

👉 **99hr_AC-JPP_ab0381_pt01**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

1999-00

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Judiciary and Personal Privacy (AC-JPP)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

Assembly

Record of Committee Proceedings

Committee on Judiciary and Personal Privacy

Assembly Bill 381

Relating to: jury trials in municipal court.

By Representatives Vrakas, Klusman, Ladwig, Turner, Brandemuehl, Townsend, Hahn, Grothman, Owens, Albers and Powers; cosponsored by Senators Drzewiecki and Darling.

June 10, 1999 Referred to committee on Judiciary and Personal Privacy.

July 20, 1999 **PUBLIC HEARING HELD**

Present: (8) Representatives Huebsch, Gundrum, Walker,
Grothman, Sherman, Colon, Hebl and
Staskunas.

Excused: (1) Representative Suder.

Appearances for

- Representative Dan Vrakas, 33rd Assembly District
- Ron Wambach, WI Municipal Judges Association

Appearances against

- Gerald Mowris, State Bar of WI, Criminal Law Section

Appearances for Information Only

- None.

Registrations for

- J. Denis Moran, Legislative Committee of Wisconsin Judicial Conference

Registrations against

- None.

March 30, 2000 **Failed to pass pursuant to Senate Joint Resolution 1.**


Robert Delaporte
Committee Clerk



WISCONSIN MUNICIPAL JUDGES ASSOCIATION

10533 West National Avenue, #200

West Allis, WI 53227

Telephone (414) 541-6800

Fax (414) 541-7739

ASSEMBLY BILL 381

The Wisconsin Municipal Judges Association supports the provisions of AB-381.

Some of the reasons for our support of this Bill include:

1. Provides for local control of the most serious violation authorized for municipal court jurisdiction.
2. Eliminates the special treatment currently afforded to defendants charged with OWI cases in municipal court.
3. Preserves the right to jury trial for defendants on appeal from municipal court.
4. Provides a much swifter determination of guilt or innocence by having OWI cases remain in municipal court rather than protracted circuit court cases which may sometimes take up to a year or more.
5. Frees up circuit court for other criminal matters.
6. Refusal hearings may be authorized to be handled along with OWI cases, and the combination will simplify judicial proceedings.
7. Additional time may be required at the municipal court level, but the municipal judges and local personnel are better served by retaining these cases rather than having them go to the circuit court.

Board of Directors

President

Hon. Richard J. Steinberg
City of Brookfield
(414) 781-1266
Fax (414) 781-2267

Vice-President

Hon. George Weber
Reserve Judge

Secretary/Treasurer

Hon. Ronald J. Wambach
City of Franklin

Past-President

Hon. Louis B. Butler, Jr.
City of Milwaukee

Hon. JoAnn Eiring
Town of Brookfield

Hon. Shelley J. Gaylord
City of Madison

Hon. Mark A. Warpinski
City of Green Bay

Hon. Mark Goodman
City of Sparta

Legislative Trustee

Hon. Michael C. Hurt
Village of Menomonee Falls

Program Chairman

Hon. Douglas Stern
Western Waukesha County

Public Affairs

Hon. C. Michael Hausman
City of Delafield

WISCONSIN MUNICIPAL JUDGES ASSOCIATION

10533 West National Avenue, #200

West Allis, WI 53227

Telephone (414) 541-6800

Fax (414) 541-7739

Board of Directors

President

Hon. Richard J. Steinberg

City of Brookfield

(414) 781-1266

Fax (414) 781-2267

Vice-President

Hon. George Weber

Reserve Judge

Secretary/Treasurer

Hon. Ronald J. Wambach

City of Franklin

Past-President

Hon. Louis B. Butler, Jr.

City of Milwaukee

Hon. JoAnn Eiring

Town of Brookfield

Hon. Shelley J. Gaylord

City of Madison

Hon. Mark A. Warpinski

City of Green Bay

Hon. Mark Goodman

City of Sparta

Legislative Chairman

Hon. Michael C. Hirt

Village of Menomonee Falls

Program Chairman

Hon. Douglas Stern

Western Waukesha County

Public Affairs Chairman

Hon. C. Michael Hansman

City of Delafield

January 21, 2000

Rep. Daniel P. Vrakas

Fax #: (608) 266-5100

Re: AB 381

Dear Dan:

Pursuant to the fax of January 20, I am returning to you a clean copy of our initial support of this bill. In reference to the negative comments, I will respond to each.

First, judicial economy: There will always be some cases that will be appealed whether they are appealed from Municipal Court to Circuit Court or Circuit Court to Appellate Court. Out of the total number of jury requests that transferred to the Circuit Court and therefore added to the already clogged calendars within the Circuit Court, perhaps a quarter at best of these actually went to a jury trial. What that means is that 75 percent of these cases simply ask to have their case transferred, got caught up in the Circuit Court system of appearing in pre-trials and District Attorneys and City Attorneys and Deputy Sheriffs and court clerks, etc., only to have the case ultimately be stippled and pled out the same as it could have been at the Municipal Court level. This is not judicial economy at the Circuit Court level. It all could have been handled much more expeditiously not only for the judges, but even more so for the police who have to appear at so many of these Circuit Court pre-trials and hearings only to have their cases adjourned or put over. Also, in most cases the City Attorney ends up being the one who prosecutes, and then he has to take off in order to go to the Circuit Court and spend his time there, which again usually is wasted time.

