



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-1214/1

JK:cjs

2025 BILL

1 **AN ACT** *to renumber and amend* 799.20 (4); *to amend* 704.17 (4), 799.09,
2 799.12 (6) (c) (intro.), 799.14 (2), 799.16 (3) (b), 799.16 (4) (c) (title), 799.20
3 (title), 799.20 (1), 799.206 (3), 799.207 (1) (a), 799.207 (1) (b), 799.21 (2),
4 799.22 (2) and 799.41 (1); *to create* 20.640, 20.923 (4) (f) 2g., 230.08 (2) (qm),
5 704.145, 758.10, chapter 759, 799.05 (8), 799.16 (4) (d), 799.20 (3), 799.20 (4)
6 (a), 799.22 (4) (b) 4., 799.40 (4) (c) and 799.425 of the statutes; **relating to:**
7 creating an Office of Civil Legal Aid to be overseen by a Civil Legal Aid Board,
8 providing a right to the appointment of counsel at state expense for residential
9 tenants in eviction actions, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill provides a right to the appointment of counsel at state expense for residential tenants in eviction actions. To implement that right, the bill creates an Office of Civil Legal Aid and a Civil Legal Aid Board to oversee that office. The Civil Legal Aid Board consists of nine members appointed by the state supreme court for staggered three-year terms. No board member may be, or be employed on the staff of, a judicial officer, district attorney, corporation counsel, or the Office of

BILL**SECTION 1**

Civil Legal Aid, and no board member may have an ownership interest in residential property that the member makes available for rent or lease to tenants. Under the bill, the board appoints a director for the Office of Civil Legal Aid and approves the budget for that office. In addition, the board establishes guidelines for evaluating attorney conflicts of interest when the director appoints counsel for tenants in eviction actions.

In addition to accepting requests for and making appointments for counsel, the director of the Office of Civil Legal Aid supervises the operation of the Office of Civil Legal Aid and submits an annual report to the Civil Legal Aid Board. The bill also allows the the director, at the board's direction, to negotiate contracts with local public defender organizations and right-to-counsel programs for counsel appointments. Under the bill, the board must enter into agreements with the State Bar of Wisconsin, local bar associations, law firms, right-to-counsel programs, and private counsel to encourage legal representation without compensation as a service to the state.

Under the bill, an attorney appointed by the director is paid \$100 per hour for time spent on an eviction case. That amount is annually increased by the percentage increase in the consumer price index. The bill also provides travel reimbursement to appointed counsel equal to \$50 per hour for travel outside the county where the attorney is located.

Under the bill, the director may appoint counsel only if sufficient funds are available. In addition, the director must prioritize appointing counsel for individuals in the counties in which the most residential evictions occur and to individuals who are disproportionately at risk of eviction.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.640 of the statutes is created to read:

2 **20.640 Civil legal aid board.** There is appropriated to the civil legal aid
3 board for the following programs:

4 (1) **LEGAL ASSISTANCE.** (a) *General program operations.* A sum sufficient for
5 the operation of the office of civil legal aid.

6 (b) *Program implementation.* A sum sufficient for implementing the right to
7 appointment of counsel under ch. 759, including promoting and advertising the
8 program.

BILL**SECTION 2**

1 **SECTION 2.** 20.923 (4) (f) 2g. of the statutes is created to read:

2 20.923 (4) (f) 2g. Civil legal aid board: director of civil legal aid.

3 **SECTION 3.** 230.08 (2) (qm) of the statutes are created to read:

4 230.08 (2) (qm) The director of civil legal aid.

