

WISCONSIN MUNICIPAL COURT CLERK PROCEDURES MANUAL



Wisconsin State Supreme Court
Director of State Courts
Office of Judicial Education



Supreme Court of Wisconsin

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1. The Structure of the Wisconsin Court System

- | | |
|---|---|
| Wis. Const. art. VII, § 2
755.045(1) | A. Municipal courts, where they have been created by the governing body of the municipality, have exclusive jurisdiction over actions involving violation of municipal ordinances under which the penalty is a forfeiture |
| Wis. Const. art. VII, § 8
800.14(1) | B. Circuit courts have original jurisdiction in civil and criminal cases and appellate jurisdiction over municipal courts |
| Wis. Const. art. VII, § 5 | C. The Court of Appeals has appellate jurisdiction over circuit courts |
| 752.01(2) | 1) It has original jurisdiction only to issue prerogative writs |
| 752.02 | 2) It has supervisory authority over all actions and proceedings in lower courts |
| Wis. Const. art. VII, § 3 | D. The Supreme Court has appellate jurisdiction over all courts and original jurisdiction in some actions and proceedings |
| Wis. Const. art. VII, § 3 | 1) The Supreme Court has supervisory and administrative authority over all courts |
| SCR 70.01 | 2) The Director of State Courts has the authority and responsibility for the overall management of the unified judicial system |
| SCR 70.01 | a. The Director's areas of responsibility include: personnel; budget, legislative liaison, and public information; court information system; judicial education; interdistrict judicial assignments at the circuit level; and planning and research for the court system |
| 755.03(2) | b. The Director of State Courts' Office of Judicial Education has responsibility for: collecting oaths of office that municipal judges must file after each election; developing and conducting seminars for judges and court clerks to fulfill their mandatory education requirement; and providing information to judges and court clerks |
| 757.60 | E. The state is divided into 9 judicial administrative districts |
| | 1) The Supreme Court appoints a chief judge to supervise and direct the administration of each district |

- SCR 70.19(4),
SCR 70.20
SCR 70.24
- 2) The chief judge of the district has responsibilities that relate directly to municipal courts:
- 755.01(1) a. Superintending authority as granted by the Supreme Court
- 800.06(1) b. In case of illness, absence, or vacation, for a period not to exceed 30 days, the chief judge approves designation of another municipal judge from anywhere in the state to perform the judge's duties
- 751.03(2)
SCR 70.24
800.05
See Chap. 2 (Court Administration), Sec. 3 c. If a municipal judge is disqualified or a substitution is requested, the chief judge of the district acting as the designee of the Chief Justice of the Supreme Court, shall transfer the case to another municipal court anywhere in the state or, if none is available, to the circuit court
- 800.06(3)
See Chap. 2 (Court Administration), Sec. 3 d. Where a permanent vacancy exists in the office of municipal judge, the chief judge of the district may make a temporary assignment of a municipal judge from anywhere in the state to that position until the municipal governing body makes an appointment
- 755.01(1) e. Certification to the Director of State Courts that newly formed municipal courts meet requirements of §§ 755.09, 755.10, 755.11, and 755.17
- SCR 70.20(2) f. If a municipal court is located in more than one judicial district, the chief judge whose district includes the county having the largest portion of the municipal court's population shall have authority over that court
- SCR 70.30 3) Each judicial district has a District Court Administrator (DCA) to assist the chief judge in the administration of the district
- Recommendation Questions or concerns for the chief judge should first be presented to the DCA

2. The Municipal Court

- 755.01(1) **A. A municipal court is an independent branch of government. It is not a department or agency of the municipal government or the police department**
- B. Creating a municipal court**
- Wis. Const. art. VII,
§ 14 1) The Wisconsin Constitution grants the legislature power to authorize creation of municipal courts

- 755.01 2) The legislature has delegated the decision to create a municipal court to the governing body of the municipality
- 755.01(1) a. The court becomes operative when:
- An ordinance or bylaw is adopted providing for election of judge and operation and maintenance of the court
 - Written notification is provided to the director of state courts of the adoption of the ordinance or by law
 - Certification is received from the chief judge that the court meets the requirements of §§ 755.09, 755.10, 755.11, and 755.17
- 17.245 b. If the court is created before the December 1 preceding the spring election, the municipality may appoint the judge pending the election
- 755.02 c. The judge is elected at large for a term of 4 years unless a city or village passes a charter ordinance setting a lesser term. The procedures for passing a charter ordinance are set out in § 66.0101. Towns have no authority to alter the 4-year term requirement. Judge terms run from May 1 to April 30
- 66.0301
755.01(4) d. Municipalities may form a joint court by passing the same ordinance creating the court. The municipalities need not be in the same county
- 755.01(4) e. A change in the composition of a joint court through adding or removing municipalities constitutes the creation of a new court, requiring chief judge certification and notice to the Director of State Courts
- 755.01(4) f. Discontinuation of a joint court effective at end of judge's term, but only if ordinance or bylaw discontinuing the joint court is submitted to appropriate elections filing office and director of state courts prior to Oct. 1 of year preceding the end of the judge's term

C. Abolishing a municipal court

- 755.01(2)
755.04 1) The municipal governing body is prohibited from abolishing the municipal court and/or decreasing the municipal judge's salary during his/her term of office unless the court is abolished as part of a consolidation under § 66.0229

- 755.01(2)
- 2) The municipality must submit the ordinance or bylaw abolishing the court to the appropriate elections filing office and director of state courts prior to Oct. 1 of year preceding the end of the judge's term

D. Financing a municipal court

- 755.01(1)
- 1) The court is maintained at the expense of the municipality with the budget for the court kept separate from the budget of other department, including those of prosecuting attorney or police department, even if only by separate line item
- Wis. Const. art. VII,
§ 14
- 2) Municipal judges must be paid a fixed sum by the municipality. The judge cannot receive any fees or payments based upon the amount of forfeitures collected or number of convictions obtained
- 755.04
- 3) The judge's salary may be raised during his/her term of office, before the start of the second and subsequent year
- 4) The court clerk's salary is set by the governing body
- 755.18
SCR ch. 33
- 5) A municipality must pay the cost of Supreme Court mandated education for its municipal judge and court clerks. That cost includes a yearly fee to be paid to the Supreme Court and the expenses the judge and court clerk incur in obtaining the required education credits

E. Staffing a municipal court

- 755.01(1)
- 755.10(1)
SCR 60.04(2)(c)
- 1) The governing body shall authorize and fund at least one clerk, full or part-time, for each municipal court and the court shall fill it. The judge shall in writing appoint court personnel and shall do so impartially and on the basis of merit. The judge shall avoid nepotism and favoritism in appointing court personnel
- 755.10(2)
- 2) In Milwaukee, the court administrator shall appoint the personnel authorized by the city council
- 755.17(2)
- 3) The governing body shall provide an armed guard or officer for court sessions, if requested by judge
- 755.10
- 4) The judge has authority over the hiring, termination, hours of employment, and work responsibilities of court personnel when working during hours assigned to the court

F. Jurisdiction of a municipal court

- | | |
|--|---|
| 755.045(1) | 1) The municipal court has exclusive jurisdiction over actions involving violation of municipal ordinances under which the penalty is a forfeiture |
| 938.17(2)(a) | 2) Municipal courts have concurrent jurisdiction with juvenile court of children 12 or over who allegedly violated a municipal ordinance |
| 938.17(2)(a) | 3) Municipal courts have concurrent jurisdiction with juvenile court of children any age who are alleged to be habitually truant |
| 755.045(1) | 4) A municipal court does not have jurisdiction if equitable relief, such as an injunction, is demanded |
| 800.093
755.045(3)
346.65(2r)(b) | 5) A municipal court may order restitution upon conviction of a non-traffic ordinance or an ordinance authorizing restitution under § 346.65(2r) if there is injury or death, damage to property, or theft |
| | 6) A municipal judge has the power to: |
| 755.045(2)
800.02(5)
Form G | a. Issue civil warrants to enforce matters under the jurisdiction of the court. At the judge's discretion, the warrants may be served anywhere within the state |
| 755.045(2)
66.0119
<i>St v Jackowski</i> ,
2001 WI App 187
247 W2d 430
<i>Redevelopment Authority v Uptown Arts & Ed</i> , 220 W2d 458 (1999) | b. Issue inspection warrants allowing inspectors to determine compliance with building, electrical, plumbing, fire, health, zoning codes, and property assessments. Municipal judges do not have authority to issue search warrants |
| 800.02(4)
Form F | c. Issue summonses in municipal ordinance violation cases requiring defendants to appear in court on specific date |
| 800.01(1)
885.04
Form E | d. Issue subpoenas anywhere in the state and for the defendant, whether the defendant is in the state or not. Subpoenas may be served to require attendance of witnesses or the defendant and the production of evidence |
| 800.12 | e. Punish contempt of court |
| | • Contempt of court is: |
| 800.12(1)(a)
800.12(3) | — Misconduct in the presence of the court and shall be imposed immediately |

800.12(3)(a)	Must be for the purpose of preserving order and protecting dignity of court
800.12(3)(b)	Must allow person to address the court before finding of contempt and imposing penalty
800.12(1)(b)	<ul style="list-style-type: none"> — Refusal of a witness to appear without reasonable excuse • Penalty for misconduct in presence of court <ul style="list-style-type: none"> — Forfeiture not to exceed \$200, and — Imprisonment not to exceed seven days
800.12(2),(3)	— Forfeiture not to exceed \$200, and
800.12(3)	— Imprisonment not to exceed seven days
	• Penalty for witness failing to appear
800.12(2)	— Forfeiture not to exceed \$200, and
800.12(4)(a)	— Issue a warrant to bring witness to court to testify, and for contempt
800.12(4)(b)	— Pay costs of apprehension or warrant
765.16(1m)(f)	f. Perform marriages anywhere in the state
706.07(3)	g. Perform notarial acts (any act a notary public can perform)
13.24(1)	h. Preside over the taking of depositions under certain
887.20	circumstances
887.23	
<i>Sun Prairie v Davis</i> , 226 W2d 738 (1999) <i>St v Henley</i> , 2010 WI 97 328 W2d 544	i. Exercise inherent authority. All courts, including municipal courts, have inherent authority—the implied and incidental powers that must necessarily be used to enable a judicial branch to accomplish its constitutionally or legislatively mandated functions. They are powers conceded to courts because, without them, courts could not maintain their dignity, transact their business or accomplish the purpose of their existence. However, this power must not expand the court’s jurisdiction or abridge a constitutional right. It must also be something necessary to the operation of courts in general, not just a particular court

G. Proceedings in municipal court

757.14 938.299(1)	1) Municipal court proceedings must be public with the exception of juvenile non-traffic matters
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800.13

- 2) Municipal courts are not courts of record. However, any proceeding in which testimony is taken under oath and hearings regarding poverty or motions to reopen must be recorded by electronic means

SCR 61.01–61.12

- 3) Municipal courts are subject to the Supreme Court's rules permitting the use of cameras and audio recorders in Wisconsin courtrooms

3. Your Role as a Municipal Court Clerk

A. Appointment of clerk

- 1) The judge shall, in writing, appoint such clerk(s) and deputy clerks as are authorized by the municipal governing body or court board

B. Clerk's oath and bond

- 1) The clerk shall, before entering upon the duties of the office, take the oath provided by §19.01 and give a bond, if required by the municipal governing body
 - a. The cost of the bond shall be paid by the municipality or court board
 - b. Oath and bond of the clerk shall be filed with the municipal clerk

C. Loyalty/Communication

- 1) The primary responsibility of the clerk is to the judge
- 2) The clerk should ensure that the judge receives all mail sent to them in a timely manner
- 3) The clerk must be careful to maintain the appearance of fairness and should avoid discussing the substance of specific cases with anyone, including the judge
- 4) The clerk should help the judge to avoid ex parte communications
- 5) The clerk should review each unresolved case periodically and bring it to the attention of the judge, municipal attorney, or whomever necessary to get a disposition
- 6) The clerk should be able to communicate with the public to convey a professional image for him/herself and the court

D. Your conduct and demeanor as a clerk

- 1) Be considerate and courteous to all parties and spectators
 - a. Use proper titles of respect in court and when an official on duty. The judge should be addressed as “Judge” or “Your Honor” and police officers should be addressed as “officer”
 - b. Avoid familiarity. Do not use first names in court
- 2) Be conscious of the fact that you represent the judiciary. Not only must the court be satisfied that justice is being done and that the court is acting in an appropriate and ethical manner, it must also appear so to all observers
- 3) Be independent. Avoid being pressured by segments of the community, police or members of the municipality governing body

NOTE

Most people appearing in municipal court have never been in any court before. Your conduct will create a lasting impression on them regarding our system of justice. It is critical that you treat people fairly and with respect

757.18(1)

E. Mandatory Education

757.18(1)

- 1) Municipal court clerks shall participate in a program of continuing education as required by the Supreme Court

SCR 3.04(3)

- 2) Each municipal court judge shall designate a minimum of one municipal court clerk to attend the annual Municipal Court Clerk Seminar at least once every two years

F. Legal updates

- 1) The clerk may wish to read the legislative bulletins mailed by the Supreme Court of Wisconsin, particularly those regarding changes in traffic laws. New law updates can be found at:
<https://www.wicourts.gov/services/judge/docs/newlaws.pdf>

G. Resources the clerk should provide at each court session

35.85(3)

- 1) A current copy of the Wisconsin Statutes (your municipality is required to provide the court with a copy)
- 2) A current copy of your local ordinances

345.26(2)(a)
800.037

- 3) The Wisconsin revised Uniform Traffic Deposit Schedule
- 4) Your municipality's uniform deposit schedule for non-traffic offenses

23.66

- 5) The State of Wisconsin Uniform Schedule for Conservation, Environmental Protection, Boating or Snowmobile, ATV/UTV and Captive Wildlife Violations

23.67

H. Other court requirements

- 1) The clerk should be able to assist the judge in preparing the yearly budget and working within the budget
- 2) The clerk should order office supplies, postage, office equipment, etc. and stay within the yearly budget
- 3) Maintain and submit yearly case load statistics on the "Municipal Judge Questionnaire" that the Office of Judicial Education sends each January

4. The Role of the Municipal Judge

A. Steps the judge must take after being elected, appointed, or reelected

755.03

- 1) Take the official oath of office printed in § 757.02(1) of the Wisconsin Statutes

60.24
887.01

- a. Among the persons who may administer the oath are: the town chair, city, village, or town clerk, any notary public, any judge, and all other officials set out in § 887.01 or court commissioners

755.03(1), (2)

- b. Within 10 days of taking the oath, file the oath with the clerk of the city, village or town where the judge was elected and send a **certified copy** of it to the Director of State Courts
 - The oath of a judge of a joint municipal court must be filed with the clerks of each municipality that the joint court serves

755.03(1), (2)

- 2) Execute and file an official bond with the clerk of the city, village, or town where the judge was elected, in the amount set by and paid by your municipality

a. The bond of a judge of a joint municipal court must be filed with the clerk of each municipality that the joint court serves

755.03(1)

b. Your municipality may obtain a dishonesty insurance policy that covers the judge in place of a bond

NOTE:

The judge does not have the authority to act, nor may they be paid, until both the oath and bond (or insurance policy) have been filed with the appropriate parties

755.10(1)
Form AA

3) Judge shall appoint, in writing, clerk(s) or deputy clerks as authorized by the municipal governing body. The clerk shall take the oath provided by § 19.01 of the statutes

a. The municipality must authorize and fund the position of court clerk and the judge must fill it

b. The judge, not the municipal governing body or the police, are to select the person to serve as clerk

19.43

4) Judges must file a Statement of Economic Interests with the Wisconsin Ethics Commission within 21 days of their initial appointment and thereafter annually by April 30. However, in the year in which the judge runs for office the statement is due in January. The Wisconsin Ethics Commission can tell the judge the exact date that the statement is due

a. The purpose of the Statement of Economic Interests is to provide information as to potential conflicts of interest

b. The Ethics Commission generally emails reminders re: the Statement of Economic Interests

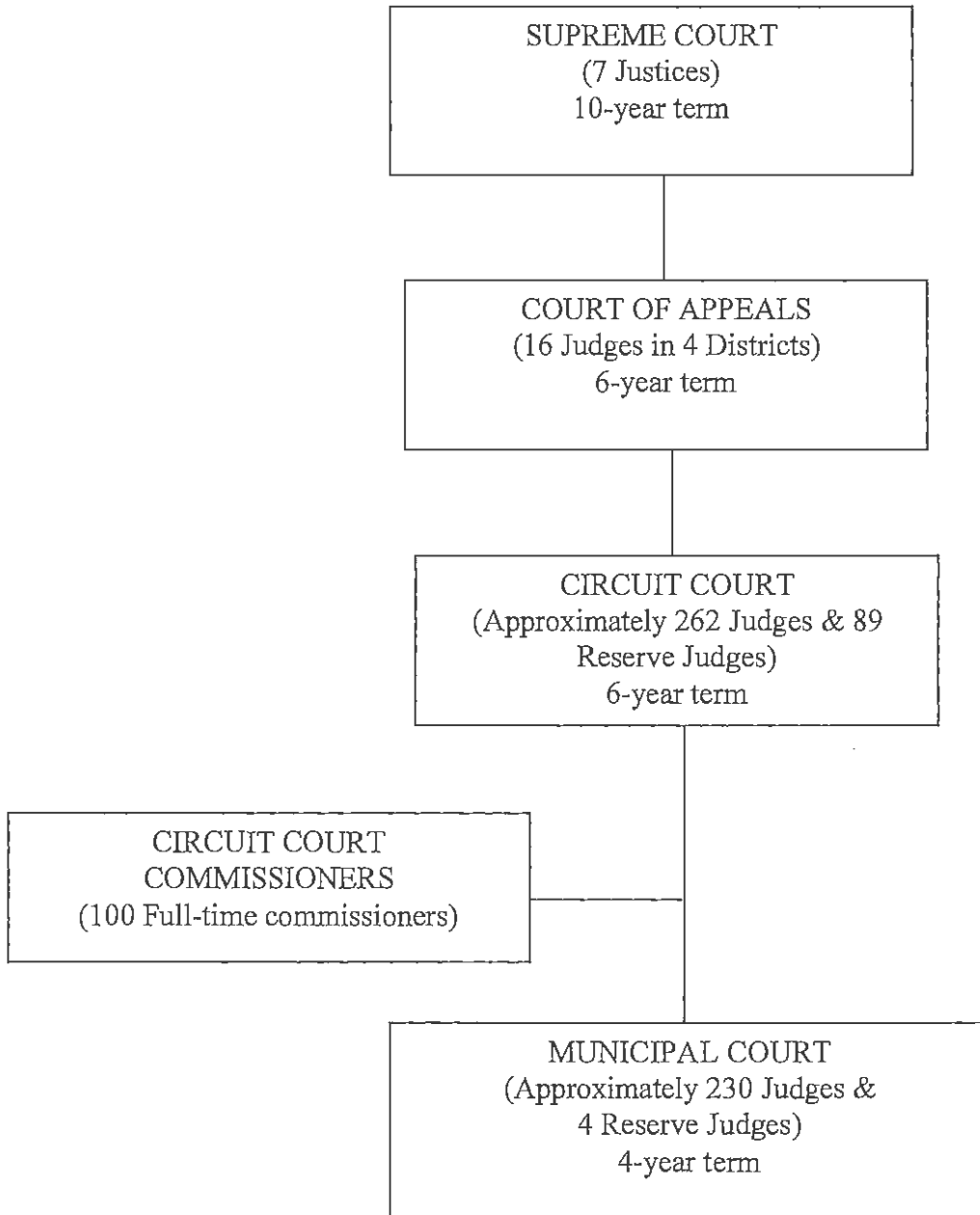
- If you do not receive one, you can download an SEI at <https://ethics.wi.gov/Pages/home.aspx>

- or contact the Commission at

Wisconsin Ethics Commission
P.O. Box 7125
Madison, WI 53707-7125
Tel: (608) 266-8123

c. Local rule: check with your local municipality to see if it has a separate local rule regarding the filing of a Statement of Economic Interest

5. The Wisconsin Court System



COURT ADMINISTRATION

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COURT ADMINISTRATION

1. Court Records

A. Responsibility of maintaining court records

- 755.11
19.33(1)
1. The judge has the ultimate responsibility of maintaining court records, but she/he may delegate much of the actual recordkeeping duties to a clerk or assistant

B. Court records include various types of records

- SCR 72.01(24a),
(24m), (45)(47)
- 755.001(3)
1. Records means all of the records subject to Supreme Court Rule 72 and includes both paper and non-paper records, such as emails and audio recordings
- 800.11
2. A court record must be maintained and include all information listed in 800.11. The judge may use the back of the citation or may create his/her own recordkeeping form, provided it contains all the legally required information

C. Court record retention

- SCR 72.01(24a),
(24m)
Resource 3
1. Records must be retained for five years after the entry of final judgment
- SCR 72.01(47)
Resource 3
2. Audio recording must be held ten years
 3. Exhibits must be held for one year after the time for appeal has expired and the party who submitted the exhibit must be offered the return of the exhibit
- SCR 72.02(2)
4. Any records defined as confidential by rule or statute, such as non-traffic juvenile records, must be destroyed by shredding, burning, or other means that will obliterate the record

D. Court records should be kept in certain areas

- | | |
|---------------|--|
| 800.11(4) | 1. If the municipal judge is elected to serve a joint court under §755.01(4), a separate court session record must be kept for each municipality |
| 800.11(4) | 2. A formal record of all judgments should be kept |
| 755.11 | 3. All papers kept for a case shall be kept together, separate from other cases |
| 938.396(2)(a) | 4. Juvenile non-traffic case files must be kept separately |
| 938.396(2)(a) | a. The contents of such files cannot be disclosed except under specified circumstances |
| 938.396(3) | b. Juvenile traffic cases can be disclosed |
| | 5. All court records shall be stored in the office of the court clerk or in another appropriate facility designated by the council or board |

E. Access to court records

- | | |
|-----------|---|
| | 1. Access to the records shall be restricted to court personnel except as authorized by the judge or by law: |
| 755.11 | a. This does not restrict the ability of counsel or parties to read the records |
| 48.396(3) | b. Records of any juvenile case may be disclosed to a law enforcement agency, a criminal court, or the district attorney, for use in a criminal investigation or criminal court case. Municipal courts and circuit courts must make the electronic records of a juvenile case available to another municipal or circuit court; to an attorney or guardian ad litem for a parent or child who is a party to a proceeding in a juvenile case in circuit or municipal court; and to district attorneys, municipal prosecutors, law enforcement agencies, and the department of corrections. A municipal court receiving this confidential information from another court must keep the information received confidential and may only use or allow access to that information for the purpose of conducting or preparing for a proceeding in municipal court |

WHAT MAY NOT BE DISCLOSED: Any disclosure from municipal court should exclude information relating to the physical or mental health of an individual or that deals with other sensitive personal information unless there is the informed consent of a person authorized to consent, or an order from a court to release that information

F. Electronic records management systems

- 755.11
1. The purchase or implementation of any electronic records management system used by the court shall be approved by the judge

G. Public Records

- 19.32(1)
1. The Public Records Law (§§ 19.31 – 39) applies to “any court of law”
- 19.21(1)
2. The municipal judge is the “legal custodian” of the records in his/her court but may assign the responsibility to his/her court clerk

Recommendation

If such assignment is made, it should be in writing

- 938.396(2)(a)
Woznicki v Erickson, 202W2d 178 (1999)
3. Municipal court citations and case files are public records that the public has a right to inspect. This right of inspection does not apply to non-traffic juvenile records unless the inspection request is from authorized persons and/or agencies
 4. Police reports are not records of the court unless admitted into evidence at trial or other court hearing. A police report admitted into evidence at a non-traffic juvenile proceeding is a confidential record
- St v Panknin*, 217 W2d 200, 216 (Ct. App. 1998)
5. Any notes prepared by a judge to assist in performing his/her judicial duties are NOT public records
- Schill v Wisconsin Rapids School Dist.* 2010 WI 86 327 W2d 572
6. Emails and electronic records are considered to be public records subject to disclosure under the law. A requester may demand that the electronic record be provided in its original format. Work product, privileged communications, and purely personal or private information contained in emails are not subject to disclosure

Form 38a

7. The municipal judge should develop a written access policy to inform the public of when and how they may inspect and/or copy municipal court records

8. The Public Record Law requires that:

19.34(2)(a)

a. The public be allowed to inspect existing records during regular office hours

b. The public be allowed to request or make copies of existing records they inspect

19.35(4)(a)

c. The record keeper should respond “as soon as practicable and without delay.” This usually means within 10 days or less

19.35(4)(b)

19.37(1), (2)

ECO Inc. v City of Elkhorn, 259 W2d 276 (Ct. App. 2002)

d. Any written denial of an open records request shall inform the requester that if the request for the record was made in writing they have the right to either file a mandamus action for release for the records or request that the District Attorney or Attorney General do so on their behalf. In the event that such an action is successful, the circuit court shall order the custodian of the records to pay reasonable attorney fees, damages of not less than \$100, and other actual costs to the requester

19.31

9. The Public Record Law carries with it a presumption of public access

St. ex. rel. Blum v Bd. of Education, 209 W2d 377 (Ct. App. 2007)

a. In those rare instances where a request to view or copy court records is denied, the requesting party must be informed in writing of the reasons for the denial if initially made the request in writing. The same policy should be applied to the denial of oral requests for open records access

WIREData v Village of Sussex, 2008 WI 69, ¶109

- An offer to comply with a request that is conditioned on unauthorized costs and terms constitutes a denial of that request even though the response does not specifically indicate it is denying or refusing to comply with the request

Hempel v. City of Baraboo, 2005 WI 120, ¶ 5, 284 w2d 162

- The most common reasons upon which an open records request is denied are: failure of the requesting party to comply with court access procedures, statutory prohibition, and public policy.
Use with caution

10. There are certain things that are **NOT** required:

19.35(1)(a)

- a. The requesting party does not have to give a reason for their request to inspect a court record

19.35(1)(h), (i)

- b. Requests do **NOT** have to be in writing and the requester does not have to identify themselves

George v Record Custodian, 169 W2d 573, 579 (Ct. App. 1992) 19.35 68 Op. Att’y Gen. 231 (1979)

- c. A municipal court does not have to compile or create records in a form that is not within its normal recordkeeping procedure (e.g. report of number of trials in speeding cases and the outcomes). However, the Attorney General has advised that where information is stored in a database a person can “within reasonable limits” request a data run to obtain the requested information

Recommendation

The court should, however, offer the requester the opportunity to secure the records if he or she is willing to pay the actual and necessary cost of creating or compiling such records above \$5.00

19.35(3)

Milwaukee Journal Sentinel v City of Milwaukee, 2012 WI 65, 342 W2d 607

- d. Copies of records do not have to be made free of charge. A court may charge the “actual, necessary and direct cost of reproduction and mailing.” But you cannot pass the cost of redacting nondisclosable information on to the requester. Copies at \$1.25 per page

814.61.(10)

State ex. rel. Gehl v Connors, 2007 WI App 238

- e. The court is not required to provide future records beyond the original records request. Request without limitations as to time or subject matter are unreasonable

Borzych v Paluszcyk, 201 W2d 523 (Ct. App. 1995)

- f. You **CANNOT** require prepayment of copies unless the cost is in excess of \$5.00

George v Record Custodian, 169 W2d 573, 580 (Ct. App. 1992)

- g. Free copies do not have to be made for requesting parties who claim to be indigent

Media Placement Services, Inc., 218 WI App. 34

- h. You are not required to provide massive-volume public record requests for free and immediate access to bulk data via the court’s database

2. Administrative Procedures

A. Municipal Court Hours

755.06

1. The municipal court shall be open daily or as determined by the judge and approved by the governing body

B. Calendaring and Scheduling

1. The police officer enters the plea date on the citation as established by the court
2. Prior to the plea date, defendant or their attorney may request an adjournment

Recommendation

It is good practice to require that the request be in writing

800.035(2)(a)

3. If defendant appears in court personally, or by an attorney, they have the right to request a continuance:
 - a. The plea date can be adjourned to a subsequent court date
 - b. The judge or clerk should authorize all adjournments and verify them in writing
 - c. It is within the discretion of the court whether or not to grant a continuance

Recommendation

A continuance should be granted once as a matter of course

4. Pleas can be entered by mail or email if the judge authorizes

800.035(2)(e)

5. When the clerk receives a not guilty plea, the clerk may immediately set the pre-trial date or inform defendant that he or she will be notified in writing of the pre-trial or trial date

C. Computing filing times when deadlines are set

800.005
801.15(1)
801.15(5)

1. Time is computed by excluding the first day and including the last day, But:

- a. If the time period is 10 days or less, weekends and legal holidays are excluded from the calculation
- b. If the deadline is in response to notice served by mail, 3 days shall be added to the prescribed time period
- c. If the deadline is in response to a notice served by fax or email transmitted between 5:00 p.m. and midnight, 1 day shall be added to prescribed time period.
- d. When the last day for filing is a Saturday, Sunday, or legal holiday, the act may be taken on the next regular business day

D. Processing records after judgment is entered

- 1. Upon receipt of a plea of no contest, if the judge accepts it, the judge or clerk must record the conviction and enter deposits as forfeitures, surcharges, costs, and/or fees

NOTE:

110.07(1)(b)
343.28, 345.48(1m)

A clerk cannot change the judge's decision

- 2. In all traffic cases, the DOT copy of the Uniform Traffic citation must be sent to DOT within five (5) working days of the date of disposition. Send to:

<https://trust.dot.state.wi.us/cows/COWSServlet>

938.344, 343.28
Form 41

- 3. Dispositions for certain juvenile alcohol beverage and drug violation must be reported to DOT (Driver Record Files, P.O. Box 7993, Madison, WI 53707) on a blue copy of the WI Uniform Municipal Court Citation or on a form MVD 3029.

or

<https://trust.dot.state.wi.us/cows/COWSServlet>

343.28(4)

- 4. Failure of judge or clerk to forward convictions to DOT is a crime

E. Disbursing Payments

- 800.10(2)
1. All forfeitures, fees, surcharges and costs collected by municipal court shall be paid to the municipal treasurer within 30 days of receipt. Some courts have their own accounts for transfer of funds
- Form 39
2. The clerk shall prepare and submit the monthly financial report to be sent to the State Treasurer.
- a. Any adjustments or changes in forfeitures should be recorded on the subsequent month's form.
(Line 12)

F. Follow-up of cases sent to circuit court

1. Keep a copy of all papers sent to circuit court
2. Learn the disposition of all cases sent to circuit court
- 800.14(6), 778.105
3. Make sure the clerk of circuit court knows they must give the judge written notification of the disposition of all appeals within 30 days of judgment. If judgment is in favor of municipality, forfeiture is payable to municipality
4. Docket the disposition of all appeals determined in circuit court
5. For OWI cases transferred to circuit court, no further action is necessary in municipal court and all collections are done by circuit court, with the forfeitures forwarded to the municipal treasurer by the circuit court

3. Judicial Reassignment

NOTE:

Only the judge is reassigned, not the court or prosecutor

A. Requests for Substitutions

- 800.051, 345.315(1),
Form 36
1. Defendant may file a written request for a substitution of judge, not later than 7 days after the initial appearance

SCR 70.24
751.03(3), 757.19
Resource 1

2. The Chief Judge of your judicial administrative district is responsible for assigning a substitute judge from anywhere within the state

3. When a substitution request is filed, determine, within 7 days, if the request was timely and in proper form

Form 36

4. If the request is timely and proper, submit an Application for Municipal Judicial Assignment to the Chief Judge of your judicial administrative district.

5. If judge does not make a determination within 7 days, the court clerk shall refer the matter to the Chief Judge of the judicial administrative district for the determination

800.05(3)

6. When a new judge has been assigned, the court clerk shall make all the papers in the case available to the newly assigned judge

B. Substitution and Recusal

1. Substitution

800.05(3)
SCR 70.24

a. "Upon transfer, the municipal judge shall immediately transmit, to the appropriate judge, all the papers in action"

778.105
City of West Allis v Sheedy, 211 W2d 92 (1977)

b. The prosecutor of the transferring court shall be responsible for prosecution before the new Judge

c. The new judge shall specify the court's location in which the matter will be heard, but shall consider any objection to the proposed location

d. If there is a conviction in front of the new judge, the forfeiture and the court cost are paid to the original court

2. Recusal (self-disqualification of judge)

Form 36

a. The judge will file a written request to recuse him/herself from the case with the Chief Judge of the judicial administrative district stating the reason for recusal. Proper reasons for recusal are listed under 757.19(2)

- b. Once the case is reassigned to another judge the municipal court clerk should provide the new judge with the necessary information about the case
- c. If there is a conviction in front of the new judge, the reporting of the disposition and the collection of the forfeiture are handled by the original court

C. Illnesses, Absences, Vacations

800.06(1)
Form 36

- 1. If judge is temporarily absent, sick or disabled, they may, subject to the order of the chief judge of the judicial administrative district, designate another municipal judge from any municipality within the state to perform his/her duties for a period not to exceed 30 days

Recommendation

If judge is going to be unavailable for more than a day or two, make arrangements with another municipal judge to handle any emergencies. Inform police department of the arrangement and Chief Judge of the arrangement

751.03(2)

- 2. If a municipal judge is incompetent or unable to fulfill his or her duties as a judge, the Chief Justice of the Supreme Court will assign a new municipal judge

800.06(3)
8.50(4)(fm)

D. Permanent Vacancy

- 1. When there is a permanent vacancy in the office of municipal judge, the Chief Judge of the district may appoint another municipal judge from the district to serve until the municipal governing body fills the vacancy
- 2. Under a policy adopted by the Committee of Chief Judges, absent special circumstances, appointments will be for no more than 90 days

800.065(3)

E. Compensation

Recommendation
Form 45

1. The Wisconsin Municipal Judge's Association recommends that whenever a municipal judge temporarily replaces a municipal judge at the regularly scheduled court session OR is assigned a case from another municipal court because of substitution or recusal:
 - a. The replacement municipal judge should receive \$100 per hour on the assigned case and not less than \$200 to preside over the court session. If that court session is longer than 2 hours that \$100 per hour to compensate for additional time
 - b. All fees should be calculated on a door to door basis
 - c. The substitute judge should advise the court clerk of the court in which he or she sat of the total amount due as soon as possible after the court session
2. No compensation is generally paid for "special" court sessions, held between regular court sessions, for the purpose of releasing defendant on a bond, etc.

4. Cameras in Courtroom

CR 61

A. Equipment and personnel

1. Except as otherwise provided in paragraph 2), below, three TV cameras, each operated by one person, and three still photographers, each using not more than two cameras, are authorized **in any court proceeding**. Priority consideration shall be extended to one of the three cameras to televise an entire proceeding
2. The judge may authorize additional cameras/persons or may limit the number of cameras if circumstances permit the increase or required limitations

3. An audio system for radio broadcast purpose is authorized **in any court proceeding**. Audio pickup for all media purposes shall be made through any existing audio system in the court facility, if practical. If no suitable audio system exists, microphones and related wiring shall be as unobtrusive as possible

B. Sound and light criteria

1. Only audio and visual equipment which does not produce distracting light or sound may be used to record a court proceeding. Artificial lighting devices shall not be used. Only equipment approved by the trial judge in advance of the court proceeding may be used during the proceeding

C. Location of equipment and personnel

1. The trial judge shall designate the location in the courtroom for camera equipment and operators. The judge shall restrict equipment and operators to areas open to the public, but they shall not block the view of persons seated in the public area of the courtroom
2. Camera operators shall occupy only the area authorized by the trial judge and shall not move about the courtroom for picture taking purposes during the court proceeding. Equipment authorized by these rules shall not be moved during the proceeding

D. Courtroom Light Sources

1. Modifications in the lighting of a court may be made only with the approval of the trial judge. Approval of other authorities may also be required.

E. Conferences

1. Audio pickup, broadcast, or recording of a conference in a court facility between an attorney and client, co-counsel, or attorneys and the trial judge held at the bench is not permitted

5. Bankruptcy and the Municipal Court

A. Introduction

1. The following is for **informational purposes only**, to acquaint the municipal clerk with the existence of potential problems that may arise after defendant has filed a bankruptcy petition and the municipality attempts to collect court-ordered forfeitures, costs or restitution and/or enforce collection by license suspensions or commitments. If you have questions, contact your municipal attorney
2. The bankruptcy code 11 USC §101, contains four types of bankruptcies:
 - a. Chapter 7 is a business or individual liquidation
 - b. Chapter 11 is usually for large business or individuals with complex finances
 - c. Chapter 12 is for extended payment plans of business farmers
 - d. Chapter 13 involves extended payment plans of individuals with regular income
 - e. Chapters 12 and 13 are similar in operation. Both may continue for three to five years. Chapter 7 takes the shortest time, usually about three months
3. Municipal court debts and the bankruptcy petition
 - a. Few debtors include the municipal court or municipality in their list of debts when filing a bankruptcy petition after a forfeiture has been incurred
 - b. All debts owed by the debtor, including those owed to a municipality (as creditor), should be listed in the bankruptcy case, but the debtor may not include a debt because of oversights or other reasons. This means that court or municipality might not receive notice of the filing

B. The automatic stay, 11 U.S.C. §362(a)

1. Whether the court or municipality receives notice or not, upon the filing of the petition, an "automatic stay" (a self-effectuated injunction) immediately stops all collection efforts by creditors, including license suspensions to enforce collection of debts which arose before the commencement of the bankruptcy case. As soon as the municipality becomes aware of the filing, all collection efforts must stop. Any collection efforts for debts that arose pre-petition, including any means of enforcement of money judgments such as driver license suspensions or jail sentences, are prohibited by the automatic stay. The stay remains in effect until it is "lifted" or expires or until the debtor is discharged by the bankruptcy court. It is in effect for the entire term of a Chapter 12 or 13 plan
2. The municipal court, or the municipality, CANNOT:
 - a. Try to collect a judgment
 - b. Commit defendant for failure to pay, or
 - c. Suspend defendant's driver license for failure to pay UNTIL notified of discharge

C. Exceptions to the stay §362(b)

1. The automatic stay does not stop:
 - a. Enforcement of the municipality's police or regulatory powers including issuing citations, imposing (but not collecting) forfeitures for pre-petition infractions, and enforcing environmental regulations even if they may involve correction costs for the debtor
 - b. Enforcement of a judgment, other than a money judgment, which furthers such municipal powers
 - c. Collection of post-petition debts (those accrued after the bankruptcy petition was filed) from property that is not under the bankruptcy court jurisdiction. Protected property usually includes the debtor's earned income in a Chapters 12 or 13, but not in a Chapter 7 or 11

- d. Collection of debts held to be non-dischargeable (see below) or later not discharged by the bankruptcy case, and/or
- e. Collection of debts that the debtor has "reaffirmed" (agreed to pay in spite of the possible discharge)

D. Dischargeability of specific debts

- 1. After the automatic stay expires, debts that are "nondischargeable" may be collected
- 2. Under Chapters 7, 11 and 12, debts for fines, penalties, forfeitures or criminal restitution and costs payable to and for the benefit of the municipality which are not compensation for actual pecuniary loss and which constitute punishment are nondischargeable debts. Court costs are part of restitution. Such debts will be unaffected at the end of the bankruptcy. All other debts are discharged if included in the Chapter 7 case
- 3. Under Chapter 13, more debts may be discharged under the "super" discharge. Almost all fines penalties, forfeitures and civil restitution and costs are discharged. Restitution included in a sentence on the debtor's conviction of a "crime" is not discharged. Any debt not provided for in the Chapter 12 or 13 plan is not discharged and survives the bankruptcy unaffected
- 4. In a Chapter 13 case, the stay continues until:
 - a. Debtor completes all payments and obtains a discharge in which case the civil forfeiture is also discharged
 - b. Debtor is unable to continue and the bankruptcy case is dismissed, or
 - c. Debtor applies for and obtains a "hardship" discharge, without completing payments under the plan, in which case the civil forfeiture is not discharged

E. Filing of claims, objections

1. Filing a claim allows the municipality to receive distributions from a debtor's Chapter 12 or 13 plan or from a Chapter 7 estate that has assets. Therefore, the municipal attorney should always file a claim in a Chapter 12 or 13, and sometimes in a Chapter 7 or 11
2. In addition, the municipality may, under certain circumstances, want to object to provisions in the debtor's proposed plan or seek to have the stay annulled

F. Post-petition citations

1. If defendant is working, "post-petition" citations can be collected, upon conviction, from future earnings

Recommendation

In order to avoid municipal liability for executing on a bankruptcy party's property improperly, the municipality's attorney should bring a motion before the bankruptcy court if there is a desire to proceed against the bankrupt defendant prior to the lifting of the stay

6. Notice to Creditors

1. This is a type of non-bankruptcy payment plan. If you get a "Notice to Creditor," stop all collection efforts, vacate any commitments, and stop any driver license suspension. Under this type of payment plan, payments should be made by the debtor, in full, over the next 36 months

7. Tax Interception – See, Chap. 6, Judgment

8. State Debt Collection – See, Chap. 6, Judgment

3
COURT PROCEDURE

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COURT PROCEDURE

1. Commencement of Process

- 800.01 **A. A traffic case is commenced when the citation is filed with or transmitted to the court**
- 800.02(2)(b)
345.11 1) The citation must be the uniform traffic citation form
- 800.01(2m) 2) Citation must indicate method of service
- 800.01(1) 3) The citation shall be served and filed with or transmitted to the court
- B. Cases involving municipal ordinance violations or violations of resolutions or bylaws are commenced by the filing of a citation or complaint with the court**
- 800.01 1) The Wisconsin Uniform Municipal Court Citation and Complaint form should be used
- 800.01(2) **C. Service—Providing formal notice to a party that a legal action has been filed against them. Must be completed in accordance with statutes to confer personal jurisdiction over defendant**
- There are several methods to obtain personal jurisdiction of defendant
- 1) Proof of personal jurisdiction of defendant exists if any of these requirements are met:
- 800.01(2)(a) a. Defendant is served with a citation/complaint personally or by substitute service as provided under § 801.11(1)(a) to (c), (5), and (6)
- 800.01(2)(b) b. Defendant is arrested and brought before the court personally
- 800.01(2)(c) c. Defendant voluntarily appears before the court
- 800.01(2)(d) d. Defendant is found to have acknowledged receipt of the citation or complaint
- 800.01(2)(e) e. Citation/complaint were sent by first class mail
- 2) Defendant is arrested and brought before the court
- 3) Defendant voluntarily appears in court

- 4) Defendant appeared personally through interactive video or audio transmission
- 5) Defendant has acknowledged receipt of the citation
- 6) The appropriate documentation has been sent to defendant by first class mail. You **CANNOT** suspend or revoke operating privileges or impose any jail time upon mailed service alone
- 7) If citation is amended prior to initial appearance a copy of the amended complaint must be personally served on the defendant or sent to the defendant via 1st class mail

800.025

D. Mandatory Appearances

66.0113(1)(b)6.
800.02(2)(ag)4.

