



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4019/1
ZDW&TKK:ahc

2015 ASSEMBLY BILL 1010

March 29, 2016 - Introduced by Representatives GOYKE, BARNES, ZAMARRIPA, SPREITZER, JOHNSON and ZEPNICK. Referred to Committee on Judiciary.

1 **AN ACT to repeal** 23.795 (1) (a), 23.795 (1) (b), 302.373, 345.47 (1) (a), 345.47
2 (1m), 345.47 (3), 345.49, 800.095 (1) (b) and 800.095 (2); **to renumber and**
3 **amend** 23.795 (1) (intro.); and **to amend** 23.795 (2), 23.795 (3), 23.795 (4),
4 59.54 (19), 62.23 (7) (f) 1., 66.0109, 114.105, 303.08 (1) (intro.), 345.28 (6), 345.47
5 (1) (b), 345.47 (1) (d), 800.09 (1g), 800.095 (3) and 898.16 of the statutes;
6 **relating to:** imprisonment for nonpayment of forfeitures, costs, fees, or
7 surcharges.

Analysis by the Legislative Reference Bureau

This bill eliminates the ability of a court to order a period of imprisonment for an individual who fails to pay the forfeiture, costs, fees, or surcharges associated with a traffic violation or with the violation of a county or municipal ordinance or regulation.

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:

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1 **SECTION 1.** 23.795 (1) (intro.) of the statutes is renumbered 23.795 (1) and
2 amended to read:

3 **23.795 (1)** If a defendant fails to timely pay a judgment entered under s. 23.75
4 (3) (a) 2. or 23.79, the court may issue an arrest warrant or a summons ordering the
5 defendant to appear in court or both. If the defendant appears before the court
6 pursuant to a warrant or summons or the defendant otherwise notifies the court that
7 he or she is unable to pay the judgment, the court shall conduct a hearing. If the
8 defendant failed to pay the forfeiture, the court shall determine if the defendant is
9 unable to pay the amount specified in the judgment for good cause or because of the
10 defendant's indigence. If the court determines that the failure of the defendant to
11 comply with the judgment is for good cause or because of the defendant's indigence,
12 the court may order that the amount of the judgment be modified, suspended or
13 permanently stayed. ~~If the defendant fails to appear before the court for a hearing~~
14 ~~under this subsection or if the court determines at the hearing that the failure of a~~
15 ~~defendant to pay the judgment is not for good cause or not because of the defendant's~~
16 ~~indigence, the court shall order one of the following:~~

17 **SECTION 2.** 23.795 (1) (a) of the statutes is repealed.

18 **SECTION 3.** 23.795 (1) (b) of the statutes is repealed.

19 **SECTION 4.** 23.795 (2) of the statutes is amended to read:

20 **23.795 (2)** ~~In lieu of an order of imprisonment under sub. (1) (a) for~~ For a
21 violation of ch. 29, the court may revoke or suspend any privilege or approval granted
22 under ch. 29 as provided in s. 29.971 (12).

23 **SECTION 5.** 23.795 (3) of the statutes is amended to read:

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1 23.795 (3) ~~In lieu of an order of imprisonment under sub. (1) (a) for~~ For a
2 violation of ch. 169, the court may revoke or suspend any privilege or license granted
3 under ch. 169 as provided in s. 169.45 (6).

4 **SECTION 6.** 23.795 (4) of the statutes is amended to read:

5 23.795 (4) ~~In lieu of an order of imprisonment under sub. (1) (a) for~~ For a
6 violation of s. 90.21, the court may suspend any fence inspection certificate issued
7 under s. 90.21, as provided in s. 90.21 (8) (b).