5 **SECTION 4.** 704.145 of the statutes is created to read:

6 **704.145 Notices of right to counsel in eviction actions.** (1) A residential
7 rental agreement shall include the following notice in the agreement or in an
8 addendum to the agreement:

9 **NOTICE OF RIGHT TO COUNSEL IN EVICTION ACTIONS**

10 As provided under s. 799.425 of the Wisconsin Statutes, in an action against a
11 tenant whose residential tenancy has been terminated for any reason, the tenant
12 shall have a right to counsel at public expense and, once referred to the director of
13 civil legal aid, the director may appoint counsel for the tenant under s. 759.05 of the
14 Wisconsin Statutes, unless the tenant knowingly and voluntarily waives the right
15 to counsel. A tenant who wants counsel appointed in an eviction action must
16 appear on the date specified in the summons or request that counsel be appointed
17 by contacting the clerk of court of the county in which the residential eviction action
18 has been brought on or before the return date specified in the summons. A tenant
19 is advised that this notice is only a summary of the tenant's rights and the specific
20 language of the statutes governs in all instances.

21 (2) A landlord providing notice under ss. 704.16, 704.17, and 704.19 shall
22 include in the notice the following information:

23 **RIGHT TO COUNSEL IN EVICTION ACTIONS**

BILL**SECTION 4**

1 As provided under s. 799.425 of the Wisconsin Statutes, in an action against a
2 tenant whose residential tenancy has been terminated for any reason, the tenant
3 shall have a right to counsel at public expense and, once referred to the director of
4 civil legal aid, the director may appoint counsel for the tenant under s. 759.05 of the
5 Wisconsin Statutes, unless the tenant knowingly and voluntarily waives the right
6 to counsel. A tenant who wants counsel appointed in an eviction action must
7 appear on the date specified in the summons or request that counsel be appointed
8 by contacting the clerk of court of the county in which the residential eviction action
9 has been brought on or before the return date specified in the summons. A tenant
10 is advised that this notice is only a summary of the tenant's rights and the specific
11 language of the statutes governs in all instances.

12 **SECTION 5.** 704.17 (4) of the statutes is amended to read:

13 704.17 (4) FORM OF NOTICE AND MANNER OF GIVING. Notice must be in writing
14 and given as specified in s. 704.21. If so given, and unless ordered otherwise by a
15 court in an eviction action under ch. 799, the tenant is not entitled to possession or
16 occupancy of the premises after the date of termination specified in the notice.

17 **SECTION 6.** 758.10 of the statutes is created to read:

18 **758.10 Civil legal aid board. (1) SELECTION OF MEMBERS.** There is created
19 a civil legal aid board consisting of 9 members appointed by the supreme court. The
20 members shall be appointed for staggered 3-year terms. No member may be, or be
21 employed on the staff of, a judicial officer, district attorney, corporation counsel, or
22 the office of civil legal aid, and no member may have an ownership interest in
23 residential property that the member makes available for rent or lease to tenants.
24 At least 5 members shall be members of the State Bar of Wisconsin.

BILL**SECTION 7**

1 (2) “Director” means the director of civil legal aid appointed under s. 759.03

2 (1).

3 **759.02 Civil legal aid board. (1) DUTIES.** The board shall do all of the
4 following:

5 (a) Appoint the director and establish the director’s salary under s. 20.923.

6 (b) Evaluate the director’s proposed biennial budget of the office of civil legal
7 aid and, after the budget is approved by the board, submit the budget to the
8 supreme court.

9 (d) Establish guidelines for evaluating attorney conflicts of interest when
10 appointing counsel under s. 759.05 (1).

11 (e) Establish a process for an attorney to appeal the director’s decision
12 regarding bill payments, as provided under s. 759.05 (3). The board may affirm,
13 modify, or reject a decision of the director.

14 (f) Establish a process for an attorney to appeal the director’s decision to
15 exclude the attorney from a list prepared under s. 759.06.

16 (g) Enter into agreements with the State Bar of Wisconsin, local bar
17 associations, law firms, right-to-counsel programs, and private counsel designed to
18 encourage legal representation under this chapter without compensation as a
19 service to the state.

20 (h) Perform all other duties necessary and incidental to the performance of
21 any duty enumerated in this chapter.

22 (2) **POWERS.** The board may do any of the following:

23 (a) Remove the director under s. 759.03 (2).

24 (b) Enter into contracts with federal governmental agencies, right-to-counsel

BILL**SECTION 7**

1 programs, and local public defender organizations for the provision of legal services
2 under this chapter.