- 1) The judge may require that the citation or complaint specify that an appearance is mandatory

2. Before Court Procedures

A. Preparation of the Court List (Calendar)

- 1) After a citation is issued, the clerk should receive the two soft copies if the ticket is hand written or the court should receive the court copy (as well as police copy if judge wants) if a Badger TRACS citation
 - a. Verify citation for accuracy
 - b. Make sure driver record is available if judge wants it
 - Obtain the record through the police department, or
 - Receive certification through DOT's PARS system to look up records
 - Obtain through Wilenet (Crime Information Bureau), or
 - Write DOT for the records. It will take 7-10 days
DOT- Driver Records
4802 Sheboygan Ave.
Madison, WI 53705
- 2) The clerk should file the citations by court date
- 3) For each court date, the clerk should prepare a calendar of the cases which **may** include the following items:

- a. Citation number
- b. Defendant's name and address
- c. Defendant's date of birth
- d. Date of violation
- e. Violation
- f. Issuing officer's name or number
- g. Defendant's driver license number
- h. Defendant's Social Security number if available (you **cannot require** a party to provide you with this information)
- i. Defendant's telephone number

B. Calendaring and scheduling

- 1) The police officer enters the initial appearance date on the citation as established by the court
- 2) Prior to the initial appearance date, the defendant or their attorney may request a continuance

Recommendation

It is good practice to require that the request be made in writing

800.04(1)(b)

- 3) If the defendant appears in court personally, or by an attorney, they have the right to request a continuance
 - a. The initial appearance date can be continued to a subsequent court date
 - b. The judge or clerk (with authority from the judge) should authorize all continuances and verify them in writing.
 - c. It is within the judge's discretion whether or not to grant a continuance

Recommendation

A continuance should be granted once as a matter of course

- 4) When you receive a not guilty plea, the court may immediately set the pre-trial date or inform the defendant that they will be notified in writing of the pretrial or trial date

C. Pleas received prior to the court date

800.035(1)
345.34(3)
800.02(2)(7)

1) A plea in writing may be entered

2) Pleas of not guilty

Recommendation

a. Plea should be in writing. If defendant calls, obtain a written plea prior to the court date

b. Update the defendant's file and send notice of future court date

3) Pleas of no contest or guilty (paid or requesting time to pay)

a. Update defendant's file and send appropriate notice

b. On mandatory appearance citations, the defendant should be notified that s/he must appear in court

D. Requests by defendants

1) The only charges for which jury demand may be requested are OWI/PAC/ORCS

a. Any accompanying citations stay in municipal court

800.04(1)(d)
Form 25

2) Jury demands for OWI/PAC/ORCS citations must be requested in writing within 10 days after entry of not guilty plea (initial appearance) by defendant

814.61(4)
Form 25a

a. Jury fee (see fee schedule) must accompany plea of not guilty and request for jury trial (if required)

i. Check with the circuit court clerk to see what is required for total amount due

b. The clerk must notify the municipal attorney of the request

814.63(2)

c. The clerk must properly send the request and the required fees, and the original and second copy of the citation to the clerk of circuit court

- 800.05 3) If the defendant files a written request for a substitution of the judge within seven days after the initial appearance, and the judge finds the request timely and in proper form, the clerk should send an Application for Municipal Judicial Assignment to the Chief Judge of the judicial district. Check with your district court administrator (DCA) to determine whether the chief judge wants the original citation or a copy to be sent with the request for appointment
- 801.58
- Form 36
- a. If the judge finds the request not timely or not in proper form, the defendant may, within ten days of the determination, file a written request for review by the chief judge
- 800.05(3) b. If the judge fails to make a determination within seven days of the filing of the request, the clerk is required to refer the matter to the Chief Judge for the determination
- Form 35 4) If the defendant requests a postponement of court date, according to procedures established by the judge, update the defendant's file and send written notice of future court date
- 343.305(8) **E. Reviews of Administrative Suspensions**
- 1) The request for review of an administrative suspension must be made in writing within 20 days of the hearing examiner's decision
- Form 34 2) The review and trial should be held within 60 days or the suspension will be vacated

3. Initial Appearances

A. If defendant requests an adjournment of the initial appearance, the judge may authorize the clerk to grant such adjournment

B. Announce court

- 1) When the judge enters the courtroom, the bailiff or clerk should make the following announcement:

"Please rise. Municipal Court for the (city, town, village) is now in session, the Honorable (municipal judge) presiding"

C. Judge's opening remarks

- 1) Opening remarks and/or a handout, should outline the court procedure so that persons present understand what will happen
- 800.035(2) 2) Opening remarks or a handout must include:

- a. An explanation of the effect of a plea of no contest
- b. Defendant's right to a trial in municipal court
- 800.035(2) c. Defendant's right to a 6-person jury trial in circuit court if the charge is OWI/PAC/OCS
- Recommendation**
 - 800.14(4)(a) • It is recommended that the defendant be informed that a failure to exercise this right waives the right to a jury trial on appeal
 - d. Defendant's right to request a continuance
- 814.29(1)(d) e. An explanation that if defendant is unable to pay judgment due to poverty, he or she is to notify the court and the court will notify defendant of alternatives to payment including installment payments, community service, or stay of judgment
- 800.09(1g)
- 800.035(2)(a)4.
- Recommendation** Defendants should be informed that they may ask procedural questions before they enter a plea
- 800.09(1g) 3) Defendants must be informed orally and in writing that the failure to pay the assessed penalty within the prescribed period may result in a suspension of driving privilege in the State of Wisconsin for one year for adults or two years for juvenile cases. Upon full payment of the penalty, defendant becomes eligible to ask DOT to reinstate. DOT will charge a reinstatement fee
- 938.17(2)(d)
- 800.09(1g) 4) Defendants must be informed orally and in writing that failure to pay may result in commitment to jail

D. Convening the first case

- 1) Defendant is called by judge, clerk, or bailiff
- 2) Defendant approaches the bench

E. Appearance by telephone or by interactive video/audio transmission

A party, witness, or interpreter will be able to appear by such means at any proceeding if:

- 800.085(1) 1) The parties stipulate and the court approves, or
- 2) The judge finds good cause after considering factors in 807.13(2)(c)

800.035(1)
345.34(3)
800.02(2)(ag)7.

F. A plea may be entered in writing

4. Defendant Appears/Amendment from the Bench

800.035(2)(a)

A. The judge reads the charge as stated in warrant, citation, or complaint and ask defendant if they understand it

B. Prior to taking defendant's plea, the judge should make sure that the officer properly completed the citation or complaint

345.11(2), (2m)

- 1) For requirements of a properly completed traffic citation, *see* § 345.11(2) & (2m)
- 2) For requirements of a properly completed non-traffic citation, *see* § 800.02(2)

Recommendation
800.025

If the officer has failed substantially to properly complete the citation, the judge should dismiss the citation unless defendant consents to amending it. Dismissal should be "without prejudice," so that the municipality may serve defendant with a properly completed citation for the alleged violation. Judge must advise defendant that the municipality may do so

C. Judge should explain the range of penalties

- 1) Penalty ranges for traffic violations are in the Revised Uniform State Traffic Deposit Schedule available from the Director of State Courts (608) 266-6984. *See* <https://www.wicourts.gov/publications/fees/index.htm>
- 2) Penalty ranges for municipal ordinance violations are in your municipal Ordinance Bond Deposit Schedule. Schedules are developed by the judge and adopted by the municipality
- 3) Penalty ranges for conservation, environmental protection, boating, snowmobile, ATV/UTV, and captive wildlife violations are in the State of Wisconsin Revised Uniform Deposit and Bail Schedule available from the State of Wisconsin Document Sales (608) 266-3358. *See* <https://www.wicourts.gov/publications/fees/index.htm>
- 4) The Revised Uniform State Traffic Deposit Schedule includes Deposit Schedules for Alcohol (all ages), Harassment and Safety Violations, Trespass to Land, and a Uniform Misdemeanor Bail Schedule

800.035

D. Information the judge must give every defendant prior to defendant entering a plea

- 1) The specific charge
- 2) The number of points that is cause for driver license suspension. The number of points accumulated under § 343.32(2)(a) within 12 months is determined by the date of violation
- 3) The maximum forfeiture that could be assessed
- 4) The penalty for failure to pay the forfeiture
- 5) The fact, if applicable, that restitution may be ordered
- 6) If defendant cannot pay the forfeiture due to poverty, he or she may request an installment plan, community service, or a stay
- 7) The number of points the violation carries (for graduated/probationary license holders the points double on second and subsequent traffic offenses)
- 8) The fact, if applicable, that conviction on the violation will result in suspension/revocation of the operating privilege
- 9) If defendant is charged with OWI/PAC/OCS, the right to a jury trial in circuit court

E. The judge asks defendant to make a plea of no contest, guilty, or not guilty

- 1) If defendant seems uncertain of their plea, once again, in simple language, the judge needs to explain the effects of the various pleas
- 2) If defendant needs time to consider a plea or consult an attorney, the judge may postpone (continue) the case

F. Defendant pleads no contest or guilty

800.035(2)(d)

- 1) If judge accepts a plea of no contest or guilty, the defendant is found guilty of the offense
- 2) Judge needs to review the officers' report to ensure that defendant was properly charged
- 3) Judge should allow defendant to explain their action in the case

800.035(2)(d)

- 4) Judge may call for defendant's conviction record, review, and impose a suitable penalty
- 5) If judge decides the plea was entered in error, they may refuse to accept it or let defendant withdraw the plea and enter a not guilty plea

G. Defendant pleads not guilty

- 1) Not guilty pleas result in a pretrial or a municipal court trial. (Exception - jury trials in circuit court are permitted in OWI/PAC/OCS cases if requested within ten days of initial appearance)
- 2) If the municipality and defendant are both prepared, the trial may be held immediately, if the court calendar so permits
- 3) If the trial is not held immediately, the judge may:
 - a. Schedule a pretrial
 - b. Set a trial date or
 - c. Advise defendant that notice of the trial date will be mailed
 - d. Provide defendant some written material on how trials are conducted

800.035(7)

- 4) Judge may require a deposit as bond to insure defendant's appearance at trial. It may not exceed the maximum forfeiture, including assessments and costs

NOTE:

800.035(8)

The deposit may be forfeited if defendant fails to appear for initial appearance (default judgment)

- 5) If the trial is not held immediately, the judge should not let defendant start telling their story
- 6) Judge should inform defendant that they may consult with the prosecutor prior to trial

800.14(4)
Form 28

- 7) Either party may appeal within 20 days of municipal court judgment

800.14(4)(intro)

- a. Where a trial has been held in municipal court, the appeal must be on the record unless

800.14(4)(intro)

- b. Within 20 days after notice of appeal, either party requests that a new trial be held in the circuit court. It is a court trial without a jury unless:

800.14(4)(a)

- It is an OWI/PAC/RCS case and a 6-person jury trial is requested by the municipality

800.14(4)(b)

- It is a non-OWI/PAC/RCS case and a 6-person jury trial is requested

NOTE:
800.14(1)

Defendant cannot appeal a default judgment

800.035(2)(c)

H. Defendant refuses to enter a plea

- 1) Judge should enter a not guilty plea on defendant's behalf
- 2) Judge should schedule a pre-trial or a trial date as with any other not guilty plea

I. Defendant pleads not guilty and requests a jury trial

800.035(5)(c)

- 1) Defendant entitled to seek immediate transfer for jury trial in circuit court in OWI/PAC/OCS cases only

800.035(5)

- 2) Demand must be made within 10 days after receipt of plea of not guilty

5. Defendant Does Not Appear Procedure - Adults

A. Default Judgment Entered

B. Cash deposit has been received

- 1) Defendant is deemed to have entered a no contest plea
 - a. Enter judgment or
 - b. Judge may reject the plea and issue a summons. A personally served summons must be signed by the server
- 2) If the court rejects the plea and defendant fails to appear in response to the summons, the judge may issue a warrant
- 3) The same procedure is followed if a no contest plea is received with the deposit
- 4) The general practice is to accept the no contest plea and deposit

800.035(8)

968.09
800.035(9),

C. There is a guaranteed traffic arrest bond, such as an auto association or motor club card

- 1) You may enter judgment
- 2) The procedure for collecting the forfeiture is usually to inform the surety company of the action on the forms the company provides

D. Cash deposit has not been received

	<ol style="list-style-type: none"> 1) The judge may enter a default judgment but see Chap. 6 (Judgment) a. Notify defendant of the default judgment by first-class mail using the address on the citation <ul style="list-style-type: none"> • The notice should give defendant a specific date to pay and specify the applicable consequences if defendant does not pay. • The notice should inform defendant that they may request installment plan, community service or stay if unable to pay due to poverty
800.09(1g)	
Recommendation	<p>A driver license may not be suspended for failure to pay unless the specific date to pay has passed. If defendants are given time to pay, it should be at least 60 days so you do not have to keep separate records for commitments and driver license suspensions</p> <ol style="list-style-type: none"> 2) Judge may issue a warrant or a summons 3) Judge may dismiss without prejudice
800.01(2)	<p>E. Defendant was served the citation or summons and complaint by mail</p> <ol style="list-style-type: none"> 1) Judge may issue a warrant or a summons
800.035(9) 800.01(2) 800.095(3)(b)	<ol style="list-style-type: none"> 2) Judge MAY enter a default judgment, but the court may not enforce judgment through warrants or license suspensions, without at least one of the following: <ol style="list-style-type: none"> a. Later acknowledgement of service of the citation or complaint on defendant b. A subsequent appearance by the defendant, or c. Subsequent service of the judgment and notice of right to poverty hearing
800.09(1g)	<p>F. Defendant fails to pay (has not requested alternatives to payment due to poverty)</p>
345.47(1)(b), (2) 800.09(1g)	<ol style="list-style-type: none"> 1) If an adult defendant fails to pay a traffic ticket within the court-ordered period (at least 60 days), the court may suspend the driver license for up to one year

- 800.095
- 2) If an adult defendant fails to pay a citation, the court after a good cause/poverty hearing may incarcerate defendant or modify, suspend or stay the payment schedule or judgment. No more than 90 days imprisonment (at least \$50 per day) concurrent with or consecutive to any other term of imprisonment. In order to incarcerate, the court must make the finding set forth in Sec. H. Penalties and Poverty
- 755.21
71.935
800.095(6)
- 3) Court may contract with a collection agency for the collection of unpaid forfeitures, including the State Debt Collection (SDC)
- 806.12
893.42
JC Lewis Co v Adamski
131 Wis. 311 (1907)
- 4) Any action in circuit court to collect on a municipal court judgment must be commenced within six years of the judgment
- 800.095(7)
806.10
806.12
806.14
814.61(5)(bm)
- 5) A municipal judgment may be placed on the circuit court judgment and lien docket, without charge by the clerk of circuit court

Recommendation

Make sure you have a speedy procedure to cancel warrants and suspensions when payment is made

G. Default judgments at trial

- 800.035(8)
800.09(1g)
- 1) If defendant, upon proper notice, fails to appear for trial, judgment may be entered

H. Penalties and Poverty

- 800.095(1)(b)2.
- 1) When a judge orders commitments to jail as a consequence of failure to pay a forfeiture or perform community service, defendant may not be jailed unless the judge makes a finding that defendant
- a. Has the ability to pay within a reasonable period of time,
 - b. Has failed without good cause to perform community service
 - c. Has failed to attend an indigency hearing
 - d. Has failed without good cause to complete an assessment or treatment program related to alcohol or drugs

6. Failure to Appear Procedure - Juveniles

Forms 11, 13a

A. If a juvenile fails to appear, the judge can issue a summons or a warrant

B. If the judge does not wish to issue a warrant

- 1) The clerk could notify the juvenile to set another court date
- 2) The clerk can send a letter to the parents with a new court date

C. The judge may also issue a summons requiring the parent, guardian or legal custodian of the juvenile to appear and bring the juvenile before the court at a time and place stated using 938.237 procedures

785.06

- 1) If the parent, guardian or legal custodian fails to appear:
 - a. The judge may initiate a contempt proceeding against the parent, guardian or legal custodian in circuit court
 - b. Or the judge can issue a warrant for the juvenile and the parent, guardian or legal custodian

7. During Court Procedure

A. Court handout

- 1) It is recommended that each defendant be given a written court handout explaining their rights and court procedures

Form 1

B. Scheduling pretrials and trials

- 1) The clerk should schedule any pretrials and trials not held at the same time as the initial appearance
- 2) The clerk should provide a written reminder to the defendant before they leave court and give a copy of the notice to the police
- 3) Notify the police department, prosecutor and the defendant's attorney of pretrials and trials
- 4) Send a copy of the citation(s) and case file to the prosecutor with the pretrial notice

C. Trial Procedure

- 1) If the judge asks you to do so, swear in the witnesses

- a. Witnesses may be sworn in as a group or individually before taking the stand
- b. It is preferable to swear witnesses individually because it places greater emphasis on the individual oath

800.08(2)(b)

Oath

"Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth and nothing but the truth, so help you God?"

800.08(2)(c)

Affirmation

"Do you solemnly, sincerely and truly declare and affirm that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth; and this you do under the pains and penalties of perjury?"

- 2) Have witnesses state and spell their names for the record
- 3) Have a flipchart or whiteboard available
- 4) Clearly identify and maintain a record of all exhibits and drawings for the record
- 5) Operate the recording device
 - a. Keep audio recordings of trials for ten years
- 6) Keep track of witnesses for reimbursement procedure
 - a. Municipality pays only for witnesses subpoenaed by the municipal prosecutor
 - b. No witness fees for police officers

D. Dispositions

- 1) The clerk should record the disposition
- 2) In small courts, it would be good practice for the clerk to take notes on the court proceedings to be recorded later

E. Time to Pay Procedure

800.035(2)(a)4

- 1) The judge shall inform defendants at the initial appearance either in the opening statement or individually that if they cannot pay the forfeiture due to poverty they can request an installment plan, community service, or a stay

- 2) If the judge grants the defendant time to pay, the clerk should give the defendant a handout stating the date the money is due and consequences of failure to pay

345.36(2)

- a. If the judge enters a default judgment against a defendant in a traffic matter, the defendant must be given at least 20 days to pay
 - b. If the judge will suspend the driver license for failure to pay the forfeiture, it is recommended to give the defendant 60 days to pay
- 3) Courts should establish a policy regarding requests for extensions for time to pay and partial payments
 - 4) The clerk should collect the money outside the courtroom if at all possible. The judge **SHOULD NOT** handle money
 - 5) Each person making a payment should receive a detailed receipt

Americans with
Disabilities Act (ADA)

F. Defendant's Right to Interpreter: Disability

- 1) When an individual needs an interpreter because of a disability (e.g. hearing impaired, inability to speak, speech defect) under the Americans with Disabilities Act (ADA), the municipality must provide one
- 2) A municipality must pay for the interpreter regardless of indigency

885.37

G. Defendant's Right to an Interpreter: Spoken Language

885.37(1)

885.37(4)

- 1) If you notice in a juvenile case under Chapter 938, that defendant, a parent, or a witness, has an inability to speak or understand English, the municipality must provide an interpreter. See Chap. 4 (Juveniles). A municipal court may authorize the use of an interpreter in any adult action but is not required to do so

885.37(4)

- 2) If defendant is indigent, the municipality pays the expense of the interpreter

885.37(2)

- 3) A municipal court may authorize the use of an interpreter in any other action or proceeding. There are companies that provide interpretation services via phone and video. See <https://www.wicourts.gov/services/interpreter/search.htm>

8. After Court Procedures

A. Money Paperwork

- 1) The clerk should record all payments
 - a. This record should include the citation number, name, charge, forfeiture amount, court costs, penalty assessment, jail assessment, crime lab fee and any other applicable assessments, the OWI surcharge, if appropriate witness fees and the total sum.
- 2) Record cases that were disposed of by payment prior to a court date

800.10(2)

- 3) All fees, forfeitures, surcharges and costs paid to the municipal court under a judgment before a municipal judge must be submitted to the municipal treasurer within 30 days after receipt. The treasurer shall disburse the fees as provided in chapter 814.

973.055(2)(b)

- a. The money should be accompanied by a record showing the breakdown of the collected funds

Form 39

- b. This is necessary for the monthly report which is submitted to the State Treasurer with all surcharges, fees, forfeitures and costs which apply

B. Follow up procedures

- 1) Clerks **cannot** change a judge's disposition

Form 32

- 2) For OWI convictions, the clerk should send the driver assessment referral form and officer's report when applicable within 48 hours

Resource 9

- a. Referral for assessment must be made to the Wisconsin driver's county of residence
 - b. Out-of-state offenders should be referred to the county of conviction assessment facility. The order must provide that the facility may refer the person to an appropriate treatment facility in the state where the person resides
- 3) For intoxicated boating, ATV and snowmobiling convictions, the assessment referral procedure is the same as that used for OWI convictions

- a. There is no surcharge on these offenses
 - b. There is no driver license suspension or revocation on these offenses
- 4) For OWI convictions, the defendant must go to the DOT to apply for an occupational license
 - a. Courts may supply instructions for obtaining an occupational license, but are not required to do so
- Form 33
- 343.28
- 345.48(lm)
- 5) Traffic citation dispositions must be submitted to DOT either electronically through COWS or by mailing the DOT copy to the DOT within five working days
- 6) The clerk should update the calendar to accurately reflect the disposition and penalties
- 345.47(1)(c)
- Form 41
- 7) The clerk shall, within 48 hours, send notice of suspensions of driver licenses for failure to pay for any offense to the DOT on the appropriate DOT suspension form or electronically on COWS
- 345.37(1)(b)
- a. The clerk should notify DOT immediately if:
 - i. The judge vacates the suspension
 - ii. The judge grants a motion to reopen
 - iii. Disposition of the case requires termination or reduction of the suspension
 - iv. The judgment is paid
- 938.344
- 8) The clerk must also send the underage alcohol violations, ID card violations, juvenile drug paraphernalia and habitual truancy violations to DOT
 - a. These violations should be reported to DOT on the court copy of the citation or submitted electronically through COWS
- 9) When mailing citations and other documents to DOT
 - a. Separate the void citations, juvenile alcohol citations, drug citations, traffic convictions and conviction status report
 - b. Make sure the disposition is complete, including the date and DOT assigned court number (NOT the judge number)
- Form 41

- 10) The clerk should make sure the police department is notified of the dispositions in each case

C. Trial Follow Up Procedures

885.05-.07

- 1) Pay witnesses

814.67

- a. The prosecutions witnesses are paid by the municipality
- b. Defendant's witnesses are paid by the defendant unless the defendant is a juvenile

9. Post Trial Requests for a Transcript or Recording

800.14(5)

- A. If neither party requests a new trial, the statute states that "an appeal shall be based upon a review of a transcript of the proceedings". It then becomes the responsibility of the municipal judge to:**

- 1) See that a transcript of the trial is prepared

Form 26

- 2) Certify the transcript and see that both the transcript and the trial recording are transferred to circuit court

800.14(5)

- B. The appellant shall pay the statutory fee for any transcript prepared**

- 1) Within 20 days of the notice of appeal, the appellant shall submit payment of the estimated cost of the transcript. The appellant is ultimately responsible for the actual cost of the transcript

- C. Anybody may request a copy of a trial recording or a transcript. Because this is a public record (except for non-traffic ordinance cases involving a juvenile) a court must fulfill such requests**

19.35(3)

- 1) The proper fee for a transcript is the actual, necessary and direct cost of producing the transcript. If the total amount exceeds \$5, prepayment may be requested
- 2) Several options are available to determine the proper fee for a transcript:
 - a. The hourly rate of the person who prepared the transcript
 - b. The fee charged by the transcription service utilized by the court

- 3) Audio recording request – requesting party provides own media (flash drive, cassette) to copy onto or pays a reasonable fee

10. Contempt in Municipal Court

800.12(1)(a)

A. A municipal judge may punish contempt of court (However, see Caveats at Sec. D. below)

- 1) Contempt of court is defined in § 800.12
- 2) Can issue warrant to bring party before court
- 3) The procedures to be followed are set forth in § 800.12

NOTE:

Make sure the contempt proceeding is recorded

- 4) The municipal judge may impose a forfeiture of up to **\$200**, plus fees, costs, and surcharges
- 5) If the forfeiture, costs, fees, and surcharges are not paid, the individual can be sentenced to a jail term not to exceed seven days

800.12(1)(b)

B. Contempt for subpoenaed witnesses who fail to appear

- 1) Determine if proper personal service
- 2) Determine whether failure to appear was without reasonable cause
- 3) Warrant to bring witness to court for contempt and to testify
- 4) Forfeiture up to \$200, plus fees, costs, and surcharges
- 5) Order to pay for costs of apprehension, plus any forfeiture imposed for contempt

800.12

C. A determination must be made prior to holding any individual in contempt

- 1) Does the conduct fall within the definition of contempt of court set forth in § 800.12?
 - a. Misconduct in the presence of the court which interferes with the court proceeding or with the administration of justice, or which impairs the respect due the court; or
 - b. Refusal as a witness to appear, be sworn, or answer a question

2) Penalty: Forfeiture up to \$200, plus fees, costs, and surcharges; jail for up to 7 days; or both. Penalties must be imposed immediately and only:

- a. To preserve order in the court and protect authority and dignity of the court, and
- b. After allowing person to address the court

D. Caveats

- 1) Under no circumstances should the municipal judge engage in a shouting match with defendant or an attorney or any other party
- 2) The dignity of the court must be maintained; this requires that it start with the judge

Recommendation

If the court does not ordinarily require that a forfeiture be paid immediately upon a finding of guilty or defendant is committed to jail, allow the contemnor time to pay as well

- 3) No imprisonment may be imposed for failure to respond to a citation, summons or warrant under § 345.28 or any other failure to appear or failure to pay for a non-moving traffic violation

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1. Jurisdiction

938.17(2)(cm)

THE MUNICIPALITY MUST PASS AN ORDINANCE ADOPTING THE RELEVANT PARTS OF CHAPTER 938 (938.343; 938.344; AND 938.355(6)(d)(2) to (5)) THAT GRANT THE AUTHORITY TO ENTER ORDERS AND SANCTIONS AGAINST JUVENILES

A. Definition

938.02(1)

1. "Adult" for municipal ordinance cases, age 17 and older

938.02(2m)

938.17(2)

2. "Court" when used without further qualification in Ch. 938, means circuit court, except when used in reference to a juvenile subject to 938.17(2), means a municipal court

938.02(10m)

3. "Juvenile" for municipal ordinance cases, age 16 and younger

938.02(13)

4. "Parent" a biological, adjudicated or adoptive parent, a husband who consented to the artificial insemination of his wife under 891.40. If the juvenile is a nonmarital child who is not adopted or whose parents do not intermarry under 767.803, parent includes a person acknowledged under 767.805 or similar law of another state
This is important for notice requirements stated in this chapter

938.17(2)

B. Municipal courts have jurisdiction in juvenile cases as follows:

938.17(2)(a)1.&
118.163(1m) &
(2)
118.15

1. Traffic cases: ages 12 through 16; exclusive jurisdiction

938.17(2)(a)1
125.02(8m) &
(20m)

2. Truancy: ages 6 through 17, jurisdiction is concurrent with circuit court. Habitual truancy: 6 through 17; jurisdiction is concurrent with circuit court even if a 938.13(6) juvenile in need of protection and services based on habitual truancy case is also filed in circuit court. However, 17 year old should be seen in an adult court

938.17(2)(a)1
254.92

3. Underage alcohol/Ch. 125 cases: ages 12 through 20 jurisdiction. Juveniles 17 to 20 year olds should be seen in adult court and do not require confidentiality or a closed hearing

938.13, 48.13

4. Other cases: ages 12 through 16, except age 17 for a few offenses such as possession of tobacco products. Age 17 or older, you do not need a closed hearing and should be in adult court

5. Municipal courts do not have jurisdiction over runaways, uncontrollable children, abused or neglected children or children who commit criminal law violations. Such cases may

State vs. Annala
168 Wis. 2d 453, 463
(1991)

be referred to circuit court, social services, the district attorney or corporation counsel for the county

6. The jurisdiction of the juvenile court is determined by the individual's age at the time charged, not the individual's age at the time of the alleged offense. So, if the juvenile is charged with an ordinance violation while 16 and younger-juvenile court. If charged when 17 and older -- adult court -- regardless if they were 16 or younger at the time of committing the ordinance violation

2. Procedure

938.17(2)(c)
800.02

A. Citation

1. Form is the same as adults
 - a. Report alcohol and traffic violations to DOT
2. Providing notice to parents is the issuing agency's (usually the police department) obligation, not the court's
 - a. For Ch. 125 (underage alcohol cases) and Ch. 961 (drug possession and paraphernalia cases) where the juvenile is between 12 to 15 years old, the issuing agency must notify parent(s) by mailing or delivering a copy of the citation within 7 days of any violation
 - b. In all other cases, the issuing agency must notify the parents, but it does not need to be a copy of the citation. Usually a letter informing the parents of the charge(s) will be the method used, though the statute is not specific
 - c. The issuing agency must notify juvenile court intake worker (the court clerk) of juveniles 12 to 15 accused of alcohol or drug violations, for informational purposes by sending a copy of the citation
3. The citation should require the child to appear in court or to make a deposit (or stipulation and deposit) instead of an appearance

938.17(2)(a)3.

B. Mandatory Appearances

938.17(2)(cg)

1. After a citation is issued, if the juvenile and his/her parent, guardian, or legal custodian do not voluntarily appear, the municipal court may issue a summons requiring them to appear at any hearing

- a. Must use summons procedure in 938.273 and the municipality pays expenses, including Ch. 885 fees. The procedure in 938.273 includes service by mail of the summons 7 days before the hearing, and other methods of service
- 938.28 b. If any person summoned, fails without reasonable cause to appear, the judge may use contempt procedure in Ch. 785.06
- 938.28 c. If a summons cannot be served or if the person served fails to obey the summons or if it appears service would be ineffectual, the judge may issue a capias (warrant) for the juvenile and parent/legal custodian/guardian to appear

NOTE: If the judge uses a capias (warrant), the person will be detained briefly in juvenile reception center and likely released. Better to order the capias returnable only during court sessions, so the person is brought to court for further proceedings

- 938.344(2g) 2. For Chapter 125 (alcohol) and 961 (drug) violations, the judge cannot order a juvenile to attend an alcohol or drug program unless the juvenile agrees. Therefore, some type of appearance or written agreement is required. Possible to do by telephone
- 938.342(1m)(b) 3. For habitual truancy hearing, the judge cannot order parent/guardian or legal custodian into counseling unless he or she has had an *opportunity* to be heard. The notice shall be personally served at least 10-days prior to the hearing. If parent is notified of hearing but fails to appear, the judge may order counseling
- 800.085 4. If the parties consent to an appearance by telephone or interactive video with audio, any hearing under 800 may be conducted in that manner. A party, witness or interpreter may appear by phone or audiovisual means if the parties agree, or if the court finds good cause after considering the factors under 807.13(2)(c)

C. Failure to Appear – see B. above and:

- 938.237(3) 345.18 1. The judge may default if a deposit has been made. Otherwise a summons shall be issued requiring the juvenile to appear for a plea hearing at a later date and time
- 938.237 938.30 2. Issue a summons. The judge may reject a stipulation and/or deposit and issue a summons requiring the juvenile and his/her parents, guardian or custodian to appear

- 938.28 3. Issue a *capias* (warrant) – see above, B.1.c above
- 938.343(2) 4. In all cases where the judge imposes a forfeiture, they must find that juvenile has the ability to pay within 12 months

938.30(1)

D. Juvenile’s Plea

- 938.30(2),
938.243
Form 7
- 938.30(8)
- 938.30(7)
1. Plea must occur within 30 days of issuing citation (or 45 days if joint court or 10 days if child is in custody)
 2. Court *must* advise juvenile of rights *prior* to the plea hearing.
 3. If plea is no contest/guilty/admission, court must address the juvenile and parties present personally to determine:
 - a. voluntariness of plea and factual basis for the charge
 - b. that no promises or threats were made
 - c. that juvenile understands that a lawyer may discover defenses or mitigating factors
 - d. that the juvenile understands the nature of the alleged act and possible dispositions
 4. If the plea is not guilty and it is not resolved that day with a plea agreement that is approved by the court then the court must set a date for the trial (“hearing”) within 30 days of the plea (20 days if juvenile is in custody)

NOTE:

938.315(1) and (2) allow the judge to find, on the record and in open court/by telephone, “good cause” for extending this time frame for the reasons listed. This should be used sparingly as speedy resolution is important in juvenile cases as evidenced by the statutory time restrictions

E. Trial

- 938.299
1. Follow chapter 800.08 procedures except maintain confidentiality for defendants who are under 17 years of age. The trial is closed to general public and only persons that have a legitimate right to be present are allowed

F. Multiple Juveniles

- Recommendations
1. Initial appearances and dispositional hearings

Hold separate hearings for juveniles to avoid disclosure of sensitive information or a valid safety concern
 2. Trials and Restitution Hearings
 - a. May be heard together
 - b. Allow each juvenile the opportunity to provide reasons for separate hearings, such as a valid safety concern or disclosure of sensitive information

3. Dispositions/Sentencing

938.37(3)
814.65,
346.655(1)

A. Fees and Costs

For juveniles who are 14 to 16 years old, the judge may assess the same costs, fees, and surcharges against juveniles as you would against adults, except for witness fees and the driver improvement surcharge in absolute sobriety cases. For juveniles who are 12 to 13 years old, the judge cannot order costs, surcharges, and fees unless a statute specifically provides for costs, such as the truancy and habitual truancy statutes

B. Ability to Pay

938.343(2)
938.342
938.344

If the judge orders a forfeiture to be paid, he/she shall make a finding that the juvenile has the ability to pay it within one year, except for truancy, underage alcohol and drug paraphernalia cases

938.17

C. Traffic violations

938.343

1. Same penalties as adults plus the judge can order the additional sanctions listed under Section III. D for nontraffic violations if the municipality has an ordinance that has adopted the sanctions listed under 938. The sanctions for OWI/PAC/OCS and refusals are the same as they would be for adults. (See Chapter 5-OWI for those sanctions)

346.93

2. Open intoxicants in a motor vehicle

346.30(6)(b)

- a. An underage person convicted of having open intoxicants in a motor vehicle may have their driver license

suspended for 30 to 90 days and shall have their license suspended for not more than one year for a second conviction within the same year and not more than two years for a third conviction within the same year

346.63(2m)

3. Absolute sobriety violations

a. Persons under 21 years of age cannot drive or operate a motor vehicle with any alcohol in their system. If they are operating a motor vehicle while impaired by drugs or alcohol or with a PAC of .08% or higher, then it is an OWI case

343.30(1p)

343.655(1)

b. Mandatory penalty of \$200 forfeiture and mandatory 3-month suspension. DOT will **not** automatically suspend so the judge must notify them. The judge cannot order a driver surcharge. If there is a passenger under the age of 16 in the vehicle it is a criminal case and municipal court does not have jurisdiction

346.63(2m)

343.305(10)(em)

c. Refusal to take a breath or blood test is a separate charge that can result in a revocation for 6 months, but does not require the underage person to do a drug and alcohol assessment or a driver safety plan

346.63(2m)

343.10(1)

d. Immediately eligible for occupational license

343.23(3)

e. DOT must keep records for at least 24 months

1) Do NOT count an absolute sobriety violation as a prior offense for other Chapter 125 alcohol violations

938.17(2)(d)

D. Non-traffic and other cases including those “related to the use or abuse of alcohol or drugs”(Not including alcohol violations under Chapter 125, truancy and habitual truancy cases and boating/fishing/hunting violations)

938.343(2)

1. Impose a forfeiture:

a. Maximum amount is the same as it would be for an adult charged with the violation unless the ordinance sets a lower amount for a juvenile offender. But the maximum is \$50 plus allowable costs if the violation applies to juveniles only (e.g. curfew, tobacco)

938.343(2)

b. Where a forfeiture is ordered, the judge must find that the juvenile has the ability to pay within 12 months

938.343(1)

2. Judge may counsel juvenile, parent/guardian from the bench

- | | |
|---------------------------|--|
| 938.343(3)
938.34(5g) | 3. Supervised work program or other authorized community service hours |
| 938.343(10)
938.547(4) | 4. If the violation is related to alcohol or drug use (i.e., disorderly conduct where person was impaired by alcohol) the judge may order an alcohol assessment and any outpatient treatment recommended by the assessment; or a “court approved pupil assistance program provided by the school board”; or a court approved alcohol or drug educational program, the judge must specify and approve the treatment facility and completion date for assessment |
| 938.343(2m) | 5. Teen court – the teen court must meet certain statutory conditions |
| 938.343.(4) | 6. Restitution and/or order the juvenile to make repairs or perform services for the victim for any damages or injuries caused by the juveniles <ul style="list-style-type: none"> a. The victim must agree to allow the juvenile to make repairs or perform services. If the juvenile objects to the amount of damages claimed, the juvenile is entitled to a hearing on the question of damages before the amount of restitution is ordered. The victim must be notified about the restitution hearing date b. An order requiring payment for repairs or restitution shall include a finding that the juvenile alone is financially able to pay or physically able to perform the services |

E. Alcohol, ID and Chapter 125 violations

- | | |
|---|---|
| 938.344(2),(2b) &
(2d)
343.30(6)
125.07(4),
125.09(2) | 1. Underage alcohol sanctions <ul style="list-style-type: none"> a. Forfeiture |
| 343.30(6)
343.30(4) | b. License suspension (Optional UNLESS a second or more offense within a 12 month period AND a motor vehicle was involved. Then, mandatory for not more than 2 years). If the court suspends a license, the court may take the license and, if the court takes it, must destroy it. If the license is suspended or revoked prior to this suspension or if the juvenile does not currently have a valid license, the suspension is effective when the juvenile is first eligible for issuance or reinstatement |
| 938.34(g) | c. Supervised work program or other authorized community service hours |

- 938.344(2g)(a) d. If defendant agrees, court can stay, modify or suspend the sentence and order attendance at an alcohol education program, AODA outpatient or school program, or teen court. The court MAY NOT modify or suspend a mandatory license suspension
- 938.344(2g)(b) 1) If assessment recommends that juvenile does not need treatment or education, and the court is informed of these facts, the court shall notify the juvenile whether or not the original penalty will be reinstated
- 938.344(2g)(d) 2) If the court is notified of juvenile's failure to complete the alcohol program, the court shall hold a hearing on whether or not the forfeiture and license suspension should be imposed
- 938.361 **NOTE:** The judge can require the parent to pay for the AODA services. See statute for procedure

961.577
938.17(2)e

F. Drug Violations – Ch. 961

- 938.344(2e) 1. Drug paraphernalia/manufacture/intent to deliver/delivery to minor -- mandatory 6-month to 5year suspension. The court may, with the agreement of the juvenile, enter an order staying the driver license suspension. If the court requires the juvenile to do any of the following: submit to an alcohol and drug abuse assessment and follow the recommendations; participate in a court-approved alcohol or other drug abuse education program; participate in a teen court program; or report to a youth report center after school. If court suspends driver license it may take license and destroy it. If the license is suspended or revoked prior to this suspension or if the juvenile does not currently have a valid license, the suspension is effective when the juvenile is first eligible for issuance or reinstatement
- 938.344(2g)
- 938.17(2) 2. Possession of 25 grams or less of marijuana can be an ordinance violation if the municipality has an ordinance that was passed in conformity with State law. A second offense marijuana case or a case involving more than 25 grams of marijuana may be brought in municipal court if the case in circuit court has been dismissed or the district attorney declines to prosecute the case in circuit court. The judge may not suspend a driver license for a marijuana conviction
- 66.0107(1)(bm)
3. Other penalties are the same as those listed in Section III E. of this Chapter

118.163
118.16(1)(a)
938.342

G. Habitual Truancy “Habitual truants” are pupils absent from school without an acceptable excuse for part or all of

five or more days on which school is held during a school semester. Applies to ages 6 through 17 - But see NOTE in this section

WARNING

The judge may *not* find a juvenile habitually truant if the school attendance officer has not complied with proof of the prerequisites under 118.16(5) unless 118.16(5m) applies. Such proof should be attached to the citation. See 938.17(2)(a)1

118.16(5) and
(5m)
In re Brandon
L. I.,
2008 WI App 73

There is a conflict in the statutes about the applicability of habitual truancy to those age 18. 118.163(2) allows adoption of an ordinance for those under age 18. However, 938.17(2)(a)1. provides that if evidence is provided by the school attendance officer that the prerequisites under 118.16(5) have been completed, the municipal court has jurisdiction “regardless of age” under 118.163(2).

