

2005 Assembly Bill 725

Date of enactment: **April 10, 2006**  
Date of publication\*: **April 20, 2006**

## 2005 WISCONSIN ACT 306

AN ACT *to renumber and amend* 778.25 (8) (a); *to amend* 778.25 (2) (j) and 778.25 (8) (b); and *to create* 778.25 (8) (a) 2. of the statutes; **relating to:** default judgments in cases involving citations issued for certain violations.

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

**SECTION 1.** 778.25 (2) (j) of the statutes is amended to read:

778.25 (2) (j) Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may consider the nonappearance to be a plea of no contest and enter judgment accordingly or the court may issue a summons or an arrest warrant.

**SECTION 2.** 778.25 (8) (a) of the statutes is renumbered 778.25 (8) (a) 1. and amended to read:

778.25 (8) (a) 1. If the defendant has not made a deposit, the court may consider the nonappearance to be a plea of no contest and enter judgment accordingly or the court may issue a summons or an arrest warrant, except if the defendant is a minor the court shall proceed under s. 938.28. Chapter 938 governs taking and holding a minor in custody.

**SECTION 3.** 778.25 (8) (a) 2. of the statutes is created to read:

778.25 (8) (a) 2. If the court considers the nonappearance to be a plea of no contest and enters judgment accordingly, the court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow the defendant not less than 20 working days

from the date the judgment copy or notice is mailed to pay the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

**SECTION 4.** 778.25 (8) (b) of the statutes is amended to read:

778.25 (8) (b) If the defendant has made a deposit, the citation may serve as the initial pleading and the defendant shall be considered to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons or arrest warrant, except that if the defendant is a minor the court shall proceed under s. 938.28. Chapter 938 governs taking and holding a minor in custody.

(c) If the court accepts ~~the~~ a plea of no contest, the defendant may move within 90 days after the date set for appearance to withdraw the plea of no contest, open the judgment, and enter a plea of not guilty if the defendant shows to the satisfaction of the court that failure to appear was due to mistake, inadvertence, surprise, or excusable neglect. If a party is relieved from the plea of no contest, the court or judge may order a written complaint or petition to be filed. If on reopening the defendant is found not guilty, the court shall delete the record of conviction and shall order the defendant's deposit returned.

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\* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**SECTION 5. Effective date.**

(1) This act takes effect on the first day of the 4th month beginning after publication.

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