3 (c) Make recommendations to the supreme court and the legislature regarding
4 the provision of civil legal aid under this chapter.

5 **(3) RESTRICTIONS.** The board may not make any decision regarding the
6 handling of any case nor interfere with the director or any member of the director's
7 staff in carrying out professional duties.

8 **759.03 Director of civil legal aid. (1) APPOINTMENT.** (a) The board shall
9 appoint a director of civil legal aid in the unclassified service, who shall be a
10 member of the State Bar of Wisconsin. The director shall serve for a period of 5
11 years and shall serve at the pleasure of the board. The director shall devote full
12 time to the performance of duties as director.

13 (b) The director shall be included within the Wisconsin retirement system,
14 and ch. 40 applies to the director as it applies to justices of the supreme court.

15 **(2) REMOVAL.** The director is subject to removal under s. 17.07.

16 **(3) SALARY.** The salary of the director may not be decreased while the director
17 serves in that position.

18 **(4) DUTIES.** The director shall do all of the following:

19 (a) Supervise the operation, activities, policies, and procedures of the office of
20 civil legal aid.

21 (b) Prepare and submit to the board for its approval the biennial budget of the
22 office of civil legal aid.

23 (c) Appoint employees in the classified service.

BILL**SECTION 7**

1 (d) Prepare and submit to the board for its approval such personnel and
2 employment policies as the board shall require.

3 (e) Prepare and submit to the board and such other persons as may be
4 appropriate an annual report of the activities of the office of civil legal aid in such
5 form as the board shall direct.

6 (f) Establish and maintain a telephone hotline or other appropriate methods
7 to handle inquiries and screen for eligibility.

8 (g) Establish a system to record the amount of time spent on each case by
9 counsel appointed under this chapter.

10 (h) Accept requests from individuals for the appointment of counsel under this
11 chapter; determine whether the individuals are entitled to the appointment of
12 counsel under this chapter; and appoint counsel under this chapter when, in the
13 discretion of the director, appointment of counsel is appropriate.

14 (i) Represent members of the staff of the office of civil legal aid who are named
15 as defendants in lawsuits arising from their official duties. If appropriate, the
16 attorney general may represent staff members in such lawsuits. In a case in which
17 a staff member could be represented by either the director or attorney general, the
18 director shall determine who represents the staff member.

19 (j) From the appropriation under s. 20.640 (1) (b), implement the right to
20 appointment of counsel program under this chapter, including promoting and
21 advertising the program

22 (k) Perform all other duties necessary or incidental to the performance of any
23 duty enumerated in this chapter.

24 **(5) POWERS.** The director may do any of the following:

BILL**SECTION 7**

1 (a) Commence actions in the name of the office of civil legal aid to seek
2 declaratory judgment on any matter of concern to individuals who are entitled to
3 the appointment of counsel under this chapter.

4 (b) Negotiate contracts with local public defender organizations and right-to-
5 counsel programs as directed by the board.

6 **(6) RESTRICTIONS.** (a) The director may not provide legal representation
7 directly to clients.

8 (b) The director may not provide reimbursement for investigative or expert
9 services provided in a case for which the director appoints counsel under s. 759.05
10 unless the director has authorized counsel to retain an investigator or expert. If the
11 director authorizes retention of an investigator or expert, the director shall specify
12 the maximum amount that may be reimbursed and may not pay more than that
13 amount.

14 **759.04 Eligibility for appointment of counsel.** Subject to s. 759.05 (2), an
15 individual who is a tenant in a residential eviction action under ch. 799 is entitled
16 to the appointment of counsel under this chapter.

17 **759.05 Appointment of counsel; attorney payments.** (1) APPOINTMENT
18 OF COUNSEL; ATTORNEY LISTS. (a) Subject to sub. (2), if the director determines that
19 an individual is entitled to the appointment of counsel, the director shall appoint
20 counsel under this subsection. If the individual makes a request for change of
21 attorney appointment, the change of attorney must be approved by the circuit court.

