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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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**2009 Assembly Bill 60**

**Assembly Amendment 1**

*Memo published:* March 23, 2009

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### **Current Law**

Under current law, when a person does not pay a forfeiture imposed by a circuit court for a traffic violation, the court must order one of the following:

1. Imprisonment until the judgment is paid, but not to exceed 90 days.\*
2. Suspension of the person's motor vehicle operating privilege.

Generally, a municipal court,\*\* in response to failure to pay a judgment for a local ordinance violation, may defer payment of a forfeiture or provide for installment payments; order community service; or, for traffic violations, order suspension of the operating privilege if money payments are not made within 60 days of the imposition of a forfeiture. If a person cannot pay for good cause or because of indigency, a municipal court may order that the payment schedule be modified, suspended, or permanently stayed or order community service. If a person otherwise fails to pay, a municipal court must order imprisonment, payment modification, community service, or, for traffic violations, suspension of the operating privilege.

### **Assembly Bill 60**

Assembly Bill 60, with respect to the imposition of a forfeiture in a state traffic violation, requires a circuit court to inform the defendant that the defendant should notify the court if he or she is

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\* Imprisoning a person solely because the person is unable to pay a civil judgment due to indigency is prohibited by case law.

\*\* Or a circuit court if there is no municipal court. See s. 66.0114 (1) (c), Stats.

unable to pay a forfeiture because of poverty. If the court receives this notice and the defendant is unable to pay, the court may not suspend the defendant's operating privilege without first providing the defendant with an opportunity to pay the judgment in installments. A court may order a suspension of the operating privilege if the defendant fails to pay under a court-ordered installment plan. If an operating privilege already has been suspended, a court may lift the suspension and order installment payments or, if the defendant is indigent and the defendant has not previously failed to comply with an installment plan, a court must order installment payments.

Assembly Bill 60 also requires a municipal court, when it imposes a judgment for any ordinance violation, to inform the defendant that the defendant should notify the court if he or she is unable to pay a judgment because of poverty. If an operating privilege has been suspended for failure to pay a municipal traffic ordinance judgment, a municipal court may lift the suspension and order an installment plan and must do so if the defendant is indigent and the defendant has not previously failed to comply with an installment plan.

### **Assembly Amendment 1**

Assembly Bill 60 implies, but does not specifically state, that a circuit court may order an installment plan for an indigent defendant before the defendant's operating privilege has been suspended for failure to pay a traffic violation. Assembly Amendment 1 specifically requires that if a defendant is present at the time of judgment and the court determines the defendant is unable to pay a state traffic forfeiture because of poverty, the court must provide the defendant with an opportunity to pay the forfeiture in installments. The amendment adds the same language to municipal court proceedings when forfeitures are imposed for ordinance violations.

### **Legislative History**

On March 13, 2009, the Assembly Committee on Judiciary and Ethics recommended adoption of Assembly Amendment 1 by a vote of Ayes, 6; Noes 3. The committee recommended passage of Assembly Bill 60, as amended, by a vote of Ayes, 6; Noes, 3.

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