The defendant loses rights: I do not find this to be true. The defendant still has the right to ultimately ask for a jury trial on appeal. The right may be delayed, but it is not lost. Why should this defendant have more rights than anybody else appearing in Municipal Court or charged with a similar violation such as a serious reckless driving. That defendant does not have a jury trial request. Why should a person for operating under the influence have the jury

Rep. Daniel P. Vrakas
January 21, 2000

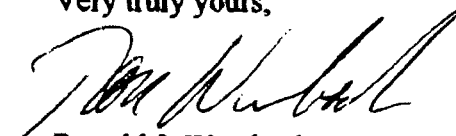
trial request? I therefore do not feel that there is a loss of rights but only an additional right that has been provided arbitrarily to this defendant.

The cost to the defendant in attorney's fees: I would have to debate this issue on a case-by-case basis, but my overall feeling, considering those cases that actually go to a jury trial, is that it costs substantially more to ask for the jury trial and get involved in the Circuit Court system than it would be to probably make one appearance at Municipal Court, handle pre-trials over the phone with the prosecuting attorney, and ultimately reach a stipulation in 75 percent or more of these cases. Based on conversations with various attorneys and defendants who had gone through the process, I find that they pay significantly more in asking for the jury trial and most of the time coming back with the same results. Yes, that defendant who would be found guilty in Municipal Court and is dissatisfied would then have to appeal and would then have a second trial at the Circuit Court level. There may be some additional fees in this regard in that he would have gone through the trial at Municipal Court. On the other hand, maybe his case would actually have been dismissed at the Municipal Court level and therefore he would have saved substantially. It is hard to use this as a true argument regarding the issue of no jury trial for these citations.

Lastly, the seriousness of the offense. All convictions basically stay on your record--some perhaps not as long as an operating under the influence case, since multiple offenses do result in the case becoming criminal. On the other hand, many other cases also tend to become criminal--perhaps not statutorily, but by prosecutorial discretion. As an example, many courts with multiple bad check cases handle them initially at the Municipal Court level; but if this is a repeat offender, they then have the case issued to Circuit Court. Likewise, with certain drug violations. Less serious drug violations are handled in Municipal Court, yet if this person persists and receives multiple citations, they will ultimately receive a criminal citation. I do not wish to trivialize the seriousness of operating under the influence cases, but they are not unique; and providing the right to a jury trial does not in and of itself set them apart. Since refusal hearings, which in combination with the operating under the influence case would be the most serious of the operating under the influence cases heard in Municipal Court, are now most likely going to be heard at Municipal Court, it would even make more sense that all of the operating under the influence cases be heard initially at the Municipal Court level so as to economize for all parties concerned by having both of these at the entry level Municipal Court, rather than splitting them between Municipal and Circuit Court.

I hope this is helpful to you. If you have any questions regarding any of this, please feel free to call. Once again, thank you on behalf of the Wisconsin Municipal Judges Association for all of your help in promoting meaningful legislation.

Very truly yours,



Ronald J. Wambach

RJW:dct





WISCONSIN ALLIANCE OF CITIES

14 W. MIFFLIN STREET #206 • MADISON, WI 53703-2576
(608) 257-5881 FAX 257-5882 • EMAIL: wiscall@inxpress.net

Appleton
Ashland
Baraboo
Beaver Dam
Beloit
Cudahy
De Pere
Eau Claire
Fond du Lac
Green Bay
Greenfield
Janesville
Kaukauna
Kenosha
La Crosse
Madison
Manitowoc
Marinette
Marshfield
Menasha
Merrill
Milwaukee
Monroe
Neenah
Oshkosh
Racine
Sheboygan
Stevens Point
Superior
Two Rivers
Watertown
Waukesha
Wausau
Wauwatosa
West Allis
West Bend
Whitewater
Wisconsin Rapids

February 1, 2000

To: Assembly Committee on Judiciary and Personal Privacy

From: Gail Sumi, Intergovernmental Coordinator

Re: AB 381, related to jury trials at the municipal court level

The Wisconsin Alliance of Cities joins the Municipal Judges Association in support of AB 381, related to eliminating jury trials at the municipal court level.

Currently the only situation in which an individual can request a jury trial is if they are in court for their first OWI offense. The case and the paperwork are then transferred to circuit court. Local control over the offender is lost. Often the municipal court does not learn of the outcome until a year later.

If enacted the proposal would still allow individuals to appeal to circuit court if they are found guilty in municipal court.

We ask you to support AB 381. Thank you for your consideration.