22 (b) Subject to guidelines established by the board under s. 759.02 (1) (d)
23 regarding attorney conflicts of interest, the director shall appoint attorneys from
24 the lists prepared under s. 759.06 and in order from the top of each list. If an

BILL**SECTION 7**

1 attorney does not accept an appointment, the director shall move the attorney to the
2 bottom of the list.

3 (c) If the attorney appointed under this subsection is the director of a local
4 public defender organization, the director of the local public defender organization
5 may assign the case to any qualified attorney or attorneys employed by the local
6 public defender organization.

7 (d) The director may appoint an attorney without regard to pars. (b) or (c) if
8 the attorney is currently or has previously represented the individual. An
9 appointment out of order shall serve in lieu of an appointment in the regular order.

10 **(2) LIMITED FUNDING; PRIORITIES.** In determining whether to appoint counsel
11 for an individual under sub. (1), the director shall take into account moneys
12 available under s. 20.640 (1) (a) for that purpose and shall appoint counsel only if
13 sufficient funds are available. The director shall prioritize appointing counsel for
14 individuals in the counties in which the most residential evictions occur and to
15 individuals who are disproportionately at risk of eviction.

16 **(3) ATTORNEY BILLING.** An attorney appointed under sub. (1) shall submit the
17 attorney's bill to the director at the conclusion of the case. The director shall review
18 the bill and reject or approve it in whole or in part and shall pay the approved items
19 according to the rates under sub. (4). An attorney dissatisfied with the decision of
20 the director may appeal the decision to the board. This subsection does not apply if
21 the attorney is working under an agreement established under s. 759.02 (1) (g).

22 **(4) REIMBURSEMENT RATES.** The director shall pay an attorney appointed
23 under sub. (1) at the following rates:

24 (a) For time spent related to a case, excluding travel, \$100 per hour. Annually,

BILL**SECTION 7**

1 beginning in 2027, the amount under this paragraph shall be increased by a
2 percentage equal to the average annual percentage change in the U.S. consumer
3 price index for all urban consumers, U.S. city average, as determined by the U.S.
4 department of labor, for the 12 months ending on August 31 of the previous year.

5 (b) For time spent in travel related to a case if any portion of the trip is outside
6 the county in which the attorney's principal office is located or if the trip requires
7 traveling a distance of more than 30 miles, one way, from the attorney's principal
8 office, \$50 per hour.

9 **759.06 County lists of local private counsel.** (1) At least annually, the
10 director shall notify all attorneys licensed to practice in this state that the director
11 is compiling a list of attorneys in each county of the state who are willing to
12 represent individuals entitled to the appointment of counsel under this chapter and
13 shall provide a reasonable time for attorneys to submit their names for inclusion on
14 the list.

15 (2) An attorney may submit the attorney's name for inclusion on one or more
16 county lists under sub. (1). The attorney shall include in the attorney's submission
17 under this subsection a description of the attorney's legal education and experience
18 that qualifies the attorney to provide representation under this chapter.

19 (3) The director shall compile a list of the attorney names and qualifications
20 submitted under sub. (2), and at least annually the director shall update and certify
21 a final list for each county.

22 (4) The director may not exclude an attorney from any list under sub. (3)
23 unless the director states in writing the reasons for the exclusion. An attorney who

BILL**SECTION 7**

1 is excluded from a list may appeal the director's decision to the board, which shall
2 issue a final decision in writing.

3 **759.07 Reporting.** The board shall provide quarterly reports to the supreme
4 court and the legislature regarding all of the following:

5 (1) Attorney case loads and expenditures of moneys under s. 20.640 (1) for the
6 current fiscal year.

7 (2) Projections for attorney case loads and for expenditures of moneys under s.
8 20.640 (1) for the remainder of the current fiscal year and for the next fiscal year.

9 (3) If the projections under sub. (2) indicate that the appropriations under s.
10 20.640 (1) may be insufficient to pay the full amount required for payments under s.
11 759.05 (3) in the fiscal year, a plan to address the shortfall. The plan may include
12 requests for appropriation changes and legislative changes.

