



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

OCT 05 RECD

JAMES E. DOYLE  
ATTORNEY GENERAL

114 East, State Capitol  
P.O. Box 7857  
Madison, WI 53707-7857

Burnetta L. Bridge  
Deputy Attorney General

October 4, 2000

OAG - 4 - 00

The Honorable Chuck Chvala  
Senate Majority Leader  
211 South, State Capitol  
Madison, WI 53702

Dear Senator Chvala:

The Senate Committee on Organization asks whether municipal courts have authority to order the parents of a juvenile to pay a forfeiture imposed on their child for violating a non-traffic municipal ordinance. I have concluded that they do.

In addition to the inherent powers possessed by all courts to enable them to perform their judicial functions, municipal courts have other powers conferred by statute. *See City of Sun Prairie v. Davis*, 226 Wis. 2d 738, 747-48, 595 N.W.2d 635 (1999); *State ex rel. Lang v. Municipal Justice Court*, 50 Wis. 2d 21, 25, 183 N.W.2d 43 (1971). These additional powers need not be conferred expressly, directly and unequivocally, but may be derived from a reasonable construction of the statutes. *Cf. Milwaukee v. Kilgore*, 193 Wis. 2d 168, 183-87, 190-91, 532 N.W.2d 690 (1995) (construing ambiguous statutes to confer on municipal courts power to suspend driver's license for failure to pay forfeiture imposed for violation of non-traffic municipal ordinance).

Although no single provision directly authorizes municipal courts to order parents to pay their children's forfeitures, this power may be found in the statutes by following a marked trail through a series of sections beginning with the one which makes parents liable for the forfeitures.

The Juvenile Justice Code, Wis. Stat. § 938.45(1r)(b), provides that "[i]n a proceeding in which the court has determined under s. . . . 938.343(2)" to impose a forfeiture on a juvenile, "the court may order a parent who has custody . . . of the juvenile to pay the forfeiture."

The Juvenile Justice Code defines a "court" as the juvenile court, or in the case of a juvenile who is subject to Wis. Stat. § 938.17(2), a municipal court. *See* Wis. Stat. § 938.02(2m). Wisconsin Stat. § 938.17(2) gives municipal courts concurrent jurisdiction with juvenile courts in cases involving non-traffic municipal ordinance violations, including jurisdiction to enter any of the dispositional orders permitted under Wis. Stat. § 938.343. *See* Wis. Stat. § 938.17(2)(d). Wisconsin Stat. § 938.343(2) permits a court to impose a forfeiture on a juvenile for violating a non-traffic municipal ordinance.

The Honorable Chuck Chvala  
Page 2

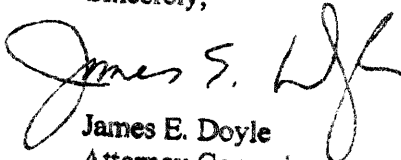
Thus, a municipal court is a court which can determine to impose a forfeiture on a juvenile in a proceeding under Wis. Stat. § 938.343(2). And because the municipal court can impose a forfeiture on a juvenile under this section, it is a court which may order the parents of the juvenile offender to pay the forfeiture under Wis. Stat. § 938.45(1r)(b).

This conclusion is confirmed by Wis. Stat. § 895.035 which is titled "Parental liability for acts of minor child." Wisconsin Stat. § 895.035(2m)(b) provides that if either a juvenile or the juvenile's parent fails to pay a forfeiture ordered by either a juvenile court or a municipal court, the amount of the forfeiture may be docketed as a judgment against both the juvenile and the parent. This section obviously assumes that a municipal court can order a parent to pay a forfeiture assessed against the parent's child.

