

State of Wisconsin



1995 Senate Bill 435

Date of enactment: **June 6, 1996**
Date of publication*: **June 20, 1996**

1995 WISCONSIN ACT 411

AN ACT to amend 802.06 (1); and to create 895.46 (1) (am) of the statutes; relating to: the time to answer a summons in certain cases and requiring that the costs awarded to an individual represented by a unit of government be paid to the unit of government (suggested as remedial legislation by the department of justice).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of justice and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 802.06 (1) of the statutes is amended to read:

802.06 (1) WHEN PRESENTED. A defendant shall serve an answer within 20 days after the service of the complaint upon the defendant. If a guardian ad litem is appointed for a defendant, the guardian ad litem shall have 20 days after appointment to serve the answer. A party served with a pleading stating a cross-claim against the party shall serve an answer thereto within 20 days after the service upon the party. The plaintiff shall serve a reply to a counterclaim in the answer within 20 days after service of the answer. The state or an agency of the state or an officer, employe or agent of the state in an action brought within the purview of ~~ss. s.~~ 893.82 ~~and~~ or 895.46 shall serve an answer to the complaint or to a cross-claim or a reply to a counterclaim within 45 days after service

of the pleading in which the claim is asserted. If any pleading is ordered by the court, it shall be served within 20 days after service of the order, unless the order otherwise directs. The service of a motion permitted under sub. (2) alters these periods of time as follows, unless a different time is fixed by order of the court: if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court's action; or if the court grants a motion for a more definite statement, the responsive pleading shall be served within 10 days after the service of the more definite statement.

NOTE: This SECTION revises a provision in state law relating to the time the state has to answer a summons in a case involving the state or a state officer, agency, agent or employe, in order to bring the provision into conformity with another provision in state law relating to time to answer a summons. The department of justice states that this revision is needed to make the time allowed to answer a summons consistent whether the claim is brought under state law or under federal law.

SECTION 2. 895.46 (1) (am) of the statutes is created to read:

895.46 (1) (am) If a court determines that costs are awardable to an employe or official who has been provided representation by a governmental unit under par.

* Section 991.11, WISCONSIN STATUTES 1993-94: 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].

(a), the court shall award those costs to the unit of government that provided the representation.

provided the representation.

NOTE: This SECTION provides that if a court finds in favor of a public employe or public official in a lawsuit, and the court awards costs to that individual, any costs awardable to the individual shall be awarded to the unit of government that

SECTION 3. Initial applicability.

(1) The treatment of section 895.46 (1) (am) of the statutes first applies to actions pending on the effective date of this subsection.