13 **759.08 Confidentiality of client files.** The files maintained by the office of
14 civil legal aid that relate to the handling of any case are confidential and are not
15 open to inspection by any person unless authorized by law, court order, the board, or
16 the director.

17 **SECTION 8.** 799.05 (8) of the statutes is created to read:

18 **799.05 (8) NOTICE OF RIGHT TO COUNSEL IN RESIDENTIAL EVICTION ACTIONS.**
19 In a residential eviction action, a notice shall be attached to the summons
20 informing the tenant that the tenant shall have the right to have counsel provided
21 at public expense under ch. 759. The notice shall be substantially in the following
22 form:

23 **NOTICE OF RIGHT TO COUNSEL IN EVICTION ACTIONS**

24 As provided under s. 799.425 of the Wisconsin Statutes, in an action against a

BILL**SECTION 8**

1 tenant whose residential tenancy has been terminated for any reason, the tenant
2 shall have a right to counsel at public expense and, once referred to the director of
3 civil legal aid, the director may appoint counsel for the tenant under s. 759.05 of the
4 Wisconsin Statutes, unless the tenant knowingly and voluntarily waives the right
5 to counsel. A tenant who wants counsel appointed must appear on the return date
6 specified in the attached summons or contact the clerk of court on or before the
7 return date at (contact information) to request that counsel be appointed.

8 **SECTION 9.** 799.09 of the statutes is amended to read:

9 **799.09 Public information.** ~~Information~~ The clerk of court shall
10 disseminate and publicize throughout the county information regarding the
11 existence, location, and hours of the circuit court's small claims system ~~shall be~~
12 ~~disseminated and publicized throughout the county by the clerk of court.~~ Each
13 county shall produce and make available to all litigants in small claims actions
14 publications explaining the procedures to be followed by litigants in small claims
15 actions and information regarding the rights of tenants in residential eviction
16 actions to have counsel provided at public expense under ch. 759.

17 **SECTION 10.** 799.12 (6) (c) (intro.) of the statutes is amended to read:

18 799.12 (6) (c) (intro.) If the defendant's post-office address cannot be
19 ascertained with reasonable diligence, the mailing may be omitted and service may
20 be made by publishing as a class 1 notice under ch. 985 a notice in substantially the
21 following form, except as provided in s. 799.22 (4) (b) 3., along with the notice
22 required under s. 799.05 (8), if applicable:

23 **SECTION 11.** 799.14 (2) of the statutes is amended to read:

24 799.14 (2) EFFECT OF ACTUAL APPEARANCE. This section shall not apply to a

BILL**SECTION 11**

1 defendant who actually appeared and submitted to the jurisdiction of the court
2 without filing application as provided in sub. (1), unless the defendant is a tenant in
3 a residential eviction action who was not represented by counsel and did not waive
4 the tenant's right to counsel as provided under s. 799.425 (1) (b).

5 **SECTION 12.** 799.16 (3) (b) of the statutes is amended to read:

6 799.16 (3) (b) In all other cases ~~where~~ in which the summons and complaint
7 are returned with proof that the defendant cannot be served with personal or
8 substituted service within the state under s. 799.12 (1), the court shall, on the
9 return date, adjourn the case to a day certain not less than 7 days from the return
10 date, and the plaintiff shall affix a notice in substantial conformity with sub. (4) (c)
11 or (d) onto some part of the premises where it may be conveniently read. At least 5
12 days prior to the return date, an additional copy of said notice, together with a copy
13 of the summons and complaint, shall be mailed to the defendant at the last-known
14 address, even if it is the premises which are the subject of the action.

15 **SECTION 13.** 799.16 (4) (c) (title) of the statutes is amended to read:

16 799.16 (4) (c) (title) *Notice in nonresidential eviction.*

17 **SECTION 14.** 799.16 (4) (d) of the statutes is created to read:

18 799.16 (4) (d) *Notice in residential eviction.*

19 STATE OF WISCONSIN

20 CIRCUIT COURT

21 COUNTY

22 TO:

23 Take notice that an eviction action has been commenced against you to recover

BILL**SECTION 14**

1 the possession of the following described premises, of which I, the plaintiff, am
2 entitled to possession, but which you have unlawfully detained from me.

