2005 DRAFTING REQUEST

Bill

Received: **01/05/2005**   Received By: **rnelson2**

Wanted: **As time permits**   Identical to LRB:

For: **Louis Molepske (608) 267-9649**   By/Representing: **Marc C**

This file may be shown to any legislator: **NO**   Drafter: **rnelson2**

May Contact: Addl. Drafters:

Subject: **Courts - civil procedure**   Extra Copies: **Dick Sweet, LC**

Submit via email: **YES**

Requester's email: **Rep.Molepske@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Default judgments of citations involving campus police

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?							
/P1	rnelson2 01/13/2005	wjackson 01/15/2005	chaugen 01/21/2005	_____ _____	lnorthro 01/21/2005		S&L
/1	rnelson2 01/27/2005	wjackson 02/15/2005	jfrantze 02/15/2005	_____ _____	lnorthro 02/15/2005	lnorthro 02/15/2005	

FE Sent For:

<END>

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Pre Topic:

No specific pre topic given

Topic: Fix 778.25 (2)(j) and (8)(a) like
                                                            23.25 (3)

Default judgments of citations involving campus police

Instructions:

See Attached

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/?	rnelson2	/pl wlj 1/15	OM 1-21	1-21			

FE Sent For:

<END>

Rep. Moleske

by ~~Mark~~ Marc Christopher

Problem – Under s. 66.0113 (3)(d) & (e), cannot enter default judgment on citation issued by campus police. Instead, must issue summons & warrant, which equals waste of judicial economy

Solution. AM 66.0113 (3)(e) to permit default judgment to be entered if citation served by campus police (UW system protective services employee)

Nelson, Robert P.

From: Christopher, Marc
Sent: Tuesday, January 11, 2005 12:10 PM
To: Nelson, Robert P.
Subject: FW: Chapter 18, Default Judgment

Robert,

Hopefully this email might clear some things up. I looked up 778.25 and everything seems to check out.

Feel free to contact Jim West 715 346-3605.

marc

From: Christopher, Marc
Sent: Tuesday, January 11, 2005 11:43 AM
To: Christopher, Marc
Subject: FW: Chapter 18, Default Judgment

-----Original Message-----
From: West, James [mailto:jwest@uwsp.edu]
Sent: Wednesday, January 05, 2005 10:57 AM
To: Rep.Molepske
Cc: West, James
Subject: Chapter 18, Default Judgment

Representative Molepske,

My Chief, Bill Rowe, notified me you are interested in the statute verbiage and/or statute number which fails to address the issue of a DEFAULT JUDGEMENT for our Administrative Code, Chapter 18 violations. These citations are the equivalent of county and city ordinances. The problem arose when our department gained sworn officer status and we began to issue these citations. In a court session I was asked by Judge Fleishauer to produce in writing statutory authority to bring these citations to court. I found Statute 778.25, and specifically 778.25(1)(a)5, which addresses citation procedures for those violations against rules promulgated by the Board of Regents. In a meeting with Judge Fleishauer and District Attorney Eagen, I presented this statute for courtroom procedure. Judge Fleishauer agreed that this was the appropriate statute and then proceeded to read 778.25 in its entirety. Upon completion, he found no verbiage allowing a default judgment and then told DA Eagen that if persons failed to pay the citation and then failed to appear in court he, Judge Fleishauer, would have to refer the matter back to the DA for summons and complaint. This procedure is being utilized by Judge Finn and Flugaur as well.

We badly need a default judgment statute as most students fail to take care of the citation. Our current procedure now is to take any failure to appear situations and revert them to a criminal request for charges. These students therefore are ending up with permanent criminal records for minor situations. As we all know, more and more occupations are requiring criminal background checks and these criminal charges could certainly affect someone's future. These students are not being treated the same as the general public on this civil forfeiture issue when the end result become a criminal charge.

Anything you can do to resolve this issue would be greatly appreciated. Feel free to call or e-mail me if you have any further questions. I have also checked with a former court officer with the UW Madison Police and he

01/11/2005

verified that there is no default judgment for Chapter 18 violations.

Yours;
Detective Jim West
UW-Stevens Point
Police and Security

01/11/2005

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

(OTHER)

(Gen)

1   AN ACT ...; **relating to:** default judgments in cases involving citations issued by

2   campus police.

