

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/13/02

BILL NO. SB 253

SUBJECT

(NAME) Eileen Ostravsky

(Street Address or Route Number)

(City and Zip Code) WIS DOT / DMV

(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

SENATE HEARING SLIP

(Please Print Plainly)

DATE: February 13, 2002

BILL NO. SB 253

SUBJECT Traffic Fines

(NAME) Sue Moline Larson

(Street Address or Route Number) 322 E. Washington Ave.

(City and Zip Code) Madison, WI 53703

(Representing) Lutheran Office for Public

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/13/02

BILL NO. SB 253

SUBJECT

(NAME) David Pifer

(Street Address or Route Number) 230 W. Wells, Suite 600

(City and Zip Code) Milwaukee, WI 53045

(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:

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DATE: February 13, 2002

BILL NO. SB 253

SUBJECT Traffic Fines

(NAME) Sue Moline Larson

(Street Address or Route Number) 322 E. Washington Ave.

(City and Zip Code) Madison, WI 53703

(Representing) Lutheran Office for Public

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/13/02

BILL NO. SB-253
OR

SUBJECT _____

Michael Milby

(NAME)

200 E. Wells

(Street Address or Route Number)

Millwaukee WI 53202

(City and Zip Code)

City of Milwaukee

(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:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/13/2002

BILL NO. SB 253

OR
SUBJECT _____

(NAME) Rep. Sue DeKort

(Street Address or Route Number) 314 N.

(City and Zip Code) _____

(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:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-13-2002

BILL NO. SB 253

OR
SUBJECT _____

(NAME) Sen. Gwen Moore

(Street Address or Route Number) _____

(City and Zip Code) _____

(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:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-13-02

BILL NO. _____

OR
SUBJECT SB 253

(NAME) Jenny Boese

(Street Address or Route Number) PO Box 7158

(City and Zip Code) MADISON, WI 53708

(Representing) Criminal Law Section

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
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230 West Wells Street
Milwaukee, WI 53203
414-278-7722

TO: Senate Committee on Judiciary and Consumer Affairs

FROM: Bob Andersen *Bob Andersen*

RE: **SB 253, Relating to Traffic Regulations and Ordinance Violations: Permitting Judgments to Be Paid in Installments in Poverty Cases**

DATE: February 12, 2002

This is the same as a bill introduced during the past session (1999 AB 846) that passed the Assembly Judiciary Committee on a vote of 9-0, was approved by the Assembly on a voice vote, passed the Senate Committee on Judiciary and Consumer Affairs by a vote of 5-0, but failed to pass in the Senate as time ran out. The Senate bill is scheduled for a hearing by the Senate Judiciary Committee on February 13, 2001 and a hearing is planned to be held on the Assembly bill at the next Assembly Judiciary Committee hearing. The bill was drafted in consultation with Municipal Court Judge Michael Hurt and Sheryl Gervasi, Director of State Court's Office.

I. Purpose

W-2 providers report that one of the greatest barriers to successful employment for W-2 participants is their inability to drive to job sites because of suspended driver's licenses. Many W-2 participants have suspended driver's licenses because they failed to pay parking tickets, failed to pay forfeitures for moving traffic ordinance violations, or failed to pay forfeitures for other municipal ordinance violations. In many cases, participants have had their licenses suspended because default judgements were entered against them for failure to appear on the return dates

In summary, what this bill attempts to do is to allow indigent defendants one opportunity to have an installment payment plan ordered in lieu of the suspension of a driver's license. That one opportunity can be offered before the judgment is initially entered or it can be offered after a judgement is entered. Allowing installment payment plans already is the practice for many municipal courts. The bill will make this a uniform practice and will allow jurisdictions, who currently do not believe they have the authority, to enter these installment payment plans.

II. What this Bill Does

A. Before Judgements are Initially Entered, Municipal Courts and Circuit Courts are Required to Offer Indigent Defendants Installment Payment Plans Before

Suspending their Driver's Licenses, When Defendants Appear in Court.