3 Unless you appear and defend on the day of, (year), at o'clock ..M.,
4 in the circuit court of county, located in the courthouse in the city of, before
5 the Honorable, a Judge of said court, or before any judge to whom the action may
6 be assigned, judgment may be rendered against you for the restitution of said
7 premises and for costs.

8 **NOTICE OF RIGHT TO COUNSEL IN EVICTION ACTIONS**

9 As provided under s. 799.425 of the Wisconsin Statutes, you shall have a right
10 to counsel in the eviction action at public expense and, once referred to the director
11 of civil legal aid, the director may appoint counsel for you under s. 759.05 of the
12 Wisconsin Statutes, unless you knowingly and voluntarily waive the right to
13 counsel. If you want counsel appointed for you, you must appear on the date
14 specified above or contact the clerk of court on or before that date at (contact
15 information) to request that counsel be appointed.

16 Dated:, (year)

17 Plaintiff

18 By Plaintiff's Attorney

19 **SECTION 15.** 799.20 (title) of the statutes is amended to read:

20 **799.20** (title) **Answer; counterclaim and cross complaint; tenant**
21 **request for counsel.**

22 **SECTION 16.** 799.20 (1) of the statutes is amended to read:

23 799.20 (1) PLEADING ON RETURN DATE OR ADJOURNED DATE. On the return
24 date of the summons or any adjourned date thereof, the defendant may answer,

BILL**SECTION 16**

1 move to dismiss under s. 802.06 (2), or otherwise respond to the complaint or, if
2 applicable, request the appointment of counsel under s. 799.425.

3 **SECTION 17.** 799.20 (3) of the statutes is created to read:

4 799.20 (3) TENANT REQUEST FOR APPOINTMENT OF COUNSEL. If, on or before
5 the return date of the summons or any adjourned date thereof, a tenant in a
6 residential eviction action contacts the clerk of court to request the appointment of
7 counsel, the court or circuit court commissioner shall refer the tenant to the
8 director of civil legal aid for appointment of counsel under s. 799.425 and stay the
9 proceedings under s. 799.40 (4) (c).

10 **SECTION 18.** 799.20 (4) of the statutes is renumbered 799.20 (4) (intro.) and
11 amended to read:

12 799.20 (4) INQUIRY OF DEFENDANT WHO APPEARS ON RETURN DATE. (intro.) If
13 the defendant appears on the return date of the summons or any adjourned date
14 thereof, all of the following apply:

15 (b) If par. (a) does not apply or if the defendant who is a residential tenant is
16 represented by counsel or waives the tenant's right to counsel, the court or circuit
17 court commissioner shall make sufficient inquiry of the defendant to determine
18 whether the defendant claims a defense to the action.

19 (c) If it appears to the court or circuit court commissioner under par. (b) that
20 the defendant claims a defense to the action, the court or circuit court commissioner
21 shall schedule a trial of all the issues involved in the action, unless the parties
22 stipulate otherwise or the action is subject to immediate dismissal. In a residential
23 eviction action, the court or circuit court commissioner shall hold and complete a
24 court or jury trial of the issue of possession of the premises involved in the action

BILL**SECTION 18**

1 within 30 days of the return date of the summons ~~or~~, any adjourned date thereof, or
2 the return date set when a stay under s. 799.40 (4) (c) is lifted, unless the parties
3 stipulate otherwise or the action is subject to immediate dismissal.

4 **SECTION 19.** 799.20 (4) (a) of the statutes is created to read:

5 799.20 (4) (a) In a residential eviction action, the court or circuit court
6 commissioner shall make sufficient inquiry of a defendant who is a tenant and who
7 is not represented by counsel to determine whether the tenant waives the tenant's
8 right to counsel as provided under s. 799.425 (1) (b). If the tenant does not waive
9 the tenant's right to counsel, the court or circuit court commissioner shall refer the
10 tenant to the director of civil legal aid for appointment of counsel under s. 799.425
11 and stay the proceedings under s. 799.40 (4) (c).

