

**2011 DRAFTING REQUEST**

**Bill**

Received: 12/10/2010

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Andre Jacque (608) 266-9870

By/Representing: Mike Murphy

May Contact:

Drafter: phurley

Subject: Drunk Driving - refusals/testing  
Drunk Driving - other

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Jacque@legis.wi.gov

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Costs of tests for intoxication

---

**Instructions:**

redraft 09s0037

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 12/13/2010	jdyer 12/14/2010		_____			S&L
/1			rschluet 12/14/2010	_____	lparisi 12/14/2010	ggodwin 04/20/2011	
				_____	mbarman 01/27/2011		

FE Sent For:

*At Intro.*

<END>

2011 DRAFTING REQUEST

See attached

changed

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/?	phurley 12/13/2010	jdye 12/14/2010					S&L
/1			rschlue 12/14/2010		lparisi 12/14/2010		
					mbarman 01/27/2011		

re-emailed

FE Sent For:

<END>

**2011 DRAFTING REQUEST**

**Bill**

Received: 12/10/2010

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Scott Suder (608) 267-0280

By/Representing: Kyle O'Brien

May Contact:

Drafter: phurley

Subject: Drunk Driving - refusals/testing  
Drunk Driving - other

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Suder@legis.wisconsin.gov

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Costs of tests for intoxication

---

**Instructions:**

redraft 09s0037

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/?	phurley 12/13/2010	jdye 12/14/2010		_____			S&L
/1			rschlue 12/14/2010	_____	lparisi 12/14/2010		

FE Sent For:

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2011 DRAFTING REQUEST

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Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Scott Suder (608) 267-0280

By/Representing: Kyle O'Brien

May Contact:

Drafter: phurley

Subject: Drunk Driving - refusals/testing  
Drunk Driving - other

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Suder@legis.wisconsin.gov

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Costs of tests for intoxication

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redraft 09s0037

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1/?	phurley	12/14 jld		_____	_____		

FE Sent For:

<END>

## Hurley, Peggy

---

**From:** Krueger, Dennis R. [kruegerdr@doj.state.wi.us]  
**Sent:** Friday, May 01, 2009 10:48 AM  
**To:** Hurley, Peggy  
**Subject:** RE: Amendment to AB-130: Reimbursement of Blood Draw Costs

Sorry. We need to keep "if requested by a law enforcement agency"

-----Original Message-----

**From:** Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
**Sent:** Friday, May 01, 2009 10:35 AM  
**To:** Krueger, Dennis R.  
**Subject:** RE: Amendment to AB-130: Reimbursement of Blood Draw Costs

Thanks - maybe my coffee hasn't kicked in, but I wasn't sure whether you were agreeing with me!

-----Original Message-----

**From:** Krueger, Dennis R. [mailto:kruegerdr@doj.state.wi.us]  
**Sent:** Friday, May 01, 2009 10:35 AM  
**To:** Hurley, Peggy  
**Subject:** RE: Amendment to AB-130: Reimbursement of Blood Draw Costs

yes

-----Original Message-----

**From:** Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
**Sent:** Friday, May 01, 2009 10:34 AM  
**To:** Krueger, Dennis R.  
**Subject:** RE: Amendment to AB-130: Reimbursement of Blood Draw Costs

I think you're right, Dennis. So, in your opinion, we need to keep "if requested by a law enforcement agency?"

-----Original Message-----

**From:** Krueger, Dennis R. [mailto:kruegerdr@doj.state.wi.us]  
**Sent:** Friday, May 01, 2009 10:32 AM  
**To:** Hurley, Peggy; Collins@ci.brookfield.wi.us  
**Cc:** Schimel, Brad; Dyke, Don; Freimuth, James M - DOJ; Sobotik, John - DOT; Loebel, Karen; Nilsen, Paul - DOT; Rep.Gundrum; rrosch@villageofhartland.com; Tushaus@ci.brookfield.wi.us  
**Subject:** RE: Amendment to AB-130: Reimbursement of Blood Draw Costs

As I recall there was a lengthy discussion about defendants getting a free test during the conference with Rep. Gundrum. Because this is an infrequent occurrence and the implied consent law states that the defendant gets a free test if he requests, it was decided to leave this anomaly in the language.