Analysis by the Legislative Reference Bureau
This is a preliminary draft. An analysis will be provided in a later version.

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

3   SECTION 1. 778.25 (8) (a) of the statutes is renumbered 778.25 (8) (a) 1. and

4   amended to read:

5   778.25 **(8)** (a) 1. If the defendant has not made a deposit, the court may consider

6   the nonappearance to be a plea of no contest and enter judgment accordingly or the

7   court may issue a summons or an arrest warrant, except if the defendant is a minor

8   the court shall proceed under s. 938.28. Chapter 938 governs taking and holding a

9   minor in custody.

History: 1979 c. 331, 359; 1981 c. 79 s. 18; 1981 c. 317; 1983 a. 74 ss. 30, 32; 1983 a. 336; 1985 a. 254; 1987 a. 27, 336, 399; 1989 a. 31, 121, 179; 1991 a. 134, 194; 1995 a. 77, 174, 352, 448; 1997 a. 27, 288, 290; 1999 a. 9; 2001 a. 75; 2003 a. 139, 193.

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

2   778.25 **(8)** (a) 2. ~~Not~~

3   ~~**SECTION 3.** 23.75 (3) (a) 2. of the statutes is amended to read:~~

4   2. If the court considers the nonappearance to be a plea of no contest and enters

5   judgment accordingly, the court shall promptly mail a copy or notice of the judgment

6   to the defendant. The judgment shall allow the defendant not less than 20 working

7   days from the date the judgment copy or notice is mailed to pay the forfeiture, plus

8   costs, fees, and surcharges imposed under ch. 814.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1991 a. 39; 1993 a. 156; 1997 a. 27; 2003 a. 139.
9   **(END)**

Other

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

2005 Bill

Regen

1 AN ACT *to renumber and amend* 778.25 (8) (a); and *to create* 778.25 (8) (a) 2.

2 of the statutes; **relating to:** default judgments in cases involving citations

3 issued by campus police. for and certain violations, including underage drinking and smoking or

insert and

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

4 SECTION 1. 778.25 (8) (a) of the statutes is renumbered 778.25 (8) (a) 1. and

5 amended to read:

6 778.25 **(8)** (a) 1. If the defendant has not made a deposit, <u>the court may consider</u>

7 <u>the nonappearance to be a plea of no contest and enter judgment accordingly or</u> the

8 court may issue a summons or an arrest warrant, except if the defendant is a minor

9 the court shall proceed under s. 938.28. Chapter 938 governs taking and holding a

10 minor in custody.

2005 – 2006 Legislature   – 2 –   LRB–1506/P1
RPN:wlj:ch
SECTION 2

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

2   778.25 **(8)** (a) 2. If the court considers the nonappearance to be a plea of no

3   contest and enters judgment accordingly, the court shall promptly mail a copy or

4   notice of the judgment to the defendant. The judgment shall allow the defendant not

5   less than 20 working days from the date the judgment copy or notice is mailed to pay

6   the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

7   **(END)**

and fails

insert anl:

Under current law, the citations procedure that applies to violations of rules promulgated by the UW Board of Regents requires the court to issue a summons or an arrest warrant if the person who received a citation fails to make a deposit or to appear in court at the time fixed in the citation. This citation procedure is also used for various other types of violations, including underage drinking, cigarette use, or drug use violations; harassment; and state property damage.

This bill allows the court, as an alternative to issuing a summons or arrest warrant, to consider the violator's nonappearance to be a plea of no contest and to enter judgment accordingly. This procedure is identical to the procedure available to courts in cases involving violations of natural resource laws, traffic violations, and municipal ordinance violations.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

Underage *, cigarettes,*

¶ 1 ⊙) Possession and or use of alcohol or

2. ~~Underage~~ drug paraphernalia ⊙.

¶ 2 ⊙ Harassment ⊙.

¶ 3 ⊙ Body passing or alcohol use at a sporting event ⊙.

¶ 4 ⊙ ~~Property~~ damage to state property ⊙.

¶ 5 ⊙ Noncompliance ~~Compliance~~ with rental unit standards ⊙.