When defendants appear in court to answer to the charges and are found guilty of ordinance violations, courts are required to first offer them an opportunity to pay the forfeitures by installments, before suspending their driver's licenses, if the defendants are unable to pay because of their poverty. If the defendants subsequently fail to comply with the installment payment plans, their licenses will be suspended.

This is the practice that is actually being followed by many municipal courts and circuit courts. The bill ensures that this practice will be codified in the statutes and that it will be followed by all courts, in municipal ordinance violation cases.

B. After Judgments Have Already Been Entered, Defendants Who are Unable to Pay Because of Poverty may Obtain Installment Payment Plans in Lieu of the Suspension of their Licenses, Provided that They Have Not Previously Been Given an Installment Payment Plan and Failed to Comply with the Plan.

This bill provides that a court shall terminate the suspension of a driver's license that was previously ordered because of an ordinance violation, and substitute an installment payment plan therefor, if all of the following circumstances are met:

- (1) the defendant requests the installment payment plan.
- (2) the defendant is unable to pay because of poverty.
- (3) the defendant has not previously failed an installment payment plan that has been ordered by the court.

If an installment payment plan is ordered under these circumstances and the defendant subsequently fails to comply with the plan, the suspension of the license will be reinstated.

This proposal is considered to be a better approach than requiring the reopening of judgments in these cases. Instead of requiring judgments to be reopened -- which creates administrative problems for the courts and which unsettles those judgements -- this proposal avoids those problems by simply requiring that orders for license suspension be terminated.

C. The Determination that a Person is "Unable to Pay Because of Poverty" Uses the Same Criteria that Already Exists in the Statutes under s. 814.29, Regarding the Waiver of Costs and Fees for Persons who are Unable to Pay Because of Poverty.

In order to establish a uniform definition of poverty for all courts, this bill incorporates the determination of when a person is unable to pay because of poverty that already exists in the statutes, under s. 814.29 (1)(d). Under that section,

essentially, a person is determined to be unable to pay costs and fees because of poverty if any of the following is true:

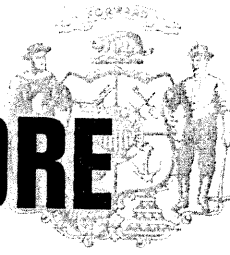
- (1) that the defendant is a recipient of means tested public assistance, including Wisconsin Works, general relief under Chapter 49, relief provided by the counties under s. 59.53 (21), medical assistance, supplemental security income, food stamps, or benefits received by veterans under 45.351 (1) or under 38 USC 501 to 562.
- (2) that the person is represented by an attorney through a legal services program for indigent persons, including, without limitation, those funded by the federal legal services corporation, the state public defender or volunteer attorney programs based on indigency.
- (3) that the person is otherwise unable, because of poverty, to pay the fees and costs. In considering the defendant's inability, the court shall consider the person's household size, income, expenses, assets and debts and the federal poverty guidelines under 42 USC 9902.

Under this bill, if a defendant meets these criteria, the defendant would be entitled to an installment payment plan in lieu of the suspension of a license, provided the defendant had not already been offered such an option and failed to comply with the plan.

D. The Installment Payment Plan Required under this Bill Would be Required to be a "Reasonable Installment Payment Plan that takes into Account the Defendant's Income."

The purposes of this bill will not be achieved if a genuinely poor person, taking a look at assets and income, cannot make payments because of current income.

State Senator GWENDOLYNNE MOORE



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E-Mail: sen.moore@legis.state.wi.us
Member: Joint Finance Committee
Board Member: Wisconsin Housing and
Economic Development Authority

To: Members of the Senate Judiciary and Consumer Affairs Committee
From: Senator Gwendolynne S. Moore
Date: February 13, 2002
Re: *Testimony in Support of Senate Bill 253*

Due to a concurrent meeting of the Joint Committee on Finance, I am unable to appear before the Senate Judiciary and Consumer Affairs Committee to testify in support of Senate Bill 253. As you know, I am the author of this bill, and I want to thank the Committee for scheduling today's hearing.

