served with legal process by substituted service on the commissioner of insurance until the expiration of 20 days after the commissioner mails a copy of the legal documents to the defendant. This bill changes that 20 day waiting period to 45 days for the entering of a default judgment when substituted service is made on the commissioner of insurance.

hyphen

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the joint legislative council[✓] and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 601.73 (2) (c)[✓] of the statutes is amended to read:

2 601.73 (2) (c) *Default judgment.* No plaintiff or complainant is entitled to a
3 judgment by default in any proceeding in which process is served under this section
4 and s. 601.72 until the expiration of 20 ~~45~~⁴⁵ days ~~from~~ ^{after} the date of mailing of the
5 process under par. (b).

6 History: 1971 c. 189; 1977 c. 203 ss. 87, 103; 1979 c. 102; 1989 a. 164; 1995 a. 27, 396.

6 **SECTION 9326. Initial applicability; insurance.**

7 (1) **SUBSTITUTED SERVICE.** The treatment of section 601.73 (2) (c)[✓] of the statutes
8 first applies to service of process made on the commissioner of insurance on the
9 effective date of this subsection.[✓]

10

(END)[✓]

Law Revision Committee

**Remedial Legislation Proposals
Meeting of May 4, 1999**

Office of the Commissioner of Insurance

- LRB-1033/P1



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1033/11
RPN:jlg:lp

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend 601.73 (2) (c) of the statutes; relating to: time limits on the**
2 **service of process on the commissioner of insurance (suggested as remedial**
3 **legislation by the ~~joint legislative council~~ ^{office of the Commissioner of Insurance}).**

Analysis by the Legislative Reference Bureau

Under current law, as amended by 1997 Wisconsin Act 187, a defendant has 45 days after the receipt of a complaint to answer the complaint. Before 1997 Wisconsin Act 187, the defendant had 20 days after the receipt of a complaint to answer the complaint. Under current law, the commissioner of insurance is constituted as the attorney to receive service of a summons, orders and other legal pleadings for any insurer who does not have a registered agent for service of process in this state. Current law provides that a default judgment may not be entered against a defendant who has been served with legal process by substituted service on the commissioner of insurance until the expiration of 20 days after the commissioner mails a copy of the legal documents to the defendant. This bill changes that 20-day waiting period to 45 days for the entering of a default judgment when substituted service is made on the commissioner of insurance.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the joint legislative council and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 601.73 (2) (c) of the statutes is amended to read:

2 601.73 (2) (c) *Default judgment.* No plaintiff or complainant is entitled to a
3 judgment by default in any proceeding in which process is served under this section
4 and s. 601.72 until the expiration of ~~20~~ 45 days ~~from~~ after the date of mailing of the
5 process under par. (b).

NOTE

6 **SECTION 9326. Initial applicability; insurance.**

7 (1) **SUBSTITUTED SERVICE.** The treatment of section 601.73 (2) (c) of the statutes
8 first applies to service of process made on the commissioner of insurance on the
9 effective date of this subsection.

10

(END)

NOTE



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1033/PA
RPN:jlglp

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

- 1 AN ACT to amend 601.73 (2) (c) of the statutes; relating to: time limits on the
2 service of process on the commissioner of insurance (suggested as remedial
3 *office of the commissioner of insurance* legislation by the *joint legislative council*).

Analysis by the Legislative Reference Bureau

Under current law, as amended by 1997 Wisconsin Act 187, a defendant has 45 days after the receipt of a complaint to answer the complaint. Before 1997 Wisconsin Act 187, the defendant had 20 days after the receipt of a complaint to answer the complaint. Under current law, the commissioner of insurance is constituted as the attorney to receive service of a summons, orders and other legal pleadings for any insurer who does not have a registered agent for service of process in this state. Current law provides that a default judgment may not be entered against a defendant who has been served with legal process by substituted service on the commissioner of insurance until the expiration of 20 days after the commissioner mails a copy of the legal documents to the defendant. This bill changes that 20-day waiting period to 45 days for the entering of a default judgment when substituted service is made on the commissioner of insurance.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

Commissioner of Insurance

LRB-1033/P1, after SECTION 1:

no bold **NOTE:** 1997 Wisconsin Act 187 changed from 20 to 45 days the period of time which the defendant has, after receipt of a complaint, to answer the complaint. However, it did not make a corresponding change in current law under which the commissioner of insurance is the attorney to receive service of a summons, orders or other legal proceedings for an insurer who does not have a registered agent for receipt of service of process in this state. This provision amends the provision under which a default judgment may not be entered against a defendant who has been served with legal process by substituted service on the commissioner of insurance to provide that the judgment may not be entered until the expiration of 45 days after the ^{date on which the} commissioner mails a copy of the legal documents to the defendant.

*insert
2-5*

After SECTION 9326:

no bold **NOTE:** This provision ~~applies~~ ^{provides} that the change in the entering of a default judgment from 20 to 45 days after the date of mailing will first apply to any service of process made on the commissioner on the effective date of the provision.

*insert
2-9*

(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: 6/4/99

To: Legislative Council - LRC

Relating to LRB drafting number: LRB-1033

Topic

Time for service of answer in cases of substituted service

Subject(s)

Courts - civil procedure

1. **JACKET** the draft for introduction Laura Rose for LAW REVISION COMMITTEE
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