8 **SECTION 7.** 59.54 (19) of the statutes is amended to read:

9 59.54 (19) RIDING HORSES, REGULATION. The board may provide by ordinance for
10 the regulation, prohibition and licensing of horses kept for the purpose of riding,
11 whether by private owners for their own use or by commercial stables, riding
12 academies or clubs for hire; for the licensing and regulation of owners of riding horses
13 and the regulation, prohibition and licensing of commercial stables keeping horses
14 for riding purposes for hire. The board may revoke the license of any owner of a horse
15 kept for the purpose of riding for violation of such ordinance after the filing of charges
16 and notice and hearing thereon. Such ordinance may provide that the chairperson
17 of the board, when the board is not in session, shall be authorized to issue such license
18 or to suspend such license of any person violating such ordinance; such issuance of
19 license or the suspension of such license to be acted on by the board at its next
20 meeting. Such ordinance may impose a forfeiture not to exceed \$100 for each
21 violation ~~or, in default of payment thereof, imprisonment for not more than 30 days.~~
22 Such ordinances may not apply within cities, villages and towns that have enacted
23 ordinances regulating the same subject matter.

24 **SECTION 8.** 62.23 (7) (f) 1. of the statutes is amended to read:

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1 62.23 (7) (f) 1. The council may provide by ordinance for the enforcement of this
2 section and of any ordinance or regulation made thereunder. In case of a violation
3 of this section or of such ordinance or regulation such council may provide for the
4 punishment by fine and by imprisonment for failure to pay such fine. It is also
5 empowered to provide civil penalties for such violation.

6 **SECTION 9.** 66.0109 of the statutes is amended to read:

7 **66.0109 Penalties under county and municipal ordinances.** If a statute
8 requires that the penalty under any county or municipal ordinance conform to the
9 penalty provided by statute the ordinance may impose only a forfeiture and may
10 provide for imprisonment if the forfeiture is not paid.

11 **SECTION 10.** 114.105 of the statutes is amended to read:

12 **114.105 Local regulation.** Any county, town, city or village may adopt any
13 ordinance in strict conformity with the provisions of this chapter and impose the
14 same penalty for violation of any of its provisions except that such ordinance shall
15 not provide for the suspension or revocation of pilot or aircraft licenses or certificates
16 and shall not provide for imprisonment except for failure to pay any fine which may
17 be imposed. No local authority shall enact any ordinance governing aircraft or
18 aeronautics or spacecraft or astronautics contrary to or inconsistent with the
19 provisions of this chapter or federal law. Every court in which a violation of such
20 ordinance is prosecuted shall make a written report of any conviction (including bail
21 or appearance money forfeiture) to the federal aviation administration.

22 **SECTION 11.** 302.373 of the statutes is repealed.

23 **SECTION 12.** 303.08 (1) (intro.) of the statutes is amended to read:

24 **303.08 (1) (intro.)** Any person sentenced to a county jail for crime, nonpayment
25 of a fine or forfeiture, or contempt of court or subject to a confinement sanction under

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1 s. 302.113 (8m) or 302.114 (8m) may be granted the privilege of leaving the jail during
2 necessary and reasonable hours for any of the following purposes:

3 **SECTION 13.** 345.28 (6) of the statutes is amended to read:

4 345.28 (6) No person may be arrested or imprisoned under ~~s. 345.47 (1) (a) or~~
5 ch. 785 for failure to pay a judgment assessed under this section and s. 345.47.

6 **SECTION 14.** 345.47 (1) (a) of the statutes is repealed.

7 **SECTION 15.** 345.47 (1) (b) of the statutes is amended to read:

8 345.47 (1) (b) ~~In lieu of imprisonment and in~~ In addition to any other
9 suspension or revocation, that the defendant's operating privilege be suspended.
10 The operating privilege shall be suspended for 30 days or until the person pays the
11 forfeiture, plus costs, fees, and surcharges imposed under ch. 814, but not to exceed
12 2 years. If the defendant has notified the court that he or she is unable to pay the
13 judgment because of poverty, and if the court, using the criteria in s. 814.29 (1) (d),
14 determines that the defendant is unable to pay the judgment because of poverty, the
15 court may not suspend the defendant's operating privilege without first providing
16 the defendant with an opportunity to pay the judgment in installments, taking into
17 account the defendant's income. Suspension under this paragraph shall not affect
18 the power of the court to suspend or revoke under s. 343.30 or the power of the
19 secretary to suspend or revoke the operating privilege. This paragraph does not
20 apply if the judgment was entered solely for violation of an ordinance unrelated to
21 the violator's operation of a motor vehicle.