NOTE:

Further, compulsory school attendance defined in 118.15(1)(a) requires any person having control over a child who is between the ages of 6 and 18 years to make sure they attend school regularly until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age

118.163(2)
938.342
938.17(2)(g)

H. Habitual Truancy Dispositions – The court may order one or more of the following if the municipality has adopted habitual truancy disposition ordinances

938.342(1g)(d),
(g),(1r)
938.34(7d)

1. Order the juvenile to attend school or an educational program as described in 938.34(7d). If school attendance is ordered, court clerks must notify the school board or its designee (e.g. school principals) about the court order requiring the student to attend school and the order must specify what constitutes a violation of an attendance requirement. The order shall direct the school or the agency responsible for supervising the student (e.g. social services or dept. of corrections in delinquency cases and social service in child protection cases) to notify the court within 5 days of any violation

938.342(1g)(b)

2. Order the juvenile and/or parent(s) to attend counseling. Costs can be assessed against the juvenile or the parents/guardians

a. Failure to comply may result in contempt or sanction stated in Section VII of this chapter

b. Must give the parents and the child an opportunity to be heard before imposing any counseling requirement

938.342(1g)(a)
938.17(2)(9g)

3. Suspend driver license from 30 days to one year. If court suspends a license, the court shall take the license and destroy it. If the license is suspended or revoked prior to this

suspension or if the juvenile does not currently have a valid license, the suspension is effective when the juvenile is first eligible for issuance or reinstatement

938.342(1g)(e)
103.70

4. Revoke a work permit for juveniles under 16

a. Notify Department of Workforce Development, Equal Rights Division, P.O. Box 8928, Madison WI 53708-8928

NOTE:

DWD does not have a mechanism for notifying employers

938.342(1g)(c)

5. Home detention -- although juvenile may attend school, religious worship or leave home accompanied by parent/guardian. This is enforced by the parent(s) or guardian and not by detention with electronic monitoring

938.342(1g)(b)
938.34(5g)

6. Participate in a supervised work program

a. Costs of the program may be assessed against the juvenile/parents/guardians

938.342(1g)(b)
938.34(5g)

7. Order juvenile to participate in a community service program

a. Costs of the program may be assessed against the juvenile/parents/guardians

118.163(2)(b)

b. Liability of certain agencies providing supervised work programs or community service is limited by law

938.342(1g)(f)

8. Order to attend a teen court program

938.342(1g)(h)
938.37(3)

9. Impose forfeiture up to \$500 plus costs, all or part of which may be assessed against the juvenile and/or the parents/guardians. No witness fees may be assessed against the juvenile

NOTE:

There is no provision requiring showing the juvenile has the ability to pay within 12 months. However, be mindful of ability to pay in determining amount of forfeiture, just as the judge would with adults

938.342(1g)(i)

10. Impose any other reasonable conditions such as curfew, restrictions on going to certain places or associating with certain persons

938.342(1m)

11. Order parents or guardians to attend school. See "Parents" Section VIII of this Chapter on the procedures to follow if the judge orders this

118.16(4)
118.15

I. Truancy - "Truant" means a pupil who is absent from school without an acceptable excuse under 118.15 and

118.163(1) 938.342 938.17(2)(g)	118.16(4) for part or all of any day on which school is held during a school semester. The law allows a municipality to create an ordinance offense for truancy, ages 6 through 17, if the municipality specifically adopts it consistent with 118.163
118.163(1m)	Truancy Dispositions - The court may order one or more of the following if the municipality has adopted a truancy ordinance consistent with 118.163
938.342(d)	1. Forfeiture (plus costs and surcharges) up to \$50 for a first offense and \$100 for a second offense within 12 months subject to a maximum cumulative forfeiture of \$500 for all violations committed within a school semester. The forfeiture, costs and assessments may be imposed on the juvenile, their parents or guardians, or both
938.342(1d)(a) & (1r)	2. Attend school. If school attendance is ordered, court clerks must notify the school board or its designee (e.g. school principals) about the court order requiring the student to attend school and the order must specify what constitutes a violation of an attendance requirement. The order shall direct the school or the agency responsible for supervising the student (e.g. social services or dept. of corrections in delinquency cases and social services in child protection cases) to notify the court within 5 days of any violation
938.342(1)(d) 938.34(5g)	3. Order the person to report to a youth report center after school, in the evening, on weekends, on other non-school days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center. In addition the judge may order community service hours at an authorized site
938.17(2)(i) 938.355(6)(d)3 938.342(1g)	4. The prerequisites to filing habitual truancy under 118.16(5m) do not apply to truancy cases
	5. License suspension is not available as part of the original disposition, nor is counseling or other dispositions that are available for habitual truancy. However, if a juvenile does not comply with any of the truancy orders the court may impose any of the sanctions that are allowed under the Habitual Truancy section of this chapter (III. G.) provided the judge informed the juvenile of the possible sanctions for a violation of the truancy order(s)

938.343

J. Boating, firearms, snowmobiles, ATV, hunting and fishing violations

938.343(5)

1. If the violation relates to unsafe use of a boat, order attendance in boating safety course under 30.74(1). If the juvenile has a

valid boating safety certificate at the time that the court imposes the disposition, the court shall revoke the certificate and order the person to obtain another boating safety certificate

938.343(6)
Ch. 29

2. If the violation is a hunting, trapping or fishing violation, suspend the license or licenses issued under that chapter for not more than one year or until the juvenile is 18 years of age, whichever occurs first. Notify the DNR to order the suspension(s)

938.343(7)
29.591

3. If the violation relates to unsafe use of firearms, order attendance at the hunter education program

938.343(8)
350.55

4. If violation involves the use of snowmobiles order attendance at a snowmobile safety course

938.343(9)
23.33

5. If the violation involves the use of an ATV or utility terrain vehicle order attendance at an ATV or utility terrain safety course

4. Restitution, Supervised Work and Community Service

938.17(2)(cm)
938.343(4)
938.344(2)(b)

A. Restitution: for violations of ordinances for conduct similar to criminal law violations (non-traffic ordinances), restitution may be ordered but only if the judge finds that the violation resulted in damage or injury (not including pain and suffering) and that it is beneficial to the well-being of the juvenile. The court may order the juvenile to repair the damage to property or make reasonable restitution for the damage or injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim or both

1. An order requiring payment for repairs or restitution shall include a finding that the juvenile alone is financially able to pay or physically able to perform the services, may allow up to the date of the expiration of the order for the payment or for the completion of the services, and may include a schedule for the performance and completion of the services

938.343(4)

2. If the child objects to the amount of restitution, the judge must hold a hearing to determine the proper amount of damages
 - a. Victim(s) should be notified of restitution hearing and have an opportunity to be heard

800.093(8)(a)

- b. The court, in determining whether to order restitution and the amount thereof, shall consider all of the following:
 - 1) Amount of loss suffered by any victim as a result of the violation
 - 2) Financial resources of the defendant

- 3) Present and future earning ability of the defendant
- 4) Needs and earning ability of the defendant's dependents, if they have any
- 5) Any other factors which the court deems appropriate

800.093(8)(b)

- c. When hearing evidence in a restitution hearing the court may waive the rules of practice, procedure, pleading and evidence, except provisions relating to privileged communications and personal transactions or communication with a decedent or mentally ill person

938.343(3)

938.342(1g)(b)

B. Supervised Work Program or Community Service

1. Municipal court may order a juvenile to participate in a supervised work program or community service, except as an initial order in a truancy case, but the program must conform to the following requirements:

938.34(5g)

- a. A supervised work program administered by the county,
- b. A community agency approved by the court or,
- c. Other community service work administered by a public agency or nonprofit charitable organization approved by the court

5. Sanctions for not paying forfeitures in traffic cases are the same as adults

6. Sanctions for not paying forfeitures in non-traffic cases

938.17(2)(d)

A. Suspend any hunting, trapping or fishing license or driver license for up to 2 years

1. The court shall immediately take possession of the hunting, fishing or trapping license(s). The court may take possession of the driver license, and if possession is taken, shall destroy the driver license. The court shall forward to the department(s) which issued the license the notice of suspension stating that the suspension is for failure to pay a forfeiture imposed by the court, together with any hunting, fishing or trapping license of which the court takes possession. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department(s), which issued the license(s)
2. If the license is suspended or revoked prior to this suspension or if the juvenile does not currently have a valid license, the

suspension is effective when the juvenile is first eligible for issuance or reinstatement

NOTE:

There are no provisions in Chapter 938, which governs juvenile proceedings, that allows for referrals of non-traffic juvenile cases to collection agencies

938.355(6)(c)

B. Court must hold hearing before imposing sanctions

1. Set a good cause hearing for the juvenile to explain why s/he has not made the payment

938.355(6)

7. Sanctions for Violating Other Municipal Court Orders

938.17(2)(cm)

A. Municipality must specifically adopt the dispositions and sanctions before the judge has the authority to impose sanctions

938.355(6)(c)

B. Court must hold hearing before imposing sanctions

938.17(2)(h)(1)

C. Court must at the time of disposition/sentencing:

1. The judge must explain the conditions of the order unless, before any violation of the order, the juvenile acknowledged in writing that they read or had read to them those conditions
2. The judge must explain the possible sanctions for violating the court order

Recommendation

Give juveniles a form explaining the possible sanctions at the time of each disposition.

938.17(2)(i)1.

D. Sanctions for violating truancy orders

938.355(6m)(ag)

1. Juveniles under age 17 who violate a truancy order can be ordered to do any of the habitual truancy dispositions (sanctions) listed under Section III. G. of this chapter. The court may also suspend any hunting, fishing or trapping license. If the court suspends those types of licenses the court shall take the license(s) and notify the DNR. If the court suspends a driver license the court may take possession of the driver license, and if possession is taken, shall destroy, the driver license. If the court orders the driver license suspension and the juvenile does not have a valid driver's license or instruction permit, court may order suspension to begin upon reinstatement or license issuance
2. If age 17, see contempt procedures at Chap. 3, Sec. XI

938.17(2)(i)2m.

938.355(6m)(a)

E. Sanctions for Violating Habitual Truancy Orders

1. Sanctions are the same as habitual truancy dispositions (sanctions) listed under Section III. G. of this chapter. You may not order the placement of the juvenile in a juvenile

detention facility for up to ten days unless there has been a resolution by the county board of supervisors under 938.06(5) authorizing it as a sanction. The court may also suspend any hunting, fishing or trapping license. If the court suspends those types of licenses the court shall take the license(s) and notify the DNR. If the court suspends a driver license the court may take possession of the driver license, and if possession is taken, shall destroy the driver license. If the court orders the driver license suspension and the juvenile does not have a valid driver license or instruction permit, court may order suspension to begin upon reinstatement or license issuance

938.17(2)(h)

F. Sanctions for Violating Non-Truancy Orders in Other Types of Juvenile Cases

938.355(6)(d) 2.to

1. Suspend driver license up to 3 years

5.

a. Juvenile must pay reinstatement fee to DOT

2. Suspend Chapter 29 hunting/gaming license up to 3 years

a. No reinstatement fee

b. Send notice to:

Department of Natural Resources
P. O. Box 7921
101 S. Webster St.
Madison, WI 53707
Phone: 608-266-2621

3. Home detention (for not more than 30-days) – Attending school, religious worship, otherwise if accompanied by parent/guardian are allowable exceptions. This is enforced by the parents or guardian and not some formal detention with electronic monitoring

938.34(5g)

4. Not more than 25 hours in a supervised work program or other authorized community service hours

Recommendation:

Order proof of community service and set a deadline for proof of community service hours

Forms 6, 8, 8a

a. Provide the defendant with a form to return to the court to prove community service. Schedule a sanction hearing for that same deadline and provide defendant with notice that if proof of community service is received at or prior to the sanction hearing, the defendant need not appear and no sanction is imposed. If the defendant fails to appear for the sanction hearing and has not complied with the order for community service the judge may still

impose three year driver license-suspension. However, the sanction is for failure to perform community service and the judge is suspending for that rather than for failure to pay. DOT must be informed what the reason is for the suspension and of the correct cite to the statutes

938.355(6)(an),
(b) and (6g)

5. Circuit Court Sanctions

- a. If a juvenile continues to violate the court orders, an extreme option is to request circuit court action
- b. The municipal court can petition the circuit court to impose additional sanctions such as juvenile detention or electronic home monitoring. This does not apply to habitual truancy or truancy cases.
- c. A motion for sanctions may also be brought by the person or agency primarily responsible for the provision of dispositional services, the district attorney or corporation counsel, or the court that entered the dispositional order. If the court initiates that type of motion, that court is disqualified from holding a hearing on the motion.

8. Parents

938.45(1r)(2)
938.342(1d)(b)
938.342(1g)(h)

A. The judge may order the parent to pay the forfeiture in truancy, habitual truancy, or non-traffic cases where damage to property or physical injury, other than pain and suffering, has occurred if all the following conditions are met:

1. Parent has notice and an opportunity to be heard on the issue, and;
2. Find that it is in the child's best interests and in aid of rehabilitation to impose forfeiture. This is not a finding that it is in the best interest of the child to have the parent pay, but that the requirement of a forfeiture is in the child's best interest and aids rehabilitation of the child and;
3. Parent has the ability to pay the forfeiture and;
4. Amount of any forfeiture may not exceed \$5,000
5. Payment by parent(s) is due by the same date as the order for payment by the juvenile

B. Mandatory Appearances

938.17(2)
938.237(3),
938.125, 938.273,
785.06, 800.12
In Interest of
Jermaine T.J.
181 W2d 82
(Ct. App 1993)

OAG 4-2000
938.45(1r)
943.51

1. In some circumstances the judge can require the juvenile and the parent/guardian/legal custodian to attend any ordinance violation hearing using a summons. The municipality pays for the cost of the summons. Failure to appear may result in contempt or a capias (warrant). A capias (warrant) may only be used if service of a summons is properly attempted and cannot be done

C. Restitution

1. Municipal court has the authority to order the parent(s) who have custody, as defined in 895.035(1) to pay the restitution. For retail theft, the amount of restitution is limited by 943.51. The restitution paid by the parent is limited to \$5,000 except for retail theft. The judge must find all of the following before ordering the parent(s) to pay:
 - a. Violation has resulted in property damage and/or personal injury of another, excluding pain and suffering; and
 - b. Parent with custody has the ability to pay;
 - c. Payments can be completed before the expiration of juvenile's court order; and
 - d. Parent(s) with custody had notice and an opportunity to be heard

9. Confidentiality

938.299(1)

A. Juvenile proceedings in municipal court for defendants under 17 years old in non-traffic matters must be closed to the public. However:

1. A juvenile may demand an open fact-finding hearing but the parent or guardian may overrule this request
 - a. If a public hearing is held, disclosure is allowed
 2. The media must be admitted, but cannot release the juvenile's identity
 3. The court may exclude the general public, foster parents and other physical custodians under some conditions
 4. Victims, their family members or a representative of a victim's support agency, at the victim's request, may attend
- 938.299(1)(a)
and (1)(av)
- 938.299(1)(a)
- 938.299(1)(ag)
- 938.299(1)(ag),
(am) & (ar)2.

938.299(1)(a)

5. The court may admit any person having a proper interest in the work of the court or the case

938.17(2)(1m)

938.299 &

345.20(2)

345.21 to 345.53

B. Traffic Cases

1. The laws are not entirely clear regarding confidentiality of hearings for traffic offenses for juveniles age 12-15. The juvenile justice chapter of the WI Statutes requires confidential hearings or all types of juvenile cases. However, the state traffic law chapters indicate that traffic trials do not need to be confidential. Also, 938.17(1) was not amended to add 12-15 year olds and that statute does provide for treating 16 year olds as adults.

Recommendation

Apply juvenile confidentiality requirements to 12-15 year old traffic offenders

C. Records – mental health, medical, alcohol/drug treatment or assessment

1. These are highly sensitive records that may be in municipal court files. They are often not appropriate for release, even though they are in municipal court files. See, *State ex. Rel Richards v. Foust*, 165 W2d 276 (Ct. App. 1991) and Federal HIPAA regulations at <http://www.hhs.gov/hipaa/index.html>

19.32, 19.33

19.36(2) & (8)

938.396(1)

& (1j)

D. Police Reports in the Court Records

1. Police reports and records for juveniles may be in the court file. Two problems arise in releasing them:

- a. The reports may contain:

- 1) Confidential information about another juvenile
- 2) Information that poses imminent danger to a juvenile or
- 3) Otherwise confidential information

- b. The court is not necessarily the *legal* custodian of police records, even though there may be copies in the court file

*Nichols v
Bennett*,
199 W2d 268
(1996)

2. The location of the document does not determine status under the public records law and disclosure, rather the nature of the documents, determines status

3. If a public records request is made to the court and the police

report is in the court file, disclose only those records for which the court is the legal custodian and direct the requester to the police department for the police reports and records

938.299(1)
938.396(1j)

4. Best practice is to inform the requester that if the police will not release the records, the statutes may allow the circuit court to review the refusal to release the records. Such a review under 938.396(1j) has detailed requirements for petitioning, notifying and releasing the records

E. Court Records of juvenile (age 12 through 16) non-traffic and non-alcohol violations

938.396(2)

1. Court records of juvenile proceedings in municipal courts must be maintained separately and are not open to inspection except as follows:

938.396(2)(ag)
& (am)

- a. Upon request or written permission of a parent, guardian or child's legal custodian, or a child age 14 or older, municipal court shall open their records for inspection. Inspection may be done by the juvenile, parent, guardian or child's legal custodian. If the judge finds, after due notice and a hearing, that inspection will cause imminent danger to anyone, then s/he shall not allow inspection

NOTE:

Inspection does not include copying

938.396(2)
(gm) & (h)

- b. Upon request of any family or juvenile court, any municipal court, a DA, corporation counsel, child's attorney or guardian ad litem and the juvenile, provided such persons have an action pending in a municipal, juvenile or family court and the request is for purposes of that proceeding, the municipal court shall open its records for inspection

*Courtney F. v
Caleb J.F.,
2004 WI App 36
269 W2d 709
(Ct. App.2004)*

CAUTION: A request to disclose municipal court records for use in another court's municipal, juvenile or family pending case, might need to be reviewed by the judge to determine if the record is relevant to the other court's action. The judge will review for relevance on his/her own or consult with another municipal judge that is not involved with the case

938.396(1)
938.396(2)
938.396(2g)
938.394(4)

- c. Additional requests for disclosure may be made directly to the circuit court that handles juvenile matters, and in some cases, to the law enforcement agency. DOT may not disclose information relating to suspensions, revocations or restrictions of a juvenile's operating privilege to any person other than municipal courts exercising jurisdiction in juvenile cases, a DA, juvenile circuit courts, corporation counsel, municipal attorneys, a

law enforcement agency, the juvenile, the juveniles' parent or guardian. Those who can access this information may not disclose it to any persons or agencies

938.396(3)

F. Court Records of juvenile traffic violations

1. There is no confidentiality of juvenile traffic case records

938.396(4)

G. Court Records of juvenile alcohol violations – persons 12 through 16

938.396(2)

1. Court records of these violations by juveniles appear to fall within the confidentiality requirements

938.396(4)

2. Court records of revocations or suspensions for such violations cannot be disclosed by the Division of Motor Vehicles except to the designated parties

938.396(1)(c) 3

3. If requested by a school district administrator of a public school district, a law enforcement agency (not the court) may provide to the administrator any information in its records relating to the use, possession or distribution of alcohol or a controlled substance by a pupil enrolled in the public school district

- a. School cannot use the information obtained as the sole basis for expelling or suspending the student

10. Victim's Rights

938.299(1)(am)

A. A victim of a juvenile's alleged act, a member of the victim's family, and at the victim's request, a representative of a support organization, may be present even at a closed trial

1. A judge has the discretion to exclude the above people from any parts of the hearing that deals with sensitive personal matters of the child or child's family and which do not directly relate to the alleged act committed against the victim

B. Notice to victims

938.17(2)(f)
938.346

If the act committed by a juvenile resulted in personal injury or damage to property of another, the municipal court must, to the extent possible, provide each known victim with the following:

1. Procedure under 938.396(1)(c)5 & 6 for obtaining the identity of the juvenile and the parents
2. Procedure under 938.396 (1)(c)5. for obtaining juvenile's police records

938.346
938.346(2)
938.396(5)(a)

3. The potential liability of the juvenile's parents under 895.035
4. The right to request and receive notice of time and place of any hearing victim may attend under 938.299(1)(am)
5. The notice must include an explanation of restrictions on divulging information obtained under the statute and the penalties for violation. If the proceeding is closed, dismissed, or does not result in a resolution in court, the victim must be informed that the proceeding has been terminated. Rules for implementation of this procedure must be established by the chief judge of the district. Check with the chief judge of your judicial administrative district for forms for notifying victims

21. Interpreters

Americans with
Disabilities Act
(ADA)

A. If an individual has language difficulty because of:

1. Hearing impairment
2. Inability to speak
3. Speech defect
4. Any other disability under the ADA

Then, the court must provide an interpreter

885.37(1)

B. If the court has notice that a juvenile, parent, or witness in a juvenile proceeding has language difficulty because of the inability to speak or understand English, then the court must make a factual determination of whether that is sufficient to:

1. Prevent the individual from communicating with his/her attorney
2. Reasonably understand the English testimony
3. Reasonably being understood in English

885.37(1),(2),
and (4)

C. The court shall inform the defendant of the right to a qualified interpreter, at the municipality's expense, if the defendant cannot afford one (except for interpreters needed because of a disability, see G below)

D. The defendant may waive the right to an interpreter if such waiver is voluntary, on the record and in open court

885.37(5)(c)

- E. The procedure for appointing interpreters allows the court to appoint any person the court decides is qualified (except for interpreters needed because of a disability, see G below)**

RESOURCES: Find certified interpreters at the Director of State Courts website at:

www.wicourts.gov/services/interpreter/search.htm

Guidance in using interpreters at:

www.wicourts.gov/services/judge/interpret1.htm

www.wicourts.gov/services/judge/interpret2.htm

Certified Wisconsin interpreter services available:

swits.us/ 1-866-737-9487

Language line has 170 interpreters, not necessarily certified by Wisconsin:

www.language.com Call 1-800-752-6096 to open an account

*State v
Santiago
206 W2d 3
(1996)*

- F. If the defendant and a witness require an interpreter, the better practice is to appoint one interpreter for the court and one for the defendant**

- G. Specific requirements for interpreters needed for individuals with disabilities:**

1. Appointment of an interpreter for an individual with a disability is mandatory in any matter before a municipal court

2. DHS maintains a list of American Sign Language (ASL) interpreters which can be found at:

<https://www.dhs.wisconsin.gov/odhh/interpreting/asl-freelance-interpreter-listing.pdf>

885.37(5)(a)
&(b)

3. The municipal court must appoint from that list, unless no listed interpreter is available. The municipal court shall then appoint another person who is able to accurately communicate with and convey information to and receive information from the person with a disability

440.032(2)(b)1

4. Sign language interpreters who provide services for compensation to the courts must be licensed by the Department of Safety and Professional Services or must be certified by the Wisconsin Supreme Court. The court should

make a careful inquiry into the credentials of interpreters listed on the DHS listing

ADA

5. The municipal court is responsible for paying the expense of an interpreter for a person with a disability regardless of indigency

H. Translated Documents

Federal Register
Enforcement of
Title VI,
Civil Rights Act

1. The court should post notice for free language assistance.
See above resources at Director of State Courts

5

**OPERATING A MOTOR VEHICLE WHILE
INTOXICATED (OWI/PAC/OWS)**

1. Introductory Note.....	5-3
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OPERATING A MOTOR VEHICLE WHILE INTOXICATED (OWI/PAC/OCS)

1. Introductory Note

- A. The common terms of operating while intoxicated, or operating under the influence, or drunk driving actually refer to 3 separate, but interrelated offenses:

- 346.63(1)(a) 1) Operating while under the influence of an intoxicant, a controlled substance, a controlled substance analog, or any combination of an intoxicant, a controlled substance, or controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving (OWI)
- 346.63(1)(am) 2) Operating with a detectable amount of controlled substance in blood (OCS)
- 346.63(1)(b) 3) Operating with a prohibited alcohol concentration (PAC)
- 346.63(1)(c) B. A person may be charged with any combination of the above charges arising out of the same incident. If found guilty of any combination of the above charges, the convictions shall be reported to DOT, but the penalties are to be imposed on only 1 violation
- 967.055(3) C. A prosecutor may not place a person in a deferred prosecution program if charged with OWI/PAC/OCS or a refusal

2. Jurisdiction of Municipal Courts

- 346.65(2)(am)1. A. First offense OWI/PAC/OCS is a civil forfeiture except
- 346.65(2)(f)1. 1) If passenger under 16 was in vehicle, case is a criminal offense and municipal court does not have jurisdiction
- 346.63(2) 2) If a person other than the operator is injured, case is a criminal offense and municipal court does not have jurisdiction
- 343.30(1q)(b)1. B. If an operator has been convicted of OWI/PAC/OCS or refusal
343.307, 346.65 in Wisconsin or another state within the past 10 years, or of OWI Causing Death or Great Bodily Harm at any time, municipal court does not have jurisdiction. This is true even if the convicted offense has a later offense date than the current charge

- 1) The third or subsequent offense is always a criminal violation and municipal court does not have jurisdiction

340.01(9r)
343.307

C. There is a very expansive statutory definition of the term “conviction” in OWI cases

State v List,
2004 WI App 230,
277 W2d 836

- 1) “Court Supervision” resulting in dismissal, for OWI in Illinois, counts as prior offense

State v Puchacz,
2010 WI App 30
323 W2d 741

- 2) Operating while “visibly impaired” in Michigan counts as prior offense

State v Carter,
2010 WI 32
330 W2d 1

- 3) Underage “Not a Drop” violations in Illinois count as prior offenses

WI Ethics Opinion E-
86-06

- 4) Defense counsel does not have affirmative duty to disclose to court or prosecutor that there is another first offense case(s) pending, unless specifically asked by the court or prosecutor

D. Multiple OWI/PAC/OCS offenses

State v Banks,
105 W2d 32 (1981)

- 1) A defendant arrested for 2 OWI/PAC/OCS offenses faces criminal penalties on 1 of those even though defendant committed the second offense before suffering the penalties of the first

State v Matke,
2005 WI App 4
278 W2d 403

- 2) Once a defendant is convicted of the first, a municipal court loses jurisdiction over any other OWI/PAC/OCS offenses committed within 10 years of the first offense date

E. Commercial motor vehicle offenses

346.63(5)(a)

- 1) Municipal court has jurisdiction in cases of OWI/PAC/OCS of a commercial motor vehicle where:

- a. The operator has a PAC of 0.04-0.08, and

346.65(2j)

- b. It is a first offense

346.63(7)

- 2) Municipal court has jurisdiction in commercial motor vehicle cases where:

- a. A person is driving, operating, or is on duty time under any of the following conditions

- A person has a PAC above 0.0

- The person has consumed an intoxicating beverage within 4 hours

- The person is in possession of an intoxicating beverage

343.305(2)

3. Refusal to Take Test

A person operating a motor vehicle is deemed to have given consent to one or more tests of their blood, breath, or urine for the purpose of testing for alcohol or drugs

343.305(4)

A. When requesting a test, the officer must read the Informing the Accused form to the defendant

B. If a defendant is arrested for OWI, issued a citation for OWI/PAC/OCS under a municipal ordinance and refuses to take the test, officer shall:

343.305(9)(a)
Form 46

1) Prepare Notice of Intent to Revoke and give/send a copy to:

- The defendant
- The DOT
- The municipal court
- The prosecutor for the municipal court

343.305(9)(a)4.
800.005
801.15(1)

C. Defendant must request hearing in writing within 10 business days of issuance of "Notice of Intent to Revoke"

Elm Grove v Brefka,
2013 WI 54
348 W2d 282

1) Court lacks competency to hear a motion to extend 10-day time limit or take any action, other than to process the refusal finding and penalties

D. If defendant does NOT request a hearing

343.305(10)(b)2.
Attachment C

1) Issue an "Order of Revocation" or a "Conviction Status Report" to DOT to revoke the defendant's license for 1 year, DOT will require defendant to wait 30 days for occupational license

343.305(10)(c)
Form 32

2) Send Order for Driver Assessment and Driver Safety Plan to defendant and assessment facility

Form 29 and 30

3) Order Ignition Interlock Device (IID) and surcharge and send notice to defendant

343.305(10)(em)

4) Absolute Sobriety refusal penalty is 6-month revocation. The person shall not be required to submit to and comply with any assessment or driver safety plan

E. If defendant requests a hearing

343.305(9)(c)

- 1) Schedule hearing to determine if refusal proper. There is no statutory time limit for scheduling/conducting the hearing. Hearing may be scheduled to be heard at same time underlying OWI/PAC/OCS trial is held

343.305(9)(d)

- 2) Court must determine issues within 5 days of hearing

*Village of Elkhart Lake
v Borzyskowski,*
123 W2d 185
(Ct. App. 1985)

- a. Failure to decide within 5 days does not strip court of jurisdiction

- 3) If all issues determined adversely to defendant

- a. Revoke driver license

343.305(10)(b)2.

- For 1 year. DOT will require defendant to wait 30 days for occupational license
- The effective date of the refusal revocation is the date of the court decision, or 30 days after the date of refusal, whichever is later

343.305(10)(c)
Form 32

- b. Send Order for Driver Assessment and Driver Safety Plan to defendant and assessment facility

Form 29 and 30

- c. Order Ignition Interlock Device (IID) and surcharge and send notice to defendants

800.035(5)(c)

F. If defendant has properly requested a jury trial on the OWI/PAC/OCS charge(s) and has made a timely request for a refusal hearing, BOTH the OWI/PAC/OCS charge(s) AND the refusal issue, along with any other citations arising from the same incident, are to be transferred together to circuit court

State v Bardwell,
83 W2d 902 (1978)

G. Refusal issue is separate and distinct from the underlying OWI/PAC/OCS charge(s)

343.305(9)(d)

- 1) Refusal issue may be prosecuted regardless of the disposition of OWI/PAC/OCS charge(s)

State v Brooks,
113 W2d 347 (1983)
State v Bentdahl,
2013 WI 106
351 W2d 739

- 2) Dismissal of the refusal is discretionary with the court and can only occur if the defendant pleads guilty to the underlying OWI/PAC/OCS charge AND made a timely request for a refusal hearing

4. Administrative Suspension and Judicial Review

- A. If defendant submits to a chemical test and result is a prohibited alcohol concentration of 0.08% or more or there is a detectable amount of a restricted controlled substance, the officer shall:**
- 343.305(8)(a)
Attachment D
- 1) Issue Notice of Administrative Suspension advising defendant of administrative suspension and rights to administrative and judicial review
 - 2) Notice serves as temporary license for 30 days
- B. DOT will administratively suspended defendant for 6 months based on test result of 0.08% or more; or a detectable amount of a restricted controlled substance**
- 343.305(7)
- 1) Suspension becomes effective at the time the 30-day temporary license expires
 - 2) The length of administrative suspension is 6 months regardless of any prior convictions for OWI
- C. Defendant may ask DOT to review administrative suspension**
- 343.305(8)(b)1.
- D. If the defendant is aggrieved by the determination of the hearing examiner, he or she may request review by the court hearing the underlying OWI/PAC/OCS charge**
- 343.305(8)(c)
- 1) Request for judicial review must be filed with the court within 20 calendar days of the issuance of the hearing examiner's decision
 - 2) If the OWI/PAC/OCS charge is transferred to circuit court because of jury demand, the request must be filed in circuit court
 - 3) Upon receiving a request for judicial review, the court shall schedule the review of the hearing examiner's decision on administrative suspension at the same time as the trial on the OWI/PAC/OCS. The trial should be scheduled as soon as possible and no later than 60 calendar days from the filing of the request for judicial review
 - 4) The prosecutor of the OWI/PAC/OCS charge shall represent the interests of DOT at the hearing
 - 5) The court shall send a copy of the request for judicial review to DOT
- 343.305(8)(c)1.
Form 34
- 343.305(8)(c)1.
- 343.305(8)(c)1.
- 343.305(8)(c)1.

- 343.305(8)(c)2. 6) DOT will vacate the administrative suspension 60 calendar days from the date of the request for judicial review unless DOT notified of the result of the review
- 343.305(8)(c)2. 7) Upon receiving a request for judicial review, the court may issue an order to DOT to stay the suspension pending judicial review
- 343.305(8)(c)3. **E. If the defendant is aggrieved by the court review**
- 343.305(8)(c)3. 1) Municipal court review may be appealed to circuit court
- 343.30(1q)(h) **F. Any revocation resulting from a conviction for OWI/PAC/OCS charges will be reduced by any period of administrative suspension, if both arise from same incident**
- 1) This calculation will be performed by DOT
- G. If defendant is found not guilty of OWI/PAC/OCS charge, any administrative suspension arising out of the same is removed automatically by DOT**

5. Jury Demand

- 800.035(5)(c) **A. Defendant charged with OWI/PAC/OCS may demand a jury trial within 10 business days after entry of plea**
- City of Fond du Lac v Kaehne,*
222 W2d 323
(Ct. App. 1999)
- 1) 10-day period commences when defendant appears in court to enter plea or when written not guilty plea is received by court, even if received prior to the initial appearance
- Form 25 2) You should provide jury request forms to defendants who wish to request a jury trial.
- 814.61(4) 3) Required jury fees must be posted within the time permitted to demand a jury trial
- Form 25a 4) The case must be promptly transferred to circuit court. Circuit Court then has full jurisdiction. Municipal Court will not receive any further information on the case
- 5) Jury trials may not be held in municipal court
- 800.035(5)(c) 6) All other citations arising out of the same incident are also transferred to circuit court

6. Penalties for OWI

A. Sentencing Guidelines (PAC and OCS Cases)

346.65(2m)(a)

- 1) Court shall review record and consider aggravating and mitigating factors. If amount of alcohol or amount of restricted controlled substance in defendant's blood is known, court shall consider that amount as a factor in sentencing
- 2) The chief judge of each district shall adopt guidelines for the consideration of aggravating and mitigating factors, which must be considered by the court

B. Forfeitures, Costs, and Surcharges

- 1) Court must impose forfeiture within range set by statute. \$150--\$300 plus costs and surcharges

346.655

- a. Driver improvement surcharge

757.05

- b. Penalty surcharge

814.65

- c. Court costs

302.46(1)(a)

- d. Jail surcharge

165.755

- e. Crime lab surcharge

343.301(5)

- f. Ignition Interlock surcharge (if applicable)

346.657

- g. Safe Ride surcharge

343.301(5)

- h. IID surcharge if applicable

814.65(4m)

- i. Blood Draw reimbursement if applicable

346.65(2e)

- 2) If defendant does not have ability to pay, court may reduce costs or forfeiture and instead have defendant pay amount of reduction toward assessment and treatment

C. License Revocation

- 1) Court must order revocation of 6--9 months

345.48(2)

- 2) Revocation to start immediately upon conviction

D. Occupational License and Demerit Points

343.10
Wis Adm Code
Ch Trans 117

- 1) Responsibility for issuing occupational license is with DOT. There is no waiting period unless defendant was convicted of refusal. Then there is a 30-day waiting period from date of refusal conviction.
- 2) Six demerit points assessed to defendant's driver record

E. Ignition Interlock Device

343.301(1g)
Forms 29 and 30

- 1) Court must order defendant's operating privilege to be restricted to vehicles equipped with an IID AND must order each vehicle with defendant's name on title or registration to be equipped with IID if

343.301(1g)(a)

- a. Improper refusal to take test; or

343.301(1g)(b)

- b. Convicted of OWI/PAC/OCS and had either

- An alcohol concentration of .15% or
- Prior OWI conviction in lifetime (even if out of 10-year period)

*Village of Grafton v
Seatz,*
2014 WI App 23
352 W2d 747

343.301(1g)(am)2.
165.957(4)(a)

- 2) The option of participation in the 24/7 frequent sobriety testing program (instead of imposing an IID) is not available in first-offense cases

343.301(1m)(a)

- 3) If equipping each owned or registered vehicle would cause undue hardship, court may order that 1 or more vehicles NOT be equipped with IID. This does not change that the defendant is restricted from driving any class D vehicle without an IID

343.301(1m)(b)

- 4) The requirement to equip each owned or registered vehicle does not apply to a vehicle for which DOT has not approved an IID capable of being installed on the vehicle

343.301(3)

- 5) Defendant is liable for reasonable cost to equip and maintain IID, except

Form 30

- a. If court finds defendant has household income below 150% of poverty guidelines, defendant's cost limited to 1/2 actual cost to install and maintain IID

343.301(2m)(a)

- 6) Defendant's operating privilege must be restricted to require IID when operating Class D vehicles (i.e., passenger vehicles and light trucks)
 - a. IID license restriction begins immediately and extends until 1 year passes from the date the DOT issues any license

343.301(2m)(a)

- 7) Court may set a deadline for installation of IID on vehicles titled to defendant, but this does not relieve the defendant of the IID license restriction

343.301(5)

- 8) Court must impose \$50 ignition interlock surcharge

343.30(1q)(c)

F. Assessment

- 1) Court must order assessment if defendant is convicted of OWI/PAC/ORC or found to have unreasonably refused chemical test
- 2) WI residents to be referred to approved facility in county of residence
- 3) Out-of-state residents to be referred to approved facility in WI. Facility may refer defendant to facility in defendant's home state

343.30(1q)(c)1m.

- 4) Defendant may undergo voluntary assessment before conviction
 - a. Court may consider at sentencing

346.65(2e)

- 5) Court may reduce defendant's forfeiture by amount sufficient to have defendant pay assessment and treatment under § 343.30(1q)(c)

G. Community Service

346.65(2g)

- 1) Court may order defendant to perform community service in lieu of part or all of forfeiture

346.65(2g)

- 2) Court may order defendant to perform community service in addition to other penalties

346.65(2g)

- 3) Court may order community service with or without defendant's consent

H. Restitution

346.65(2r)
St v Storlie,
2002 WI App 163
256 W2d 500

- 1) Court may order defendant to pay full or partial restitution to any victim(s) of an OWI offense, but may not order restitution for collateral expenses incurred in normal course of law enforcement

I. Order to Visit Other Site

346.65(2i)
343.30(1q)(d)1.

- 1) Court may order a visit to a site that demonstrates the adverse effects of substance abuse or OWI. This may include a treatment facility, emergency room, or Victim Impact Panel. It can be imposed as a condition of a driver safety plan, in lieu of part or all of the forfeiture, or in addition to other penalties

6
JUDGMENT

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1. Dismissal

A. Basis for dismissal

800.01(2)

1) The court lacks jurisdiction over the person or subject

- a. Personal jurisdiction over the defendant may be lacking because of improper arrest, improper service of citation/complaint, service upon the wrong person, or no venue (e.g., underage drinking offense occurred outside municipal limits)
- b. Subject matter jurisdiction may be lacking because the defendant is charged with a criminal offense or an offense for which the municipality has not adopted an ordinance
 - The Uniform State Traffic Deposit Schedule (USTDS) lists those traffic offenses that are non-criminal, forfeiture actions, and thus within the municipal court's jurisdiction
 - All traffic offenses listed in Section II of the USTDS are crimes, and therefore outside of the municipal court's jurisdiction

2) The citation or complaint is materially defective

- a. A materially defective citation/complaint is one that
 - Can mislead the defendant; e.g., citation describes the offense as "speeding" but shows the statute for reckless driving
 - Is incomplete; e.g., speeding ticket neglects to reflect how fast the defendant was travelling
- b. A citation reflecting the wrong birth date, license plate number, color of the car, and the like is not materially defective and should not be dismissed

B. Types of dismissal

- 1) "With prejudice" means the prosecution is legally barred from recharging the defendant with an offense arising out of the same incident
 - a. Example: dismissal based on lack of subject matter jurisdiction
 - b. Example: dismissal after a witness has been sworn in
- 2) "Without prejudice" means the prosecution may recharge the defendant with an offense based upon the same incident

C. Assessing costs or "terms" upon dismissal

63 Op. Atty. Gen.
328 (1974)

- 1) Courts **MAY NOT** dismiss traffic complaints upon payment of penalty and costs, or costs alone
- 2) Court costs may only be imposed if specifically authorized by statute
- 3) There is no statutory authority for the payment of costs, whether called costs or "terms," without a conviction

2. Default Judgment

A. Failure to appear at the initial appearance

800.035(8)

- 1) If the defendant has made a deposit in the amount set for the violation, the court may enter a default judgment
 - a. The defendant is deemed to have tendered a plea of no contest and submits to a forfeiture not exceeding the amount of the deposit
 - The court may reject the plea and issue a summons
 - If the plea is accepted, the court notwithstanding, may summons the defendant into court to determine if restitution should be ordered

- If the defendant does not respond to the summons, the court may issue a bench warrant
 - b. If the defendant appears, the court must allow the defendant to withdraw the “deemed” no contest plea
- 800.035(9) 2) If the defendant has not made a deposit in the amount set for the violation, the court may enter a default judgment if proof of jurisdiction is found
 - a. Proof of jurisdiction exists if the defendant
 - 800.01(2)(a) • Is served with a citation/complaint personally or by substitute service as provided under § 801.11(1)(a) to (c), (5), and (6)
 - 800.01(2)(b) • Is arrested and brought before the court personally
 - 800.01(2)(c) • Voluntarily appears before the court as provided by law
 - 800.01(2)(d) • Is found to have acknowledged receipt of the citation or complaint
 - 800.01(2)(e) • The citation/complaint was sent by first class mail
- 3) In the alternative, the court may issue a summons or warrant
 - 800.035(9) a. If a warrant is issued, the defendant may not be detained for more than 48 hours prior to the initial appearance
- 800.09(1g) 4) The court may defer payment of any judgment or provide for installment payments

B. Failure to appear at a pretrial conference

- 800.045 1) If the defendant has made a deposit in the amount set
800.035(8) for the violation, the court may proceed in the same manner as if the defendant did not appear at the initial appearance
- 800.045 2) If the defendant has not made a deposit in the amount
800.035(9) set for the violation, the court may proceed in the same manner as if the defendant did not appear at the initial appearance

800.08(5)

C. Failure to appear for trial

- 1) If the defendant fails to appear personally or by an attorney the judge may find the defendant guilty and enter default judgment

800.093(8)

- 2) Notwithstanding the default judgment, the court may summons the defendant into court to determine if restitution should be ordered

D. Court's duty upon entering judgment

800.09(1g)

- 1) The court may defer payment of any judgment or provide for installment payments

800.09(1g)

- 2) The court must notify the defendant orally and in writing of the amount due, including any restitution, the date by which it must be paid, and the possible consequences of failure to pay

800.09(1g)

- 3) The court must also inform the defendant orally and in writing that if he or she is unable to pay the judgment because of poverty, as that term is used in § 814.29(1)(d), he or she may request community service in lieu of payment of the judgment
- 4) If the defendant is not present when judgment is rendered, then the court shall mail all of the above information to defendant

Recommendation

The notice should tell the defendant that they may arrange for payment by installments by contacting the court by telephone or in person

NOTE:

There is no statutory authority for a municipality to impose a "default fee" or assess interest as a result of a default judgment

3. Judgment upon Plea of No Contest or Guilty

A. The defendant is present in court

- 1) The court may defer payment of any judgment or provide for installment payments
- 2) The court is not bound by the deposit amount on the citation, but the sentence must include a forfeiture amount that is not less than the minimum nor more than the maximum set by your ordinance

Form 5

- 3) The court must inform the defendant, orally and in writing, of the amount due, including any restitution, the date by which it must be paid and the possible consequences of failure to pay
- 4) The court must also inform the defendant, orally and in writing, that if they are unable to pay the judgment because of poverty, as that term is used in 814.29(1)(d), they may request community service in lieu of payment of the judgment
- 5) If the court determines that the defendant is unable to pay the judgment because of poverty, the court must provide an opportunity to pay in installments, taking into account the defendant's income

Recommendation

The clerk should collect the money outside the courtroom if at all possible. The judge SHOULD NOT handle money

4. Judgment After Trial

A) Burden of proof

800.08(3)
Wis JI-Civil 205

- 1) The defendant can be found guilty only if the evidence is clear, is satisfactory, and convinces the judge to a reasonable certainty. Clear, satisfactory, and convincing evidence is evidence when weighed against that opposed to it clearly has more convincing power. It is evidence that satisfies and convinces the judge
- 2) The burden of proof is on the municipality
- 3) After all the evidence has been received, the judge must determine whether or not the municipality has met its burden of proof and make a finding of not guilty or guilty

B. Not guilty

Upon a finding of not guilty, the judge need take no further action except to dismiss the case and return any deposit made by or for the defendant

Recommendation

The judge should explain the reasons for their decision

C. Guilty

Upon a finding of guilty, the judge must follow all the steps outlined above in 2.D. If the defendant is not present in court, then the court shall mail all of the same information to defendant

