

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 725**

January 11, 2006 – Offered by Representatives KLEEFISCH and MOLEPSKE.

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

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

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

5 778.25 (2) (j) Notice that if the defendant does not make a deposit and fails to  
6 appear in court at the time fixed in the citation, the court may consider the  
7 nonappearance to be a plea of no contest and enter judgment accordingly or the court  
8 may issue a summons or an arrest warrant.

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

11 778.25 (8) (a) 1. If the defendant has not made a deposit, the court may consider  
12 the nonappearance to be a plea of no contest and enter judgment accordingly or the

1 court may issue a summons or an arrest warrant, except if the defendant is a minor  
2 the court shall proceed under s. 938.28. Chapter 938 governs taking and holding a  
3 minor in custody.

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

5 778.25 **(8)** (a) 2. If the court considers the nonappearance to be a plea of no  
6 contest and enters judgment accordingly, the court shall promptly mail a copy or  
7 notice of the judgment to the defendant. The judgment shall allow the defendant not  
8 less than 20 working days from the date the judgment copy or notice is mailed to pay  
9 the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

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

11 778.25 **(8)** (b) If the defendant has made a deposit, the citation may serve as  
12 the initial pleading and the defendant shall be considered to have tendered a plea  
13 of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed  
14 under ch. 814, not exceeding the amount of the deposit. The court may either accept  
15 the plea of no contest and enter judgment accordingly, or reject the plea and issue a  
16 summons or arrest warrant, except that if the defendant is a minor the court shall  
17 proceed under s. 938.28. Chapter 938 governs taking and holding a minor in custody.

18 (c) If the court accepts the a plea of no contest, the defendant may move within  
19 90 days after the date set for appearance to withdraw the plea of no contest, open the  
20 judgment, and enter a plea of not guilty if the defendant shows to the satisfaction of  
21 the court that failure to appear was due to mistake, inadvertence, surprise, or  
22 excusable neglect. If a party is relieved from the plea of no contest, the court or judge  
23 may order a written complaint or petition to be filed. If on reopening the defendant  
24 is found not guilty, the court shall delete the record of conviction and shall order the  
25 defendant's deposit returned.