Moreover, any other conclusion would result in an unreasonable dichotomy, something to be scrupulously avoided in interpreting statutes. *See generally State v. Timm*, 163 Wis. 2d 894, 899, 472 N.W.2d 593 (Ct. App. 1991). There is no question that under Wis. Stat. § 938.45(1r)(b) a juvenile court can order the parents of a juvenile to pay a forfeiture imposed on their child for violating a non-traffic municipal ordinance. There is no logical reason why parents should be required to pay a forfeiture imposed on their child by a juvenile court, but not be required to pay a forfeiture imposed for the same act violating the same ordinance simply because the forfeiture was imposed by a municipal court having concurrent jurisdiction to impose the forfeiture on their child. *Cf. Trehwella v. Fiedler*, 185 Wis. 2d 499, 525, 517 N.W.2d 689 (Ct. App. 1994), *aff'd sub nom. Kilgore*, 193 Wis. 2d 168 (respondents do not explain how municipal courts could have been given authority to order forfeitures but not given power to enforce their orders in the manner the Legislature explicitly established).

Municipal courts have statutory authority to order the parents of a juvenile to pay a forfeiture imposed on their child for violating a non-traffic municipal ordinance.

Sincerely,

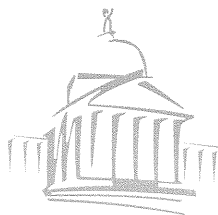
  
James E. Doyle  
Attorney General

JED:TJB:klp

CAPTION:

Municipal courts have statutory authority to order the parents of a juvenile to pay a forfeiture imposed on their child for violating a non-traffic municipal ordinance.

AB 755



# Joseph K. Leibham

STATE REPRESENTATIVE • 26TH DISTRICT

*City of Sheboygan Wards 1-3, 5,6,9, 11-16; Town of Sheboygan; Village of Kohler;  
City of Sheboygan Falls; Town of Sheboygan Falls Ward 4*

January 4, 2001

State Senator James Baumgart  
9<sup>th</sup> Senate District  
Room 306 South, State Capitol  
Madison, WI 53707

Dear Senator Baumgart,

On behalf of the residents of the 26<sup>th</sup> State Assembly District, I plan on re-introducing the Bomb Threat/Driver's License Suspension legislation that was introduced and approved in the State Assembly last session.

I would appreciate your consideration of co-authoring a senate version of the bill. I have included a copy of last session's legislation for your review and consideration.

I hope that we can work together at moving this important legislation forward through both houses of the legislature. I look forward to hearing from you soon.

All my best for a great legislative session.

Sincerely,

A handwritten signature in cursive script that reads "Joseph K. Leibham".

Joseph K. Leibham  
*State Representative  
26<sup>th</sup> Assembly District*

cc Gary Dulmes  
Joe Sheehan & Jeannie Bitkers

JAN 16 2001

# Sheboygan Area School District

Office of the Superintendent  
830 Virginia Avenue  
Sheboygan, Wisconsin 53081-4427  
(920)459-3511  
Fax:(920)459-6487

Jeanne M. Bitkers  
Co-Superintendent of Schools

Joe Sheehan  
Co-Superintendent of Schools

January 10, 2001

State Senator James Baumgart  
9<sup>th</sup> Senatorial District  
Room 306 South, State Capitol  
Madison, WI 53707-7882

Dear Jim,

We write with thanks for all you do for those you represent in Wisconsin and a request that you co-author a senate version of Bomb Threat/Driver's License Suspension legislation. We believe that this legislation will serve as a deterrent to some individuals who consider threatening students and others in our schools.

Please let us know if we can provide information to you regarding this issue.

Best wishes for continued success in the new year.

Sincerely,

Jeanne M. Bitkers  
Co-Superintendent

Joe M. Sheehan  
Co-Superintendent

srp

cc: State Representative Joseph K. Leibham  
Gary Dulmes



*Good approach - tougher actual  
- wish to all work but Sen. George is not  
in favor of such penalties. Last budget shifted  
legislation, DOT & Governor away from suspending licenses (only traffic actual)  
- IA League of Learning's bill came out of Sen. Judiciary for support.  
Requires:  
- Community Service  
- Increase fine w/ parents respons.  
- Grad. th. medal (reg. correct)*

# Sheboygan Area School District

Office of the Superintendent  
830 Virginia Avenue  
Sheboygan, Wisconsin 53081-4427  
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Fax:(920)459-6487

Jeanne M. Bitkers  
Co-Superintendent of Schools

Joe Sheehan  
Co-Superintendent of Schools

January 10, 2001

State Representative Joseph K. Leibham  
26<sup>th</sup> Assembly District  
State Capitol, Room 121 West  
PO Box 8952  
Madison, WI 53708-8952

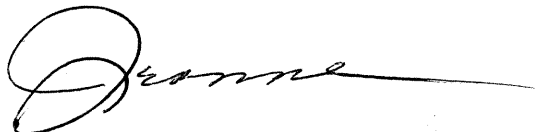
Dear Joe,

Thank you for considering the re-introduction of the Bomb Threat/Driver's License Suspension legislation this year. We appreciate your continuing concerns in this area and your willingness to try to provide consequences for individuals who threaten students and others in our schools.