4. Penalties upon Conviction

A. Forfeitures/court costs/surcharges and witness fees

- 1) The forfeiture cannot be less nor more than the amount set forth in the ordinance
 - a. In traffic cases the court is bound by the limits set forth in the statutes
 - b. In non-traffic and other ordinances the court is bound by the limits set by the municipality
- 2) Whenever the court imposes a forfeiture for a violation of a municipal ordinance, the following must be added:
 - a. Court costs—§ 814.65(1)
 - b. Penalty surcharge—§ 757.05(1)
 - c. Jail surcharge—§ 302.46(1)(a)
 - d. Crime lab surcharge—§ 165.755(1)(a)
 - e. Domestic abuse surcharge—§ 973.055(1)
 - Must be added to any forfeiture when the violation involves an act by an adult person against a spouse or former spouse, an adult with whom the adult person resides or formerly resided, or against an adult with whom the adult person has created a child and the violation is of a local ordinance that conforms to:

814.65
Appendix 4

§ 940.201 Battery or threat to witness
 § 941.20 Endangering safety by use of dangerous
 weapon
 § 941.30 Recklessly endangering safety
 § 943.01 Criminal damage to property
 § 943.011 Damage or threat to property of
 witness
 § 943.14 Criminal trespass to dwellings
 § 943.15 Entry onto construction site or into
 locked building, dwelling or room without
 consent
 § 946.49 Bail jumping
 § 947.01 Disorderly conduct
 § 947.012 Unlawful use of telephone
 § 947.0215 Unlawful use of computerized
 communication systems

OR

The defendant violated a municipal ordinance
 conforming to § 813.12 (Domestic abuse
 restraining order or injunction)

814.65
 938.37(3)

f. Witness fees (except police officers and municipal employees) may be assessed against all defendants in traffic cases and against defendants age 17 and over in non-traffic cases

814.65(4m)

g. Blood test fee in OWI cases

- If the defendant is required to appear in municipal court and the court finds the defendant guilty of violating § 346.63, the court shall impose and collect from the defendant any costs charged to or paid by a law enforcement agency for the withdrawal of the defendant's blood
- If at the time the court finds that the defendant committed the violation, the law enforcement agency has not paid or been charged with the costs of withdrawing the defendant's blood, the court shall impose and collect the costs the law enforcement agency reasonably expects to be charged for the withdrawal, based on the current charges for this procedure

- The court shall disburse the amounts it collects under this subsection to the law enforcement agency that requested the blood withdrawal
- The court may not impose on the defendant any cost for an alternative test provided free of charge as described in § 343.305(4)

B. Exceptions to costs/surcharges

- 814.65(1) 1) If the judge imposes a zero forfeiture, they must assess municipal court costs, but may not assess any surcharges
- 814.65
165.755(1)(b)
302.46(1)(a)
757.05(1)(a) 2) Only court costs may be added to parking violations
- 814.65(1) 3) No court costs, fees, or surcharges may be added to
- a. Seat belt cases, § 347.48(2)
 - b. Failure to carry proof of vehicle insurance, § 344.62(2)
 - c. Handicapped parking violations, § 343.51(1m)(b)

800.093 5. Restitution—Non-Traffic

A. General provisions

- 800.09(1j) 1) Community service work may be in lieu of restitution only if agreed to by the person to whom restitution is owed
- 800.093(7) a. Any restitution made by community service will be set off against any judgment in favor of the victim in a civil action arising out of the facts or events that were the basis for the restitution
- b. Nothing in the statutes prohibits a court from entering a judgment that includes both monetary payment of restitution and an order of community service in lieu of forfeiture and add-ons
- 800.09(1d) 2) If a judgment includes restitution, the court must apply any payment received to satisfy the restitution first

- 800.093(6) 3) If the court orders that restitution be paid to more than one person, the court may direct the sequence in which payments are to be made
- 800.093(5)(c)
800.093(6) 4) The court must order that all restitution to victims be made before restitution to any insurer, surety or other person who has compensated a victim for a loss
- 800.093(6) 5) If more than one defendant is ordered to make payments to the same person, the court may apportion liability between the defendants or specify joint and several liability
- a. If the court specifies that two or more defendants are jointly and severally liable, the court shall distribute any overpayments so that each defendant, as closely as possible, pays the same proportion of the ordered restitution
- 800.093(5)(c) 6) The court, if it determines that justice so requires, may order restitution to reimburse any insurer, surety or other person who has compensated a victim who would qualify for restitution
- State v Storlie*,
2002 WI App 163
256 W2d 500 7) Municipal courts may not order restitution for normal costs of law enforcement

B. Restitution from juveniles

See Juvenile Chapter for options

C. Restitution from adults

- 800.093(1) 1) The municipal court, in addition to ordering any payment authorized by law, may order a defendant to make full or partial restitution to any victim or, if the victim is deceased, to his or her estate if the court finds all of the following:
- a. The defendant is guilty of violating
- A nontraffic ordinance, or
 - Sec. 346.63 (OWI/BAC/OCS)—this is the only traffic violation that can give rise to a restitution claim in municipal court
- 346.65(2r)

800.093(1)(b)

- b. The violation resulted in damage to property, theft, or death or physical injury to a person other than the defendant

800.093(2)
799.01(1)(d)

- 2) The court may not order a defendant to pay more than the limit set for small claims court actions (currently \$10,000) including property damage, personal injury & special damages

800.093(3)

D. Property damage

- 1) If the violation resulted in damage to or loss or destruction of property of another person, the restitution order may require that the defendant do one of the following
 - a. Return the property to the owner or owner's designee
 - b. If return of the property is impossible, impractical or inadequate, pay the reasonable repair or replacement cost or the greater of the following:
 - The value of the property on the date of its damage, loss or destruction
 - The value of the property on the date judgment is rendered, less the value of any part of the property returned, as of the date of its return
 - The value of retail merchandise shall be its retail value

800.093(4)

E. Personal injury

- 1) If the violation resulted in physical injury, the restitution order may require that the defendant do one or more of the following
 - a. Pay an amount equal to the income loss due to the offense and the cost of necessary medical and related professional services and devices relating to physical, psychiatric or psychological care and treatment. May not include an award for pain and suffering

- b. If the injured person's sole employment at the time of the injury was performing the duties of a homemaker, pay an amount sufficient to reimburse the person for any payments made to another to perform those duties from the date of the injury and to ensure that the duties are continued until the person is able to resume performance of the duties

800.093(5)

F. Special damages

- 1) The restitution order may require that the defendant do one or more of the following
 - a. Pay all special damages, but not general damages, including, but without limitation because of enumeration, the money equivalent of loss resulting from property taken, destroyed, broken or otherwise harmed and out-of-pocket losses, such as medical expenses, substantiated by evidence in the record, that could be recovered in a civil action against the defendant for his or her conduct in the commission of the violation
 - b. Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom the violation was committed as a result of the commencement of the action or of cooperating in the investigation and prosecution of the violation

G. Court must hold a hearing

800.093(8)(b)

- 1) The court may hold the restitution hearing at the time of any court appearance by the defendant, or may summon the defendant to appear

800.093(8)(b)

- 2) The court may waive the rules of practice, procedure, pleading and evidence at the hearing, except provisions relating to privileged communications and personal transactions or communication with a decedent or mentally ill person

800.093(8)(a)

- 3) In determining whether to order restitution and the amount thereof, the court must consider all of the following

800.093(8)(a)1.

- a. The amount of loss the victim suffered as a result of the violation

- 800.093(8)(a)2. b. The financial resources of the defendant
- 800.093(8)(a)3. c. The present and future earning ability of the defendant
- 800.093(8)(a)4. d. The needs and earning ability of the defendant's dependents
- 800.093(8)(a)5. e. Any other factors which the court deems appropriate
- 800.093(8)(b) 4) The court must give the victim an opportunity to present evidence and arguments pertaining to the amount of loss suffered as a result of the violation
 - a. The victim has the burden of demonstrating the amount of the loss by a mere preponderance of the evidence
- 800.093(8)(b) 5) The court must give the defendant the opportunity to present evidence and arguments challenging the amount of the loss and his or her ability to pay
 - a. The defendant has the burden of demonstrating his or her ability to pay or lack thereof by a mere preponderance of the evidence

6. Possible Consequences if Defendant Fails to Pay

A. Summary of possible consequences

- 800.095(1) 1) If the defendant fails to pay, the court may order any one or any combination of orders, suspending the defendant's driving privilege, imprisoning the defendant, assigning the defendant's income to the municipal court or requiring community service

Exception: the court may not order the suspension of the defendant's operating privileges or order the imprisonment of the defendant
- 800.095(3)(a) a. For failure to pay restitution, or
- 800.095(3)(b) b. If service of the citation/complaint was made by mail, unless the defendant subsequently appeared or was served with a copy of the judgment and note of right to poverty hearing

- 800.095(3)(c) c. Within 60 days of the judgment unless the Court finds good cause and orders otherwise
- 800.09(1g) 2) The court must have informed the defendant of the foregoing possible consequences at the time judgment was entered
- 893.42 NOTE An action upon a judgment shall be commenced within six years of entry of judgment or be barred.
- B. Suspension of driving privileges
- 800.095(1)(a)6. 1) Suspension may not be ordered if the judgment was entered solely for a violation unrelated to the violator's operation of a motor vehicle
- a. Exception: Suspension may be ordered if the judgment is against a juvenile under Chapter 938
- 345.28(1)(c) b. Nonmoving traffic offenses (parking citations) are related to the operation of a motor vehicle
- 800.095(1)(a)
345.47(1)(a) 2) The court may order the suspension of the defendant's operating privileges until the judgment is paid, but not longer than 1 year
- 800.095(1)(a)2. a. The order may be made concurrent or consecutive to any other suspension or revocation
- b. If not specified, DOT must implement the suspension concurrent with any other suspensions or revocations
- NOTE DOT will treat as concurrent to each other multiple suspensions issued by the same court on the same day
- 800.095(1)(a)1. 3) If the defendant pays, the court must notify DOT within 7 days
- 800.095(1)(a)5.
See Chap. 3
(Defendants' Rights), Sec. 3 4) During the suspension period, the court must consider any request by the defendant to have the order reconsidered based on an inability to pay because of poverty as that term is used in § 814.29(1)(d). If poverty is determined, the court must withdraw the suspension and
- a. Grant the defendant more time to pay, or
- b. Order community service

- 800.095(1)(a)3m. 5) If the court terminates the suspension because the defendant agreed to a payment plan or community service, the defendant can be re-suspended for failure to perform but only for the time remaining on the initial one-year suspension
- 800.095(1)(a)3. 6) If the judgment remains unpaid at the end of one year, the court may not enter further suspensions in relation to the outstanding judgment
- 800.095(1)(a)4. 7) Serving the one-year suspension does not relieve the defendant's obligation to pay the judgment

800.095(1)(b)1. C. Imprisonment

- 800.095(1)(b)2. 1) No person shall be imprisoned unless the court makes one of the following findings, that the defendant has:
- 800.095(1)(b)2.a.
800.095(3)(c) a. Either at the time of sentencing or thereafter, the ability to pay within a reasonable time (but not less than 60 days from the judgment unless court finds good cause and orders otherwise) and fails to do so. If the defendant meets the criteria for poverty defined in § 814.29(1)(d), then the defendant shall be presumed to be unable to pay, and the court must either suspend or extend payment of the judgment or order community service
- 800.095(1)(b)2.b. b. Failed, without good cause, to perform the community service as ordered
- 800.095(1)(b)2.c. c. Failed to attend a good cause/poverty/indigency hearing offered by the court to provide the defendant with an opportunity to determine whether he or she has the ability to pay
- 800.095(1)(b)2.d. d. Failed, without good cause, to complete an assessment or treatment related to alcohol or drugs that was ordered in lieu of a monetary forfeiture
- 800.095(1)(b)1.a. 2) The maximum term that a court may impose is 90 days for any one judgment
- 800.095(1)(b)1.b. a. The term may be concurrent with or consecutive to any other term imposed at any time by any court
- 800.095(1)(b)1.a. b. A credit shall be applied against the amount owed of \$50 for each day of imprisonment, including imprisonment following an arrest

- | | |
|-----------------|---|
| 800.095(1)(b)3. | 3) The court must allow work ("Huber") privileges |
| 800.095(2) | 4) At any time prior to imprisonment, the defendant may request a review of any findings allowing the court to order imprisonment |
| 938.17(1)(b) | 5) The court may sentence a person under 17 years of age to jail, but subject to all of the following: <ul style="list-style-type: none">a. Must be for a traffic-related violationb. Must be for failure to pay a forfeiturec. The "jail" is a juvenile detention facility |
| 938.17(1)(b) | |
| | NOTE: Whether juvenile will be placed in a juvenile detention facility may be subject to whether sheriff will accept juvenile and/or whether there is space available. |
| Recommendation | It is <u>strongly recommended</u> that juveniles <u>not</u> be incarcerated |

D. Assignment of income

- | | |
|-----------------|--|
| 800.095(1)(c)2. | 1) The court may order the assignment of up to 25% of the defendant's wages, salaries, commissions, earnings, workmen's compensation, nonexempt pension benefits, or lottery prizes or other money due or to be due, to be assigned for payment of unpaid forfeitures, costs, fees, surcharges, or restitution |
| 800.095(1)(c)7. | 2) The order is not subject to spousal signature, time limits or other limitations set forth in § 241.09, Wage Assignments |
| 800.095(1)(c)5. | 3) The notice required to be given by the court to a person from whom the defendant receives or will receive money may be a notice of the court, a copy of the executed assignment or a copy of that part of the court order that directs payment |
| 800.095(1)(c)3. | 4) Upon entering the order for assignment, unless the court finds that income withholding is likely to cause the defendant irreparable harm, implementation of the order requires the court to provide notice of the assignment by regular mail to the last known address of the person from whom the defendant receives or will receive money |

- a. The notice shall require the person to inform the court about any prior assignments by another municipal court or under § 778.30(1) or § 973.05(4) the person received relating to the same defendant
 - b. The notice must include a form upon which the person may designate from whom the prior assignment was received
- 800.095(1)(c)7.
 - c. The person must return the form to the court within ten days after receipt of the notice
- 565.30(5r)(a)
 - 5) Annually, the administrator of the state lottery must provide each municipal court with a list of the winners or assignees, since the date of the latest list of a lottery prize, that is payable in installments
- 800.095(1)(c)4.
 - a. If the court determines that a person on the list may be subject to an assignment order, the court may send notice of the order to the administrator, including the name and address of the defendant and the amount owed
 - b. The court must notify the administrator when the assignment has been satisfied
- 6) The person receiving the order
 - a. May deduct an amount equal to the person's disbursements, not to exceed \$3.00, for each payment made to the court
- 800.095(1)(c)6.
 - b. Must withhold the amount specified in the notice (not to exceed 25%) from any money that person pays to the defendant later than one week after receipt of the notice
 - The person must send the amount withheld to the municipal court within 5 days thereafter
 - If the person has received a prior assignment, the person must keep the last assignment and implement it after the prior assignment(s) is paid in full
- 800.095(1)(c)8.
 - 7) If the person receiving the notice fails to withhold or send the money to the municipal court, the person may be proceeded against

- a. Under the principal action under § 800.12 for contempt
 - b. Under ch.788 (Collection of Forfeitures) and required to forfeit not less than \$50 nor more than 1% of the amount not withheld or sent
- 800.095(1)(c)9. 8) If an employer who receives a notice fails to notify the municipal court within 10 days after an employee is terminated or temporarily or permanently leaves the employer's employment, the employer may be proceeded against under the principal action under § 800.12 for contempt
- 800.095(1)(c)11. 9) An employer who uses an assignment as a basis for the denial of or discharge from employment or any disciplinary action against an employee may be fined not more than \$500 and may be required to reinstate with full back pay to the employee
- Recommendation The notice should include information to the person as to his responsibilities and the consequences of not meeting them
- E. Community service
- 800.09(1j) 1) The court may order the defendant to perform community service work in lieu of making restitution or paying the forfeiture
 - a. Community service work may be ordered in lieu of restitution only if agreed to by the person to whom restitution is owed—See the “Restitution, General provisions” section in this chapter for more, related information
 - b. The work may be for a public agency (e.g., street department, school system) or nonprofit charitable organization (e.g., church, Elks Club) that agrees to accept the work
- 104.035(1) c. The number of hours ordered may not exceed the number determined by dividing the amount owed by the minimum wage for adults; currently \$7.25/hour
- 2) The court must ensure that
 - a. The defendant is provided with a written statement of the terms of the community service order and

- b. The community service order is monitored

7. Other Court Orders upon Conviction

A. Mandatory court orders upon conviction

- | | |
|---|--|
| 349.03(1)
343.30(1q)(a)
343.30(1q)(b)1.
343.30(1q)(b)4m.
346.65(2f) | 1) The judge must revoke a person's operating privilege upon conviction for an OWI/PAC/OCS violation from six to nine months |
| 349.03(2m)
343.30(1p) | 2) The judge must suspend a person's driver license for three months upon conviction for an "Absolute Sobriety" violation |
| 125.07(4) | 3) The judge must suspend a juvenile's license as authorized by § 343.30(6)(b) upon conviction for second and subsequent violations, within a 12-month period, of an underage drinking ordinance involving a motor vehicle |
| 341.04(3)(c) | 4) For unregistered vehicles, in addition to any forfeiture imposed, the court is required to order the defendant to apply for registration |
| 343.30(1n)
346.57(4)(gm), (h) | 5) If speed is at least 25 mph over a non-posted 55 mph speed limit or a posted 65 or 70 mph speed limit, the court must order a 15-day suspension |

NOTE:

The judge's authority to suspend a person's privilege to operate a motor vehicle in Wisconsin applies to Wisconsin and out-of-state residents

B. Discretionary court orders upon conviction

- | | |
|---------------------|---|
| 343.30(1) | 1) The judge may suspend a defendant's operating privilege for a period not to exceed one year for violating state traffic laws or any local ordinance enacted under Ch. 349 |
| Recommendation | It is recommended that this tool be used sparingly and only in cases of extremely dangerous violations or drivers |
| 343.30(6)(b)2. & 3. | 2) The judge may suspend the operating privilege of a person who is not of legal drinking age for violation of § 346.93, underage person possessing alcohol beverage in motor vehicle, for not more than one year, not more than two years on a second or greater offense |

125.07(4)

- 3) The judge may suspend a juvenile's license as authorized by § 343.30(6)(b) for violations of an underage drinking ordinance

C. Point Reduction & Boating Safety Course

Trans 101.07

- 1) If the object is to have the defendant avoid a suspension that would result from pending charges, the judge must delay entering conviction on those charges until the defendant has completed the school
 - a. A person's point record will be reduced by the number of points accumulated up to three if DOT is furnished with certification that the person has satisfactorily completed traffic safety school
 - b. The traffic school can be used for point reduction purposes only once in a three-year period

30.80(2m)

- 2) In violations of a boating ordinance adopted in conformity with § 30.68, in addition to the forfeiture, the judge must order the defendant to obtain a certificate of satisfactory completion of a boating safety course

8. Reopening Judgments

A. General provisions

800.115(5)

- 1) Upon receiving a motion, the court may:
 - a. Enter an order denying the motion for failure to state grounds upon which relief may be granted
 - b. Schedule a hearing on the motion
 - c. Enter an order based on written submissions from the parties

800.115(5)

- 2) Upon a motion made by the court, the court must provide notice to all parties and schedule a hearing on the motion

800.115(3)

- 3) The parties may stipulate and the court may approve the reopening of a judgment for any reason

800.115(4)
345.37(1)(b)

- 4) The court may impose costs as part of the decision on the motion or as a condition of granting the motion

- 814.07
 - a. The amount may not exceed \$300.00
- OAG 1-00
(see page 13-B)
 - b. The amount may not be imposed by a blanket order, discretion is to be exercised in each case
- 800.115(4)
814.29(1)(d)
 - c. The costs shall be based on the expense associated with the motion and the court shall consider the defendant's ability to pay the costs, including consideration of the poverty standards
- 800.115(4)
 - 5) No costs may be imposed as a requirement of filing the motion
- 800.14(1)
 - 6) Either party may appeal from the court's decision on a Motion to Reopen a Judgment

B. Time limits

- 800.115(1)
345.37
Form Q
 - 1) A defendant may, within six months after the judgment is entered, move for relief from the judgment because of mistake, inadvertence, surprise, or excusable neglect
- 800.115(2)
 - 2) Any party, including the court on its own motion, may at any time move to reopen the judgment based on any of the following:
 - a. Fraud, misrepresentation or other misconduct of the opposing party
 - b. The judgment is void
 - c. It is no longer equitable that the judgment should have prospective application
 - d. Any other reasons justifying relief from the operation of the judgment

City of Kenosha v Jensen,
184 W2d 91 (CA 1994)

9. Additional Forfeiture Collection Options

- 66.0115
 - A. Withholding of city licenses or permits
 - 1) A city, town or village may refuse to issue a license or permit to anyone "who has not paid an overdue forfeiture resulting from a violation of an ordinance of the municipality"

- 2) The municipality may not refuse to issue a marriage, dog or hunting/fishing license even if the requesting party has an overdue forfeiture
- 3) The municipality may not refuse to issue a license or permit to a person who is appealing the imposition of the forfeiture
- 4) Municipalities within a county may compact with each other to refuse to issue a license or permit to any person who has an overdue forfeiture to any municipality that is a party to the agreement

938.343(2)

B. Suspension of hunting or fishing licenses of juveniles

- 1) A municipal court may order the suspension of either license for a maximum of 2 years if the juvenile has failed to pay a forfeiture to the court within one year of the date on which it was imposed
- 2) Such a suspension cannot be ordered together with a suspension of the juvenile's driver license. The court must choose one or the other
- 3) The order suspending a juvenile's hunting or fishing license should be sent to:

Dept of Natural Resources
 101 S. Webster St.
 P.O. Box 7921
 Madison, WI 53707
 Phone: 1+608-266-2621 or 1+888-936-7463

C. Use of collection companies

800.095(5)

- 1) The court may employ a collection company to collect judgments under § 755.21

755.21(1), (2) & (3)

- 2) The agency is to be paid out of the proceeds it collects, and the amount received by the court is to be considered the amount collected for distribution purposes to the state

71.93(2)

71.935

D. Tax Refund Intercept

800.095(6)

1) The court or a collection agency may certify to the Wisconsin Department of Revenue (DOR), the amount of any unpaid forfeiture of \$20 or more and the DOR may then deduct the amount of the forfeiture from any income tax refunds owing to the defendant. Municipalities may accomplish this through the use of private collection agencies

2) Link to information on Wisconsin's Tax Intercept Program—

www.revenue.wi.gov/pages/ise/trip-home.aspx

3) Procedure

a. Municipality certifies name and Social Security number or driver license number of debtor in an electronic format prescribed by the DOR

Form 19

b. Within 5 days after certification, the court must notify the debtor of the certification, the basis for it, and the right to appeal

71.935(5)

c. An administration fee will be charged only when money is collected for the municipality. The debtor will be charged by DOR the administrative fee. The fee is currently \$5 per intercept

71.93(8)

E. State Debt Collection Services (SDC)

71.935

800.095(6)

1) The DOR has been granted the authority by the legislature to act as the collection agency for debts owed to state, county, or local government agencies

71.935(1)(a)

2) Definition of Debt—Any amount owed to a government agency where the debt has been reduced to a judgment or the debtor has been notified and has been given an opportunity to be heard with regard to the amount owed

3) Requirements of SDC

a. Debt must be a minimum of \$50 and delinquent for 90 days with no payment plans in place

b. The debtor must be given notice at least 30 days prior to referral and the debtor must be given an opportunity to be heard regarding the obligation due

c. The court must cease all other collection activity

F. Transfer of unclaimed money

800.095(8)

- 1) Where the municipality is holding money belonging to a defendant, and that money is unclaimed for more than one year, the court may order the money transferred to pay any unpaid forfeitures
- 2) Money or property held by the state unclaimed property fund can be claimed in satisfaction of unpaid judgment

71.93(1)(d)
177.24(1)(a)

Claim can be made directly through DOR or as part of an SDC intercept.

G. Execution

800.095(7)

- 1) Municipalities may enforce the judgment of the municipal court (exceeding \$10) just as judgments may be enforced in other civil actions

893.42

- 2) There is a 6-year limitation on the municipality's commencement of an action in circuit court to collect an unpaid municipal court judgment

NOTE:

There is no time limitation on a municipal court's other attempts to collect a judgment.

3) Procedure

806.10
806.12
806.14

- a. A transcript of the judgment must be filed with the clerk of circuit court for placement on the judgment and lien docket
 - The transcript should be filed in the defendant's county of residence if an effort will be made to garnish bank accounts or paychecks, or in the county where real estate is owned (if different from county of residence) if a lien is being created on the defendant's real property

- b. The docketing of the judgment becomes an automatic lien on real estate owned by the defendant in the county of filing
- c. The municipality can proceed to garnish earnings or accounts through routine collection actions in the circuit court
- d. The clerk of circuit court shall charge no fee for docketing, issuing executions, or issuing transcripts of judgments for filing in another county, such as a location where the debtor owns real estate

814.61(5)(bm)

800.14

10. Appeal to Circuit Court

800.14(1)

A. Either party may appeal

800.14(1)

- 1) Appeal is to the circuit court of the county where the offense occurred
- 2) Appeal may be taken from a
 - a. Judgment
 - b. Decision on a motion for relief from judgment
 - c. Determination regarding whether the defendant is unable to pay the judgment because of poverty
- 3) No appeal may be taken from a default judgment
 - a. However, default judgments can be reopened
 - b. See Section 8, Reopening Judgments
- 4) Defendant may forfeit right to appeal upon plea of no contest or guilty

State v Kelty,
2006 WI 101
294 W2d 62

800.14(1)

B. Written notice; transmittal; stay of judgment

- 1) The appealing party must give the municipal judge and the other party written notice of the appeal
 - a. The written notice must be given within 20 days after judgment
 - b. The notice must be accompanied by the appropriate filing fees

- c. The notice should specify which one of the three available types or methods of appeal is being requested
- 800.14(2m)
 - 2) The appeal must be transmitted to circuit court within 30 days of perfection. Perfection occurs upon all of the following conditions being met:
 - a. Timely notice of appeal has been filed
 - b. Timely receipt of any required appeal fees
 - c. If a trial was held, 20 days has passed since the notice of appeal was filed
- 800.14(3)
 - 3) If requirements for appeal are met, the judgment or enforcement of a municipal court order shall be stayed unless otherwise ordered by the municipal court prior to transmittal or the circuit court thereafter
- 800.14(5m)
 - C. Waiver of costs to appeal, jury fees, or transcript costs
- 800.14(5)
 - A defendant claiming an inability to pay may petition the circuit court for a waiver
- 800.14(4)
 - D. Types of appeal
- 800.14(5)
 - 1) No trial held. An appeal from a judgment or decision where no trial has been held shall be on the record
- 800.14(4)(intro)
 - 2) On the record. An appeal from a judgment after a trial has been held shall be on the record unless either party requests a new trial within 20 after the notice of appeal has been filed with the municipal court
- 800.14(4)(intro)
 - 3) New trial. A new trial shall be without a jury unless:
 - a. The case was an OWI/PAC/RCS case and the municipality requests a jury trial within 10 days after the circuit court orders a new trial
 - b. The case was not an OWI/PAC/RCS case and either party requests a jury trial within 10 days after the circuit court orders a new trial
- 800.14(4)(a)
 - 4) Jury trial. If either party requests a jury trial, the jury fee must be posted within 10 days after the circuit court orders the new trial
- 800.14(4)(b)
 -

800.14(5)

E. Transmittal of the record

800.14(5)

- 1) If there is no request for a new trial within 20 days after the notice of appeal has been filed, or if the appeal is from a judgment or decision in which a trial has not been held, the appeal shall be based upon a review of the proceedings in the municipal court
 - a. The municipal court must transmit a copy of the entire record to the circuit court, including any electronic recording
 - b. The circuit court may order the preparation of the transcript by any qualified court reporter at the cost of the appellant
 - c. The transcript shall be deemed accurate unless determined otherwise by the municipal court, by request of either party or the circuit court

800.14(5)

- 2) If there is a request for a new trial, the municipal court shall transmit as much of the record as deemed appropriate by the municipal court, but must include a copy of the citation or complaint and the judgment

800.14(6)

F. Disposition upon appeal

- 1) The disposition of the circuit court must be certified to the municipal court within 30 days of the judgment

814.08(1)

- 2) Costs are awarded by the circuit court. The party prevailing on appeal may receive costs in some circumstances

Notify DOT of appellate court decision within five working days

800.14(6)

- 3) If the circuit court disposition requires payment of a forfeiture, the forfeiture and all costs, fees and surcharges shall be payable to the municipal court

11. Expunction

*Kenosha Cty v
Frett,*
2014 WI App 127
359 W2d 246

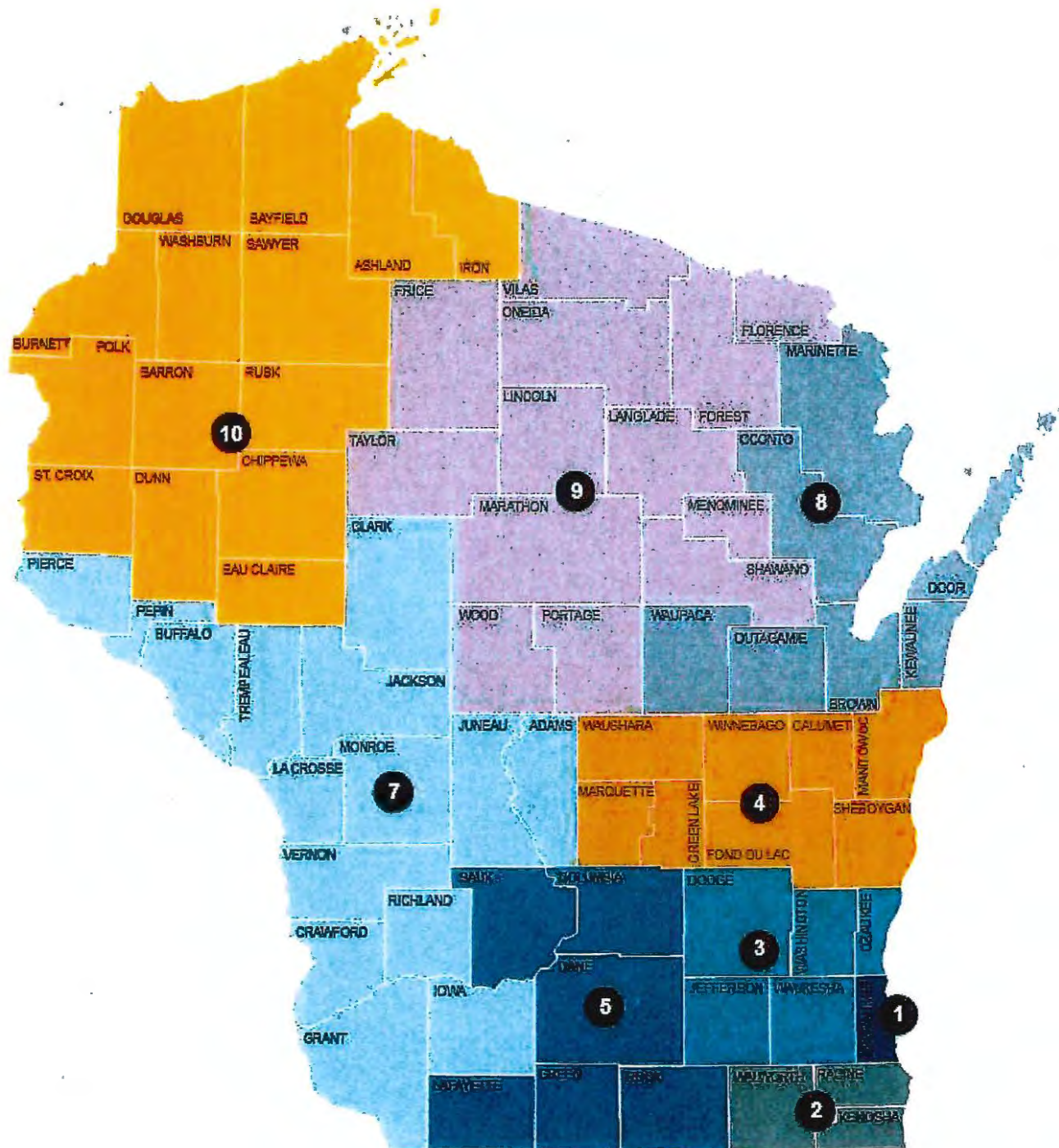
A. The court may not expunge convictions

List of Resources, Forms & Appendices

Description	Name
District Map/District Court Administrators/Chief Judges	Resource 1
SCR 70.41 – Court Staff Guidelines	Resource 2
SCR 72.01 – Record Retention	Resource 3
List of Resources	Resource 5
Summons, Warrant and Writ of Commitment Definitions	Resource 7
Glossary of Legal Terms & Common Abbreviations	Resource 8
Wisconsin Statute Chapters 755 and 800	Resource 10
Helpful Internet Links	Resource 11
Clerk Advisory Committee & WMCCA Board Members & District Reps	Resource 12
Citation Flow Chart	Resource 14
Duties of Municipal Court Clerk	Resource 15
Act 70 Overview	Resource 16
Costs in Municipal Court	Resource 17
Notice of Court Date	Form 1
Court Information Handout	Form 2
Court Information Handout – Spanish	Form 3
Notice of Default Judgment	Form 4
Judgement	Form 5
Juvenile Dispositional Order	Form 6
Juvenile Defendant Rights	Form 7
Community Service Report	Form 8
Community Service Completion Form	Form 8a
Notice of Pre-Trial Conference	Form 9
Notice of Trial	Form 10
Summons	Form 11
Notice to Parent Whose Child Received a Citation	Form 12
Warrant for Failure to Appear...See Resource 7	Form 13
Warrant-Juvenile for Failure to Appear...See Resource 7	Form 13a
Capias	Form 14
Motion to Reopen	Form 15
Final Pay Agreement	Form 16
Affidavit of Poverty	Form 17
Notice of Intent to Refer Debt (SDC)	Form 18
Tax Refund Intercept Program (TRIP) Notification	Form 19
Writ of Commitment...See Resource 7	Form 20
Assignment of Wages	Form 21
Personal Recognizance (PR) Bond	Form 22
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Exhibit List	Form 24
Jury Demand for OWI Citation	Form 25
Jury Demand Transmittal	Form 25a
Statement of Transcript	Form 26
Notice of Right to Appeal After Trial	Form 28
Notice of Right to Appeal After Trial - OWI / PAC / RCS and companion cases with offense date after 1/23/2020	Form 28a
Notice of Right to Appeal Non Trial Orders	Form 28b

Description	Name
Ignition Interlock Device Informational Handout	Form 29
Order for Ignition Interlock Device	Form 30
Order for Ignition Interlock Exemptions and Remove Title Transfer Stops	Form 31
Court Order for Assessment & Driver Safety Plan – MV3632	Form 32
Occupational License Information – MV3505	Form 33
Request for Judicial Review	Form 34
Application for Municipal Judge Assignment	Form 36
Court Clerk Appointment Form	Form 37
Public Records Request Form	Form 38
Notice of Availability of Public Records	Form 38a
Monthly Financial Reporting Form	Form 39
Violations That Require Right-Of-Way Course	Form 40
Court Order of Revocation/Suspension Conviction Status Report – MV3029	Form 41
Certification of Citation Form	Form 42
Invoice for Municipal Judge Services	Form 43
Notice of Intent to Revoke Operating Privilege	Form 44

Judicial Administrative Districts



Link to contact information for Chief Judges and District Court Administrators can be found here: https://www.wicourts.gov/contact/CC_Admin_Dists.html

SCR 70.41 Assistance to court users; court staff guidelines.

(1) Definitions. In this rule:

(a) "Court" means an appellate, circuit, or municipal court.

(b) "Court staff" means persons under the supervision of the clerk of the supreme court and court of appeals, a clerk of circuit court, a circuit court commissioner, a register in probate, a district court administrator, a circuit court judge, or a municipal court judge.

(c) "Forms" means any of the following:

1. Forms that have been approved by the records management committee.
2. Forms that have been approved by a circuit court or municipal judge for use in that jurisdiction.

(d) "Individual" means any person who seeks court-related information, including information needed to file, pursue, or respond to a case.

(e) "Should" is directory only, not mandatory, and connotes a duty or obligation to pursue a goal or objective.

(2) Purpose. The purpose of this rule is to assist the court in communicating with individual court users without practicing law. The rule is intended to enable court staff to provide the best service possible to individuals within the limits of the individual staff member's responsibility. The rule is not intended to restrict powers of court staff otherwise provided by statute or rule nor is it intended to eliminate the collection of applicable fees or costs. The rule is not intended to list all assistance that can be provided. The rule recognizes that the best service the court staff may provide in many proceedings is advising an individual to seek the assistance of an attorney.

(3) Impartiality. Court staff shall remain impartial and may not provide or withhold assistance for the purpose of giving one party an advantage over another.

(4) Authorized information and assistance. Court staff shall do all of the following:

(a) Provide public information contained in any of the following:

1. Dockets or calendars.
2. Case files.
3. Indexes.
4. Existing reports.

(b) Provide a copy of, or recite, any of the following:

1. Common, routinely employed state and local court rules.
2. Common, routinely employed court procedures.
3. Common, routinely employed applicable fees and costs.

(c) Advise an individual where to find statutes and rules, without advising whether a particular statute or rule is applicable.

(d) Identify and provide applicable forms and written instructions without providing advice or recommendations as to any specific course of action.

(e) Answer questions about how to complete forms, such as where to write in particular types of information, but not questions about how the individual should phrase his or her responses on the forms.

(f) Define terms commonly used in court processes.

(g) Provide phone numbers for lawyer referral services, local attorney rosters, or other assistance services, such as Internet resources, known to the court staff.

(h) Provide appropriate aids and services for individuals with disabilities to the extent required by the Americans With Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.

(5) Unauthorized information and assistance. Court staff may not do any of the following:

(a) Provide legal advice or recommend a specific course of action for an individual.

(b) Apply the law to the facts of a given case, or give directions regarding how an individual should respond or behave in any aspect of the legal process.

(c) Recommend whether to file a petition or other pleading.

(d) Recommend phrasing for or specific content of pleadings.

(e) Fill in a form, unless required by sub. 4 (h).

(f) Recommend specific people against whom to file petitions or other pleadings.

(g) Recommend specific types of claims or arguments to assert in pleadings or at trial.

(h) Recommend what types or amount of damages to seek or the specific individuals from whom to seek damages.

(i) Recommend specific questions to ask witnesses or litigants.

(j) Recommend specific techniques for presenting evidence in pleadings or at trial.

(k) Recommend which objections to raise regarding an opponent's pleadings or motions at trial or when and how to raise them.

(l) Recommend when or whether an individual should request or oppose an adjournment.

(m) Recommend when or whether an individual should settle a dispute.

(n) Recommend whether an individual should appeal a judge's decision.

(o) Interpret the meaning or implications of statutes or appellate court decisions as they might apply to an individual case.

(p) Perform legal research.

(q) Predict the outcome of a particular case, strategy, or action.

(6) Referral to supervisor. When a court staff member is uncertain whether the advice or information requested is authorized, the staff member should seek the assistance of a supervisor. If a supervisor is not available, the staff member should advise the individual to seek assistance from an attorney.

History: Created S.Ct. Order No. 01-18, eff. July 1, 2002.

SCR 72.01 Retention of original record.

Except as provided in SCR 72.03 to 72.05, the original paper records of any court shall be retained in the custody of the court for the following minimum time periods:

(24a) Traffic forfeiture, conservation forfeiture and ordinance violation court record. A history and index of proceedings kept in books, on cards or in electronic or optical format: 5 years after entry of final judgment.

(24m) Traffic forfeiture, conservation forfeiture and ordinance violation minute record. A brief statement of in-court proceedings in a forfeiture or ordinance violation action, generally maintained in the case file: 5 years after entry of final judgment.

(47) Court reporter notes. Verbatim stenographic, shorthand, audio or video notes produced by a court reporter or any other verbatim record of in-court proceedings: 10 years after the hearing.

Note: On June 9, 1999, the State Historical Society waived the 60 day notice requirement of SCR 72 for all municipal court documents dated 1941 or later

SCR 72.04 Offer of title to historical society.

The custodian of the court record, prior to its destruction under this chapter, shall give at least 60 days' notice of such destruction in writing to the historical society, which may preserve any records it determines to be of historical interest. Notice is not required for any records for which destruction has previously been approved by the historical society or in which the historical society has indicated, by blanket waiver, that it has no interest for historical purposes.

List of Resources

Laws, References, and Forms

Wisconsin State Statutes

Cost: Approx. \$73.00

Document Sales & Distribution
2310 Darwin Rd.
Madison, WI 53704-3108
Local: 608-243-2441
Toll Free: 800-362-7253
Fax: 608-243-2820
Email: DOADocumentSalesInformation@wi.gov
<https://docsales.wi.gov/>

State of Wisconsin—Revised Uniform Traffic Deposit Schedule

Wisconsin Judicial Conference
c/o Director of State Courts Office
Room 300, East State Capitol
Madison, WI 53702
Tel: (608) 266-6984
<https://www.wicourts.gov/publications/fees/index.htm>
* Revised annually - available at end of year

State of Wisconsin—Uniform Deposit & Bail Schedule for Conservation, Environmental Protection, ATV/UTV, Boat, OHM, and and Snowmobile Violations

Department of Natural Resources
101 S. Webster
Madison, WI 53703
Tel: (608) 266-2141
<https://www.wicourts.gov/publications/fees/index.htm>

Uniform Traffic Citations, MVD Forms

DMV-Fiscal Services
P.O. Box 7336
Madison, WI 53707-7336
Tel: (608) 246-3265

Municipal Court Citation Forms

Department of Administration, Document Sales and Distribution
2310 Darwin Rd.
Madison, WI 53704-3108
Tel: (608) 243-2441
Email: DOADocumentSalesInformation@wi.gov

Organizations and Agencies

Office of Judicial Education

110 E. Main St., Suite 200
Madison, WI 53703
Tel: (608) 266-7816
Fax: (608) 261-6650
carol.koschel@wicourts.gov
<https://www.wicourts.gov/services/judge/edu.htm>

Chief Judges and District Court Administrators

https://www.wicourts.gov/contact/CC_Admin_Dists.html#District%20X

Wisconsin Municipal Judges Association

Hon. Dick Ginkowski, President
dick@dickginkowki.com
c/o Hon. Jodi Sanfelippo, Secretary/Treasurer
759 N. Milwaukee St., Suite 213
Milwaukee, WI 53202
Tel: (414) 287-9875
Fax: (414) 271-2353
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Wisconsin Municipal Court Clerks Association

Ms. Jodie Sorenson, President
Village of Waunakee
500 W. Main St.
P. O. Box 100
Waunakee, WI 53597
Email: jsorenson@waunakee.com
Tel: (608) 849-4573

SUMMONSES, WARRANTS, WRITS OF COMMITMENT

Summons: A written document issued by the court requiring the person summonsed to appear before the court at a specific time

Warrant: An order signed by a judge commanding the arrest of a person and ordering the person to be brought before the court

Writ of Commitment: An order signed by a judge commanding the arrest of a person and ordering the person to be conveyed to the house of correction or local jail for commitment for a specific period of time

A **summons** is the least invasive means of ordering someone into court. It is like a citation that is marked “must appear”. For persons who live in Wisconsin, service of a summons may be achieved by a mailing a copy to the defendant’s last-known address.

