

1991 Assembly Bill 363

Date of enactment: **March 26, 1992**

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1991 WISCONSIN ACT 128

AN ACT to amend 48.237 (2), 66.119 (1) (b) 7. d. and 66.119 (3) (c); and to create 66.119 (3) (d) and 66.119 (3) (e) of the statutes, relating to: judgments in ordinance violation cases where the defendant fails to appear in circuit court.

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

SECTION 1. 48.237 (2) of the statutes is amended to read:

48.237 (2) The procedures for issuance and filing of a citation, and for forfeitures, stipulations and deposits in ss. 23.50 to 23.67, 23.75 (3) and (4), 66.119, 778.25, 778.26 and 800.01 to 800.04 except s. 800.04 (2) (b), when the citation is issued by a law enforcement officer, shall be used as appropriate, except that this chapter shall govern taking and holding a child in custody, s. 48.37 shall govern costs, penalty assessments and jail assessments, and a capias shall be substituted for an arrest warrant. Sections 66.119 (3) (c) and (d), 66.12 (1) and 778.10 as they relate to collection of forfeitures do not apply.

SECTION 2m. 66.119 (1) (b) 7. d. of the statutes, as affected by 1991 Wisconsin Act 39, section 1676d, is amended to read:

66.119 (1) (b) 7. d. That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment under sub. (3) (d), or the municipality may commence an action ~~may be commenced~~ against the alleged violator to collect the forfeiture, the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 302.46 (1) any applicable domestic abuse assessment imposed by s. 973.055 (1) and the automatic reinstatement imposed by s. 345.54 (1).

SECTION 3m. 66.119 (3) (c) of the statutes, as affected by 1991 Wisconsin Act 39, section 1681c, is amended to read:

66.119 (3) (c) If the alleged violator makes a cash deposit and fails to appear in court, the citation may serve as the initial pleading and the violator shall be ~~deemed~~ considered to have tendered a plea of no contest and submitted to a forfeiture, the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 302.46 (1), any applicable domestic abuse assessment imposed by s. 973.055 (1) and the automatic reinstatement assessment imposed by s. 345.54 (1) 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. If the court accepts the plea of no contest, the defendant may move within 10 days after the date set for the 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 the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If the plea of no contest is accepted and not subsequently changed to a plea of not guilty, no costs or fees may be taxed against the violator, but a penalty assessment, a jail assessment and an automatic reinstatement assessment and, if applicable, a domestic abuse assessment shall be assessed. If the court rejects the plea of no contest ~~or if the alleged violator does not make a cash deposit and fails to appear in court at the time specified in the citation~~, an action for collection of the forfeiture, penalty assessment, jail assessment and automatic reinstatement assessment and any applicable domestic abuse

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assessment may be commenced. A city or village may commence action under s. 66.12 (1) and a county or town may commence action under s. 778.10. The citation may be used as the complaint in the action for the collection of the forfeiture, penalty assessment, jail assessment and automatic reinstatement assessment and any applicable domestic abuse assessment.

SECTION 4. 66.119 (3) (d) of the statutes is created to read:

66.119 (3) (d) If the alleged violator does not make a cash deposit and fails to appear in court at the time specified in the citation, the court may issue a summons or warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment accordingly if service was completed as provided under par. (e) or the municipality may commence an action for collection of the forfeiture, penalty assessment, jail assessment and automatic reinstatement assessment and any applicable domestic abuse assessment. A city or village may commence action under s. 66.12 (1) and a county or town may commence action under s. 778.10. The citation may be used as the complaint in the action for the collection of the forfeiture, penalty assessment, jail assessment and automatic reinstatement assessment and any applicable domestic abuse assessment. 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 days from the date of the judgment to pay any forfeiture, penalty assessment, jail assessment and automatic reinstatement assessment and any applicable domestic abuse assessment imposed. If the defendant moves to open the judgment within 6 months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect, the court shall reopen the judgment, accept a not guilty plea and set a trial date.

SECTION 4m. 66.119 (3) (e) of the statutes is created to read:

66.119 (3) (e) A judgment may be entered under par. (d) if the summons or citation was served as provided under s. 968.04 (3) (b) 2 or by personal service by a municipal employe.

SECTION 5. Initial applicability. This act first applies to citations issued on the effective date of this SECTION.

SECTION 6. Effective date. This act takes effect on the first day of the 4th month beginning after publication.