

1983 Assembly Bill 305

Date of enactment: **May 9, 1984**
Date of publication: **May 17, 1984**

1983 Wisconsin Act 433

AN ACT to amend 969.07; and to create 758.171 and 968.085 of the statutes, relating to the issuance of citations for misdemeanors.

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

SECTION 1. 758.171 of the statutes is created to read:

758.171 Judicial conference: uniform citation. The judicial conference shall adopt a uniform citation form for use as authorized under s. 968.085. A duly authenticated copy of this form shall be furnished to the secretary of state and kept on file in his or her office. The secretary of state shall transmit a copy of this form to the clerks of circuit court.

SECTION 2. 968.085 of the statutes is created to read:

968.085 Citation; nature; issuance; release of accused. (1) **NATURE.** A citation under this section is a directive, issued by a law enforcement officer, that a person appear in court and answer criminal charges. A citation is not a criminal complaint and may not be used as a substitute for a criminal complaint.

(2) **AUTHORITY TO ISSUE; EFFECT.** A law enforcement officer may issue a citation to any person whom he or she has reasonable grounds to believe has committed a misdemeanor. A citation may be issued in the field or at the headquarters or precinct station of the officer instead of or subsequent to a lawful arrest. If a citation is issued, the person cited shall be released on his or her own recognizance. In determining whether to issue a citation, the law enforcement officer may consider whether:

- (a) The accused has given proper identification.
- (b) The accused is willing to sign the citation.
- (c) The accused appears to represent a danger of harm to himself or herself, another person or property.
- (d) The accused can show sufficient evidence of ties to the community.
- (e) The accused has previously failed to appear or failed to respond to a citation.
- (f) Arrest or further detention appears necessary to carry out legitimate investigative action in accordance with law enforcement agency policies.

(3) **CONTENTS.** The citation shall do all of the following:

- (a) Identify the offense and section which the person is alleged to have violated, including the date, and if material, identify the property and other persons involved.
- (b) Contain the name and address of the person cited, or other identification if that cannot be ascertained.
- (c) Identify the officer issuing the citation.
- (d) Direct the person cited to appear for his or her initial appearance in a designated court, at a designated time and date.

(4) **SERVICE.** A copy of the citation shall be delivered to the person cited, and the original must be filed with the district attorney.

(5) **REVIEW BY DISTRICT ATTORNEY.** If the district attorney declines to prosecute, he or she shall notify the law enforcement agency which issued the citation. The law enforcement agency shall attempt to notify the person cited that he or she will not be charged and is not required to appear as directed in the citation.

(6) **CITATION NO BAR TO CRIMINAL SUMMONS OR WARRANT.** The prior issuance of a citation does not bar the issuance of a summons or a warrant for the same offense.

(7) **PREPARATION OF FORM.** The judicial conference shall prescribe the form and content of the citation under s. 758.171.

SECTION 3. 969.07 of the statutes is amended to read:

969.07 Taking of bail by law enforcement officer. When bail has been set for a particular defendant, any law enforcement officer may take bail in accordance with s. 969.02 and release the defendant to appear in accordance with the conditions of the appearance bond. Bail shall not be required of a defendant who has been cited for commission of a misdemeanor in accordance with s. 968.085. The law enforcement officer shall give a

receipt to the defendant for the bail so taken and within a reasonable time deposit the bail with the clerk of court before whom the defendant is to appear. Bail taken by a law enforcement officer may be taken only at a sheriff's office or police station. The receipts shall be numbered serially and shall be in triplicate, one copy for the defendant, one copy to be filed with the clerk and one copy to be filed with the police or sheriff's department which takes the bail. This section does not require the release of a defendant from custody when an officer is of the opinion that the defendant is not in a fit condition to care for his or her own safety or would constitute, because of his or her physical condition, a danger to the safety of others. If a defendant is not released ~~pursuant to~~ under this section, s. 970.01 shall apply.

SECTION 4. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

(1) SECRETARY OF STATE.		
A	B	C
Statute Sections	References Deleted	References Inserted
14.361	none	758.171

SECTION 5. Effective dates. (1) Except as provided in subsection (2), this act takes effect on the first day of the 6th month commencing after its publication.

(2) The treatment of section 758.171 of the statutes takes effect on the day following publication of this act.