If the summons is personally served or the court has personal jurisdiction some other way (the person appeared in court already) and the person does not appear in response to the summons, the judge may take either of the following actions:

1. If the summons was to appear at an indigency/good cause hearing, the defendant can be found not indigent or the court can find there is no good cause for his/her failure to pay or do community service. Upon such finding, a writ of commitment can be issued
2. If the summons is to parents of a cited juvenile, the court may bring a contempt action in circuit court against the parent(s) (and or juvenile) for failing to appear.

The court always has the option of issuing a warrant instead of imposing either of these sanctions and a judge can always issue a warrant instead of a summons in the first place.

A **warrant** is an order to law enforcement to pick up a person and bring him or her before you. It is the most “personal” of personal services! In small municipalities this is a likely way to get a person into court. In large municipalities, these warrants are rarely served. However, even in small municipalities the jails are getting crowded and sheriffs do not want persons picked up on municipal warrants sitting in their jails waiting for a hearing. Therefore, the court should make the warrant returnable when court is in session or be prepared to hold hearings at odd hours.

A **writ of commitment** is an order to law enforcement to pick a person up and bring him or her to jail to lock them up because s/he failed to pay a forfeiture. Before a writ of commitment can be issued, the court must have offered the defendant a good cause/indigency hearing which he or she failed to attend or must have held it and found the defendant not indigent.

Remember, a court may not issue a writ of commitment for a defendant who was not personally served with a citation (unless the defendant appears in court).

Glossary of Common Legal Terms

ADJOURNMENT	The postponement or adjournment of an action pending in court
APPELLATE JURISDICTION	The power to review the law and/or facts as decided in a prior determination of the same case at a lower court or agency level
BAILIFF	A court attendant
BOND/DEPOSIT	Money or other security given to ensure the appearance of the defendant in court. In municipal court, a defendant posts bond not bail
CALENDAR	The list of cases on a court's schedule
CAPIAS	An order directing a law enforcement officer to pick up a juvenile or other person who fails to obey a summons, issued by the court for failure to appear and where the court finds issuing a summons would be ineffectual. Once a capias is served, the procedures in 938.20 apply to releasing the juvenile
CITATION	A written document notifying the person named to appear in court on the day and at the time named. The charging document in municipal court. Serves as notification to the defendant of the violation with which charged.
COMMITMENT	The lawful sending of a person to jail for the non-payment of a forfeiture
COMPLAINT	A written formal charge
CONCLUSION OF LAW	Conclusion reached by the court in applying the rules of law
CONCURRENT SENTENCE CONSECUTIVE SENTENCE	See Sentence
CONTEMPT OF COURT	An act meant to embarrass, hinder or obstruct a court in the administration of justice. Direct contempt is committed in the presence of the court; indirect contempt is when a lawful order is not carried out and the action must be brought in circuit court
CONTINUANCE	The postponement or adjournment of an action pending in court
CONVICT	To find a person guilty of a charge
CREDIBILITY	Believability

CROSS-EXAMINATION	Questioning the opponent or an opponent's witness
DECLARANT	A person who makes a statement
DEFAULT JUDGMENT	When a defendant does not plead within the allowable time or does not <i>appear</i> at a scheduled court appearance, the defendant is in default. A judgment against that defendant may then be entered if defendant was properly served
DISCLOSURE	Making facts known
DISCOVERY	The procedure by which one party gains information concerning the case from the other party
DISMISSAL WITH PREJUDICE	When a case is dismissed by the judge and the municipality is prohibited from reissuing
DISMISSAL WITHOUT PREJUDICE	When a case is dismissed by the judge and the municipality is <u>permitted</u> to reissue
DISPOSITION	The court's determination of the case outcome
DOCKET	A case summary
EX PARTE COMMUNICATION	Discussion between a judge and only <u>one</u> party to an action that is to be heard or is being heard before the judge on an issue or matter involved in the action
FINDINGS OF FACT	Decision made by the court determining the facts
FORFEITURE	A monetary penalty imposed in ordinance violation actions
GUARDIAN AD LITEM	Attorney appointed by the court to represent the best interests of an incompetent person in the proceeding before the court
HEARING	An appearance before the judge by attorneys and parties in a case, generally open to the public
HEARSAY	A statement other than one made by the declarant while testifying at a trial or hearing, offered in evidence to prove the truth of the matter asserted
IMPEACH	Question the truthfulness of a witness
INCARCERATION	Commitment to jail or prison

INCOMPETENT	A person is incompetent if he or she is unable to understand the proceedings
INDIGENT	Having insufficient funds, assets or income to pay a fine or forfeiture. <i>See also, POVERTY</i>
INITIAL APPEARANCE	The proceeding in a municipal court case at which the judge informs the defendant of the possible pleas and takes the plea to the charge
JUDGE	Elected or appointed official with authority to hear and decide cases in a court of law
JUDGMENT	The final determination of the court in a case
JUDICIAL NOTICE:	<p>Rule of evidence (Wis. Rule 902.01) that allows a judge to except a fact as true without the taking of evidence to prove the fact. A judicially noticed fact must be one not subject to reasonable dispute that it is any of the following:</p> <ul style="list-style-type: none"> - A fact generally known within the territorial jurisdiction of the court (e.g. where two streets in the municipality intersect, etc.) - A fact capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned (e.g. what day of the week Oct. 31, 2009, occurred on, etc.)
JURISDICTION	Power of the court to hear and determine a case
MANDAMUS	A writ issued by a superior court ordering a public official or body or lower court to perform a specified duty
NO CONTEST PLEA	A statement by the defendant that he or she does not wish to contest the charge. The judge must find the defendant guilty upon a no contest plea but the plea cannot be used as evidence against the defendant in a civil suit for damages
OFFER OF PROOF:	A presentation made by a party or their attorney to a judge to show why evidence offered by the party/attorney is material or relevant to the case.
ORDINANCES	Municipal laws which govern the conduct of persons subject to the local jurisdiction
PENALTY	Punishment fixed by law and/or determined by the court
PLAINTIFF	Party who files a civil suit seeking legal relief
PLEA	Statement made by the defendant as to his or her guilt or innocence of the charge
POSTPONEMENT	See Continuance

POVERTY	Determined by application of criteria set out in 814.29(1)(d).
PRESUMPTION	In statute, factual determination created by law
REBUTTAL TESTIMONY	Testimony of a witness contradicting the testimony of another witness
PRIMA FACIE	Meaning “at first sight”. Generally meant adequate as it appears, without more
PRO SE	Appearing for oneself, as in the case of one who does not retain an attorney and appears for him/herself in court.
RECROSS	The cross-examination of a witness after redirect
RECUSAL	Self-disqualification of judge
REDIRECT	To reexamine one's own witness after cross-examination
RESTITUTION	Act of paying the injured party for loss, damage or injury
REVOCATION	Cancellation of a person's driving privilege for a period of time. Proof of insurance (SR22) must be maintained with DOT for 3 consecutive years from date of reinstatement eligibility
SENTENCE	<u>Concurrent</u> A sentence that overlaps with another for a period of time <u>Consecutive</u> A sentence that follows another
SEQUESTRATION	Removing witnesses from the courtroom prior to their giving testimony. Generally includes prohibition from talking with other sequestered witnesses about the matter before the court
SERVICE	Providing formal notice to a party that a legal action has been filed against them. Must be completed in accordance with statutes to confer personal jurisdiction over a defendant
STATUTES	The acts of the legislature that become laws
STAY	The delay of entry or enforcement of payment or forfeiture or judgment
STIPULATION	Agreement between opposing parties on facts or circumstances
SUA SPONTE	Latin for “on its own will or motions”. Commonly used to describe an action by a judge, taken without a motion or request from either party
SUBPOENA	Order of the court compelling the appearance of a witness

SUBPOENA DUCES TECUM	Order of the court compelling a witness to produce specific documents or records
SUMMARY JUDGMENT	A request for a decision by a court on the matter before it, based upon legal arguments only, where no material facts are in dispute. Summary Judgment is not a remedy available in municipal court.
SUMMONS	A written document issued by the court requiring the appearance of the person summonsed before the court at a specific time
SUSPENSION	Cancellation of a driving privilege for a period of time, after which a reinstatement fee must be paid
TESTIMONY	Any statement made by a witness under oath in a legal proceeding
TRANSCRIPT	A typewritten verbatim account of a legal proceeding
TRIAL DE NOVO	A new trial or retrial in which the whole case is retried, the same as if it had not been heard before and as if no decision previously had been rendered.
UNDER ADVISEMENT	A matter is under advisement when the court delays its decision pending briefs or oral argument
UNIFORM DEPOSIT SCHEDULE	A schedule adopted by the judicial conference for traffic and conservation violations
VENUE	Proper or possible place for trial
WAIVER	An intentional and voluntary giving up of some right
WARRANT, ARREST	An order signed by a judge commanding the arrest of a person
WITNESS	In court, a person who testifies, under oath regarding what he or she has seen, heard or otherwise observed
WRIT OF COMMITMENT	An order signed by a judge commanding the arrest of a person and ordering the person to be conveyed to the house of corrections or local jail for commitment for a specific period of time

Common Abbreviations

ADJ	Adjournment
AMD	Amend
AODA	Alcohol or Drug Assessment
BAC	Blood Alcohol Content
CA	City Attorney
CCAP	Circuit Court Access Program
CIB	Crime Information Bureau
COL	Collections
COWS	Court Order Web System
CP	City Prosecutor
CS	Community Service
CSR	Conviction Status Report
DA	District Attorney
DC	Disorderly Conduct
DCA	District Court Administrator
DEF	Defendant
DL	Driver License
DMV	Department of Motor Vehicles
DNR	Department of Natural Resources
DOJ	Department of Justice
DOR	Department of Revenue
DOT	Department of Transportation
FPF	Failure to Pay (License Suspension)
FPJ	Failure to Pay Juvenile (License Suspension)
GC/I	Good Cause/Indigency
GDL	Graduated Driver License
HO/HOP	Hold Open
IID	Interlock Ignition Device
NCIC	National Crime Information Center
OAR	Operating After Revocation
OAS	Operating After Suspension
OCS or ORCS	Operating With a Restricted Controlled Substance
OWI	Operating While Intoxicated
OWL	Operating Without License
PAC	Prohibited Alcohol Content

PARS	Public Abstract Request System
PR	Personal Recognizance
SDC	State Debt Collection
TIME	Transaction Information for the Management of Enforcement
TraCS	Traffic and Criminal Software
TRIP	Tax Refund Interception Program
UAL	Underage Liquor
UTC	Uniform Traffic Citation

CHAPTER 755

MUNICIPAL COURT

755.001 Definitions.
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 755.02 Term.
 755.03 Oath and bond.
 755.04 Salary.
 755.045 Jurisdiction.
 755.05 Territorial jurisdiction.
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755.11 Records.
 755.12 Delivery of books to municipal clerk.
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755.001 Definitions. In this chapter:

- (1) "Judge" means municipal judge.
- (2) "Judicial administrative district" means the judicial administrative district having the largest portion of the population in the jurisdiction served by the judge.
- (3) "Records" mean all of the records subject to **SCR chapter 72**.

History: 1977 c. 305; 2009 a. 402.

755.01 Option of municipality. (1) There is created and established in and for each city, town and village, a municipal court designated "Municipal Court for the ... (city, town or village) of ... (name of municipality)". A municipal court created under this subsection is a coequal branch of the municipal government, subject to the superintending authority of the supreme court, through the chief judge of the judicial administrative district. A court shall become operative and function after January 1, 2011, when the city council, town board, or village board adopts an ordinance or bylaw providing for the election of a judge and the operation and maintenance of the court, receives a certification from the chief judge of the judicial administrative district that the court meets the requirements under ss. 755.09, 755.10, 755.11, and 755.17, and provides written notification to the director of state courts of the adoption of the ordinance or bylaw. A permanent vacancy in the office of municipal judge shall be filled under s. 8.50 (4) (fm). Any municipal court established under this section is not a court of record. The court shall be maintained at the expense of the municipality. The municipal governing body shall determine the amount budgeted for court maintenance and operations. The budget of the municipal court shall be separate from, or contained on a separate line item from, the budget or line items of all other municipal departments, including the budget or line items of the municipal prosecuting attorney and the municipal law enforcement agency.

(2) The governing body may by ordinance or bylaw abolish the municipal court as part of a consolidation under s. 66.0229 or at the end of any term for which the judge has been elected or appointed, but only if the ordinance or bylaw abolishing the court is submitted to the appropriate filing office under s. 11.0102 (1) (c) and to the director of state courts prior to October 1 of the year preceding the end of the term for which the judge has been elected or appointed. The governing body may not abolish the municipal court while an agreement under sub. (4) is in effect.

(3) A municipality may establish as many branches of municipal court as it deems necessary.

(4) Two or more cities, towns or villages of this state may enter into an agreement under s. 66.0301 for the joint exercise of the power granted under sub. (1), except that for purposes of this subsection, any agreement under s. 66.0301 shall be effected by the enactment of identical ordinances by each affected city, town or village. Electors of each municipality entering into the agreement shall be eligible to vote for the judge of the municipal court so established. If a municipality enters into an agreement with a

municipality that already has a municipal court, the municipalities may provide by ordinance or resolution that the judge for the existing municipal court shall serve as the judge for the joint court until the end of the term or until a special election is held under s. 8.50 (4) (fm). Each municipality shall adopt an ordinance or bylaw under sub. (1) prior to entering into the agreement. The contracting municipalities need not be contiguous and need not all be in the same county. Upon entering into or discontinuing such an agreement, the contracting municipalities shall each transmit a certified copy of the ordinance or bylaw effecting or discontinuing the agreement to the appropriate filing officer under s. 11.0102 (1) (c). Any court formed under this subsection, including the formation of a new court by a change in the municipalities that have entered into an agreement under s. 66.0301, shall become operative and function when the requirements under this subsection are met, the court receives a certification from the chief judge of the judicial administrative district that the court meets the requirements under ss. 755.09, 755.10, 755.11, and 755.17, and the court provides written notification to the director of state courts. Discontinuation of an agreement under this subsection shall be effective at the end of the term for which the judge has been elected or appointed but only if the ordinance or bylaw discontinuing the agreement is submitted to the appropriate filing office under s. 11.0102 (1) (c) and to the director of state courts prior to October 1 of the year preceding the end of the term for which the judge has been elected or appointed. When a municipal judge is elected under this subsection, candidates shall be nominated by filing nomination papers under s. 8.10 (6) (bm), and shall register with the filing officer specified in s. 11.0102 (1) (c).

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.01; 1985 a. 89, 304; 1987 a. 389; 1989 a. 274; 1997 a. 208; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 109; 2009 a. 402; 2015 a. 117; 2017 a. 366; 2019 a. 70.

755.02 Term. The judges shall be elected at large for a term of 4 years unless a different term, not exceeding 4 years nor less than 2 years, is provided by charter ordinance enacted under s. 66.0101. The term shall commence on May 1 of the year of the judge's election.

History: 1977 c. 187 s. 94; 1977 c. 273, 305, 447; Stats. 1977 s. 755.02; 2009 a. 402.

755.03 Oath and bond. (1) The judge shall, after election or appointment, take and file the official oath as prescribed in s. 757.02 (1) and at the same time, if required to do so by a city's, village's, or town's governing body, execute and file an official bond in an amount to be fixed by the governing body. If the governing body does not require the judge to execute and file an official bond, the governing body shall obtain a dishonesty insurance policy or other appropriate insurance policy that covers the judge, in an amount fixed by the governing body, in lieu of the bond requirement. The governing body shall pay the costs of the bond or insurance policy. No judge may act as such until he or she has complied with the requirements of sub. (2).

(2) Within 10 days after a municipal judge takes the oath, the judge shall file the oath and, if required to do so as described in

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sub. (1), the official bond with the clerk of the city, town or village where the judge was elected or appointed. If the municipal judge is elected under s. 755.01 (4), the judge shall file copies of the oath and bond with each applicable municipal clerk. The judge shall file a certified copy of the oath with the office of director of state courts within the 10-day time period after the judge takes the oath.

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.03; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1983 a. 192; 1985 a. 89, 304; 2009 a. 402; 2017 a. 51; 2019 a. 113.

755.04 Salary. The governing body shall fix a salary for the judge. The salary may be increased by the governing body before the start of the 2nd or a subsequent year of service of the term of the judge, but shall not be decreased during a term. The salary of a municipal judge who is designated or appointed under s. 8.50 (4) (fm) or 800.06 shall be determined by contract between the municipality and the judge. The judge may not serve until the contract is entered into. Salaries may be paid annually or in equal installments as determined by the governing body, but no judge may be paid a salary for any time during the term during which the judge has not executed and filed his or her official bond or official oath, as required by s. 755.03.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; Stats. 1977 s. 755.04; 1985 a. 304; 2009 a. 402.

755.045 Jurisdiction. (1) A municipal court has exclusive jurisdiction over an action in which a municipality seeks to impose forfeitures for violations of municipal ordinances of the municipality that operates the court, except as follows:

(a) If the action is transferred under s. 800.035 (5) (c) or 800.05 (3) to a court of record.

(b) If equitable relief is demanded the plaintiff shall bring the action in a court of record.

(c) Whenever the municipal court of a 1st class city in any county having a population of 750,000 or more is not in session, the circuit court has concurrent jurisdiction to hear municipal court cases.

(2) A municipal judge may issue civil warrants to enforce matters which are under the jurisdiction of the municipal court, as provided in ch. 800. Municipal judges are also authorized to issue inspection warrants under s. 66.0119.

(3) A municipal judge may order the payment of restitution for violations of ordinances that prohibit conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both. The judge shall use the restitution procedure under s. 800.093.

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.045; 1979 c. 32 s. 92 (17); 1985 a. 179; 1989 a. 261; 1991 a. 40; 1999 a. 150; 2009 a. 402; 2017 a. 207 s. 5.

755.05 Territorial jurisdiction. Every judge has statewide jurisdiction as authorized by this chapter and ch. 800.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; Stats. 1977 s. 755.05; 1985 a. 89; 2009 a. 402.

755.06 Sessions of court. The municipal court shall be open daily or as determined by the judge and approved by the governing body.

History: 1977 c. 187 s. 94; Stats. 1977 s. 755.06; 1983 a. 192 s. 303 (4); 2009 a. 402.

755.09 Office, where kept. (1) The governing body of the city, village, or town shall provide the judge with an office or appropriate work space other than at a place prohibited under sub. (2).

(2) No judge may keep his or her office or hold court in any tavern, or in any room in which intoxicating liquors are sold, or in any room connecting with a tavern or room in which intoxicating liquors are sold.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; Stats. 1977 s. 755.09; 1997 a. 27; 2009 a. 402.

755.10 Employees. (1) Except as provided in sub. (2), the judge shall in writing appoint the personnel that are authorized by

the council or board. The council or board shall authorize at least one clerk for each court. Except as provided in sub. (2), the hiring, termination, hours of employment, and work responsibilities of the court personnel, when working during hours assigned to the court, shall be under the judge's authority. Their salaries shall be fixed by the council or board. The clerks shall, before entering upon the duties of their offices, take the oath provided by s. 19.01 and give a bond if required by the council or board. The cost of the bond shall be paid by the municipality. Oaths and bonds of the clerks shall be filed with the municipal clerk.

(2) In the municipal court located in the city of Milwaukee the court administrator shall in writing appoint the personnel that are authorized by the council or board. In the municipal court located in the city of Milwaukee the hiring, termination, hours of employment, and work responsibilities of the court personnel, when working during hours assigned to the court, shall be under the court administrator's authority.

History: 1977 c. 187 s. 94; Stats. 1977 s. 755.10; 1983 a. 192 s. 303 (4); 2009 a. 402; 2011 a. 260 s. 80.

755.11 Records. Every judge shall file and keep together all records in an action separate from all other records. The judge shall store all records in the office of the court clerk or in another appropriate facility designated by the council or board. Access to the records shall be restricted to court personnel except as authorized by the judge or by law. Nothing in this section is intended to restrict the ability of counsel or parties to read the records. The purchase or implementation of any electronic records management system used by the court shall be approved by the judge.

History: 1977 c. 187 s. 94; Stats. 1977 s. 755.11; 1983 a. 192 s. 303 (4); 2009 a. 402.

755.12 Delivery of books to municipal clerk. When a municipal court ceases to operate, the court records, books of account, case files, moneys and bonds belonging to the court shall be delivered to the municipal clerk within 10 days after the vacancy occurs by the person who is in possession. If the municipal court was established under s. 755.01 (4), the person shall separate the court records, books, files, moneys and bonds according to the municipalities involved and deliver them to the appropriate municipal clerk.

History: 1977 c. 187 s. 94; Stats. 1977 s. 755.12; 1985 a. 89; 1995 a. 224.

755.13 Books demanded by municipal clerk. If any materials which should be delivered to the municipal clerk under s. 755.12 are not delivered within the time specified, the municipal clerk shall demand their delivery and may by action compel delivery.

History: 1977 c. 187 ss. 94, 135; Stats. 1977 s. 755.13.

755.14 Duty of clerk on receipt of books. (1) When the municipal clerk receives the court records, books of account and case files of a municipal court which has ceased to operate, he or she shall within 10 days dispose of them as follows:

(a) Deliver them to the clerk of the circuit court of that county if the municipality in which the municipal court was located was within one county.

(b) Deliver the case files of the pending and appealable cases to the clerk of circuit court of the county where the court held office and certified copies of the court records for the past 12 months to the clerk of circuit court of every county in which the municipality lies, if the municipality in which the municipal court was located is in more than one county.

(2) For any pending or appealable cases, the bail shall be delivered along with the case file to the proper clerk of court. Any other moneys received under sub. (1) shall be delivered to the municipal treasurer as provided in s. 800.10 (2).

History: 1977 c. 187 s. 94; 1977 c. 305 s. 65; 1977 c. 449 s. 497; Stats. 1977 s. 755.14; 1979 c. 32 s. 92 (17); 1981 c. 317 s. 2202; 1993 a. 246; 1995 a. 224.

755.15 Pending actions triable by court which receives books. When any action is pending before a judge at the time his or her office becomes vacant and his or her books and

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records have been delivered to the circuit court, it may try the action and enter judgment as though the action was begun before it.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; 1977 c. 449 s. 497; Stats. 1977 s. 755.15; 2009 a. 402.

755.16 Continuance on vacancy; notice of trial. All actions before any judge undetermined or appealable when his or her office becomes vacant are continued until the expiration of 10 days from the time when his or her books and records were delivered to the circuit court. The court shall give 3 days' notice to the parties to the action.

History: 1977 c. 187 s. 94; 1977 c. 305 s. 64; 1977 c. 449 s. 497; Stats. 1977 s. 755.16; 2009 a. 402.

755.17 Municipal court decorum and facilities. (1) A municipal judge shall wear a black robe while presiding in a municipal court except when exceptional circumstances exist.

(1m) The clerk of the municipal court shall be attired in appropriate clothing and may not, while performing municipal court functions, wear anything that implies or indicates that he or she is a law enforcement officer or employee of a law enforcement agency.

(2) The governing body of the city, village, or town shall provide a courtroom for a municipal court, which shall be in an adequate facility. The courtroom shall be in a public building if a suitable public building is available within the municipality and shall be located in an area separate from the police department by design or signage. The courtroom shall be designed and furnished to create and promote the proper atmosphere of dignity, safety, and decorum for the operation of the court. Upon request of the municipal judge, the governing body shall provide an armed guard or officer for court sessions.

(3) All personnel employed by the court shall be located in an area separate and distinct from the police department by design or signage.

(4) Every municipal court shall have a telephone number or extension separate from the telephone number or extension of any other governmental department.

History: 1977 c. 305; 2009 a. 402; 2019 a. 70.

755.18 Municipal judge and court clerk training.

(1) Municipal court clerks and judges shall participate in a program of continuing education as required by the supreme court.

(2) Municipalities shall bear the cost of programs under sub. (1) provided by the court. All moneys collected by the supreme court under this section shall be deposited in s. 20.680 (2) (i).

(3) This section does not apply to a municipal judge appointed under s. 8.50 (4) (fm) nor to a former municipal judge or former circuit judge to whom cases are assigned under s. 800.06 during the 6-month period following the date on which the judge receives his or her initial assignment.

History: 1983 a. 27; 1985 a. 304; 2009 a. 402.

755.19 Municipal court commissioners. (1) APPOINTMENT. First class cities may create the office of municipal court commissioner. The municipal court commissioner shall be an attorney licensed to practice in this state and shall complete annual educational credits consistent with supreme court requirements for municipal judges. The common council shall establish the number of positions and set the term, the additional qualifications

and the compensation for the office. The presiding judge of the municipal court shall be the appointing authority and may terminate the employment of a municipal court commissioner at will and without cause. The municipal court commissioner shall be supervised by the judge whose cases the commissioner is hearing. Each municipal court commissioner shall take and file the official oath in the office of the clerk of the municipal court of the 1st class city for which appointed before performing any duty of the office.

(2) POWERS AND DUTIES. Under the supervision of a municipal judge, a municipal court commissioner may do all of the following:

(a) Under ss. 800.035 and 800.095 (1), conduct initial appearances and receive noncontested forfeiture pleas, order the revocation or suspension of driving privileges and impose forfeitures, impose community service and restitution according to the schedule adopted by the municipal court where appointed, and issue dispositional and sanction orders pursuant to ch. 938.

(b) Issue warrants for those who do not appear as scheduled or as summoned.

(c) Conduct hearings on warrant returns.

(d) Schedule indigency hearings.

(e) Make a finding on the indigency of defendants.

(f) Enforce alternative judgments for failure to comply with court orders.

(g) Conduct court proceedings and exercise any power authorized by statute.

(3) NEW HEARINGS AND APPEALS OF MUNICIPAL COURT COMMISSIONER RULINGS. A motion for a new hearing or appeal of a contested ruling by a municipal court commissioner shall be filed with the municipal court no later than the 20th day after the commissioner makes the ruling. The motion shall be heard by the supervising municipal judge under the procedure consistent with the procedure adopted by the judicial district on motions to reopen judgments before the municipal court. Nothing in this subsection shall be construed as altering the time periods for filing a notice of appeal from a final judgment or filing a motion of relief from judgment.

History: 1997 a. 27; 2009 a. 402.

755.21 Collection. The governing body or court may contract with a collection agency for the collection of unpaid forfeitures, assessments, and surcharges under s. 66.0114 (1) (a). Collection under this section may not begin until the court refers the case to the collection agency. The contract shall provide that the collection agency shall be paid from the proceeds recovered by the collection agency. For each violation for which a forfeiture, assessment, or surcharge is imposed, the municipal court shall determine the amount to be distributed to each entity under s. 66.0114 (1) (bm) and (3) (b) and (c) as follows:

(1) Calculate the percentage of the total violation amount to which the entity is entitled before the collection agency is paid.

(2) Subtract from the amount collected for the violation the amount paid to the collection agency to collect the violation amount.

(3) Multiply the remainder under sub. (2) by the percentage under sub. (1).

History: 2003 a. 140; 2005 a. 305; 2009 a. 402.

CHAPTER 800

MUNICIPAL COURT PROCEDURE

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800.001 Definitions. In this chapter:

(1) "Judicial administrative district" means the judicial administrative district having the largest portion of the population in the jurisdiction served by the municipal court.

(2) "Municipality" means the city, village, or town that governs the municipal court, or if more than one city, village, or town has agreed jointly to establish a municipal court under s. 755.01, "municipality" means the city, village, or town where the violation occurred.

History: 1987 a. 389; 2009 a. 402.

800.005 Time. The provisions of s. 801.15 (1) and (5) apply to actions in municipal court.

History: 2019 a. 70.

800.01 Commencement of action. (1) In municipal court, ordinance violation cases are commenced when the complaint or citation is filed with or transmitted to the court.

(2) The municipal court has jurisdiction over a defendant when any of the following conditions is met:

(a) The defendant is served with a citation or a summons and complaint as provided under s. 801.11 (1) (a) to (c), (5), and (6).

(b) The defendant is arrested and brought before the court personally or through interactive video and audio transmission conducted in accordance with the rules of the supreme court.

(c) The defendant voluntarily appears before the court.

(d) The court finds that the defendant has acknowledged receipt of the citation or summons and complaint.

(e) The summons and complaint or citation are sent to the defendant by 1st class mail.

(2m) The law enforcement officer or municipal employee who serves the summons shall indicate the method of service on the copy of the documents filed or transmitted to the court.

(3) If the action is commenced by a citation under s. 800.02 (2) (a), a deposit may be taken from the defendant. The defendant may be released on his or her own recognizance. A nonresident defendant who does not make a deposit may be detained in jail to be brought before the court at the earliest opportunity.

History: 1977 c. 305; 1979 c. 32 s. 68; Stats. 1979 s. 800.01; 1987 a. 389; 1989 a. 170, 261; 1993 a. 437; 1995 a. 27; 1999 a. 9; 2009 a. 402.

Due process does not require commencing a municipal ordinance action by a summons. *Haas v. Wisconsin*, 241 F. Supp. 2d 922 (2003).

Uniformity in Municipal Courts. *Gramling*. Wis. Law. Aug. 2010.

800.02 Form of citation, complaint, summons and warrant in municipal ordinance violation cases.

(1) **ACTION.** An action in municipal court for violation of a municipal ordinance is a civil action, and the forfeiture or penalty imposed by any ordinance of the municipality may be collected in an action in the name of the municipality.

(2) **FORM OF CITATION OR COMPLAINT.** (a) The citation or complaint shall contain the name of a law enforcement officer, attorney representing the municipality, or, if applicable, a conservation warden. In addition, the governing body of a municipality authorized to adopt the use of citations or complaints may designate by ordinance or resolution other municipal officials who are authorized to issue and be named in citations or complaints with respect to ordinances which are directly related to the official responsibilities of the officials. Officials granted the authority to issue and be named in citations and complaints may delegate, with the approval of the governing body, the authority to employees. Authority delegated to an official or employee may be revoked only in the same manner by which it is conferred.

(ag) The citation or complaint shall contain substantially the following information:

1. The name, address and date of birth of the defendant.

1m. The identification of any permit issued to the defendant, or license number of the defendant, if applicable.

2. The name and department of the issuing officer.

3. The violation alleged, the time and place of the occurrence of the violation, a statement that the defendant committed the violation, the ordinance violated, and a description of the violation in language that can be readily understood.

4. A notice to appear at a date, time and place for the court appearance, and a statement as to whether the appearance is mandated by the judge.

5. Provisions for amount of deposit and stipulation in lieu of a court appearance, if applicable.

6. Notice that the defendant may make a deposit and thereby obtain release if an arrest has been made.

7. Notice that the defendant may, in writing, prior to the court appearance, enter a plea of not guilty.

8. Notice that, if the defendant makes a deposit and fails to appear in court at the time fixed in the citation, the defendant is deemed to have tendered a plea of no contest and submits to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and plea.

9. Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or a warrant for the defendant's arrest or may enter a default judgment against the defendant.

9m. In an action against a corporation organized under ch. 180 or 181, or against a limited liability company organized under ch. 183, a statement of the corporate or company existence and whether the corporation or company is a domestic or foreign corporation or limited liability company.

10. Any other pertinent information.

(am) In 1st class cities, all of the written information required under par. (a), except the information under par. (ag) 1. to 4., 9m., and 10., shall be printed in Spanish on a separate sheet attached to the citation or provided in Spanish on the citation.

(b) Except for parking violations, in traffic regulation actions in municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu of the citation form specified in par. (ag). In actions for violations of local ordinances enacted in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77, the citation form specified in s. 23.54 shall be used in lieu of the citation form specified in par. (ag).

(4) **SUMMONS FORM.** (a) The summons shall be signed by a municipal judge or by the attorney who is prosecuting the case in municipal court and shall contain the following information:

1. The title of the cause, specifying the name of the court and county in which the action is brought and the names of all parties to the action.

2. A direction summoning and requiring the defendant to appear in a specified court on a particular date not less than 10 days following service of the summons to answer the accompanying citation or complaint.

3. A notice that in case of failure to appear, judgment may be rendered against the defendant according to the demand of the citation or complaint, or the court may issue a warrant for the defendant's arrest.

(b) In 1st class cities, all of the written information required under par. (a) shall be printed in Spanish on a separate sheet attached to the summons or provided in Spanish on the summons.

(5) **WARRANT FORM.** The warrant shall be in the name of the state of Wisconsin, shall be directed to all law enforcement officers in the state, may be addressed to any law enforcement officer in the state, may specify geographical limits for enforcement of the warrant, and shall be signed by the municipal judge who authorizes its issuance or contain a computer-generated facsimile of the judge's signature. A municipal judge may authorize the issuance of a warrant under this chapter by using a computer or other electronic media. The municipal judge shall make the authorization so that it is accessible to the attorney for the municipality and law enforcement officers. A law enforcement officer shall convert the municipal judge's authorization to a paper copy of the warrant before serving the warrant. The warrant shall contain or have attached to it the following information:

(a) The name of the defendant.

(b) The offense alleged.

(c) A copy of the citation or complaint.

(d) A finding of probable cause that the defendant committed the offense.

(e) A command to arrest the defendant and bring him or her before the municipal judge or other municipal judge or judge of the county.

(f) The date of issuance.

(6) **AUTHORITY TO ARREST WITHOUT A WARRANT.** A person may be arrested without a warrant for the violation of a municipal ordinance if the arresting officer has reasonable grounds to believe that the person is violating or has violated the ordinance.

History: 1977 c. 305; 1979 c. 22; 1979 c. 32 s. 68; 1979 c. 266; Stats. 1979 s. 800.02; 1981 c. 317; 1983 a. 535; 1987 a. 27; 1987 a. 200 s. 4; 1987 a. 389; 1989 a. 170; 1991 a. 39, 40; 1993 a. 16, 112, 320, 437; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 139; 2009 a. 402; 2013 a. 107; 2015 a. 170.

800.025 Amended citation and complaint. A citation or complaint under s. 800.02 may be amended by the municipality prior to the initial appearance of the defendant. A copy of the amended citation or complaint shall be served personally on the defendant or sent to the defendant by 1st class mail. Otherwise, the citation or complaint may be amended, upon notice and an opportunity to be heard, at the discretion of the court. At trial, the court may amend a citation or complaint to conform to the evi-

dence. If the court amends the citation or complaint to conform to the evidence, the court shall allow both parties an opportunity to present evidence with respect to the amended citation or complaint.

History: 1981 c. 225; 2009 a. 402.

800.035 Initial appearance. (1) A defendant may make an initial appearance in person or by submitting a written response to the citation or complaint except when the judge has required an appearance under s. 800.02 (2) (ag) 4. For the purposes of this section, if a defendant is a limited liability company, the defendant appears in person if the appearance is by a member, as defined in s. 183.0102 (15), by an agent or authorized employee of the defendant, or by an agent of the member or an authorized employee of the agent.

(1m) An attorney may provide limited scope representation to a person involved in a municipal court action as provided in ss. 802.045 and 802.05.

(2) If a defendant appears in person, all of the following shall occur:

(a) The court shall, either orally or in writing, do all of the following:

1. Inform the defendant of each charge and explain the range of penalties for each charge.

2. Inform the defendant that he or she may plead guilty, not guilty, or no contest or may request a continuance.

3. Inform the defendant of the right to a jury trial on charges filed under an ordinance in conformity with s. 346.63 (1) or (5).

4. Inform the defendant that if he or she is unable to pay the forfeiture, costs, fees, or surcharges due to poverty, he or she may request an installment payment, community service, or a stay of the judgment.

5. Inform the defendant that he or she must notify the court in writing within 5 days of any change of his or her address during the pendency of the case.

(b) The defendant shall enter a plea or request a continuance.

(c) If the defendant refuses to enter a plea or request a continuance, the court shall enter a plea of not guilty on the defendant's behalf.

(d) If the defendant pleads guilty or no contest, the court may find the defendant guilty of the offense to which the plea is entered and render judgment as provided under s. 800.09, and then determine if the defendant is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d).

(e) If the defendant pleads not guilty, the court shall schedule the case for a pretrial conference under s. 800.045, further proceedings, or trial, at the discretion of the court.

(2m) A municipal court shall appoint a guardian ad litem or social worker certified or licensed under ch. 457 for any defendant that the court has reason to believe lacks substantial mental capacity to understand the proceedings or assist in his or her defense. The person appointed under this paragraph shall assist the court in making a determination concerning the defendant's mental capacity. If the court determines that the defendant lacks the mental capacity to understand the proceedings or assist in his or her defense, the court shall suspend the proceedings. The cost of the guardian ad litem or social worker shall be paid by the municipality or municipalities that established the court. The governing body may by ordinance or bylaw authorize the appointment of a guardian ad litem by the municipal judge in any other matter within the jurisdiction of the municipal court.

(3) If the defendant submits a written response to the citation or complaint and enters a plea of guilty or no contest, the court shall proceed under sub. (2) (d).

(4) If the defendant submits a written response to the citation or complaint and enters a plea of not guilty, the court shall proceed under sub. (2) (e).

(5) (a) If a defendant is charged with a violation of an ordinance in conformity with s. 346.63 (1) or (5), the municipality

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may by ordinance, or the judge may by order, require the defendant to appear in person before the court.

(b) If a person fails to make a required personal appearance under this subsection and the judge issues an arrest warrant, the law enforcement agency that filed or transmitted the uniform traffic citation shall file a detailed description of the warrant with the department of justice.

(c) If a defendant charged with a violation of an ordinance that is in conformity with s. 346.63 (1) or (5) pleads not guilty and within 10 days after entry of the plea requests a jury trial and pays the required fees, the municipal court shall promptly transmit all papers and fees in the cause, including any other citations or complaints arising from the same incident, to the clerk of the circuit court of the county where the violation occurred for a jury trial under s. 345.43. The plea of not guilty and request for jury trial may be made in writing. If the person refused to take a test under s. 343.305 (3) and requested a hearing under s. 343.305 (9) to determine if the person's refusal was proper, the papers and fees involved in that action shall be transferred to the same circuit court, which shall conduct the refusal hearing. Upon receipt of the request, the circuit court shall set a time for trial. Any deposit made personally or in writing is forfeited upon nonappearance at the time set for trial. The required fee for a jury is prescribed in s. 814.61 (4).

(6) In all cases, a defendant may enter a plea of no contest and provide a deposit at any time before the initial appearance.

(7) (a) A municipal judge may release a defendant without a deposit.

(b) If the municipal judge determines that the defendant should not be released under par. (a), the municipal judge shall release the defendant on a deposit in the amount established for the violation. If the judge in a 1st class city determines that a defendant appearing before the judge through interactive video and audio transmission should not be released under par. (a), the judge shall inform the defendant that he or she has the right to appear personally before a judge for a determination, not prejudiced by the first appearance, as to whether he or she should be released without a deposit. On failure of the defendant to make a deposit under this paragraph, he or she may be committed to jail, for not more than 48 hours, only if the judge finds that there is a reasonable basis to believe the person will not appear in court.

(8) If the defendant does not appear, but has made a deposit in the amount set for the violation, he or she is deemed to have tendered a plea of no contest and submits to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may impose any other penalties allowed by law. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the court finds that the violation meets the conditions in s. 800.093 (1), the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093. If the defendant fails to appear in response to the summons, the court may issue a warrant under s. 968.09. If the defendant has made a deposit but does appear, the court shall allow the defendant to withdraw the plea of no contest.

(9) If a defendant does not appear at the initial appearance and has not made a deposit in the amount set for the violation, upon proof of jurisdiction under s. 800.01 (2), the court may either enter a default judgment under s. 800.09 or issue a warrant or summons to bring the defendant before the court. If a warrant is issued for a defendant under this subsection, the defendant may be detained in jail, for not more than 48 hours, prior to the initial appearance.

History: 2009 a. 402 ss. 19, 72, 76, 79 to 82; 2011 a. 260 s. 80; Sup. Ct. Order No. 13–10, 2014 WI 45, 354 Wis. 2d xliii; 2015 a. 176; 2019 a. 70.

800.037 Deposit amount and schedule. The deposit in traffic cases shall be made as provided in s. 345.26. In boating cases, the deposit shall be made as provided in s. 23.66 and 23.67. The municipal court, with the approval of the governing body of the municipality, shall set the deposit schedule for all other cases.

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The deposit amount in the schedule may not exceed the maximum penalty established by the municipality for the offense, plus costs, fees, and surcharges imposed under ch. 814.

History: 2009 a. 402.

800.045 Pretrial conferences. (1) The municipal judge may schedule a pretrial conference. Upon agreement of the parties, the parties may waive a pretrial conference.

(2) If the defendant does not appear at the pretrial conference, the court may proceed under s. 800.035 (8) or (9).

(3) If the parties reach an agreement, the agreement shall be submitted to the court for the court's approval. If an agreement is not reached, or if the court does not approve an agreement, the court shall schedule the action for further proceedings.

History: 2009 a. 402.

800.05 Substitution or disqualification of municipal judge. (1) A defendant may file a written request for a substitution of a new judge for the municipal judge assigned to the trial of that case. The written request shall be filed not later than 7 days after the initial appearance in person or by an attorney. The municipal judge against whom a request has been filed may set initial bail and accept a plea of not guilty.

(3) Upon receipt of the written request under sub. (1), the original judge shall have no further jurisdiction in the case except as provided in sub. (1) and except to determine if the request was made timely and in proper form. Upon such a determination, or if no determination is made within 7 days, the court shall transfer the matter to the chief judge of the judicial administrative district for the determination and reassignment of the action as necessary. If the request is determined to be proper, the case shall be transferred as provided in s. 751.03 (2). Upon transfer, the municipal judge shall immediately transmit to the appropriate judge all the records in the action. Upon receipt of the records, the new judge shall specify the court's location in which the case will be heard and shall consider any objection to the proposed location in making the determination. In all such cases, the parties shall remain the same, the prosecutor of the transferring court shall be responsible for prosecution before the new judge, and the judgment, if any, shall be payable to the transferring court.

(4) (a) If a new judge is assigned to the trial of the action, and the defendant has not exercised the right to substitute an assigned judge, a written request for the substitution of the new judge may be filed within 7 days after the giving of actual notice or sending of the notice of assignment to the defendant or the defendant's attorney. If the notice occurs within 48 hours of the trial, or if there has been no notification, the defendant may make an oral or written request for substitution prior to the commencement of the proceedings.

(b) If upon an appeal from a judgment or order or upon a writ of error the appellate court orders a new trial or reverses or modifies the judgment or order in a manner such that further proceedings in the municipal court are necessary, the person charged with a violation may file a request under sub. (1) within 20 days after the entry of the judgment or decision of the appellate court whether or not another request was filed prior to the time the appeal or writ of error was taken.

(5) If the municipal judge disqualifies himself or herself under s. 757.19 or SCR 60.04, the case shall be transferred under sub. (3).