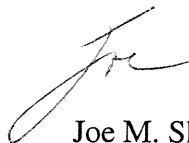
Please call us if we can help you with this in any way.

Best wishes for continued success as you work with and for citizens of the 26<sup>th</sup> District and the State of Wisconsin.

Sincerely,



Jeanne M. Bitkers  
Co-Superintendent



Joe M. Sheehan  
Co-Superintendent

cc: ✓ Senator Jim Baumgart  
Gary Dulmes



Total Pages Transmitted  
Including Transmittal

# FACSIMILE TRANSMITTAL

Date Transmitted 6/6/01

Please deliver the following page(s).

TO:

Firm/Agency/District Name

Senator Jim Baumgart

Person's Name

Pat Henderson

FAX (Area Code-Telephone No.)

267-6796

(Area Code-Telephone No.)

266-2056

FROM:

Wisconsin Department of Transportation

Bureau/District/Section Name

Bureau of Driver Services

Person's Name

Doug Thompson

- MESSAGE -

FAX (Area Code-Telephone No.)

261-5888

(Area Code-Telephone No.)

266-1052

Good morning Pat:

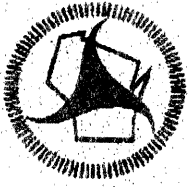
The letter I promised follows. It is section 938.355(6)(d)(2) that permits the court to suspend the operating privilege of a juvenile for failure to complete community service.

Please let me know if you need anything more.

If you receive this transmission in error, please call the sender and return the message. This transmission is intended only for the use of the addressee.



cc: JUTIE CLARK  
CF



# Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum  
Governor

Terrence D. Mulcahy, P.E.  
Secretary

Office of the Secretary  
4802 Sheboygan Ave., Rm. 120B  
P.O. Box 7910  
Madison, WI 53707-7910

Telephone: 608-266-1113  
FAX: 608-266-9912  
E-Mail: sec.exec@dot.state.wi.us

March 15, 2001

The Honorable Gwendolynne S. Moore  
Wisconsin State Senator  
409 South, State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882

Re: WisDOT position on returning authority to the Courts to withdraw operating privileges for failing to pay non-traffic forfeitures.

Dear Senator Moore:

In taking a position on proposals related to withdrawing driver license privileges for not paying "non-driving" forfeitures, the Wisconsin Department of Transportation (WisDOT) has stated it should not be a bill collector for local government. This assertion does not conflict with supporting AB5 and opposing SB59.

The Department supported AB5 (FPJs) because the Courts convinced us that the threat of license withdrawal is the best tool to change the behavior of young drivers. Juveniles usually take their driving privileges very seriously. The threat of suspension gets their attention. The Courts have also found more costly work-arounds to suspend juvenile's licenses. We do not believe it is good for the Courts or for WisDOT to use the work-arounds to secure payment. So, with advance planning, WisDOT will partially automate some of the data entry processing for FPJs.

WisDOT opposes SB59 because the license suspension process does not seem to convince adults to pay forfeitures. They tend to continue to operate after suspension. Minor infractions that start out as FPN suspensions escalate into operating-while-suspended convictions.

With or without the license withdrawal provisions, the Courts have other options for encouraging adults to pay forfeitures.

- Collection Services
- Community Service
- Tax set-off against a state tax refund
- Contempt charges and further forfeitures
- Jail

These options seem to be more relevant to the non-driving nature of the violations. If you would like to discuss this further, please contact me at 608.266.1114.

Sincerely,

Robert J. Cook  
Executive Assistant

cc: Representative Bonnie Ladwig