



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Assembly Bill 725

**Assembly Substitute
Amendment 1**

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2005 Assembly Bill 725 treats the citation procedure under s. 778.25, Stats. This citation procedure applies to violations of rules promulgated by the UW Board of Regents and to other violations, including: underage possession or use of alcohol, cigarettes, or drug paraphernalia; harassment; body passing or alcohol use at sporting events; damage to state property; and noncompliance with rental unit standards.

Currently, if a citation is issued under s. 778.25 and the person who receives the citation fails to make a deposit and fails to appear in court at the time fixed in the citation, the court may only issue a summons or an arrest warrant. Under other citation procedures that apply, for example, to violations of natural resources laws, traffic violations, and municipal ordinance violations, a court in this circumstance may alternatively consider the violator's nonappearance a plea of no contest and enter judgment accordingly.

Assembly Bill 725 allows the court, under the citation procedure in s. 778.25, when the violator does not make a deposit and fails to appear in court at the time fixed in the citation, to consider the violator's nonappearance to be a plea of no contest and enter judgment accordingly. The alternative to issue a summons or arrest warrant is retained.

Assembly Substitute Amendment 1:

1. Revises the notice included in the citation to reflect that the court may consider a nonappearance, when the defendant does not make a deposit, to be a plea of no contest and enter judgment accordingly. See SECTION 1 of the substitute amendment. The amendment also delays the effective date of the proposal to the first day of the fourth month beginning after publication to permit the revision of citation forms to reflect the revised notice. See SECTION 5 of the substitute amendment.

2. Clarifies that current language in the s. 778.25 citation procedure concerning the opening of a no contest plea judgment due to mistake, inadvertence, surprise, or excusable neglect applies to the

situation addressed by the bill. See SECTION 4 of the amendment. In other words, current language regarding reopening a judgment will apply to no contest pleas when the violator makes no deposit when the citation is issued and fails to appear in court at the time fixed in the citation.

Legislative History

Assembly Substitute Amendment 1 was offered by Representatives Kleefisch and Molepske. The Assembly Committee on Judiciary recommended adoption of the amendment by a vote of Ayes, 6; Noes, 0. The proposal, as amended, was recommended for passage by a vote of Ayes, 6; Noes, 0.

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