History: 1977 c. 305, 447; 1977 c. 449 s. 496; 1979 c. 32 ss. 68, 92 (17); Stats. 1979 s. 800.05; 1987 a. 151; 2009 a. 402; 2019 a. 70.

800.06 Illness, absence or vacancy; pending actions triable by court which receives papers; continuance on vacancy and notice of trial. (1) If any municipal judge is to be temporarily absent or is sick or disabled, the municipal judge may, subject to the order of the chief judge of the judicial administrative district, designate another municipal judge from any municipality within the state to perform his or her duties for a period not to exceed 30 days.

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(2) If any municipal judge is incompetent, unable or fails to act, s. 751.03 (2) applies. The parties and their attorneys shall be notified of the transfer to another judge.

(3) Notwithstanding s. 751.03 (2), if there is a permanent vacancy in the office of municipal judge, the chief judge of the judicial administrative district may designate another municipal judge to perform the duties of the office until the municipal governing body fills the vacancy by temporary appointment under s. 8.50 (4) (fm). The municipal judge designated under this subsection may exercise all of the authority of the municipal court to which he or she is assigned.

History: 1977 c. 305; 1977 c. 449 s. 497; 1979 c. 32 ss. 68, 92 (17); Stats. 1979 s. 800.06; 1985 a. 304; 1987 a. 151; 1993 a. 384; 1995 a. 224; 2009 a. 402; 2019 a. 70.

800.065 Reserve municipal judges. (1) **DEFINITIONS.** In this section, “reserve municipal judge” means a former municipal judge who has complied with s. 755.03 and is appointed by the chief judge of the former municipal judge’s judicial administrative district to perform such specified duties on a day-by-day basis as the chief judge may direct.

(2) **ELIGIBILITY.** Any of the following persons may serve as a temporary reserve judge:

(a) A person who has served a total of 8 or more years as a municipal judge.

(b) A person who has served 4 or more years as a municipal judge and who was not defeated at the most recent time he or she sought election to judicial office.

(3) **COMPENSATION.** Notwithstanding s. 755.04, reserve municipal judges under this section shall receive compensation in an amount agreed to by contract between the municipality and the reserve municipal judge.

(4) **TRAINING.** All persons serving as reserve municipal judges under this section are subject to s. 755.18.

History: 1987 a. 389; 2009 a. 402.

800.07 Discovery in municipal court. Neither party is entitled to pretrial discovery in any action in municipal court, including refusal hearings held by a municipal court under s. 343.305 (9), except that if the defendant moves for pretrial discovery within 30 days after the initial appearance in person or by an attorney, the court may order that the defendant be allowed to inspect documents, including lists of names and addresses of witnesses, if available, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed. The defendant may move for pretrial discovery at any other time upon a showing of cause for that discovery.

History: 1977 c. 305; 1979 c. 32 s. 68; Stats. 1979 s. 800.07; 1987 a. 389; 2003 a. 199; 2009 a. 402.

800.08 Procedure at trial. (1) At trial the plaintiff shall provide a prosecutor who is an attorney authorized or licensed to practice law in this state. The plaintiff shall first offer evidence in support of the citation or complaint. The defendant may offer evidence after the plaintiff has rested. If the plaintiff and the defendant have offered evidence upon the citation or complaint, the parties may then respectively offer rebuttal testimony only, unless the court permits them to offer evidence upon their original case. Both parties shall have the opportunity to question all witnesses.

(2) (a) Before testifying, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation administered in a form calculated to awaken his or her conscience and impress the witness with the duty to testify truthfully.

(b) The oath may be administered by the judge or his or her designee substantially in the following form: Do you solemnly swear that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth, so help you God.

(c) Every person who declares that he or she has conscientious scruples against taking the oath, or swearing in the usual form, shall make a solemn declaration or affirmation, which may be in

the following form: Do you solemnly, sincerely and truly declare and affirm that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth; and this you do under the pains and penalties of perjury.

(d) The assent to the oath or affirmation by the person making it may be manifested by the uplifted hand.

(3) The standard of proof for conviction of any person charged with violation of any municipal ordinance shall be evidence that is clear, is satisfactory, and convinces the judge to a reasonable certainty.

(4) Except as provided in s. 938.17 (2) (h) 3., the court shall be bound by the rules of evidence specified in chs. 901 to 911.

(5) If a defendant does not appear at trial, the court may enter a default judgment under s. 800.09.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); Stats. 1979 s. 800.08; 1997 a. 205; 2009 a. 402; 2013 a. 107.

800.085 Telephone and audiovisual proceedings. At any proceeding under this chapter, a party, witness, or interpreter may appear by telephone or by audiovisual means if any of the following applies:

(1) The parties so stipulate and the court approves.

(2) The court finds good cause after considering the following factors:

(a) Whether any undue surprise or prejudice would result.

(b) Whether the proponent has been unable, after due diligence, to procure the physical presence of the witness.

(c) The convenience of the parties and the proposed witness and the cost of producing the witness in relation to the importance of the offered testimony.

(d) Whether the procedure would allow full effective cross-examination, especially where availability to counsel of documents and exhibits available to the witness would affect such cross-examination.

(e) The importance of presenting the testimony of witnesses in open court, where the finder of fact may observe the demeanor of the witness, and where the solemnity of the surroundings will impress upon the witness the duty to testify truthfully.

(f) Whether the quality of the communication is sufficient to understand the offered testimony.

(g) Whether a physical liberty interest is at stake in the proceeding.

(h) Financial or physical limitations on the ability of the defendant or counsel for the defendant to be physically present.

(i) Any other factors as the court may, in each individual case, determine to be relevant.

History: 2009 a. 402; 2019 a. 70; s. 35.17 correction in (intro.), (2) (c).

800.09 Judgment. (1b) If the court finds a defendant guilty, the court may render judgment by ordering any of the following:

(a) A forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

(b) Community service work.

(c) An operating privilege suspension or revocation if authorized by law.

(d) Other dispositions authorized by law.

(e) For juveniles, dispositions authorized under s. 938.17 (2).

(1d) The court shall apply any payment received on a judgment that includes restitution to first satisfy any payment of restitution ordered, then to pay the forfeiture, costs, fees, and surcharges.

(1g) The court may defer payment of any judgment or provide for installment payments. At the time that the judgment is rendered, the court shall inform the defendant, orally and in writing, of the date by which restitution and the payment of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, must be made, and of the possible consequences of failure to do so in timely fashion, including imprisonment, as provided in s.

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800.095, or suspension of the defendant's motor vehicle operating privilege, as provided in sub. (1b) (c), if applicable. In addition, the court shall inform the defendant, orally and in writing, that the defendant should notify the court if he or she is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d), and that he or she may request community service in lieu of payment of the judgment. If the defendant is not present, the court shall ensure that the information is sent to the defendant by mail. If the defendant is present and the court, using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay the judgment because of poverty, the court shall provide the defendant with an opportunity to pay the judgment in installments, taking into account the defendant's income, or to perform community service in lieu of payment of the judgment. In 1st class cities, all of the written information required by this subsection shall be printed in English and Spanish and provided to each defendant.

(1j) If the court orders the defendant to perform community service work in lieu of making restitution or of paying the forfeiture, surcharges, fees and costs, or both, the court may order that the defendant perform community service work for a public agency or a nonprofit charitable organization that is approved by the court and agreed to by the public agency or nonprofit charitable organization. Community service work may be in lieu of restitution only if also agreed to by the person to whom restitution is owed. The number of hours of community service work required may not exceed the number determined by dividing the amount owed on the forfeiture by the minimum wage established under s. 104.035 (1). The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored.

(3) (a) If the operating privilege of a defendant is suspended under this section or s. 800.095, the court may terminate that suspension and substitute an installment payment plan for paying the amount of the judgment that takes into account the defendant's income.

(b) If the operating privilege of a defendant is suspended under this section or s. 800.095, the court shall terminate that suspension and substitute an installment payment plan for the payment of the amount of the judgment that takes into account the defendant's income if all of the following conditions apply:

1. The defendant is unable to pay the judgment in full because of poverty, as that term is used in s. 814.29 (1) (d).

2. The defendant has not previously failed to comply with an installment payment plan ordered under this section that takes into account the defendant's income.

(c) If the defendant fails to comply with an installment payment plan ordered under this subsection, the court shall reinstate the suspension of the defendant's operating privilege.

(4) Notwithstanding s. 755.045 or 800.115 (2), no municipal judgment alleged by the defendant to be void due to the existence of a conviction, suspension, or revocation arising from another matter that existed at the time of the municipal judgment shall be considered void by any court unless the defendant disclosed the conviction, suspension, or revocation with specificity and in writing to the municipal court and to the prosecuting attorney prior to the entry of the municipal judgment.

History: 1977 c. 305; 1979 c. 32 s. 68; Stats. 1979 s. 800.09; 1981 c. 317; 1985 a. 179; 1987 a. 27, 389; 1987 a. 399 s. 494u; 1989 a. 107; 1991 a. 39, 40, 189; 1993 a. 16; 1997 a. 27, 84; 1999 a. 9, 185; 2001 a. 16; 2003 a. 139; 2009 a. 17, 103, 402; 2011 a. 257; 2015 a. 55; 2019 a. 70; s. 35.17 correction in (4).

Section 343.30 (5) does not preclude the suspension of operating privileges under this section or s. 800.095. Suspension of operating privileges for failure to pay non-traffic forfeitures is not an unconstitutional exercise of the police power or an unconstitutionally excessive fine. *City of Milwaukee v. Kilgore*, 193 Wis. 2d 168, 532 N.W.2d 690 (1995).

An award of costs of prosecution does not include actual attorney fees. *Town of Wayne v. Bishop*, 210 Wis. 2d 218, 565 N.W.2d 201 (Ct. App. 1997), 95–2387.

A municipal court is not authorized under former s. 885.04, 2017 stats., to subpoena persons outside of the state; thus the court in this case could not order an out of state defendant to appear in person. There is no inherent authority in the court authorizing such an order. *City of Sun Prairie v. Davis*, 226 Wis. 2d 738, 595 N.W.2d 635 (1999), 97–1651.

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800.093 Restitution. (1) The court, in addition to ordering any payment authorized by law, may order a defendant to make full or partial restitution under this section to any victim or, if the victim is deceased, to his or her estate if the court finds all of the following:

(a) The defendant is guilty of violating a nontraffic ordinance or an ordinance authorizing restitution under s. 346.65 (2r).

(b) The violation resulted in damage to or theft of the property of or physical injury to or death of a person other than the defendant.

(2) Restitution ordered under this section is enforceable in a civil action by the victim named in the order to receive restitution. A court may not order a defendant to pay more than the amount specified in s. 799.01 (1) (d) in restitution under this section.

(3) If the violation resulted in damage to or loss or destruction of property, the restitution order may require that the defendant do one of the following:

(a) Return the property to the owner or owner's designee.

(b) If return of the property under par. (a) is impossible, impractical or inadequate, pay the owner or owner's designee, subject to the limit in sub. (2), the reasonable repair or replacement cost or the greater of the following:

1. The value of the property on the date of its damage, loss or destruction.

2. The value of the property on the date judgment is rendered, less the value of any part of the property returned, as of the date of its return. The value of retail merchandise shall be its retail value.

(4) If the violation resulted in physical injury, the restitution order may require that the defendant do one or more of the following, subject to the limit in sub. (2):

(a) Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric or psychological care and treatment.

(b) Reimburse the injured person for income lost as a result of the violation.

(c) If the injured person's sole employment at the time of the injury was performing the duties of a homemaker, pay an amount sufficient to reimburse the person for any payments made to another to perform those duties from the date of the injury and to ensure that the duties are continued until the person is able to resume performance of the duties.

(5) The restitution order may require that the defendant do one or more of the following, subject to the limit in sub. (2):

(a) Pay all special damages, but not general damages, including, but without limitation because of enumeration, the money equivalent of loss resulting from property taken, destroyed, broken or otherwise harmed and out-of-pocket losses, such as medical expenses, substantiated by evidence in the record, that could be recovered in a civil action against the defendant for his or her conduct in the commission of the violation.

(b) Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom the violation was committed as a result of the commencement of the action or of cooperating in the investigation and prosecution of the violation.

(c) If justice so requires, reimburse any insurer, surety or other person who has compensated a victim for a loss otherwise compensable under this section.

(6) If the court orders that restitution be paid to more than one person, the court may direct the sequence in which payments are to be made. The court shall order that all restitution to victims be made before restitution to other persons. If more than one defendant is ordered to make payments to the same person, the court may apportion liability between the defendants or specify joint and several liability. If the court specifies that 2 or more defendants are jointly and severally liable, the court shall distribute any over-

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payments so that each defendant, as closely as possible, pays the same proportion of the ordered restitution.

(7) Restitution ordered under this section does not limit or impair the right of a victim to sue and recover damages from the defendant in a civil action. The fact that restitution was required or made is not admissible as evidence in that civil action and has no legal effect on the merits of the civil action. Any restitution made by payment or community service shall be set off against any judgment in favor of the victim in a civil action arising out of the facts or events that were the basis for the restitution. The court trying that civil action shall hold a separate hearing to determine the validity and amount of any setoff asserted by the defendant.

(8) (a) The court, in determining whether to order restitution and the amount thereof, shall consider all of the following:

1. The amount of loss suffered by any victim as a result of the violation.
2. The financial resources of the defendant.
3. The present and future earning ability of the defendant.
4. The needs and earning ability of the defendant's dependents.
5. Any other factors which the court deems appropriate.

(b) If the court finds that the conditions in sub. (1) are met, the court may hold the restitution hearing at the time of any appearance by the defendant before the court or may summon the defendant to appear to determine if restitution shall be ordered. The court shall give the victim an opportunity to present evidence and arguments pertaining to the factor specified in par. (a) 1. The court shall give the defendant the opportunity to present evidence and arguments on the factors specified in par. (a). The victim has the burden of demonstrating by the preponderance of the evidence the amount of loss sustained as a result of the violation. The defendant has the burden of demonstrating by the preponderance of the evidence the factors specified in par. (a) 2. to 5. When hearing evidence as to the factors specified in par. (a), the court may waive the rules of practice, procedure, pleading and evidence, except provisions relating to privileged communications and personal transactions or communication with a decedent or mentally ill person.

History: 1991 a. 40; 1995 a. 156; 2009 a. 402; 2019 a. 70.

800.095 Nonpayment of monetary judgment. (1) If the defendant fails to pay a monetary judgment ordered by the court, the court may order any one of the following, or any combination of the following, except as provided in sub. (3):

(a) Suspension of the defendant's operating privilege until the defendant pays the judgment, but not to exceed one year. If the court orders suspension under this paragraph, all of the following apply:

1. The court shall notify the department of transportation of the suspension for failure to pay the judgment. If the defendant pays the judgment, the court shall notify the department of transportation of the payment within 7 days in the form and manner prescribed by the department.
2. The court may order the suspension concurrent or consecutive to any other suspensions or revocations. If the court fails to specify whether the suspension is consecutive or concurrent, the department of transportation shall implement the suspension concurrent with any other suspensions or revocations.
3. If the judgment remains unpaid at the end of the one-year suspension, the court may not order a further suspension of operating privileges in relation to the outstanding judgment.

3m. If the court terminates the defendant's suspension as the result of the defendant's agreement to a payment plan or community service and the defendant is later suspended because he or she defaults on that plan or service, the new suspension shall be reduced by the amount of time that the suspension was served before being terminated by the court.

4. Serving the complete one-year suspension of the defendant's operating privilege does not relieve the defendant of the responsibility to pay the judgment.

5. During the period of operating privilege suspension under this paragraph, the defendant may request the court to reconsider the order of suspension based on an inability to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d). The court shall consider the defendant's request. If the court determines that the inability to pay the judgment is because of poverty, the court shall withdraw the suspension and grant the defendant further time to pay or withdraw the suspension and order one or more other sanctions set forth in this subsection, including community service.

6. This paragraph does not apply if the judgment was entered solely for a violation of an ordinance unrelated to the violator's operation of a motor vehicle unless the judgment is ordered under ch. 938. Nonmoving traffic offenses, as defined in s. 345.28 (1) (c), are related to the violator's operation of a motor vehicle.

(b) 1. That the defendant be imprisoned until the forfeiture, assessments, surcharge, and costs are paid. If the court orders imprisonment under this subdivision, all of the following apply:

a. The maximum period of imprisonment shall be 90 days for any one judgment, and the defendant shall receive credit against the amount owed at the rate of at least \$50 for each day of imprisonment, including imprisonment following an arrest but prior to the court making a finding under subd. 2.

b. The court may impose a term of imprisonment under this subdivision that is either concurrent with or consecutive to any other term of imprisonment imposed at the same time or any term of imprisonment imposed by any court.

2. No defendant may be imprisoned under subd. 1. unless the court makes one of the following findings:

a. Either at sentencing or thereafter, that the defendant has the ability to pay the judgment within a reasonable time. If a defendant meets the criteria in s. 814.29 (1) (d), the defendant shall be presumed unable to pay under this subsection and the court shall either suspend or extend payment of the judgment or order community service.

b. The defendant has failed, without good cause, to perform the community service authorized under this subsection or s. 800.09.

c. The defendant has failed to attend an indigency hearing offered by the court to provide the defendant with an opportunity to determine whether he or she has the ability to pay the judgment.

d. The defendant has failed, without good cause, to complete an assessment or treatment program related to alcohol or drugs that was ordered in lieu of a monetary forfeiture.

3. a. Except as provided in subd. 3. b., the defendant shall be committed to a jail or a house of correction in the county in which the cause of action arose.

b. The defendant may be committed to the jail in another county within or outside of the state if the other county borders the county in which the cause of action arose, and the monthly expenses charged to the municipality by the other county to imprison the defendant are at least 25 percent less than the monthly expenses charged by the county in which the cause of action arose, and the other county agrees to having the defendant committed to the jail in that county.

c. The defendant shall be eligible for privileges under s. 303.08 or a similar program in the other county if committed under subd. 3. b. The municipality shall pay the expenses incurred by the county to imprison the defendant.

(c) 1. In this paragraph, "employer" includes the state and the political subdivisions of the state.

2. Assignment to the municipal court of not more than 25 percent of the defendant's commissions, earnings, salaries, wages, pension benefits unless otherwise exempt, benefits under ch. 102,

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and other money due or to be due to the defendant, including lottery prizes, for payment of the unpaid forfeiture, costs, surcharge, fees, or restitution.

3. Upon entry of the assignment under subd. 2., unless the court finds that income withholding is likely to cause the defendant irreparable harm, the court shall provide notice of the assignment by regular mail to the last-known address of the person from whom the defendant receives or will receive money. If the municipal court does not receive the money from the person notified, the court shall provide notice of the assignment to any other person from whom the defendant receives or will receive money. Notice of an assignment under subd. 2. shall inform the intended recipient that, if a prior assignment under subd. 2. or s. 778.30 (1) or 973.05 (4) has been received relating to the same defendant, the recipient is required to notify the municipal court that sent the subsequent notice of assignment that another assignment has already been received. A notice of assignment shall include a form permitting the recipient to designate on the form that another assignment has already been received.

4. If, after receiving the annual list under s. 565.30 (5r) (a), the municipal court determines that a person identified in the list may be subject to an assignment under subd. 2., the court shall send the notice of that order to the administrator of the lottery division of the department of revenue, including a statement of the amount owed under the judgment and the name and address of the person owing the judgment. The municipal court shall notify the administrator of the lottery division of the department of revenue when the judgment that is the basis of the assignment has been paid in full.

5. Notice under this paragraph may be a notice of the court, a copy of the executed assignment or a copy of that part of the court order that directs payment.

6. For each payment made under the assignment under subd. 2., the person from whom the defendant under the order receives money shall receive an amount equal to the person's necessary disbursements, not to exceed \$3, which shall be deducted from the money to be paid to the defendant.

7. A person who receives notice of the assignment under this paragraph shall withhold the amount specified in the notice from any money that person pays to the defendant later than one week after receipt of the notice of assignment. Within 5 days after the day on which the person pays money to the defendant, the person shall send the amount withheld to the municipal court of the jurisdiction providing notice. If the person has already received a notice of an assignment under this paragraph or s. 778.30 (2) or 973.05 (5), the person shall retain the later assignment and withhold the amount specified in that assignment after the last of any prior assignments is paid in full. Within 10 days of receipt of the later notice, the person shall notify the municipal court that sent the notice that the person has received a prior notice of an assignment under subd. 2. Section 241.09 does not apply to assignments under this section.

8. If after receipt of notice of assignment under this paragraph the person from whom the defendant receives money fails to withhold the money or send the money to the municipal court as provided in this paragraph, the person may be proceeded against under the principal action under s. 800.12 for contempt of court or may be proceeded against under ch. 778 and be required to forfeit not less than \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1 percent of the amount not withheld or sent.

9. If an employer who receives notice of an assignment under this paragraph fails to notify the municipal court within 10 days after an employee is terminated or otherwise temporarily or permanently leaves the employer's employment, the employer may be proceeded against under the principal action under s. 800.12 for contempt of court.

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10. Compliance by the person from whom the defendant receives money with the order operates as a discharge of the person's liability to the defendant as to that portion of the defendant's commission, earnings, salaries, wages, benefits, or other money so affected.

11. No employer may use an assignment under subd. 2. as a basis for the denial of employment to a defendant, the discharge of an employee, or any disciplinary action against an employee. An employer who denies employment or discharges or disciplines an employee in violation of this subdivision may be fined not more than \$500 and may be required to make full restitution to the aggrieved person, including reinstatement and back pay. Restitution shall be in accordance with s. 973.20. An aggrieved person may apply to the district attorney or to the department of workforce development for enforcement of this subdivision.

12. a. In this subdivision, "payroll period" has the meaning given in s. 71.63 (5).

b. If after an assignment is in effect the defendant's employer changes its payroll period, or the defendant changes employers and the new employer's payroll period is different from the former employer's payroll period, the municipal court may amend the withholding assignment or order so that the withholding frequency corresponds to the new payroll period and the amounts to be withheld reflect the adjustment to the withholding frequency.

13. The municipal court shall provide notice of the amended withholding assignment or order under subd. 12. by regular mail to the defendant's employer and to the defendant.

(d) That the defendant perform community service work for a public agency or nonprofit charitable organization approved by the court and agreed to by the agency or nonprofit charitable organization. If the community service work is in lieu of restitution, then the person to whom restitution is owed must agree; the defendant shall be given credit at the rate of not less than the minimum wage established under s. 104.035 (1) for each one hour of community service completed. The defendant shall be given a written statement of the community service order. Nothing in this paragraph makes the defendant an employee or agent of the court or the municipality. The defendant shall be responsible for providing the court with proof that the community service hours have been completed.

(2) At any time prior to imprisonment under sub. (1) (b), the defendant may request a review of any findings made under sub. (1) (b) 2.

(3) Subsection (1) (a) and (b) does not apply to any of the following:

(a) Orders for restitution under s. 800.093.

(b) Cases where service of the summons and complaint or citation is made by mail as authorized in s. 800.01 (2) (e), unless the defendant subsequently appeared in the action or was personally served with a copy of the judgment and notice of the right to request review of the findings under sub. (1) (b) 2.

(c) Failure to pay a monetary judgment within 60 days of the judgment under s. 800.09 (1b), unless the court finds good cause and orders otherwise.

(4) The court may, at any time, authorize payment of the monetary judgment by installment payments, or may modify, suspend, or permanently stay the monetary judgment, or order that the judgment be satisfied by community service.

(5) The court may employ a collection company to collect the judgment under s. 755.21.

(6) The court or collection company may obtain payment through a setoff under s. 71.935.

(7) In addition to the procedures under this section, the court or a municipality may enforce the judgment in the same manner as for a judgment in an ordinary civil action, including entry into the judgment and lien docket as provided under s. 806.12.

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(8) In addition to the procedures under this section, a municipal court may order the transfer of any of the defendant's money or property that the municipality is holding and that is unclaimed by the defendant for more than one year to pay any forfeitures, fees, costs, or surcharges that the defendant failed to pay the municipality.

History: 1987 a. 389; 1987 a. 399 s. 494u; 1989 a. 31; 1991 a. 40; 1995 a. 27; 1997 a. 84, 250; 1999 a. 9 ss. 3083m, 3263; 1999 a. 185; 2005 a. 192; 2009 a. 17, 402; 2013 a. 376; 2015 a. 55, 234; 2019 a. 70.

Section 343.30 (5) does not preclude the suspension of operating privileges under s. 800.09 or this section. Suspension of operating privileges for failure to pay non-traffic forfeitures is not an unconstitutional exercise of the police power or an unconstitutionally excessive fine. *City of Milwaukee v. Kilgore*, 193 Wis. 2d 168, 532 N.W.2d 690 (1995).

This section authorizes incarceration of defendants for noncompliance with default judgments entered by the municipal court. The power is not restricted to ordinance violations with statutory counterparts. Incarceration under this section is not imprisonment for debt or involuntary servitude. *Haas v. Wisconsin*, 241 F. Supp. 2d 922 (2003).

800.10 Fees and costs in municipal court. (1) Fees and costs in municipal court are prescribed in ch. 814.

(2) All forfeitures, fees, surcharges, and costs paid to a municipal court under a judgment before a municipal judge shall be reported and paid to the municipal treasurer within 30 days after receipt of the money by the municipal court. The treasurer shall disburse the fees as provided in ch. 814.

History: 1981 c. 317; 1987 a. 27; 1991 a. 39; 1993 a. 16; 1999 a. 9; 2001 a. 16; 2003 a. 139; 2009 a. 402.

800.11 Municipal court record and transcript entries.

(1) Every municipal court shall keep a court record in which the court shall enter, in actions to which they relate:

(a) The title of every action commenced before the municipal court, including the name and address of the defendant;

(b) The process issued, date and place where it issued, when returnable and the return of the officer;

(c) A brief statement of the charges, including the nature and time of the offense and the section of law violated;

(d) Every adjournment, stating at whose request and to what time;

(e) The date and time trial was held;

(f) The names of witnesses sworn, stating at whose request;

(g) The judgment rendered by the municipal court, including the penalties imposed, the date of rendering judgment and the costs assessed in the action;

(h) The record of contempt convictions under s. 800.12;

(i) The amount of bail and names and addresses of sureties, if any;

(j) The time of ordering any stay of execution;

(k) The time of issuing execution and the name of the officer to whom delivered;

(m) The return of every execution and when made and every renewal of an execution, with the date thereof;

(n) The date and reason of removal of the action to another court;

(o) The date of giving transcript of judgment;

(p) The date of an appeal made from judgment; and

(q) All motions made in the action, the decision thereon and all other proceedings in the action which the municipal court may think useful.

(2) Failure of the municipal court to keep a court record properly shall not affect the jurisdiction of the municipal court or render the judgment void.

(3) The transcript of judgment shall contain the following:

(a) The name and location of the court.

(b) The title of action.

(c) The name and address of the defendant.

(d) The date of judgment.

(e) The amount of judgment, costs and fees.

(f) The certification that it is a true copy of the judgment.

(4) If the municipal judge is elected under s. 755.01 (4), the court shall keep separate court records for each municipality.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); Stats. 1979 s. 800.11; 1985 a. 89; 1995 a. 224; 2009 a. 402.

800.115 Relief from judgment. (1) A defendant may within 6 months after the judgment is entered move for relief from the judgment because of mistake, inadvertence, surprise, or excusable neglect.

(2) Any party, including the court on its own motion, may at any time move to reopen the judgment under s. 806.07 (1) (c), (d), (g), or (h).

(3) Nothing in this section shall prevent the parties from stipulating and the court approving the reopening of a judgment for any other reason justifying relief from operation of the judgment.

(4) The court may impose costs on the motion as allowed under s. 814.07, except that any costs shall be based on the expense associated with the motion and the court shall consider the defendant's ability to pay the costs using the factors in s. 814.29 (1) (d) 1. to 3. No costs may be imposed as a requirement of filing the motion.

(5) Upon making a motion under this section, the court shall provide notice to all parties and schedule a hearing on the motion. Upon receiving a motion under this section, the court may enter an order denying the motion for failure to state grounds upon which relief may be granted, schedule a hearing on the motion, or enter an order based on written submissions from the parties.

History: 1987 a. 389; 2009 a. 402; 2019 a. 70.

Only a defendant may seek relief under this section. However a municipal court has the inherent authority to vacate a void judgment irrespective of the statute's requirements for reopening a judgment. *City of Kenosha v. Jensen*, 184 Wis. 2d 91, 516 N.W.2d 4 (Ct. App. 1994).

800.12 Municipal court contempt procedure. (1) In this section, "contempt of court" means any of the following intentional acts:

(a) Misconduct in the presence of the court that interferes with the court proceeding or with the administration of justice, or that impairs the respect due the court.

(b) Refusal of a witness to appear without reasonable excuse.

(2) A judge may impose a forfeiture in an amount not to exceed \$200 for a contempt of court.

(3) For a contempt of court described in sub. (1) (a), the judge may impose imprisonment in the county jail for not more than 7 days and impose a forfeiture. These penalties shall be imposed immediately after the contempt of court has occurred and only under the following conditions:

(a) For the purpose of preserving order in the court and protecting the authority and dignity of the court.

(b) After allowing the person who committed the contempt of court an opportunity to address the court.

(4) For a contempt of court described in sub. (1) (b), the judge may do any of the following:

(a) Issue a warrant to bring the witness before the court for the contempt and to testify.

(b) In addition to ordering the witness to pay a forfeiture under sub. (2), the judge may order the witness to pay all costs of the witness's apprehension.

History: 1977 c. 305; 1979 c. 32 s. 68; 1979 c. 257; Stats. 1979 s. 800.12; 1987 a. 27; 1989 a. 107; 1991 a. 39; 1993 a. 16; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 139; 2009 a. 402.

800.13 Recording in municipal court. (1) Every proceeding in which testimony is taken under oath or affirmation, hearing on a motion under s. 800.115, and hearing regarding whether the defendant is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d), in a municipal court shall be recorded by electronic means for purposes of appeal.

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(2) Notwithstanding sub. (1), a municipal court is not a court of record.

History: 1977 c. 305; 1979 c. 32 s. 68; 1979 c. 237; Stats. 1979 s. 800.13; 2009 a. 402; 2019 a. 70.

800.14 Appeal from municipal court decision.

(1) Appeals from judgments, decisions on motions brought under s. 800.115, or determinations regarding whether the defendant is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d), may be taken by either party to the circuit court of the county where the offense occurred. The appellant shall appeal by giving the municipal court and other party written notice of appeal and paying any required fees within 20 days after the judgment or decision. No appeals may be taken from default judgments.

(2m) Upon receipt by the municipal court of the notice of appeal and any required fees and, if a trial has been held, after the 20 day time period under sub. (4) has passed, the appeal is perfected. Within 30 days after perfection, the municipal court shall transmit the case to the circuit court as provided under sub. (5) and shall comply with the requirements of s. 343.325, if applicable.

(3) Upon perfection of the appeal under sub. (2m), execution on the judgment of the municipal court or enforcement of the order of the municipal court shall be stayed until the final disposition of the appeal, unless otherwise ordered by the municipal court prior to transmittal to the circuit court or unless ordered by the circuit court thereafter. An order lifting a stay may be reviewed by the circuit court at any time following transmittal to the circuit court, upon motion and good cause shown.

(4) An appeal from a judgment where a trial has been held shall be on the record unless, within 20 days after notice of appeal has been filed with the municipal court under sub. (1), either party requests that a new trial be held in circuit court. The new trial shall be conducted by the court without a jury unless one of the following applies:

(a) If the defendant is charged with a violation of an ordinance that is in conformity with s. 346.63 (1) or (5) and did not proceed under s. 800.035 (5) (c), the municipality requests a 6–person jury trial and posts the jury fee under s. 814.61 (4) within 10 days after the order for a new trial.

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(b) If par. (a) does not apply, either party requests a 6–person jury trial and posts the jury fee under s. 814.61 (4) within 10 days after the order for a new trial.

(5) If there is no request under sub. (4), or if the appeal is from a judgment or decision in which a trial has not been held, the appeal shall be based upon a review of the proceedings in the municipal court, and the municipal court shall transmit to the circuit court a copy of the entire record, including any electronic recording created under s. 800.13 (1). If there is a request under sub. (4), the municipal court shall transmit to the circuit court as much of the record as deemed appropriate by the municipal court, but the transmission shall include, at the minimum, a copy of the citation or complaint and the judgment. The municipal court may supplement the transmission upon request of either party or the circuit court. The circuit court may order the preparation of a transcript of the proceedings by any qualified court reporter at the cost of the appellant. The transcript shall be deemed accurate unless determined otherwise by the municipal court, by request of either party or the circuit court.

(5m) A defendant claiming an inability to pay with regard to the transcript fee, the appeal fee, or the jury fee may petition the circuit court for a waiver.

(6) The disposition of the appeal shall be certified to the municipal court by the circuit court within 30 days of the judgment of the circuit court. If the disposition requires payment of a forfeiture by the defendant, the forfeiture and all costs, fees, and surcharges shall be payable to the municipality.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); 1979 c. 237; Stats. 1979 s. 800.14; 1981 c. 317 s. 2202; 1987 a. 389; 2005 a. 191; 2009 a. 402; 2019 a. 70; s. 35.17 correction in (2m), (5).

Review under sub. (5) is analogous to appellate review of a trial to the court under s. 805.17 (2). Village of Williams Bay v. Metzl, 124 Wis. 2d 356, 369 N.W.2d 186 (Ct. App. 1985).

When a municipal court found the defendant guilty of OWI and dismissed a blood alcohol count charge without finding guilt, the defendant's appeal of the OWI conviction did not give the circuit court jurisdiction to hear the BAC charge absent an appeal of the dismissal. Town of Menasha v. Bastian, 178 Wis. 2d 191, 503 N.W.2d 382 (Ct. App. 1993).

There is no statutory or constitutional requirement that a circuit court must hold a hearing or request briefs when conducting a transcript review under sub. (5). This section, when considered as a whole, affords municipal court appellants a meaningful right to be heard. City of Middleton v. Hennen, 206 Wis. 2d 347, 557 N.W.2d 818 (Ct. App. 1996), 95–3054.

Appealing Municipal Court Judgments to Circuit Court. Anderegg. Wis. Law. Mar. 2006.

HELPFUL INTERNET LINKS

Consolidated Court Automation Programs (CCAP) Access to Public Records

<https://wcca.wicourts.gov/>

Municipal Court Directory

<https://www.wicourts.gov/contact/docs/muni.pdf>

Municipal Court Clerk Manual

<https://www.wicourts.gov/publications/guides/docs/municlerkmanual.pdf>

Municipal Judge Benchbook

<https://www.wicourts.gov/publications/guides/docs/munibenchbook.pdf>

Municode Library

<https://www.municode.com/library/wi>

OWI Assessment Facilities

<https://www.dhs.wisconsin.gov/idp/directory.htm>

VINELink – Victim Notification Network (Jail Search)

www.vinelink.com

Web Access Management System (WAMS)

<https://on.wisconsin.gov/WAMS/home>

Wisconsin Bankruptcy Courts

<http://www.uscourts.gov/bankruptcycourts.html>

Wisconsin Court System

<http://www.wicourts.gov>

Wisconsin Law Library

<https://wilawlibrary.gov>

Wisconsin Public Abstract Request System (PARS)

<http://wisconsin.gov/Pages/dmv/license-drvs/rcd-crsh-rpt/pars.aspx>

Wisconsin Department of Revenue/State Debt Collection Initiative (SDC)

<https://www.revenue.wi.gov/Pages/HTML/debtcoll.aspx>

Wisconsin Department of Revenue/Tax Refund Intercept Program (TRIP)

<https://www.revenue.wi.gov/Pages/ISE/trip-home.aspx>

Wisconsin Municipal Court Clerks' Association Webpage

<https://wmcca.wildapricot.org/>

Wisconsin State Statutes

<https://docs.legis.wisconsin.gov/statutes/prefaces/toc>

Wisconsin Department of Transportation/General Information

<http://www.dot.wisconsin.gov/drivers/index.htm>

Wisconsin Department of Transportation/Reinstatement Eligibility

<http://www.dot.wisconsin.gov/drivers/drivers/revoke/reinstat.htm>

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Receive

- Download ticket
- Enter ticket

Verify

- Accuracy
- Jurisdiction
- Necessary supporting paperwork

File

- File alphabetically by court date
- File juveniles alphabetically by court date, but separately from adults

- Court Date



Pay before court date

- Enter no contest plea
- Enter guilty finding
- File as a completed case.



Appear and plea no contest or guilty

- Enter plea
- Enter finding
- If forfeiture is paid file appropriately
- If time to pay is given file appropriately.



Plead not guilty

- Schedule for pre-trial
- send notice to all parties



Does not appear

- Enter no contest plea
- Enter guilty by default finding
- Mail default notice
- File appropriately
- Issue summons for new court date

Send

- Send convictions to DOT within 5 days of judgment
- Send OWI paperwork to assessment facility
- Send any other paperwork to the correct agency

Duties of the Municipal Court Clerk

Throughout the Day:

- Address inquiries from the public, defendants, attorneys and government agencies concerning court procedures, court dates, dispositions, court orders, monies owed, driver license and vehicle registration questions.
- Process mail
- Collect, receipt, record, balance and deposit payments
 - Cancel writ of commitment or warrant
 - Release driver license suspensions for failure to pay
 - Adjust balance on TRIP/SDC, collection agency
 - Request restitution payment if applicable
- Check with police departments for lock ups, bond postings and signed personal recognizance bonds (if used)
- Maintain an active warrant/writ of commitment list and coordinate with police department
- Process bankruptcy notices
- Process judicial assignments and transfer cases
- Process requests by defendants and verify they are timely
 - Adjournments
 - Jury demands
 - Refusal hearing
 - Judicial reviews
 - Request for substitution of Judge
 - Appeals
 - Respond to open record requests
- Receive citations via paper and/or electronic means
 - Verify jurisdiction and accuracy
 - Verify all supporting documents are attached

Prepare for and Perform Court Duties:

- Set up courtroom
 - Statue books, bail schedule, bench books, municipal code books for Judge use
 - Court handout and sign in sheet (if used) for defendants
 - Have recording device ready for any sworn testimony
- Record pleas, amendments and dispositions
- Give defendant written disposition of order
- Ensure defendants sign any necessary paperwork
- Provide necessary paperwork or forms to defendant
- Provide defendant with future follow-up court dates if needed
- Swear in witnesses
- Record and mark exhibits
- Give Notice of Appeal to losing party and conclusion of a trial or motion hearing

After Court:

- Process cases
 - Forward necessary notices or paperwork to Defendant and interested parties
- Submit dispositions to DOT within five days
- Send notices for future court dates
- Verify ALL cases have been processed
- Provide police department with disposition information

Monthly and Annually:

- Prepare and submit monthly financial report
- Maintain and submit annual case load statistics
- Meet Judicial Education conference and course requirements

When Time Allows:

- Commence and follow-up with judgment enforcement
- Process dispositions received outside of court
- Keep up to date with new laws and procedures affecting municipal court
- Prepare and maintain court calendar
- Maintain court information software
- Gather information and make notes for budget preparation
- Maintain court operations within approved court budget
- Perform notarial acts if commissioned
- Order office/court supplies

OFFICE OF JUDICIAL EDUCATION

2020



[Link to Bill](#)

ACT 70 [THE TRAILER BILL]

Signed into law by
Governor Evers - 01/21/2020



INTRODUCTION

On January 21, 2020, Governor Evers signed into law 2019 Wisconsin Act 70. This Act contains 44 sections designed to provide more clarity and efficiency to the statutes governing municipal courts. A complete analysis of all 44 sections is beyond the scope of this synopsis. And there will be a comprehensive presentation on the new law at each of our 2020 conference trainings. But for now, this brief look at the new law highlights the Act's most significant features and will hopefully provide you with the necessary foundation to assist you in implementing these changes.

EFFECTIVE DATE

The act became operational on **January 23, 2020**



CHANGES IN OWI CASES

The transfer of an OWI case to circuit court for a jury trial.

The attachment of companion citations to the OWI case.

The "second" first-offense problem.

¹ This legislative provision has proven prescient, as the Wisconsin Supreme Court very recently opined that a "second" first-offense conviction in municipal court is not to be automatically voided because the municipal court lacked subject-matter jurisdiction. Rather, our high court said that the issue in these cases are a matter of competency and not jurisdiction. See *City of Cedarburg v. Hansen*, decided on February 11, 2020. The new law goes farther in stating that all courts are barred from considering the municipal conviction of the "second" first void, unless the defendant had disclosed the prior first offense conviction to the municipal court and the prosecuting attorney, prior to the entry of judgment.

OLD LAW

A defendant could have an OWI trial in front of the municipal judge. Then, the defendant would still have the option of having the case transferred to circuit court for a jury trial.

If one traffic stop resulted in an OWI citation, as well as a speeding or other lesser charge, the cases would be divided if the OWI case was transferred to circuit court. In other words, the OWI would move on to the circuit court while the speeding case would remain in municipal court.

If a defendant was incorrectly convicted of a "second" first-offense OWI, because the court was unaware of the existence of the actual first offense, the defendant could at a later date, when trying to reduce the number of prior convictions, have the "second" first-offense conviction voided on jurisdictional grounds.

NEW LAW

The only way a defendant is entitled to a jury trial in circuit court is to elect a direct transfer of the case from municipal court. [800.14(4)(intro) and (b)]

NOTE: The municipality is free to request a circuit court jury trial, even after a municipal court trial.

The companion cases to the OWI citations remain with the OWI citation, wherever it might go. So if the OWI is transferred to circuit court, the speeding case automatically goes with it. [800.035(5)(c)]

The defendant can no longer have his cake and eat it. In a "second" first-offense circumstance, all courts are barred later from considering the municipal conviction void. [800.09(4)]¹

NOTE: The only exception to this would be if the defendant disclosed the existence of the other conviction, suspension, or revocation, specifically and in writing to the municipal court and to the prosecuting attorney prior to the entry of judgment.



CHANGES IN OWI CASES *continued*

The I.I.D. issue for vehicles that are not capable of having the device.

Mandatory appearances:

OLD LAW

A defendant had to specifically request an exemption for applying an I.I.D. on a motorcycle, even though such a device cannot be placed on a motorcycle.

It was unclear as to whether a judge or the municipality determined whether an appearance is mandatory.

NEW LAW

The vehicle I.I.D. restriction does not apply to any vehicle, such as a motorcycle, for which DOT has not approved as capable of having an I.I.D. installed. So, there is no need to specifically request an exemption. The exemption is automatic. [343.301(1m)(b)]

In an OWI or an Absolute Sobriety case, either the judge or a municipality may require appearance. For any other type of offense, a judge may require an appearance. [800.035(5)(a)]

THE APPEAL PROCESS

Making the record.

Processing the appeal.

OLD LAW

Recording required when testimony is taken under oath or affirmation.