12 **SECTION 20.** 799.206 (3) of the statutes is amended to read:

13 799.206 (3) ~~When~~ Subject to s. 799.20 (4) (a), when all parties appear in
14 person or by their attorneys on the return date in an eviction, garnishment, or
15 replevin action and any party raises valid legal grounds for a contest, the matter
16 shall be forthwith scheduled for a hearing, to be held as soon as possible before a
17 judge, and in the case of an eviction action, not more than 30 days after the return
18 date.

19 **SECTION 21.** 799.207 (1) (a) of the statutes is amended to read:

20 799.207 (1) (a) ~~Any~~ Except as provided in s. 799.20 (4) (a), a circuit court
21 commissioner assigned to assist in small claims matters may hold a conference with
22 the parties or their attorneys or both on the return date, examine pleadings, and
23 identify issues.

24 **SECTION 22.** 799.207 (1) (b) of the statutes is amended to read:

BILL**SECTION 22**

1 799.207 (1) (b) Except as provided in par. (e), and s. 799.20 (4) (a), the circuit
2 court commissioner shall render a decision shall be rendered by the circuit court
3 commissioner on the return date if there is time available for a hearing, the parties
4 do not intend to call witnesses, and the parties agree to such a hearing. If, for any
5 of the reasons stated in this paragraph, the matter cannot be heard on the return
6 date, an adjourned date shall be set.

7 **SECTION 23.** 799.21 (2) of the statutes is amended to read:

8 799.21 (2) TRIAL BY COURT. If trial is to the court, the case may, with the
9 consent of all the parties and subject to s. 799.20 (4) (a), be tried on the return day.

10 **SECTION 24.** 799.22 (2) of the statutes is amended to read:

11 799.22 (2) WHEN DEFENDANT FAILS TO APPEAR OR REQUEST APPOINTMENT OF
12 COUNSEL. If the defendant fails to appear on the return date or on the date set for
13 trial and the defendant has not requested the appointment of counsel under s.
14 799.20 (3), the court may enter a judgment upon due proof of facts ~~which~~ that show
15 the plaintiff entitled thereto.

16 **SECTION 25.** 799.22 (4) (b) 4. of the statutes is created to read:

17 799.22 (4) (b) 4. In a residential eviction action, if a defendant who is a tenant
18 attempts to join issue without appearing on the return date, regardless of whether
19 the tenant's answer is proper under the rule, and if it appears that the tenant is not
20 represented by counsel, the proceedings shall be automatically stayed until the
21 court or circuit court commissioner makes the inquiry of the tenant described
22 under s. 799.20 (4) (a).

23 **SECTION 26.** 799.40 (4) (c) of the statutes is created to read:

24 799.40 (4) (c) The court shall stay the proceedings in a civil action of eviction

BILL**SECTION 26**

1 against a residential tenant who is not represented by counsel if the tenant
2 requests the appointment of counsel under s. 799.20 (3) or the tenant, in an inquiry
3 under s. 799.20 (4) (a), does not waive the tenant's right to counsel. If the court
4 grants a stay under this paragraph, the stay remains in effect until the director of
5 civil legal aid determines whether the tenant is entitled to the appointment of
6 counsel under ch. 759 and, if appropriate, counsel is appointed under s. 799.425 (2)
7 or (3), the tenant retains counsel of the tenant's own choosing, or the tenant waives
8 the tenant's right to counsel as provided under s. 799.425 (1) (b), whichever occurs
9 first. Notwithstanding s. 704.17 (4), the tenant is entitled to continued possession
10 or occupancy of the residential premises while the stay remains in effect. When the
11 court lifts the stay, the court shall set a new return date.

