

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-21-99
BILL NO. AB 171
OR
SUBJECT _____

Michael Hejletz
(NAME)
215 West
(Street Address or Route Number)

(City and Zip Code)
Sp. Rk.
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.
Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI. 53701-2536

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DATE: September 9, 1999

TO: SENATOR ROBERT WIRCH, CHAIRPERSON, SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, HOUSING AND GOVERNMENT OPERATIONS

FROM: Dan Fernbach, Senior Staff Attorney

SUBJECT: 1999 Assembly Bill 171, Relating to Prisoner Reimbursement to a Municipality

1999 Assembly Bill 171 was introduced on March 8, 1999 by Representative Foti. On April 22, 1999, the bill was recommended for passage by the Assembly Committee on State Affairs by a vote of Ayes, 6 and Noes, 2; and passed the Assembly by a voice vote on May 19, 1999.

The Senate Committee on Economic Development, Housing and Government Operations will conduct a hearing on the bill on September 21, 1999.

A. PRESENT LAW

Under present s. 800.095, Stats., if a defendant *does not comply* with a municipal court judgment requiring the payment of a forfeiture and related assessments and costs or an order to perform community service, the court shall issue an arrest warrant or summons ordering the defendant to appear in court. The defendant may be incarcerated prior to the court appearance. The statute also specifies the form of the arrest warrant and the summons.

If the defendant, pursuant to the warrant or summons, appears before the court and indicates that he or she is *unable to comply* with the court's judgment, the court shall conduct a hearing to determine whether the defendant's failure to pay the judgment is for *good cause or indigency*, or the failure to comply with the community service order is for good cause.

If the defendant fails to appear before the court or the court determines that the defendant's failure to comply with the judgment is *not* for good cause or because the defendant is indigent, the court *shall order one of the following*:

(OVER)

1. That the defendant be *incarcerated* until the judgment and costs are paid, but *not to exceed 90 days*. The amount owed shall be reduced by at least *\$25 for each day* of imprisonment, including jail time prior to the above-described hearing.

2. That the monetary judgment be modified, suspended or permanently stayed.

3. That the defendant *perform community service* designated by the court in lieu of paying the monetary judgment and related costs or in lieu of restitution, if the person who is owed the restitution agrees.

4. That the defendant's *driver's license is suspended* until the judgment is satisfied, but the suspension shall not exceed five years.

If the municipal court finds that the defendant's failure to comply with the judgment was, in fact, for good cause or because the defendant is indigent, the *court may modify, suspend or permanently stay* the judgment or may order the defendant to *perform community service*.

A defendant who fails to comply with any modified order for payment or an order to perform community service may be incarcerated pursuant to item 1., above. In such instances, the defendant shall be committed to a jail or house of correction, and the *municipality shall pay the expenses incurred by the county* to imprison the defendant. The defendant may be eligible for Huber Law privileges. In addition to the above procedures, a municipality may enforce a judgment in the same manner as judgments in ordinary civil actions, e.g., attachment, garnishment, etc. Finally, the above-described procedures apply to municipal traffic forfeiture actions if the court, when issuing its judgment, determines that jail time may be ordered for any subsequent noncompliance with its judgment and order.

B. PROVISIONS OF 1999 ASSEMBLY BILL 171

Under Assembly Bill 171, a *city, village or town may seek reimbursement from a county jail prisoner* who violates a municipal ordinance for the amount paid to a county for the expenses incurred by the county to incarcerate the prisoner. The municipality *may commence an action* in circuit court to obtain a judgment for those expenses, and must do so *within 12 months after the release* of the prisoner or be barred from bringing the action.

The *fiscal estimate* prepared by the Department of Corrections (DOC) indicates that the bill *may increase revenues* to municipalities that successfully pursue recovery. However, these revenues *could be offset* by increased court costs to both municipalities and counties. The DOC further notes that "a precise fiscal estimate cannot be determined" because the number of violators, length of jail stays, the likelihood of recovery and the costs of administration are unknown.

FEB 16 2000

WISCONSIN LEGISLATURE



February 16, 2000

Senator Robert Wirch, Chair
Senate Committee on Economic Development, Housing and
Government Operations
State Capitol, Room 310 South
Madison, WI 53702

Dear Senator Wirch:

We are contacting you today concerning Assembly Bill 171, currently before the Senate Committee on Judiciary and Consumer Affairs.

Under current law, a city, village or town must pay counties for the expenses incurred to imprison persons that have failed to pay fines and forfeitures related to a municipal ordinance violation. This can often lead to significant costs for cities, villages and towns. For example, various law enforcement agencies in Waukesha County incurred such expenses amounting to approximately \$30,000 in 1998.

As we ask our local governments to hold the line on their budgets and our property taxes, it is important we give them the opportunity to recover legitimate expenses from prisoners who ignore the penalties imposed upon them. Therefore, this legislation permit cities, villages and towns to seek reimbursement from prisoners for the amount paid to a county for expenses incurred by the county to incarcerate the prisoner.

This proposal also is consistent with current law allowing the Department of Corrections and the counties to seek reimbursement from a prisoner for the costs of incarceration.

You graciously held a public hearing on AB 171 on September 21, 1999. We respectfully request your committee take executive action on this bill at your earliest opportunity.

Thank you for your consideration of this request. We look forward to working with you to address any concerns you may have on this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Foti".

Steve Foti
38th Assembly District

A handwritten signature in black ink, appearing to read "Scott Fitzgerald".

Scott Fitzgerald
13th Senate District