Required the appellant to give notice within 20 days and, while it mentioned fees, it offered little guidance about timing or procedural steps for an appeal. Overall, the old law provided little guidance as to the mechanics of an appeal from municipal court to circuit court.

NEW LAW

Additionally, poverty hearings and motion to reopen hearings must also be recorded. [800.13(1)]

The new law provides a specific appellate procedure for cases where there was no trial in municipal court, and cases where there was a trial.

PROCEDURE FOR CASES WHERE THERE WAS NO MUNICIPAL COURT TRIAL. (CASES SUCH AS A DENIAL OF A MOTION TO REOPEN, OR A POVERTY DETERMINATION)

Within 20 days of the judgment or decision, the appellant must give written notice of the appeal to the municipal court, serve the parties of the notice, and pay the required fees. These appellate fees are collected by the municipal court and then transferred to the circuit court. Once these steps are completed, the written notice of the appeal, its service, and the payment of fees, the appeal is "perfected," meaning the case is ready to be transferred to circuit court. After the perfection of the appeal, the municipal court should transfer the case to circuit court within 30 days of perfection. As the appeal shall be based on a review of the proceedings in municipal court, the municipal court shall transfer to the circuit court a copy of the entire record, including any electronic recording. [800.14(1) and (5)] *continued next page*



THE APPEAL PROCESS

continued

Processing the appeal - *continued*

What the municipal court must send to circuit court in the event of an appeal.

OLD LAW

[copied from previous page]

Required the appellant to give notice within 20 days and, while it mentioned fees, it offered little guidance about timing or procedural steps for an appeal. Overall, the old law provided little guidance as to the mechanics of an appeal from municipal court to circuit court.

The municipal court was required to send the entire court record, was responsible for the preparation of transcripts, and to attempt to recoup the transcript costs.

NEW LAW

PROCEDURE FOR CASES WHERE THERE WAS A TRIAL IN MUNICIPAL COURT.

Within 20 days of the judgment or decision, the appellant must file and serve on other party the written notice of appeal and pay the required fees. But after the filing of the notice, even if it is before the payment of the fees, a new 20-day clock begins. During this 20-day period, either party can request a new trial in circuit court, either by jury (if entitled to one) or to the court. After 20 days have passed since the filing of the notice of appeal, and the parties have been served and the fees have been paid, the appeal from a trial in the municipal court has been "perfected." Then, after perfection, the case shall be transmitted from municipal court to circuit court within 30 days. [800.14(1) and (4)]

* A defendant claiming an inability to pay appeal or jury fees must obtain a waiver from circuit court and file an order with the municipal court, in lieu of the fees.

When the case is transmitted and neither party requests a new trial, the appeal shall be based on a review of the proceedings in the municipal court and the municipal court shall transfer a copy of the entire record, including any electronic recording. [800.14(5)]

When the case is transmitted, if either party requests a new trial, the municipal court shall transmit to the circuit court as much of the record as deemed appropriate by the municipal court, but the transmission should include, at a minimum, a copy of the citation or complaint and the judgment. Beyond that, the municipal court has discretion to send as much of the record it deems appropriate and may supplement the transmission upon request by either party. But, the municipal court is not responsible for the transcript preparation. [800.14(5)]



THE APPEAL PROCESS *continued*

Bond requirements and staying the municipal court judgment.

OLD LAW

Required the appellant to execute a bond.

NEW LAW

No bond requirement is permitted or required. Instead, upon perfection of the appeal, the execution and enforcement of the municipal court judgment are stayed except: The municipal judge can remove the stay prior to the case's transmittal to circuit court, the circuit court may remove the stay after transmittal, and any order lifting a stay must be reviewed by the circuit court, upon motion and good cause shown. [800.14(3)]

RUNNING THE COURTROOM

Armed guard in the courtroom.

OLD LAW

Required the municipality to provide a courtroom designed to promote dignity and decorum.

NEW LAW

Adds safety to dignity and decorum. Requires a municipality to provide an armed guard or officer, if requested by the judge. [755.17(2)]

Staff clothing.

The municipal court clerk should not wear anything implying that he or she is a law enforcement officer.

Expands the rule preventing a clerk from, while performing municipal court functions, wearing anything that implies or indicates that he or she is either a law enforcement officer or an employee of a law enforcement agency. [755.17(1m)]

Allowance for video appearance or phoning in of testimony.

Allowed this for a party, witness, or interpreter upon finding of good cause. Cross-referenced the circuit court statute.

It is still allowed, but the criteria are now specifically described in the statute and they are tailored to a municipal court. The list can be found in the newly created statute. [800.085 (2)]



RUNNING THE COURTROOM

continued

The calculation of time.

Changing an address.

OLD LAW

No specific provision for the calculation of time periods in municipal court.

There was no requirement for a defendant to keep the court updated on their address.

NEW LAW

Municipal courts are to be governed by the same rules calculating time as are the circuit courts. Specifically they are as follows:

1. If notice that triggers the deadline is served by mail, add three days from date of mailing.
2. If notice that triggers the deadline is served by fax or electronically between 5PM and midnight, add one day.
3. If the time period is 10 days or less, do not count weekends and holidays.
4. First day of time period is not counted.
5. Last day of time period is counted, unless clerk of court is closed that day.
 - So, don't count weekends or holidays when considering the timeliness of a refusal hearing request. [800.005]

A defendant must notify the court in writing, within 5 days of a change of address during the pendency of the case. The court must notify the defendant of this requirement orally or in writing if the defendant makes an initial appearance. [800.035(2)(a)5.]

JUDGMENT

Restitution.

Jail costs.

OLD LAW

Available in non-traffic and OWI cases involving damage to property or physical injury.

There was no prohibition against a sheriff charging for commitments, even if the defendant was otherwise in custody.

NEW LAW

Clarifies that restitution is also available in non-traffic and OWI cases involving theft or death. [800.093(1)(b)]

A sheriff cannot charge for any jail period in which the person was also detained or confined for reasons other than the municipal court commitment. [303.18(2)]

OFFICE OF JUDICIAL EDUCATION

2020



JUDGMENT *continued*

License suspensions and jail.

OLD LAW

Did not permit the use of license suspensions for unpaid restitution or in cases of mailed service.

NEW LAW

Still cannot suspend solely based on unpaid restitution. Allows for suspensions and jail on mailed service cases if the defendant subsequently appeared by some means in the case, such as personal appearance or filing a motion, **OR**, the defendant was subsequently served with a copy of the judgment and notice of the right to a poverty hearing or a hearing on a failure to comply with the judgment. Prohibits the use of suspensions or jail within 60 days of the judgment, unless the court finds good cause and orders otherwise. In effect, a 60-day grace period is presumed. [800.095(3)]

MOTIONS TO REOPEN

Hearing requirement.

OLD LAW

Motions to reopen required a hearing in all cases and there was no standard for imposing costs.

NEW LAW

Upon receipt of a motion to reopen a municipal court may,

1. Enter an order denying the motion for failure to state sufficient grounds upon which relief may be granted.
2. Enter an order based on written submissions from the parties.
3. Schedule a motion hearing. This hearing may be recorded.

A municipal court may not impose costs as a condition of filing the motion, but the court may impose costs as part of the decision on the motion to reopen, whether granting, or a condition of granting, or denying the motion. The costs may never exceed \$300 and in setting costs the court should consider the expenses associated with the motion and the moving party's ability to pay. [800.13(1); 800.115(4) and (5)]

Costs in Municipal Court

Surcharge/Cost	Authorizing Statute	Amount	Exceptions	Distribution
Municipal Court Costs	814.65(1)	\$15-\$38 on each separate matter	Seatbelt Violations 347.48(2m)	Pay \$5 to State Treasurer Municipality Retains the Balance
Penalty Surcharge	757.05	26% of base forfeiture	Nonmoving Traffic Violations 101.123(2)(a), (am)1. or (bm) or (5) smoking violations	Pay to State Treasurer
			Seatbelt Violations 347.48(2m)	
Jail Surcharge	302.46(1) 66.0114(3)(b)	\$10 for each offense or 1% of any forfeiture over \$1000	Nonmoving Traffic Violations 101.123(2)(a), (am)1. or (bm) or (5) smoking violations	Pay to County Treasurer
			Seatbelt Violations 347.48(2m)	
Crime Laboratories & Drug Law Enforcement Surcharge	165.755 66.0114(3)(b)	\$13 for each offense	Nonmoving traffic violations 101.123(2)(a), (am)1. or (bm) or (5) smoking violations	Pay to State Treasurer
			Seatbelt Violations 347.48(2m)	
OWI/PAC Driver Improvement Surcharge	346.655(1)	\$435	none	Pay 49.7% to State Treasurer Pay 50.3 to County Treasurer
Safe Ride Program Surcharge	346.657	\$50	none	Pay to State Treasurer
Witness Fee (Police are excluded)	888.05-.07 814.67	\$5		Pay to Witness

Surcharge/Cost	Authorizing Statute	Amount	Exceptions	Distribution
Witness Travel Expense	814.67	.20 per mile each way	police officers	Pay to Witness
Jury Fee (6 person jury only)	814.61(4)	\$6 per juror		Pay to Clerk of Circuit Court
Interpreter Fee	814.67	Minimum is \$10 per half day		Pay to Interpreter
Domestic Abuse Surcharge	973.055(1)	\$100 if applicable		Pay to State Treasurer per 66.0114(bm)
IID Surcharge	343.301(5)	\$50 if applicable		Pay to County Treasurer
Municipality Cost for OWI trial in circuit court	814.63(2)	\$5		Pay to Clerk of Circuit Court
Transcript (per page if not appeal on the record)	SCR 71.04 814.69	recommended \$1.75 per page, .60 per duplicate		Pay to party providing transcripton service
APPEALS	814.65(5)			Contact Clerk of Circuit Court for payment procedure
On the Record	814.61(8) 814.85(1) 814.86(1)	\$ 40.00 \$ 68.00 \$ 21.50 total \$129.50		
Transcript	800.14(5)	estimated cost at time of appeal & actual cost when actual cost is known		
New Trial	814.61(8)(am) 814.85(1) 814.86(1)	\$ 55.00 \$ 68.00 \$ 21.50 total \$144.50		

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____, NOTICE OF COURT DATE

Plaintiff,

vs.

Citation Number: _____

Violation: _____

Attorney: _____

Defendant.

_____ Municipal Court has scheduled and ordered the following in this case:

☐ Initial Appearance Date: _____

☐ Pre-Trial Conference Time: _____

☐ Hearing Address: _____

☐ Trial _____

IF YOU DO NOT APPEAR, judgment may be entered against you with penalties and costs imposed. You are hereby notified that your failure to make payment or request a poverty hearing before the due date may result in: suspension of your driving privileges for up to one year; have the outstanding amount certified to the Department of Revenue's collection program, have the matter referred to a collection agency or be incarcerated in the county jail for a period of up to 90 days.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

DEFINITION OF COURT PROCEEDINGS

Remember that you are in a Court of law. While you are waiting for your case to be heard, please remain quiet while Court is in session and give others the courtesy to be heard while they present their case. Please turn off cell phones and pagers and remove hats.

Initial Appearance: You will be called in the order that you checked in with the Court officer. When your case is called, please step forward. The Court will advise you of the charge, maximum penalties and whether or not points may be assessed against your driving record. You will then be asked to enter a plea (see definition of pleas).

Upon a plea of either **No Contest** or **Guilty**, you will be given an opportunity to inform the Court of any extenuating circumstances regarding the charge(s). The Court will review the record and impose a penalty in accordance with the law. You will be expected to pay any forfeiture today unless you request additional time to pay.

Upon a plea of **Not Guilty**, the Court will then set your case for a pretrial with the City Prosecutor. The pretrial may take place today, depending upon the number of scheduled pretrials, or may be set for a future date.

Pretrial: At the pretrial conference, you will discuss the charges with the City Prosecutor and attempt to reach an agreement. If an acceptable agreement is reached, it will be presented to the Judge for final approval. If the case is not resolved, a trial to the Court will be scheduled.

Trial: At a Court trial, you, as well as the prosecution, will present your case before the Judge. You will need to prepare all of your evidence prior to this proceeding and bring any witnesses that would help your defense. The prosecution will produce its witnesses to testify as to the facts and circumstances surrounding your case. You, or your attorney, will have an opportunity to cross-examine each witness. When the prosecution has completed its case you and your witnesses will be given the opportunity to testify and will be subjected to cross-examination by the prosecution. After all the evidence has been presented, the prosecution and the defense will be given an opportunity to summarize their respective cases to the Court through a brief statement. Thereafter, the Court will determine your innocence or guilt. If the Court finds you not guilty, the case will be dismissed. If you are found guilty, the Court will impose a penalty.

DEFINITION OF PLEAS

Guilty: This is an admission of the charge(s) against you. You will be able to explain any circumstances that you wish the Court to consider when imposing the sentence.

No Contest: This is similar to a plea of guilty and will be treated as a guilty plea. However, your plea cannot be used against you in any other Court proceeding to prove your civil liability if personal injury or property damage is involved.

Not Guilty: This plea means that you wish to contest or deny the charge(s).

OPERATING WHILE INTOXICATED CASES

Only if you have been charged with Operating While Under the Influence, may you request a jury trial in Waukesha Circuit Court. You must, however, give the court notice of this request within ten (10) days of your initial appearance and post the required bond and jury fees.

JUVENILE CASES

Juvenile **non-traffic** offenses will be called by number and heard in closed chambers. Juveniles must be accompanied by a parent. Juveniles have the same rights as adults in entering a plea. Juveniles are also required to pay any forfeiture imposed. If a juvenile fails to pay the forfeiture, his/her driver's license, or ability to obtain a driver's license, may be suspended for up to one (1) year.

PENALTIES FOR NON-PAYMENT OF FORFEITURES

If you need, you may ask the Court for up to sixty (60) days to pay. Failure to pay in full or contact the Court office by your due date may result in the Court taking one or more of the following actions:

- Suspension of your driving privileges for up to one (1) year
- Turn your debt over to a collection agency where you may be responsible for any additional costs incurred.
- Enter your debt into the Tax Refund Intercept Program.
- Issue a Writ of Commitment for your incarceration in the county jail.

DEFINICION DE LOS PROCEDIMIENTOS DE LOS TRIBUNALES (CORTE)

Recuerde que usted está en los Tribunales (Corte) de Justicia. Mientras espera su turno para que su caso sea escuchado, por favor manténgase en silencio mientras los Tribunales (Corte) están en sesión y tenga la cortesía de esperar a que los casos de las otras personas sean escuchados por la Corte. Por favor, apague los teléfonos celulares, biperes y sáquese el gorro o sombrero.

Comparecencia Inicial: A usted lo van a llamar en el orden en que se presentó en el momento que se identificó con el Oficial de La Corte. Cuando llamen su caso, por favor pase a la parte de adelante de la sala. La Corte lo informará de su cargos, máximas penalidades y si le van, o no a asignar puntos en contra de su récord de conducir. Se le pedirá que haga una declaración (Léa la definición acerca de los diferentes tipos de declaración.)

Una vez que usted ha declarado **No Me Opongo (No Protesto) o Culpable**, a usted se le dará la oportunidad de informar a La Corte acerca de cualquier circunstancia extenuante respecto a los cargos. La Corte revisará el récord y le impondrá una penalidad de acuerdo con la ley. Usted debe pagar cualquier multa que le hayan impuesto en el día de hoy, al menos que usted pida tiempo adicional para pagar.

Una vez que usted se ha declarado **No Culpable**, La Corte entonces citará su caso para una audiencia previa al juicio con el abogado acusador de la ciudad. La audiencia previa al juicio correspondiente a su caso podría llevarse a cabo hoy, o podría ser citada para una fecha en el futuro dependiendo del número de audiencias previas al juicio, fijadas para otras personas.

Audiencia Previa al Juicio: En la conferencia de la Audiencia Previa al Juicio, usted discutirá los cargos con el Abogado Acusador de la Ciudad, para tratar de llegar a un acuerdo. Si llegan a un acuerdo aceptable, este acuerdo será presentado al Juez para que él dé su aprobación final. Si el caso no se resuelve, se le citará a un juicio con La Corte.

Juicio: En el Juicio con La Corte, usted, así como la parte acusadora, presentarán su caso frente al Juez. Usted deberá preparar toda su evidencia antes de la fecha de la cita de este procedimiento y tendrá que traer todos los testigos que podrían ayudarlo en su defensa. La parte acusadora presentará sus propios testigos para testificar acerca de los hechos y circunstancias que rodean su caso. Usted o su abogado, tendrá una oportunidad de contrainterrogar cada uno de los testigos. Cuando la parte acusadora ha completado su caso, usted y sus testigos tendrán la oportunidad de testificar y serán sujetos a contrainterrogación por la parte acusadora. Después de que toda la evidencia ha sido presentada, por la parte acusadora y por parte de la defensa, se le dará la oportunidad de resumir sus casos respectivos a La Corte, a través de una declaración breve. Después, La Corte determinará su inocencia o culpabilidad. Si La Corte lo encuentra No Culpable, el caso será sobreseído. Si a usted lo encuentran culpable, La Corte le impondrá una penalidad.

DEFINICION DE LAS DECLARACIONES

Culpable: Ésta es una admisión de culpabilidad de los cargos en contra suya. Usted podrá explicar cualquiera de las circunstancias que usted desee para que La Corte las tome en consideración cuando le imponga la sentencia.

No Me Opongo: Ésta es similar a la declaración de culpable y será tratada como una declaración de culpable. Sin embargo, su declaración no puede ser usada en su contra en cualquier otro procedimiento de La Corte para probar su responsabilidad civil, si daños personales o daños a una propiedad (privada o pública) están involucrados.

No Culpable: Ésta declaración significa que usted desea protestar o negar los cargos.

CASOS DE CONDUCIR BAJO LOS EFECTOS DE ALCOHOL O DROGAS

Sólo si a usted le han aplicado cargos por Operar un Vehículo Bajo la Influencia del Alcohol o Drogas, usted puede pedir un juicio con jurado en La Corte del Circuito de Waukesha. Sin embargo, usted deberá dar a La Corte un aviso de su petición dentro de los diez (10) días desde la fecha de su comparecencia inicial y proveer la fianza requerida y los costos del jurado.

CASOS JUVENILES

Los casos de ofensas juveniles que **no estén relacionadas con ofensas de tráfico**, serán llamados por el número del caso correspondiente y serán escuchados en la sala cerrada. Los jóvenes deberán ser acompañados por uno de los padres. Los jóvenes tienen los mismos derechos que los adultos al presentar una declaración. Los jóvenes también deberán pagar cualquier multa que se les imponga. Si el joven no paga la multa, su licencia de conducir o la habilidad de obtener una licencia de conducir podría ser suspendida por hasta dos (2) años.

PENALIDADES POR NO PAGAR LAS MULTAS

Si usted necesita, usted puede pedirle a La Corte hasta sesenta (60) días para pagar. Si no paga el total o contacta a la oficina de La corte al momento del vencimiento de su fecha de pago, ésto podría resultar en que La Corte tome una o más de una de las siguientes acciones:

- Suspensión de sus privilegios de conducir un vehículo por hasta dos (2) años.
- Enviar la deuda a una agencia cobradora, por lo cuál usted podría ser responsable de pagar cualquier costo adicional.
- Incluir su deuda dentro del Programa de Intercepción de Reembolso de Impuestos.
- Emitir un Auto de Encarcelación para su encarcelación en el cárcel del condado.

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

Plaintiff,

NOTICE OF DEFAULT JUDGMENT

vs.

Citation Number: _____

Violation: _____

Defendant.

PLEASE TAKE NOTICE that judgment was entered against you in the above-captioned matter. You failed to appear at your court date. Therefore, the court has deemed your non-appearance a plea of no contest to the charge.

COURT DATE: _____

FORFEITURE AMOUNT: _____

FINAL DUE DATE: _____

You are hereby notified that your failure to make payment or request a poverty hearing before the due date may result in: suspension of your driving privileges for up to one year; have the outstanding amount certified to the Department of Revenue's collection program, have the matter referred to a collection agency or be incarcerated in the county jail for a period of up to 90 days.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____, JUDGMENT

Plaintiff,

Citation Number: _____

vs.

Violation: _____

Attorney: _____

Defendant.

PLEA

Defendant pleads: _____ Guilty _____ No Contest _____ Not Guilty

FINDING

_____ The violation will remain the same as noted above

_____ The violation will be amended to ordinance _____, which adopts Wisconsin State Statute § _____. The description for this violation is _____

_____ The speed is amended to _____ miles per hour above the limit

_____ The charge against you is dismissed

PENALTY

Forfeiture: _____ Due Date: _____

_____ Ignition Interlock Device

_____ Driver license suspension/revocation of _____

_____ Alcohol Assessment/Education performed by appointed facility

Signed this _____ day of _____, 20_____

Municipal Judge:

Defendant:

You are hereby notified that your failure to make payment or request a poverty hearing before the due date may result in: suspension of your driving privileges for up to one year; have the outstanding amount certified to the Department of Revenue's collection program, have the matter referred to a collection agency or be incarcerated in the county jail for a period of up to 90 days.

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____,
Plaintiff,
vs.
_____,
Defendant.
Citation Number: _____
Violation: _____
Attorney: _____

_____ The violation remains the same as noted above

_____ The violation is amended to ordinance _____, which adopts Wisconsin State Statute § _____. The description for this violation is:

_____ Return for a _____ hearing on _____ at _____: _____ a.m./p.m.

PENALTY

Forfeiture: _____ Due Date: _____

_____ Hours of community service performed at a non-profit agency

_____ Driver license suspension of _____

_____ Other: _____

BY THE COURT:

_____, Municipal Judge

_____ I am the defendant. These conditions have been explained to me and I understand that if I do not obey the order of this court I will be subject to further sanctions or be found in contempt of court, and that the municipal court may impose any of the following sanctions pursuant to §938.355(6m): suspension of my driver license for no more than one year; counseling; participation in no more than 25 hours of community service; homebound detention of not more than 30 days; or contempt of court charges.

_____ I also understand that if I refuse to obey the sanctions of the court, the court may petition the _____ County Circuit Court to order placement in a secure or non-secure detention facility for no more than ten days, pursuant to §938.355(6m).

Dated: _____

Defendant

Defendant's Parent or Guardian

Juvenile Defendant Rights

To All Juvenile Defendants:

You have a right to the following information before you enter your plea to the charge:

- ☐ The charges and facts supporting the charge
- ☐ The nature and possible consequences of the proceedings
- ☐ The right to confront and cross-examine (question) any witnesses against you brought to the proceedings
- ☐ The right to compel the attendance, by subpoena, of any witness and ask questions of them. This is done for your trial
- ☐ The right to have the charges against you proven by clear, satisfactory and convincing evidence

If you would like more information about your rights, please contact the court

_____Municipal Court

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____, **COMMUNITY SERVICE ORDER**

Plaintiff,

Citation Number: _____

vs.

Violation: _____

Attorney: _____

Defendant.

I agree to participate in community service ordered pursuant to Wisconsin State Statute §800.095. I agree to indemnify and hold the municipality harmless from any liability I may incur and any injuries or damages I may suffer while performing my community service

I understand it is my responsibility to arrange for community service immediately. The community service must meet all of the below requirements to be acceptable to the court:

- ☐ The service must be performed for a non-profit agency or organization
- ☐ The service must not involve any service or work that defendant normally performs
- ☐ No monetary compensation or other consideration may be received by the defendant for the work performed

I understand that to ensure proper credit for the work I perform I must inform I must complete the attached community service form and return it to the court by the due date. I also understand that if the service hours are not completed to the satisfaction of the court or by the completion date ordered I will be found in non-compliance and any amendment or consideration will be withdrawn and a forfeiture will be imposed in the amount of \$ _____

I also understand that my failure to complete service, make payment or request a poverty hearing within the allotted time may result in the suspension of your driving privileges for up to one year, having the outstanding amount certified to the Department of Revenue's collection program, having the matter referred to a collection agency or be incarcerated in the County Jail for a period of up to 90 days.

Dated this _____ day of _____, 20_____.

BY THE COURT:

I have read and understand the conditions and possible sanctions described above.

Honorable

Defendant

Municipal Court Judge

Parent/Guardian

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

COMMUNITY SERVICE REPORT

Plaintiff,

Citation Number: _____

vs.

Violation: _____

Defendant.

Attorney: _____

_____ has been ordered to perform hours of community service. The entire number of hours must be completed on or before. This form must be completed by your community service supervisor and returned to this court by the above-mentioned date. If this form is not completed and returned, your privilege of performing community service will be revoked and the total amount of the forfeiture will be due immediately. There are no exceptions; it is **your** responsibility to be sure this form is returned by the due date.

Community Service was performed at: _____

Supervisor's Name: _____

Total Number of Hours Completed: _____

Date Signed: _____

Community Service Supervisor

Supervisor's Telephone Number

You may consider churches, schools, nursing homes, homeless shelters, food pantries, etc. as long as they are a **non-profit organization**.

You are also hereby notified that your failure to complete community service, make payment or request a poverty hearing within the allotted time may result in the suspension of your driving privileges for up to one year, having the outstanding amount certified to the Department of Revenue's collection program, having the matter referred to a collection agency or be incarcerated in the County Jail for a period of up to 90 days.

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

NOTICE OF PRE-TRIAL CONFERENCE

Plaintiff,

Citation Number: _____

vs.

Violation: _____

Attorney: _____

Defendant.

A plea of "Not Guilty" has been entered on behalf of the above-named defendant. You are hereby given notice that the above entitled action is scheduled for a pre-trial conference with the prosecuting attorney. **This is a mandatory appearance.** If you or your attorney do not appear, you may be deemed to have entered a plea of no contest, and a guilty by default judgment may be entered against you, or a warrant may be issued for your immediate arrest.

() -

, 20__ at __:__ a.m./p.m.

YOU MUST BE PROMPT FOR YOUR APPOINTMENT.

At the pre-trial conference you will be given an opportunity to discuss your case with the prosecuting attorney. If you have any questions regarding this notice you may contact the prosecuting attorney or the court clerk.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____, NOTICE OF TRIAL

Plaintiff,

Citation Number: _____

vs.

Violation: _____

Attorney: _____

Defendant.

This case is scheduled for TRIAL

DATE: _____

TIME: _____

COURT OFFICIAL: _____, Municipal Judge

LOCATION: _____ Municipal Court

_____, Wisconsin _____

ISSUING OFFICER: _____

Pursuant to your plea of **Not Guilty**, a trial has been scheduled for the above date and time.

This is a **mandatory** court appearance. If you or your attorney choose not to appear in person, you may be deemed to have entered a plea of "No Contest", a default judgment may be entered against you and a monetary fine will be assessed. It may also be declared by this court that a warrant be issued for your immediate arrest.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

Plaintiff,

SUMMONS

vs.

Citation Number: _____

Defendant.

Violation: _____

THE STATE OF WISCONSIN TO SAID DEFENDANT:

A citation or complaint has been filed before me alleging you committed the act of _____, contrary to section _____ of the _____ Municipal Code.

YOU ARE THEREFORE ORDERED TO APPEAR at _____
Municipal Court, located at _____,
Wisconsin at _____:_____ a.m./p.m.

In case of your failure to appear, a default judgment may be rendered against you according to the demand of the citation or complaint, or a warrant may be issued for your arrest.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

This summons was left with _____ at the defendant's usual place of abode.

This summons was personally served on the defendant by _____

This summons was mailed to the defendant on _____

Signature

Date/Time Served

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

Plaintiff,

NOTICE TO PARENT

vs.

Citation Number: _____

Violation: _____

Defendant.

Your child was scheduled to appear before this court on _____ but failed to do so. The court has the authority to issue a warrant to arrest and forcibly compel your child's appearance. To avoid this action, **BRING YOUR CHILD TO COURT** as stated below.

COURT DATE: _____

COURT TIME: _____

FORFEITURE AMOUNT: _____

Under the law, a bond may be posted on or before the court date in the amount shown above. If such bond is posted and no physical appearance is made, a plea of no contest will be entered on behalf of your child. The bond will be forfeited, your child will be found guilty as charged and no further action will be necessary.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

STATE OF WISCONSIN MUNICIPAL COURT COUNTY

_____ ,

Plaintiff,

WARRANT

vs.

Citation Number: _____

_____ ,

Violation: _____

Defendant.

THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER

A Wisconsin Uniform Municipal Ordinance Citation or Wisconsin Uniform Traffic Citation having been filed with me, a copy of which is attached, charging the defendant with violation section _____ of the _____ Municipal Code, and I having found that probable cause exists that the defendant violated said ordinance,

YOU ARE THEREFORE COMMANDED to arrest the defendant and bring them before me, or if I am not available, before some other judge in this county.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

JUVENILE WARRANT

Plaintiff,

vs.

Citation Number: _____

Violation: _____

Defendant.

THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER

A Wisconsin Uniform Municipal Ordinance Citation or Wisconsin Uniform Traffic Citation having been filed with me, a copy of which is attached, charging the defendant with violation section _____ of the _____ Municipal Code, and I having found that probable cause exists that the defendant violated said ordinance,

YOU ARE THEREFORE COMMANDED to arrest the defendant and bring him or her before me at _____: _____ a.m./p.m. on _____, 20_____.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

**STATE OF
WISCONSIN**

MUNICIPAL COURT

COUNTY

IN THE INTEREST OF:

CAPIAS

D.O.B.

THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER

- ☐ A summons to appear in this court was issued to the person named below and:
- ☐ The summons was served and this person failed to appear and obey the summons.
- ☐ The summons could not be served
- ☐ The person has failed to appear for a scheduled and known hearing.
- ☐ Other: _____

YOU ARE HEREBY ORDERED TO TAKE INTO CUSTODY AND BRING BEFORE THIS COURT THE FOLLOWING PERSON:

Name				Telephone		
Address						
Date of Birth	Sex	Race	Height	Weight	Hair Color	Eye Color
Special Directions/Instructions:						
Offense Date	Citation No		Ordinance/Stat No		Caption	

Dated at _____, Wisconsin, this ____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court

MOTION TO REOPEN

Defendant, _____, requests the reopening of the following cases:

Citation No: _____ Violation _____

The reason for this reopening request is: _____

I understand that:

1. I will have to prove the reason I am requesting the reopening.
2. The judge does not have to grant the reopening. If it is not reopened, I will still owe the forfeiture and costs due.

Date: _____ Name: _____
Telephone: _____ Address: _____

ORDER

The request to reopen is granted/denied.

- _____ Failure to appear due to mistake, surprise or excusable neglect.
_____ Newly discovered evidence, under Wis. Stat. §805.15(3).
_____ Fraud, misrepresentation or other misconduct of the opposing party.
_____ The judgment is void, satisfied, released or discharged.
_____ A judgment upon which this judgment is based is reversed or vacated.
_____ It is no longer equitable to apply the judgment
_____ Any other reasons justifying relief from the operation of the judgment.

Municipal Judge

Date: _____

FINAL PAY AGREEMENT

Defendant Name: _____

Defendant Address: _____

Citation Number: _____ Offense: _____ Amount Due: _____

FINAL due date: _____

Monthly installment payments of \$_____ must be paid by the _____ day of
every month beginning _____

You are hereby notified that your failure to make payment or request a poverty hearing before the due date may result in: suspension of your driving privileges for up to one year; have the outstanding amount certified to the Department of Revenue's collection program, have the matter referred to a collection agency or be incarcerated in the county jail for a period of up to 90 days.

Dated this _____ day of _____, 20_____

Municipal Judge:

Defendant:

Payments shall be made to:

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

AFFIDAVIT OF POVERTY

Plaintiff,

Citation Number: _____

vs.

Violation: _____

Defendant.

Attorney: _____

UNDER OATH, I STATE THAT because of poverty, I am unable to pay for the ignition interlock device in this action, proceeding or appeal, and request waiver of those fees. I am attaching a copy of my pleading in this matter.

Section 1 - Complete Section 1 if you receive aid from any of the programs listed. If you do not receive aid, complete Section 2.

I currently receive:

- ☐ Supplemental Security Income ☐ Food Stamps ☐ Medical Assistance
- ☐ Relief funded under public assistance ☐ Relief funded under §59.53(21), Wis.Stats.
- ☐ Benefits for veterans under §45.351(1) or 38 USC 501-562
- ☐ Legal representation from a civil legal services program or a voluntary attorney program based on indigency. Name of program: _____
- ☐ Other means tested public assistance: _____

My financial situation: ☐ has ☐ has not changed since I became eligible for this program.
If you checked the "has" box, and such changes would make you ineligible for the program(s) if you applied today, you must complete Section 2 of this form.

Section 2 - Complete this section only if you do not qualify under Section 1, or if the instructions for that section require you to complete it.

1. I ☐ am ☐ am not married.
2. I ☐ am ☐ am not employed. Name of Employer: _____
3. I earn \$_____ gross ☐ weekly ☐ every 2 weeks ☐ twice monthly ☐ monthly
My take-home pay is \$_____ per pay period.
4. I receive gross monthly income totaling the amount of \$_____ from:
☐ Pension ☐ Social Security ☐ Unemployment compensation
☐ Disability ☐ Student loans/grants ☐ Other: _____
5. I have the following cash assets:
☐ Savings accounts: \$_____ ☐ Cash: \$_____
☐ Checking accounts: \$_____ ☐ Money owed me: \$_____

6. I have the following other assets:

- ☐ Vehicle Yr/Make: _____ \$ _____
- ☐ Vehicle Yr/Make: _____ \$ _____
- ☐ Household furnishings: \$ _____ ☐ Equity in real estate: \$ _____
- ☐ Other individual assets valued over \$200 each:
- _____ \$ _____
- _____ \$ _____
- _____ \$ _____

7. My household consists of myself and _____ others:

Full Name:	Relationship	Under age 18-Yes or No
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Other members of my household have gross monthly income totaling \$ _____ from:

- ☐ Wages ☐ Social Security ☐ Relief funded under public assistance
- ☐ Pension ☐ Student Loans/grants ☐ Supplemental security income
- ☐ Disability ☐ Unemployment Comp. ☐ Support/Maintenance
- ☐ Relief funded under §59.53(21), Wis.Stats
- ☐ Food Stamps ☐ Other: _____

9. I have the following debts:

	Amount:	Monthly Payment:
a. Mortgage/Rent	\$ _____	\$ _____
b. Auto Loan	\$ _____	\$ _____
c. Credit Cards	\$ _____	\$ _____
d. Other: _____	\$ _____	\$ _____
e. Other: _____	\$ _____	\$ _____

10. I have the following unusual expenses, other than ordinary living expenses:

Subscribed and sworn to before me on _____

I understand if my financial situation changes I must notify the court immediately.

Notary Public/Court Official

Signature

Date

My Commission: _____

Address

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____, NOTICE OF INTENT TO REFER DEBT

Plaintiff,

Citation Number: _____

vs.

Violation: _____

Attorney: _____

Defendant.

Pursuant to Section 71.93(8), Wisconsin Statutes, you are hereby notified that the _____ Municipal Court may refer the following debt to the Wisconsin Department of Revenue:

Date Citation Issued: _____

Total Due: _____

If the debt is not paid in full within 30 days of the date of this letter, the amount may be referred to a DOR agent for collection action. A delinquent collection fee of 15% of the unpaid balance or \$35.00, whichever is greater, will be added to your account.

Collection action may include one or all of the following, some of which result in additional fees being added to your account:

- ✓Interception of your Wisconsin tax returns
- ✓Attachment of wages or other compensation being paid to you
- ✓Garnishment, seizure or levy against your property, including bank accounts and IRAs
- ✓Filing a delinquent tax warrant with the Clerk of Courts in the county in which you reside and/or own property. This warrant will act as judgment and lien on any real and personal property that you own and may affect your credit rating

If you have questions you may contact the municipal court clerk at (____) _____

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

STATE OF WISCONSIN	MUNICIPAL COURT	COUNTY
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="text-align: center; margin-bottom: 5px;">Plaintiff,</div> <div style="text-align: center; margin-bottom: 5px;">vs.</div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="text-align: center;">Defendant.</div> </div> <div style="width: 50%;"> <div style="margin-bottom: 5px;">NOTICE OF INTENT TO CERTIFY DEBT</div> <div style="margin-bottom: 5px;">Citation Number: </div> <div style="margin-bottom: 5px;">Violation: </div> <div style="margin-bottom: 5px;">Attorney: </div> </div> </div>		

Pursuant to Wisconsin Statute §71.935, you are hereby notified that _____ Municipal Court has certified the above-reference debt to the Wisconsin Department of Revenue. You are indebted to _____ Municipal Court for a fine in the amount of \$_____.

The purpose of this certification is to make a claim for the total amount due to the _____ Municipal Court against any monies owed to you by the Wisconsin Department of Revenue. This debt will remain certified to Wisconsin Department of Revenue until it is paid in full.

You have a right to appeal this action. An appeal request must be submitted in writing. Such appeal must state the specific grounds for objection and must be postmarked or received within ten business days after the mailing date of this notice. Appeals must be mailed or delivered to

_____, Wisconsin _____.

Dated: _____

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

WRIT OF COMMITMENT

Plaintiff,

-vs-

Citation Number: _____

Defendant.

THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER IN _____
COUNTY AND THE KEEPER OF THE _____ COUNTY JAIL:

Whereas, the plaintiff, on _____, 20____, recovered a judgment in the
_____ Municipal Court, against the above-named defendant for the sum of
\$_____ for violation of ordinance _____, which adopts §_____.

Whereas, the defendant is in default of payment thereof,

Whereas, a Good Cause/Indigency Hearing was held on _____.

A JUDICIAL DETERMINATION HAS BEEN MADE THAT:

- ☐ Defendant has the ability to pay the forfeiture and failed to do so;
- ☐ Defendant has the ability to do community service in lieu of payment of the forfeiture and failed to do so;
- ☐ Defendant failed to appear for a Good Cause/Indigency Hearing.

Therefore, you are commanded to convey and deliver said defendant to the custody of the keeper of
_____ County Jail, and said keeper is hereby commanded to receive said defendant into the
custody of said jail and keep defendant there safely until the expiration of _____ days, unless said judgment,
with all costs and fees are sooner paid or defendant is discharged by due course of law.

Dated at _____, Wisconsin on _____.

Current Total Due: \$ _____

BY THE COURT:

Municipal Court Judge

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

Plaintiff,

ASSIGNMENT OF WAGES

vs.

Defendant.

For the sum of \$ _____, I do hereby sell, assign and transfer over unto the

_____ Municipal Court

_____, Wisconsin _____

rights, claims and demands due me or to become due to me from _____
or it's successors, by whom I am employed, while said amount or any part thereof remains unpaid,
the same to be paid in installments of \$ _____ every _____.

And I do hereby authorize and direct my employer to make said payment to the above court, and
I authorize said court to collect and receive the payments and receipt therefore.

Dated at _____, Wisconsin on this _____ day of _____, 20____

Assignor's Signature: _____

Printed Name: _____

If married, spouse must sign in the presence of two witnesses.

I join in the foregoing assignment:

Spouse's Signature: _____

Printed Name: _____

Witnesses to spouse's signature:

I, the undersigned employer of the assignor do hereby consent to the foregoing assignment of
assignor's wages:

Employer: _____

By: _____

Title: _____

PERSONAL RECOGNIZANCE BOND

_____ Municipal Court Date: _____

Violation: _____ Citation No.: _____

I, _____, understand that I have been cited for the above-referenced violation and have been ordered to appear in _____ Municipal Court on _____ at _____ am/pm.

In consideration of my being released on my own personal recognizance, I am executing this personal recognizance bond with the understanding that should I fail to stipulate to the violation by the above court date or fail to appear in the _____ Municipal Court, the court shall enter a plea of No Contest to the charge on my behalf and further enter the judgment of a forfeiture plus all costs and penalty assessments, and that my failure to pay within 30 days after the date of judgment will result in the issuance of an order committing me to the _____ County Jail for a period of up to 30 days and/or the suspension of my driver's license for a period of up to two years.

Signature of Defendant

SSN _____

Police Officer

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____, **SUBPOENA**
Plaintiff,
vs. **Citation Number:** _____
_____, **Violation:** _____
Defendant.

TO: _____

You are hereby required to appear before the Municipal Judge of _____
Municipal Court, _____ Wisconsin on _____, 20____
at ____:____ a.m./p.m. to give evidence in a certain cause then and there to be tried between
the _____ Police Department, plaintiff and _____
defendant, on the part of the _____.

You are further required to bring with you the following papers and documents:

**Failure to appear may result in punishment for contempt which may include
monetary penalties up to \$200 plus court costs, imprisonment and other sanctions.**

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____
Municipal Court Judge

State of Wisconsin)
_____ County) ss

I swear that I personally delivered a copy of this subpoena on the above named at:

_____ (address) _____ (time)
_____ (date) _____ (signature)

INSTRUCTIONS FOR SUBPOENAS

1. At the top, fill in the name and address of the witness you are subpoenaing. If you know the business address and home address, provide both.
2. The clerk will fill out the rest. NOTE: The judge must see and sign all subpoenas.
3. Take the original and make at least one copy. Have a reliable adult **personally deliver a copy to the witness** or arrange for a professional process server to do so. Professional process servers are listed in the telephone book and will charge for the service. The _____ County Sheriff's Department will also serve this for you and charge for the services. It is not acceptable to mail it to the witness nor is it acceptable to just leave it attached to the person's door. It must be handed to the person or left at the person's place of abode with someone at least 14 years old. It is better if it is left with an adult and you can confirm that the witness does reside where you left it.
4. **You must pay the witness the following at the time you serve the subpoena:** \$5.00 plus round-trip mileage to the courthouse from the person's home at \$0.20 per mile. Have the witness sign a receipt showing the payment and date. Bring the receipt to the trial.
5. Complete the bottom portion of the original subpoena with the needed information. Bring the original subpoena with the bottom part completed to the trial.
6. You will **not** be reimbursed for the witness costs even if you win the trial.

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____, **EXHIBIT LIST**

Plaintiff,

Citation Number: _____

vs.

Violation: _____

_____,

Attorney: _____

Defendant.

Trial Date: _____

Plaintiff Exhibit #	Description	Offered	Received

Defendant Exhibit #	Description	Offered	Received

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

Plaintiff,

vs.

JURY DEMAND FOR OWI CITATION

ATTORNEY:

Defendant.

Citation Numbers _____, _____

The above-named defendant hereby demands a trial by jury in conjunction with the above-entitled action and tenders herewith a check in the amount of the bond schedule and \$36.00; six dollars per juror non-refundable jury fee.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

JURY DEMAND TRANSMITTAL

Plaintiff,

vs.

Attorney: _____

Defendant.

TO: CLERK OF CIRCUIT COURT

_____ COUNTY

Enclosed is a Demand for Jury Trial conforming with Wisconsin Statute §345.425 and §345.43, along with the original citation and not guilty plea.

Also enclosed is a check to pay the required the jury fee of \$6.00 per person for a six person jury.

Please set this trial date at your earliest convenience and notify the necessary parties and counsel of said date.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Honorable _____

Municipal Court Judge

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

_____, STATEMENT OF TRANSCRIPT

Plaintiff,

Citation Number: _____

vs.