SB 253 would provide greater flexibility to poor individuals when paying court ordered forfeitures and penalty assessments. The bill would change current law in the following ways:

- SB 253 requires the court to inform the defendant that they must notify the court if they cannot pay a judgment due to poverty.
- If the court determines that the defendant is unable to pay the judgment because of poverty, the court may not suspend the defendant's license or imprison them without first providing the option of paying the judgment through an installment plan.
- However, if the defendant defaults on the payment schedule, the judge may impose the sentence for the initial offense.
- The defendant may use this installment option once. If a payment is not received, the option to pay the remaining balance through installments is no longer available.

The revocation of licenses is a highly relevant issue in my district of Milwaukee because many of my constituents have had their driver's licenses revoked due to their inability to pay for non-driving municipal violations. The Milwaukee Police Department has a policy of increasing police presence in blighted areas. Citizens are ticketed for any violation--no matter how minor-- including jaywalking, spitting, riding without a seatbelt, and loitering. The individuals being ticketed tend to be poor and these excessive fines amount to a regressive tax on those least able to pay. As a result of these police policies, some of our constituents are losing their licenses because they cannot pay mounting fines. In fact, more central city males age 18-55 had suspension orders on record from 1992 through 1996 than had a valid driver's license. (Source: "Removing Transportation Barriers to Employment" by Dr. John Pawasarat from UW-Milwaukee).

The revocation of licenses must also be examined in light of the fact that some areas of Wisconsin--including Milwaukee--suffer from economic stagnation. People seeking

employment must travel to other areas not located on a bus line in order to find work. Many of my younger constituents, for example, must travel to Waukesha, Washington, and Ozaukee counties to find entry-level employment. Revoking an individual's license for failure to pay these fines establishes a barrier to employment for low-income families. The result is that individuals can neither pay fines, nor can they pay rent or buy food.

In drafting this bill last legislative session, Representative Jeskewitz, the author of the Assembly companion bill AB 508, and I consulted with municipal and circuit court judges as well as attorneys with Legal Action of Wisconsin. We believe this legislation will better encourage individuals to pay their fines while preventing them from having their driver's license suspended unnecessarily.

I encourage Committee members to support this bill and pass it on to the full Senate.



SUE JESKEWITZ

State Representative • 24th Assembly District

TESTIMONY ON SENATE BILL 253
INSTALLMENT PAYMENT PLANS
FEBRUARY 13, 2002

Thank you Chairman George and members of the Judiciary, Consumer Affairs, and Campaign Finance Reform Committee for hearing this bill. I apologize that my schedule does not permit me to testify in person today.

Senate Bill 253 requires that judges offer a payment plan to a defendant who has proven to the court that he/she is unable to pay. If a defendant agrees to the payment schedule, the judge will not impose a judgement including jail time or suspension of a driver's license. A defendant may only use this payment plan option once.

In the drafting of this bill, we consulted with both the municipal judges and the circuit judges associations. The municipal judge that we worked with said that many judges would offer installment plans **only if a defendant asks for it.**

Currently if someone gets a large fine and know that they cannot pay the fine, they see no reason to go to court. The option of payment plans should persuade more people to come to court to work out a way to get the citation cleared. This bill will encourage more people to pay their fines.

This bill could also generate money for local municipalities. The payment plans allow fines to be paid in smaller increments; fines the defendant otherwise may not have paid at all because of the inability to pay in one lump sum.

Senate Bill 253 is a common sense bill that is profitable for every party involved. The court gets the fine paid and the defendant gets to honestly work on clearing his/her record. Last session this bill unanimously passed out the Assembly Committee on Judiciary and Personal Privacy, passed the Assembly on a voice vote and was unanimously voted out of this committee before session time ran out. I encourage you to support this bill again this session.

Thank you again for this opportunity to show my support for Senate Bill 253.