22 **SECTION 16.** 345.47 (1) (d) of the statutes is amended to read:

23 345.47 (1) (d) In addition to ~~or in lieu of imprisonment or suspension under par.~~
24 ~~(a) or (b)~~, the court may notify the department, in the form and manner prescribed
25 by the department, that a judgment has been entered against the defendant and

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1 remains unpaid, or that the defendant has failed to comply with an installment
2 payment plan ordered under this section. The notice shall include the name and
3 last-known address of the person against whom the judgment was entered, the date
4 judgment was entered, the amount of the judgment, the license number of the vehicle
5 involved, certification by the court that a warrant has been served on the person
6 against whom the judgment was entered or, in the case of a judgment entered under
7 s. 345.28, that the person has been notified of the entry of judgment and the judgment
8 or installments remain unpaid and the place where the judgment or installments
9 may be paid. If the person subsequently pays the judgment or complies with the
10 installment payment plan the court shall immediately notify the department of the
11 payment in the form and manner prescribed by the department.

12 **SECTION 17.** 345.47 (1m) of the statutes is repealed.

13 **SECTION 18.** 345.47 (3) of the statutes is repealed.

14 **SECTION 19.** 345.49 of the statutes is repealed.

15 **SECTION 20.** 800.09 (1g) of the statutes is amended to read:

16 800.09 (1g) The court may defer payment of any judgment or provide for
17 installment payments. At the time that the judgment is rendered, the court shall
18 inform the defendant, orally and in writing, of the date by which restitution and the
19 payment of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814,
20 must be made, and of the possible consequences of failure to do so in timely fashion,
21 including imprisonment, as provided in s. 800.095, or suspension of the defendant's
22 motor vehicle operating privilege, as provided in sub. (1b) (c), if applicable. In
23 addition, the court shall inform the defendant, orally and in writing, that the
24 defendant should notify the court if he or she is unable to pay the judgment because
25 of poverty, as that term is used in s. 814.29 (1) (d), and that he or she may request

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1 community service in lieu of payment of the judgment. If the defendant is not
2 present, the court shall ensure that the information is sent to the defendant by mail.
3 If the defendant is present and the court, using the criteria in s. 814.29 (1) (d),
4 determines that the defendant is unable to pay the judgment because of poverty, the
5 court shall provide the defendant with an opportunity to pay the judgment in
6 installments, taking into account the defendant's income, or to perform community
7 service in lieu of payment of the judgment. In 1st class cities, all of the written
8 information required by this subsection shall be printed in English and Spanish and
9 provided to each defendant.

10 **SECTION 21.** 800.095 (1) (b) of the statutes is repealed.

11 **SECTION 22.** 800.095 (2) of the statutes is repealed.

12 **SECTION 23.** 800.095 (3) of the statutes is amended to read:

13 800.095 (3) Subsection (1) (a) and (b) does not apply to orders for restitution
14 under s. 800.093 or in cases where service of the summons and complaint or citation
15 is made by mail as authorized in s. 800.01 (2) (e).

16 **SECTION 24.** 898.16 of the statutes is amended to read:

17 **898.16 When prisoner to have.** Every person who shall be in the custody of
18 the sheriff of any county by virtue of an order of arrest, or writ of ne exeat or
19 surrender by the person's bail upon an order of arrest, execution ~~except when issued~~
20 ~~in a civil action for the recovery of a forfeiture or penalty,~~ or attachment in
21 proceedings for contempts, not criminal, issued for nonpayment of costs or of any sum
22 of money ordered to be paid in a civil action shall be entitled to be admitted to such
23 jail liberties upon executing the bond prescribed in s. 898.17.

24

(END)