Violation: _____

Attorney: _____

Defendant.

TO: Circuit Court, _____ County

I certify that on _____, 20__ the transcript for _____

_____ vs. _____, citation number _____

was ordered and arrangements have been made for the payment of the costs of the transcript. The transcript will be filed with the Clerk of the Trial Court, pursuant to Rule 809.16(3), on or before _____, 20__.

Dated this _____ day of _____, 20__.

BY THE COURT:

Honorable _____

Municipal Court Judge

NOTICE OF RIGHT TO APPEAL AFTER TRIAL

OWI/PAC/RCS or companion cases with an offense date

on or before January 23, 2020

AND

All other cases regardless of offense date

Plaintiff,

vs.

Defendant.

Case No. _____

On _____, you were found guilty after trial and judgment was entered accordingly. Wisconsin Statute § 800.14 provides that you have the right to appeal that judgment to the circuit court of the county where the offense allegedly occurred. If you decide to appeal, you must provide written notice of your decision to do so with the municipal court **and the prosecuting attorney** and pay the statutorily required appeal fees and costs **within 20 days** from the above date. Time for filing an appeal cannot be extended by the municipal court judge.

You may satisfy all the statutory requirements for an appeal and choose one of the three forms of appeal below, by completing and filing this notice and the appropriate fees and costs with this municipal court.

#1 - Record Review In this form of appeal, a record of the proceedings will be produced. It, and all other evidence that was presented during the municipal court trial will be sent for review by a circuit court judge. A circuit court judge will review the record and consider any exhibits that were introduced. Unless the circuit judge determines that the municipal judge's findings of fact were clearly erroneous, the decision will not be reversed. Please note that if the municipal attorney requests a New Trial (#2 or #3) within twenty (20) days of your request for a Record Review, that request will take precedence and there will be no record review.

#2 - New Trial Before Circuit Judge Without a Jury In this form of appeal, a new trial will be held at the county courthouse. Each side may bring as many witnesses as they like, even if those witnesses did not appear at the municipal court trial. The circuit court judge decides whether the defendant is guilty or not guilty based only on the evidence that is introduced at the new trial.

#3 - New Trial in Circuit Court Before a Six-Person Jury As in #2, a new trial will be held. However, although a circuit judge will preside over the trial, a jury will decide if the defendant is guilty or not.

TO: _____ MUNICIPAL COURT _____ (COURT ADDRESS)

I, the undersigned defendant, hereby appeal from the judgment of the municipal court entered on the date above. I am including herewith the appellate filing fees appropriate to my request as noted below.

___1. **RECORD REVIEW** (Include a check payable to "Clerk of Courts" for \$129.50)

___2. **NEW TRIAL BEFORE CIRCUIT COURT JUDGE WITHOUT A JURY** (Include cash or check payable to "Clerk of Courts" in the amount of \$144.50)

___3. **NEW TRIAL IN CIRCUIT COURT BEFORE A SIX-PERSON JURY** (Include cash or check payable to "Clerk of Courts" in the amount of \$180.50)

Dated: _____ Signature: _____

cc: Prosecuting Attorney

STATE OF WISCONSIN _____ MUNICIPAL COURT _____ COUNTY

NOTICE OF RIGHT TO APPEAL AFTER TRIAL

(ONLY USE WITH OWI / PAC / RCS and companion cases with offense date after January 23, 2020)

Plaintiff,

vs.

Defendant.

Case No. _____

On _____, you were found guilty after trial and judgment was entered accordingly. Wisconsin Statute § 800.14 provides that you have the right to appeal that judgment to the circuit court of the county where the offense allegedly occurred. If you decide to appeal, you must provide written notice of your decision to do so with the municipal court and the prosecuting attorney and pay the statutorily required appeal fees and costs within 20 days from the above date. Time for filing an appeal cannot be extended by the municipal court judge.

You may satisfy all the statutory requirements for an appeal and choose one of the two forms of appeal below, by completing and filing this notice and the appropriate fees and costs with this municipal court.

#1 - Record Review In this form of appeal, a record of the proceedings will be produced. It, and all other evidence that was presented during the municipal court trial will be sent for review by a circuit court judge. A circuit court judge will review the record and consider any exhibits that were introduced. Unless the circuit judge determines that the municipal judge's findings of fact were clearly erroneous, the decision will not be reversed. Please note that if the municipal attorney requests a New Trial (#2) or a New Trial with Jury within twenty (20) days of your request for a Record Review, that request will take precedence and there will be no record review.

#2 - New Trial Before Circuit Judge Without a Jury In this form of appeal, a new trial will be held at the county courthouse. Each side may bring as many witnesses as they like, even if those witnesses did not appear at the municipal court trial. The circuit court judge decides whether the defendant is guilty or not guilty based only on the evidence that is introduced at the new trial.

TO: _____ MUNICIPAL COURT _____ (COURT ADDRESS)

I, the undersigned defendant, hereby appeal from the judgment of the municipal court entered on the date above. I am including herewith the appellate filing fees appropriate to my request as noted below.

___1. **RECORD REVIEW** (Include a check payable to "Clerk of Courts" for \$129.50.)

___2. **NEW TRIAL BEFORE CIRCUIT COURT JUDGE WITHOUT A JURY** (Include cash or check payable to "Clerk of Courts" in the amount of \$144.50)

Dated: _____ Signature: _____

cc: Prosecuting Attorney

STATE OF WISCONSIN _____ MUNICIPAL COURT _____ COUNTY

Plaintiff,

**NOTICE OF RIGHT TO APPEAL
(DENIAL OF RELIEF FROM JUDGMENT,
INDIGENCY DETERMINATION, OR OTHER
NON-TRIAL ORDER)**

vs.

Defendant.

Case No. _____

On _____, the court denied your motion for relief from judgment or determined that you are not indigent. Wisconsin Statute 800.14 provides that you have the right to appeal to the circuit court of the county where the offense allegedly occurred. If you decide to appeal, you must provide written notice of your decision to do so with the municipal court **and the prosecuting attorney** and pay the statutorily required appeal fees and costs within **20 days** from the above date. Time for filing an appeal cannot be extended by the municipal court judge.

You may satisfy all the statutory requirements for an appeal, by completing and filing this notice and the appropriate fees and costs with this municipal court.

In this form of appeal, the court record will be sent for review by a circuit court judge. A circuit court judge review the record and consider any exhibits that were introduced. Unless the circuit judge determines that the municipal judge's determinations were clearly erroneous, the decision will not be reversed.

TO: _____ MUNICIPAL COURT _____ (COURT ADDRESS)

I, the undersigned defendant, hereby appeal from the determination of the municipal court entered on the date above. I am including herewith a check payable to "Clerk of Courts" for \$129 or an order to waive fees and costs (circuit court form CV-410B) signed by a circuit court judge or the judge's designee.

Dated: _____ Signature: _____

cc: Prosecuting Attorney

Ignition Interlock Device

If you are convicted of:

- Operating While Intoxicated (OWI) with an alcohol concentration of .15% or greater;
- OWI/refusal to submit to a chemical test; or
- OWI **and** you have a prior conviction for an OWI occurring more than ten (10) years ago;

the court **MUST** order: (1) an ignition interlock device (IID) installed on **every vehicle that is titled or registered in your name***; and (2) a restriction of your operating privileges to only vehicles equipped with an IID.

The IID restriction period is a minimum of one year. The court clerk will notify the Department of Transportation (DOT) of all court orders requiring IID installation.

You will not be able to obtain an occupational license or reinstate your regular license unless you provide the DMV with proof that an IID has been installed on every vehicle that is titled or registered in your name*. The occupational license or reinstated regular license will have Class D operating privileges restricted to vehicles equipped with an IID.

An ignition interlock device (IID) or breath alcohol ignition interlock device (BIID) is a mechanism, like a breathalyzer, installed to a motor vehicle's dashboard. Before the vehicle can be started, the driver must first exhale into the device. If the breath alcohol concentration analyzed result is greater than the programmed blood alcohol concentration (.02%), the device prevents the engine from starting.

Pursuant to State law, the Chemical Test Section of the Wisconsin Division of State Patrol is responsible for evaluating IIDs and approving manufactures and their devices for use in the State. There is a list of approved vendors on DOT's website at <http://www.dot.wisconsin.gov/statepatrol/services/chemtest.htm>. Please check their website for possible updates. Below is a list of currently approved IID manufacturers.

[LifeSafer model FC-100](https://www.lifesafet.com/locations/wisconsin/)

<https://www.lifesafet.com/locations/wisconsin/>

[Smart Start model SSI 20/20](https://www.smartstartinc.com/wisconsin/)

<https://www.smartstartinc.com/wisconsin/>

[Low Cost model LCI-777](https://www.lowcostinterlock.com/)

<https://www.lowcostinterlock.com/>

[Intoxalock model 1001A](https://www.intoxalock.com/wisconsin)

<https://www.intoxalock.com/wisconsin>

[Draeger model Interlock XT](https://roadguardinterlock.com/)

<https://roadguardinterlock.com/>

Installation and maintenance prices can be obtained by directly calling the approved vendors. Any questions regarding the IID device, manufacturers or vendors please call the Chemical Test Section at 608-243-2946. Any questions concerning IID forms or drivers' records maintenance, please call the DMV Compliance and Restoration Unit at 608-266-2261.

All installed ignition interlock devices will be scheduled for service at intervals not to exceed 60 days. Any failure to report for required servicing shall be reported to the sheriff of the county where the customer resides. Each time the device is serviced, the service provider shall review the data recorded in the device's memory. Any tampering, circumvention, bypass or violation resets shall be immediately reported to the sheriff in the county where the customer resides.

Failure to install, removal, disconnection, tampering with, or circumvention of the IID is a criminal offense and may result in a fine and/or up to six (6) months in jail, plus a mandatory six (6) month extension of the IID order period.

***If you would like to request an exemption from any vehicle(s) titled or registered in your name, you must bring your license plate number, 17 digit identification number (VIN), year, and make of vehicle to your court appearance. Exemptions will be granted by the court only upon a finding of undue financial hardship where appropriate evidence is presented.**

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

Plaintiff,

, Violation: Operate While
Intoxicated

vs.

Order For Ignition Interlock Device

Defendant

Citation
Number: _____

IT IS HEREBY ORDERED that all motor vehicles for which defendant's name appears on the certificate of title or registration shall be equipped with an Ignition Interlock Device (IID). It is also ordered that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device.

The IID restriction period will be one (1) year beginning on the date that the defendant applies to the Department of Motor Vehicles for an occupational license or for reinstatement of a regular license. The Clerk of Court will notify the Department of Motor Vehicles of all court orders requiring IID installation.

Failure to install, removal, disconnection, tampering with, or circumvention of the IID is a criminal offense and may result in a fine and/or up to six (6) months in jail, plus a mandatory six (6) month extension of the IID order period.

If the court finds that the defendant has a household income that is at or below 150% of the nonfarm federal poverty line for the continental United States, as defined by the Federal Department of Labor under 42 USC 9902(2), the court shall limit the defendant's liability to one-half of the cost of equipping each motor vehicle with an ignition interlock device and one-half of the cost per day per vehicle of maintaining the ignition interlock device. This does not prohibit the vendor from charging normal fees.

- ☐ The defendant is subject to the full cost of installation and maintenance fees.
- ☐ The defendant meets the criteria of at/below the 150% federal poverty level and is subject to one-half the cost of installation and maintenance fees.

Dated this _____ day of _____, 20_____.

BY THE COURT:

_____, Municipal Judge



ORDER FOR IGNITION INTERLOCK EXEMPTIONS AND REMOVING TITLE TRANSFER STOPS

Wisconsin Department of Transportation
MV3617 1/2020 s. 343.301 Wisconsin Statutes

Clear

Print



Court Name		5 Digit Court Code	County	
Driver License Number		Court Case Number	Citation Number	
Defendant Name		Birth Date	Sex <input type="checkbox"/> Female <input type="checkbox"/> Male	Violation Date (m/d/yyyy)
Address		City	State	ZIP Code

Nothing in this order permits the defendant to operate the vehicles identified below while his/her operating privilege remains restricted unless ignition interlocks are installed and used in the vehicles; the court's order restricting the driver to operating only Class D vehicles equipped with ignition interlock devices remains unchanged.

IGNITION INTERLOCK EXEMPTION

- ☐ Exempt all mopeds and motorcycles for which the defendant's name appears on the vehicle's certificate of title or registration at the time of this order from ignition interlock
- ☐ Exempt vehicle(s) listed below from ignition interlock:

	Year	Make	Vehicle Identification Number (standard VIN has 17 characters)	License Plate Number
<input type="checkbox"/> Not Exempt				
<input type="checkbox"/> Not Exempt				
<input type="checkbox"/> Not Exempt				
<input type="checkbox"/> Not Exempt				

REMOVE TITLE TRANSFER STOP

The court hereby authorizes release of any title-transfer stop imposed by the department under Wis. Stat. s. 342.12(4) for the vehicles identified below.

Year	Make	Vehicle Identification Number (standard VIN has 17 characters)	License Plate Number

Reason for Denial

FAX completed form to (608) 266-1753
Email copy to: information.dmv@dot.wi.gov

OR MAIL to:

DMV Communication Center
Wisconsin Department of Transportation
P.O. Box 7983, Madison, WI 53707-7983
FOR QUESTIONS, call (608) 264-7447

X
(Judge's Signature)

(Date - m/d/yyyy)





Occupational License Information

BDS361 4/2021

An occupational license is a restricted driver license. Unlike a regular license, you are limited in where and when you can drive. You may only drive to and from work or church or other places indicated on the license and during specific times of the day. You may not use an occupational license for recreational purposes or to operate a commercial motor vehicle. Your total driving time is limited to 12 hours each day and no more than 60 hours for the entire week. If you operate outside those specific hours or for a purpose not permitted on the license, you may be cited for operating after suspension or revocation. If you need to drive in another state, you need to ensure that the other state allows operation with a Wisconsin occupational license. All states may not honor a Wisconsin occupational license.

WHO MAY BE ELIGIBLE

If you are a Wisconsin resident, you may be eligible to obtain an occupational license if your operating privilege was revoked or suspended under the following circumstances:

- A traffic offense under Ch. 343 Wis. Stats.
- A drug conviction under s.961.50 (except juveniles).
- Nonpayment of child support under s.767.303.
- An Habitual Traffic Offender (HTO) or Repeat Habitual Traffic Offender (RHT) under Ch. 351 Wis. Stats.

WHO IS NOT ELIGIBLE

An occupational license cannot be issued:

- If you are a juvenile who committed offenses under Ch. 938 Wis. Stats.
- If you are under suspension for failing to pay a forfeiture (such as a traffic ticket or municipal citation).
- If your license has been canceled (rather than revoked or suspended).
- If you have never held a driver license.
- If you are eligible to reinstate your driver license after revocation or suspension.
- If you have two or more revocation/suspension cases from separate incidents in a one-year period.
- If you have not served all mandatory waiting periods for an occupational license.
- If you have a lifetime revocation.

REQUIRED WAITING PERIODS

Some revocation/suspension cases require that you serve a mandatory waiting period before you are eligible for an occupational license. The waiting period begins on the effective date of your revocation/

suspension case. If you have multiple revocation/suspension cases, you must serve all waiting periods. The waiting period may vary depending on your previous driving history and the reason for the current revocation/suspension. All revocation/suspension cases require a 15-day waiting period *except* the following:

- Demerit points – no waiting period
- Underage alcohol operation – no waiting period
- HTO or Repeat HTO (RHT) – after 2 years
- Drug Convictions
 - › First – no waiting period
 - › Second – after 60 days
 - › Third or more – after 90 days
- Nonpayment of child support – no waiting period
- Wisconsin OWI-type violations
 - › Blood Alcohol Content (BAC) – no waiting period
 - › Wisconsin operating while intoxicated (OWI or PAC) convictions
 - » First – no waiting period
 - » Second and subsequent – after 45 days
 - › Causing injury while intoxicated – after 60 days
 - › Implied consent refusal
 - » First – after 30 days
 - » Second – after 90 days
 - » Third or more – after 120 days
 - › Negligent homicide while intoxicated or great bodily harm – after 120 days
 - › Multiple convictions may extend your waiting period.

EMERGENCY SERVICE PROVIDER

If you are employed by a unit of government, public utility, medical service provider or provide services to one of these entities, you may be allowed to operate outside the hours listed on your occupational license. When operating at a time not listed on your occupational license, you must be providing life-sustaining services during an emergency. Emergency operation during unlisted hours is only allowed to and from home, work and any emergency site.

An emergency service provider must list less than 60 hours for non-emergency operation to allow for driving time during an emergency. Total hours of operation for both emergency (unlisted hours) and non-emergency (listed hours) cannot exceed 12 hours per day/60 per week.

If requested by law enforcement, you must be able to prove you are providing life-sustaining service during an emergency when operating during unlisted hours.

HOW TO APPLY

You may visit the Wisconsin Department of Transportation's web page wisconsindmv.gov/occupational to find out if you are eligible for an occupational license.

You may apply for an occupational license at any DMV Customer Service Center (excluding DMV Renewal Offices). Plan to arrive at the DMV Customer Service Center at least two hours before the center is scheduled to close. You need to do the following:

- Complete a Wisconsin Driver License Application MV3001. If you are under 18 years old, a sponsor signature is required.
- Complete an Application for Occupational Operator License MV3027.
- Complete necessary tests, including vision screening.
- Provide proof of your identity.
- Provide an SR22 insurance certificate.
- Pay a \$50 fee. **Filing an application and paying a fee does not guarantee issuance of an occupational license.**
- If you have two or more OWI convictions and are revoked for OWI, DMV must receive proof you have completed an alcohol or other drug assessment and are participating in a driver safety plan.
- If the court has ordered you to install an Ignition Interlock Device (IID), provide proof of installation for every vehicle titled or registered to you unless exempted by the court.
- If you have been revoked as a habitual traffic offender (HTO), the circuit court in your county of residence must approve the issuance of your occupational license.

AFTER YOU APPLY

DMV staff at the Customer Service Center reviews your driver record and application to determine if you are eligible for an occupational license. The staff at the Customer Service Center will immediately process most occupational applications.

If necessary, the DMV Customer Service staff will transmit your application to the DMV Central Office for a complete review of your driver record and application. If Central Office staff determine that you are not eligible, you will be notified that the license will not be issued and why.

Depending upon the hours the Customer Service Center is open, you may receive your occupational license the same day. If it is near the Customer Service Center's closing time or if your application is being reviewed by the DMV Central Office, you may be asked to return the next day or the next time that Customer Service Center is open to have your occupational license issued.

WHAT TO DO IF YOUR APPLICATION FOR AN OCCUPATIONAL LICENSE IS DENIED

If you are denied an occupational license because you have 3 OWI type offenses within 5 years, or 24 or more demerit points within one year, and provided all required waiting periods are over, you can petition the circuit court in your county of residence for an occupational license. The petition should include a copy of your driver record, your denial letter from DMV, your occupational license application and a nonrefundable fee. You can obtain a

copy of your driver record from the DMV by visiting wisconsindmv.gov/ownrecord or writing to:

DMVCC, P.O. Box 7995, Madison, WI 53707-7995

If the court grants your request for an occupational license, take the court order to a DMV Customer Service Center. If you meet all other eligibility requirements, your occupational license will be issued.

If you are denied an occupational license because you have two or more revocation/suspension cases from separate incidents within a one year period, you can petition the circuit court in your county of residence for an occupational license. However, **even if the court grants your request for an occupational license, DMV will deny issuance of an occupational license because the law prohibits issuing an occupational license to a person with two revocation/suspension cases from separate incidents, within a one year period.**

HOW DO I MAKE CHANGES TO MY OCCUPATIONAL LICENSE

If you need to make changes to your occupational license, fill out a new Wisconsin Driver License Application form MV3001 and an Occupational Operator License Application form MV3027 and take them to a DMV Customer Service Center along with proof of your identity. A \$50 nonrefundable fee is required.

The \$50 fee will be waived one time to change your hours so you may complete your driver safety plan AND you did not list driver safety plan as one of the uses on your current occupational license. Any changes other than changes needed to enable you to complete your driver safety plan require a \$50 fee.

If your prior occupational application was approved by the circuit court in the county of your residence, the court must approve any changes.

HOW DO I GET A DUPLICATE OCCUPATIONAL LICENSE

If you lose your occupational license or need to change your name or address, you can get a duplicate occupational license. You do not need to fill out a new Occupational Operator License Application form MV3027. You need to bring proof of your identity and complete a Wisconsin Driver License Application form MV3001 for a duplicate license. There is a \$14 fee.

MANDATORY INSURANCE

No person may operate a motor vehicle in Wisconsin unless the owner or driver of the vehicle has liability insurance in effect for the vehicle being operated and carries proof of insurance whenever driving.

Law Enforcement may ask for proof of insurance at any traffic stop or accident. Failure to have insurance could result in up to a \$500 fine. Failure to have proof when requested could result in a \$10 fine.

You do not need to provide proof of insurance to DMV unless DMV specifically requested proof of financial responsibility (SR-22) after a revocation or suspension or to apply for an occupational license. Refer to Wis. Stats 344.61–344.65 for details.

Questions?

Call the DMV at: **(608) 264-7447**

or send email to: wisconsindmv.gov/email



Wisconsin Department of Transportation

wisconsin.dmv.gov

T191 01/2003 (ARRR)

July 07, 2022

Division of Motor Vehicles
Administrative Suspension Unit
Bureau of Driver Services
PO Box 7930
4822 Madison Yards Way, First Floor
Madison, WI 53707-7930

Telephone: 608/261-0127
FAX: 608/266-0351
E-mail:
AdminSuspensions.dmv@dot.state.wi.us

- Notice Date: June 10, 2022
- Notice Mailed: July 07, 2022
- Date of Review: July 07, 2022
- Time of Review: 9:00 AM

Date of Examiner Decision: July 07, 2022

- Citation Number(s):

Your privilege to drive a motor vehicle will be suspended. All the requirements of s.343.305(8), Wis., Stats., were addressed in the administrative review process. All requirements were met.

OPPORTUNITY FOR JUDICIAL REVIEW

If you are not satisfied with the decision of the Department of Transportation, you may request a judicial review within 20 days of the examiner's decision (date noted above). Your request for judicial review must be filed with the court where you are to appear on the OWI (Operating While Intoxicated) charge. Requesting a review will not prevent your license from being suspended pending review by the court. The reviewing court does have authority to issue a stay of the suspension under s.343.305(8)(c), Stats. If the court does not conduct the judicial review within 60 days of your request, the Department of Transportation shall vacate the Administrative Suspension.

JUDICIAL REVIEW REQUEST

I request a Judicial Review

Driver License Number: _____

X _____

(Petitioner's Signature)

COURT USE ONLY

Court Name _____

County of _____

Date Judicial Review Requested _____

APPLICATION FOR MUNICIPAL JUDICIAL ASSIGNMENT☐ Specific ☐ General

Case Number (s)

Enter Case Number (s)

Case Caption

Enter Municipality

Vs.

Enter Defendant(s) Name

County

Enter County

Code

Enter County Code

Date of Offense: Enter Date of Offense

Current Court Official

Enter Current Court
Official

Code

Enter Judge's Code #

Municipality

Enter Municipality

District No.

Enter District#

TYPE OF CASEIndicate One: ☐ Traffic ☐ Forfeiture/Ordinance ☐ Other**CASE STATUS INFORMATION**

Last Activity in Case

Date

Enter Last Activity in Case

Enter Date

☐ Court Trial☐ Hearing☐ Other

Next Scheduled Activity (or to be scheduled)

Date

Enter Next Activity

Enter Date

Information helpful to Chief Judge and Judge Assigned (e.g. time limits in effect, defendant in custody, other judges already substituted or disqualified, other attorneys)

Enter information that is helpful to Chief Judge and Judge Assigned

ATTORNEY INFORMATION

Attorney for Plaintiff

Enter Attorney's Name for Plaintiff

Attorney for Defendant

Enter Attorney's Name for Plaintiff

Address:

Enter Plaintiff Attorney's Address

Enter City, State & Zip

Address:

Enter Defendant Attorney's Address

Enter City, State & Zip

REASON FOR ASSIGNMENT APPLICATION☐ Substitution Request, Dated:☐ Plaintiff ☐ Defendant☐ Disqualification – Reason:☐ Congestion☐ Vacation☐ Family Medical Leave☐ Expedite Litigation☐ Vacancy☐ Military Service☐ Jury Duty☐ Other

Application Prepared By Enter Your Name

Current Court Official Approval☐ Approved ☐ Denied (reason): _____

By:

Chief Judge /DCA Approval☐ Approved ☐ Denied (reason): _____

By:

Current Court Official

Date

Chief Judge/District Court Adm.

Date

Assigned Judge: _____

STATE OF WISCONSIN

MUNICIPAL COURT

COUNTY

Municipal Court Clerk Appointment Form

Under the authority of §755.10 Wisconsin Statutes, I hereby appoint:

_____ as clerk of the municipal court of the
_____ of _____.

Dated this _____ day of _____, 20_____.

Honorable _____

Municipal Court Judge

**Municipal Court
Public Record Request Form**

Name of Requesting Party

Address

Phone

Email

Date

RECORDS SOUGHT:

1. _____

Name of Defendant

Offense

2. _____

Name of Defendant

Offense

3. _____

Name of Defendant

Offense

FOR OFFICE USE ONLY

Date Filed: _____

Fee: _____

Notice of Availability of Public Records
Per §19.34(1) Wisconsin Statute

The _____ Municipal Court is an authority for the purpose of record keeping as defined in §19.34(1) Wisconsin Statutes. _____ Municipal Court is responsible for the hearing and adjudicating those cases of violations of traffic laws, municipal ordinances and juvenile matters over which the court is given statutory jurisdiction, and to impose monetary forfeitures on those who plead guilty or are found guilty by the court.

Records, as defined under §19.34(1), Wisconsin Statutes, are retained at the _____ Municipal Court, _____, WI _____ and may be accessed by the public during regularly established administrative business hours. Requests for records may be made in person, either orally or in writing, by mail or by fax. Requests for records shall be processed as soon as practicable and without delay.

The Municipal Judge, _____, is the legal custodian of the records of _____ Municipal Court. The judge has designated the court clerk as records custodian, and records and information may be obtained from the clerk.

Certain records, or portions of records, retained at _____ Municipal Court, are exempt from inspection and/or copying pursuant to §§19.36(2), 895.50, 905.09 and 905.10 Wisconsin Statutes, and to the federal Freedom of Information Act.

The _____ Municipal Court is not required to purchase or lease photocopying, duplication, photographic or other equipment, or to provide a separate room for inspection, copying or abstracting of records.

The following fees will be charged for providing copies of court records:

Photocopies: \$_____ per page

Audio Recording: \$_____ per recording

Photographs: The actual costs of duplicates plus \$_____ handling

Plus the actual, necessary and direct costs of mailing or shipping any of the above.

If the cost of locating a record retained by the court exceeds \$50.00, that cost will be charged to the person making the request. Additionally, if the total estimated cost of reproduction and/or location of a record exceeds \$5.00, prepayment may be required before the record is provided to any person.

Municipal Judge



MUNICIPAL COURT MONTHLY FINANCIAL REPORT

See Instructions on page 3.

County Name		County Code Number		Report for Month/Year	
Municipal Name (Indicate if Town, Village or City)		Municipal Code Number		Telephone Number ()	
I. MUNICIPAL COURT OFFICIAL	Total Amount Collected	Share to be retained by Municipality	Share to be sent to County	Share to be Sent to State	
1. Forfeitures for Municipal Ordinance Violations (Except for Municipal Ordinances in Conformity with Ch 348, Stats.)		100%			
Adjustment (if applicable)					
2. Municipal Court Costs (Chapter 814, Subchapter II, s. 814.65, Stats.)		100% of amount in excess of \$5.00 for each forfeiture		\$5.00 for each forfeiture	
Adjustment (if applicable)					
3. Penalty Surcharges (s. 757.05, Stats.)				100%	
Adjustment (if applicable)					
4. County Jail Surcharges (s. 302.46(1)(a), Stats.)			100%		
Adjustment (if applicable)					
5. Driver Improvement Surcharges (s. 346.655, Stats.)			50.3%	49.7%	
Adjustment (if applicable)					
6. Crime Lab and Drug Enforcement Surcharges (s. 165.755(4), Stats.)				100%	
Adjustment (if applicable)					
7. Domestic Abuse Surcharges (s. 973.055(2)(b), Stats.)				100%	
Adjustment (if applicable)					
8. Truck Weight Restrictions (Municipal Ordinances in Conformity with Ch. 348, Stats., s. 66.12(3)(c))		\$150 for each forfeiture		100% of amount in excess of \$150.00	
Adjustment (if applicable)					
9. Ignition Interlock Device Surcharge (s. 343.301(5), Stats.)			100%		
Adjustment (if applicable)					
10. GPS Tracking Surcharge (for violations of ordinances conforming to s. 813.12 or s. 813.125, Stats.)				100%	
Adjustment (if applicable)					
11. Safe Ride Program (s. 85.55, Stats.)				100%	
Adjustment (if applicable)					
12. Totals				Pay This Amount 0	

II. CERTIFICATION OF MUNICIPAL COURT OFFICIAL

I hereby certify that this report reflects all actions requiring forfeitures court costs and surcharges collected during the month designated.

Name: _____ Signature: _____ Date: _____

III. TREASURER'S CERTIFICATION

I hereby certify that the above amount due the state has been received. After so certifying a copy of this report will be returned to the signer of this report as a receipt and the stated amount will be remitted to the Department of Administration with this report.

Treasurer: _____ Date: _____

In the event the Department of Administration has questions about this report and payment, who should we contact?

Name:	Telephone Number	Email Address
_____	() _____	_____

INSTRUCTIONS

MUNICIPAL COURT FINES, FORFEITURES, SURCHARGES AND COURT FEES - MONTHLY REPORT

Municipal Official: Enter the name and code of the county and municipality in which your court is located. If you do not know your county or municipal code, contact your County Treasurer.

Complete Parts I and II. Send a copy to your Treasurer by the 15th of the month following the month funds are collected.

Treasurer: Complete Part III. Return a copy to the reporting unit. Retain a copy for your file.

On or before the first of the month following receipt of the money from the Municipal Court, send the **ORIGINAL** copy with check for amount due to:

**State of Wisconsin Court Fines & Surcharges
Box 93304
Milwaukee, WI 53293-0304**

Part I Municipal Court Official - Must be completed by each Municipal Court Official

- Line 1** Enter the total amount collected as forfeitures for violations of municipal ordinances, except for municipal ordinances in conformity with Ch. 348, Stats.
- Line 2** Enter the total amount of all shared court surcharges collected as required by s. 814.65, Stats.
- Line 3** Enter the total amount of Penalty Surcharges collected as required by s. 757.05, Stats., imposed on all violations excepting non-moving traffic violations.
- Line 4** Enter the total amount of the County Jail Surcharges collected which is RETAINED BY THE COUNTY as required by s. 302.45(1)(a) Stats.
- Line 5** Enter the total amount of Driver Improvement Surcharges collected as required by s. 346.655, Stats.
- Line 6** Enter the total amount of Crime Lab and Drug Enforcement Surcharges collected as required by s. 165.755(4), Stats.
- Line 7** Enter the total amount of Domestic Abuse Surcharges collected as required by s. 973.055(2)(b), Stats.
- Line 8** Enter the total amount collected for truck weight restrictions under municipal ordinances in conformity with Ch. 348, Stats. as required by s. 66.12(3)(c) and 348.21(3), Stats.
- Line 9.** Enter the total amount for Ignition Interlock Device Surcharge (s. 343.301(5), Stats.)
- Line 10** Enter the total amount collected for GPS Tracking Surcharge for violations of ordinances conforming to Section 813.12 or 813.125, Wisconsin Statutes
- Line 11** Enter the total amount collected for the Safe Ride Program as required by s. 85.55, Stats.
- Line 12** Enter the total of the amounts listed.

Adjustments Enter adjustments to previous reports are to be made below each applicable line.

Part II Certification of Municipal Court Official - Must be completed by each Municipal Court Official reporting.

Part III Certification of Treasurer - Must be completed by each Treasurer reporting and transmitting monies.

Right-of-Way Course Violations Under Wis. Stat. § 343.31(2t)(b)

The Department of Transportation will order a defendant to attend a vehicle right-of-way course if the defendant is convicted of one of the following violations:

Wis. Stat. § 346.05(1): Operating left of center

Wis. Stat. § 346.06: Failure to yield one-half of single-lane road

Wis. Stat. § 346.07(2): Unsafe cutting in while passing

Wis. Stat. § 346.07(3): Failure to yield to passing vehicle

Wis. Stat. § 346.09: Passing into oncoming traffic/on hill or curve/in no-passing zone/vehicle indicating left or U-turn

Wis. Stat. § 346.18: Failure to yield right-of-way violation

Wis. Stat. § 346.23: Failure to yield to pedestrian or bicyclist

Wis. Stat. § 346.31: Improper turns/failure to follow indicated turn

Wis. Stat. § 346.37(1)(a)1.: Failure to yield right-of-way—green light/intersection/U-turn

Wis. Stat. § 346.37(1)(c)3.: Failure to yield right-of-way—red light

Wis. Stat. § 346.37(1)(d)1.: Failure to yield right-of-way—green arrow

Wis. Stat. § 346.39(1): Failure to stop for flashing red signal

Wis. Stat. § 346.46(1): Failure to stop/improper stop at stop sign

Wis. Stat. § 346.46(4)(a): Failure to stop/improper stop at stop sign (mid-block)

Wis. Stat. § 346.47(1): Failure to stop or yield emerging from alley or private drive

Wis. Stat. § 346.47(2): Failure to stop for intersecting alley

Wis. Stat. § 346.87: Unsafe backing of vehicle

- ☐ 1. MV3029 - Court Order of Revocation/ Suspension
☐ 2. MV3435 - Conviction Status Report
 MV3029 - 5/2010 / MV3435 - 5/2010

Mail To: Citations and Withdrawals
 Wisconsin Department of Transportation
 PO Box 7917
 Madison, WI 53707-7917

3. Court Name, Address, City, State, ZIP Code			4. Court (Area Code) Telephone #		5. Agent #	
			6. County		7. Court #	
			8. Court Case #		9. Branch #	
10. Driver Name (First, MI, Last), Address, City, State, ZIP Code			11. Birth Date		12. Individual/Non	
			13. Federal Employer Identification Number			
14. Driver License Number		15. Jurisdiction		16. Race	17. Sex	18. Height
				19. Weight	20. Hair	21. Eyes

22. Withdrawal Order Basis

- ☐ D ☐ JEC
☐ FD ☐ JID
☐ FPS ☐ OTH
☐ IC ☐ RMC
☐ ICU ☐ T
☐ JA ☐ UCD

25. Amount Due

- ☐ FPF:
☐ FPJ:
☐ FPN:

23. Court Withdrawal Directive

- ☐ 1 Failure to pay has been paid
 Date paid: _____
☐ 2 Revocation/suspension reported in error
☐ 3 Vacate court order of revocation/suspension
☐ 13 Court ordered revocation/suspension
☐ 14 Court ordered rev/sus amended
☐ 17 Report driver license/vehicle restriction
☐ 18 Stay revocation/suspension
☐ 20 Remove driver license/vehicle restriction

24. Court Violation Directive

- ☐ 4 Vacate conviction
☐ 5 Reopened conviction set for further proceedings
☐ 6 Reopened conviction dismissed
☐ 7 Reopened conviction amended
☐ 8 Appealed conviction set for further proceedings
☐ 9 Appealed conviction dismissed
☐ 10 Appealed conviction affirmed
☐ 11 Conviction reported in error
☐ 12 Conviction reported in error and corrected
☐ 15 Report of conviction
☐ 16 Report of mandatory conviction

MV3435 Only - Previously Reported Data

26. Withdrawal Basis _____
 27. Court Case # _____
 28. Uniform Traffic Citation # _____
 29. Violation Date _____
 30. Statute # _____
 31. Municipal Citation # _____
 32. Conviction Date _____
 33. Statute Severity _____
 34. Local Ordinance # _____
 35. Trans Rule _____
 36. Trans Rule Severity _____
 37. Operating as Class A B C D M O
 38. Description of Charge _____

Conviction Data

39. Violation Date	40. Uniform Traffic Citation #	41. Municipal Citation #	42. Criminal Complaint Issued <input type="checkbox"/> Yes <input type="checkbox"/> No
43. Conviction Date	44. Statute #	45. Statute Severity	46. DOT #
47. Trans Rule	48. Trans Rule Severity	49. Local Ordinance #	50. Hazmat #
52. Description of Charge		53. If Speeding MPH Over	51. Zones <input type="checkbox"/> School <input type="checkbox"/> Construction <input type="checkbox"/> Utility <input type="checkbox"/> Railroad
Operating As 54. Class A B C D M O		55. Endorsement F H N P S T	56. Counts of

Withdrawal Data

- ☐ 57. Revoked ☐ 58. Suspended 59. Effective Date _____
☐ 62. Passenger under 16 in vehicle 63. Prohibited Alcohol Content _____
☐ 64. Penalty Enhanced 66. Refusal Date _____
 65. Accident Severity (when applicable):
☐ Fatality to another - F
☐ Personal Injury to another - PI
☐ Property Damage to another - PD
 69. Special Instructions _____
60. Time Period _____
☐ Days ☐ Mths ☐ Years
 67. Jail Time _____
☐ Days ☐ Mths ☐ Years
 68. IID Duration _____
☐ Days ☐ Mths ☐ Years
☐ Vehicle Restriction
☐ Lic ☐ Eff _____
61. Effective Date Method
☐ 1 Consecutive
☐ 2 Concurrent
☐ 3 Date of Notification by DOT
☐ 4 Date of Application
☐ 5 Consecutive & After Application
☐ 6 DOT Sets Date

X

(70. Judge or Court Clerk)

(71. Date)

CERTIFICATE

I, _____, Clerk of _____
Municipal Court, _____ County, Wisconsin, certify that the attached
are True and Correct Copy of _____'s disposition
with regard to a _____ citation issued
on _____, 20__ in the _____
of _____, Wisconsin.

Dated _____, 20__

Municipal Court Clerk

Subscribed and sworn to before me
on _____, 20__

Notary Public, State of Wisconsin
My commission expires _____

STATE OF WISCONSIN**MUNICIPAL JUDGE PAYMENT INVOICE**

INSTRUCTIONS: Upon completion of an assignment in a jurisdiction other than your own, you may use this form to submit a request for payment from the municipality you assisted. Complete and send this form to the municipal court clerk in the other jurisdiction for payment. Keep a copy for your file. NOTE: An assignment order must have been signed by the Chief Judge or Court Administrator to authorize work in another jurisdiction.

_____	_____
Municipal judge name	Municipality
_____	_____
Address where payment is to be sent	Social Security number
_____	_____
	Telephone number, circle: day/evening

Payment Requested for: _____ hours work (including travel)

In municipality of: _____

For municipal judge: _____

On date(s): _____

Assignment Order No.: _____

Rate of Payment:* _____ \$200 first 2 hrs then \$100/hr Other: _____

Total Amount Due: \$ _____

Date Submitted: _____ By: _____

Signature of judge requesting payment

Invoice Submitted to: _____

Municipal court clerk name

Address

For Use by Municipal Court Clerk Making Payment

Date Invoice Received: _____ Paid: _____ Check No.: _____

* Municipal Judges' Association recommended rate of pay: \$200 for first two hours or portion thereof, and \$100 per hour thereafter.

NOTICE OF INTENT TO REVOKE OPERATING PRIVILEGEWisconsin Department of Transportation
MV3396 11/2014

Law Enforcement / Agency Name <input type="checkbox"/> State of WI <input type="checkbox"/> County <input type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town		Date of Notice (m/d/yy)	Time of Arrest <input type="checkbox"/> am <input type="checkbox"/> pm		
		Date of Refusal – IF Different (m/d/yy)	Time of Notice <input type="checkbox"/> am <input type="checkbox"/> pm		
Name (last, first, middle initial)		Birth Date (m/d/yy)	Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	Police Number	
Address, City, State, ZIP Code					
Driver License Number	State of License	Expires	Citation Number		Criminal Complaint Issued <input type="checkbox"/> Yes <input type="checkbox"/> No
At time of offense, check the class and endorsements the defendant operated as: Class: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> M Endorsement: <input type="checkbox"/> F <input type="checkbox"/> H <input type="checkbox"/> N <input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> T					
Year and Make of Vehicle Involved in Violation	Plate Number	Vehicle Identification Number (VIN)			

I, a law enforcement officer, requested you, the above-named person, to submit to one or more chemical tests under s.343.305(9) Wisconsin Statutes. Unless the box for s.346.63(7) is checked below, prior to the request, an officer requested that you take a test under s.343.305(3)(ar) or placed you under arrest for a violation of the following Wisconsin state statute or a local ordinance conforming to that statute:

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> s.346.63(1)(a) | <input type="checkbox"/> s.346.63(2)(a)2 | <input type="checkbox"/> s.346.63(6) | <input type="checkbox"/> s.940.09(1)(b) |
| <input type="checkbox"/> s.346.63(1)(am) | <input type="checkbox"/> s.346.63(2)(a)3 | <input type="checkbox"/> s.346.63(7) (No arrest required) | <input type="checkbox"/> s.940.25(1)(a) |
| <input type="checkbox"/> s.346.63(1)(b) | <input type="checkbox"/> s.346.63(2m) | <input type="checkbox"/> s.940.09(1)(a) | <input type="checkbox"/> s.940.25(1)(am) |
| <input type="checkbox"/> s.346.63(2)(a)1 | <input type="checkbox"/> s.346.63(5) | <input type="checkbox"/> s.940.09(1)(am) | <input type="checkbox"/> s.940.25(1)(b) |

Commercial Motor ☐ If this box is checked, I issued an out-of-service order to you, which specified
Vehicle Violations: the date and time it was issued, for the 24 hours after you refused the test.

I complied with s.343.305(4) Wis. Stats., by reading you form SP4197, the *Informing the Accused* form, and provided a copy of that form to you. You refused a request to submit to a test or tests under s.343.305(3) Wis. Stats. Because of this refusal, your operating privileges may be revoked.

You have 10 days from the date of this notice to file a request in writing for a hearing on the revocation with the **municipal or circuit court named below**. (See reverse side for details regarding hearings.) If you do not request a hearing, the court must revoke your operating privileges 30 days from the date of this notice. You will receive a notification from the WisDOT when your privileges are revoked. Address any hearing requests to:

Municipal or Circuit Court Name
Court Street Address, City, State, ZIP Code

Distribution

White Original: Court
Yellow Copy: Chemical Test Section
3502 Kinsman Blvd.
Madison, WI 53704
Pink Copy: Person Refusing Test
Green Copy: District Attorney

X

(Enforcement Officer Name – Please Print)

See reverse side for additional information