12 **SECTION 27.** 799.41 (1) of the statutes is amended to read:

13 799.41 (1) The complaint in an eviction action shall be in writing and
14 subscribed by the plaintiff or attorney in accordance with s. 802.05. The complaint
15 shall identify the parties and the real property ~~which~~ that is the subject of the
16 action, specify whether the real property is residential, and state the facts ~~which~~
17 that authorize the removal of the defendant. The description of real property is
18 sufficient, whether or not it is specific, if it reasonably identifies what is described.
19 A description by street name and number is sufficient. If the complaint relates only
20 to a portion of described real estate property, that portion shall be identified. If a
21 claim in addition to the claim for restitution is joined under s. 799.40 (2), the claim
22 shall be separately stated. The prayer shall be for the removal of the defendant or
23 the property or both and, if an additional claim is joined, for the other relief sought
24 by the plaintiff.

BILL**SECTION 28**

1 **SECTION 28.** 799.425 of the statutes is created to read:

2 **799.425 Right to counsel in residential eviction actions. (1) RIGHT TO**
3 LEGAL REPRESENTATION. (a) Except as provided in pars. (b) and (c), in an action of
4 eviction against a tenant whose residential tenancy has been terminated for any
5 reason, the tenant shall be entitled to the appointment of counsel at public expense
6 under s. 759.04.

7 (b) A residential tenant may waive the tenant's right to counsel under par. (a)
8 if the court is satisfied that the waiver is knowingly and voluntarily made and the
9 court accepts the waiver.

10 (c) A residential tenant is presumed to have waived the tenant's right to
11 counsel under par. (a) if the tenant does any of the following:

12 1. Fails to request the appointment of counsel under s. 799.20 (3) and fails to
13 appear on the return date or on the date set for trial as provided under s. 799.22 (2).

14 2. Retains counsel of the tenant's own choosing who enters a notice of
15 appearance on behalf of the tenant.

16 (d) In a proceeding under s. 799.14 (1) to set aside a judgment entered or for
17 an opportunity to be heard upon the merits, a residential tenant who waived the
18 tenant's right to counsel under par. (b) or who is presumed to have waived the
19 tenant's right to counsel under par. (c) is entitled to legal representation under par.
20 (a). If it appears that the tenant is not represented by counsel in the proceeding, the
21 court shall make the inquiry of the tenant described under s. 799.20 (4) (a).

22 **(2) POWER OF COURT TO APPOINT COUNSEL.** At any time, upon request or on
23 the court's own motion, the court may appoint counsel at county expense for a

BILL**SECTION 28**

1 residential tenant who may be entitled to the appointment of counsel under sub. (1)

2 (a).

3 **(3) PROVIDING COUNSEL.** If a residential tenant is entitled to the appointment
4 of counsel at public expense under sub. (1) (a) and the tenant requests appointment
5 of counsel under s. 799.20 (3) or the tenant does not waive, and is not presumed to
6 have waived, the tenant's right to counsel under sub. (1) (b) or (c), the court shall
7 refer the tenant to the director of civil legal aid for appointment of counsel under s.
8 759.05.

9 **(4) DISCHARGE OF COUNSEL.** If a residential tenant waives, or is presumed to
10 have waived, the tenant's right to counsel under sub. (1) (b) or (c), the court may
11 discharge counsel appointed under sub. (2) or (3).

12 **(5) RETAINED COUNSEL.** Notwithstanding subs. (1) to (3), a residential tenant
13 is entitled to retain counsel of the tenant's own choosing at the tenant's own
14 expense.

15 **SECTION 29. Nonstatutory provisions.**

16 (1) POSITION AUTHORIZATIONS. There is authorized for the civil legal aid
17 board 1.0 FTE GPR director position and 5.0 FTE GPR other positions to be funded
18 from the appropriation under s. 20.640 (1) (a).

19 **SECTION 30. Initial applicability.**

20 (1) Except as provided in sub. (2), this act first applies to a residential eviction
21 action commenced on the effective date of this subsection.

22 (2) The treatment of s. 704.145 (1) first applies to a residential rental

BILL

SECTION 30

1 agreement or addendum to an agreement entered into, modified, or renewed on the
2 effective date of this subsection.

3 (END)