-----Original Message-----

**From:** Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
**Sent:** Friday, May 01, 2009 10:18 AM  
**To:** Collins@ci.brookfield.wi.us  
**Cc:** Schimel, Brad; Dyke, Don; Freimuth, James M.; Sobotik, John - DOT; Loebel, Karen; Krueger, Dennis R.; Nilsen, Paul - DOT; Rep.Gundrum; rrosch@villageofhartland.com; Tushaus@ci.brookfield.wi.us  
**Subject:** RE: Amendment to AB-130: Reimbursement of Blood Draw Costs

I am drafting up John's suggested language, but I think we need to keep in "if requested by a law enforcement agency" because, if he complies with the law enforcement agency's request for a breath or blood sample, a defendant is entitled to one free alternate test under s. 343.305 (4).

In places where a law enforcement agency's first choice is a breath test, a defendant may opt for a blood test as well.

It is kind of odd that under the bill a person would be liable for the costs of a blood withdrawal if a blood test is the law enforcement agency's first choice but not if a defendant chooses a blood test as his "free alternative test."

Your thoughts?

Peggy

-----Original Message-----

From: Collins@ci.brookfield.wi.us [mailto:Collins@ci.brookfield.wi.us]

Sent: Friday, May 01, 2009 9:17 AM

To: Hurley, Peggy

Cc: Schimel, Brad; Dyke, Don; Freimuth, James M - DOJ; Sobotik, John - DOT; Loebel, Karen; Krueger, Dennis R - DOJ; Nilsen, Paul - DOT; Rep.Gundrum; rrosch@villageofhartland.com; Tushaus@ci.brookfield.wi.us

Subject: Re: FW: Amendment to AB-130: Reimbursement of Blood Draw Costs

I concur with John Sobotik's proposed language. It's simple and achieves the desired result of obtaining reimbursement for lawful blood draws beyond the one authorized by 343.305. His proposed language could be used throughout the entire bill.

Dean J. Collins  
Assistant Chief of Police  
City of Brookfield Police Dept.  
2100 N. Calhoun Rd.  
Brookfield, WI 53005-5054  
(262) 787-3567  
Fax: (262) 796-6701  
collins@ci.brookfield.wi.us

"Hurley, Peggy"

<Peggy.Hurley@leg  
is.wisconsin.gov>

To

"Schimel, Brad"

05/01/2009 08:46

<Brad.Schimel@da.wi.gov>, "Dyke,

AM

Don"

<Don.Dyke@legis.wisconsin.gov>,

"Freimuth, James M - DOJ"

<freimuthjm@doj.state.wi.us>,

"Sobotik, John - DOT"

<John.Sobotik@wisconsin.gov>,

"Loebel, Karen"

<Karen.Loebel@da.wi.gov>, "Krueger,  
Dennis R - DOJ"

<kruegerdr@doj.state.wi.us>,

"Nilsen, Paul - DOT"

<Paul.Nilsen@wisconsin.gov>,

"Rep.Gundrum"

<Rep.Gundrum@legis.wisconsin.gov>,

<rrosch@villageofhartland.com>,

<Tushaus@ci.brookfield.wi.us>,

<Collins@ci.brookfield.wi.us>

cc

Subject

FW: Amendment to AB-130:

Reimbursement of Blood Draw Costs

Hi Everyone,

John Sobotik from DOT forwarded these comments to me yesterday. Your thoughts?

Peggy

From: Sobotik, John - DOT [mailto:John.Sobotik@dot.wi.gov]  
Sent: Thursday, April 30, 2009 3:28 PM  
To: Hurley, Peggy  
Subject: RE: Amendment to AB-130: Reimbursement of Blood Draw  
Costs

I don't understand why the whole list is needed. Why not just say something along the lines of...

If a defendant is required to appear in court, in addition to any forfeiture, costs, fees or surcharges it imposes, the court shall impose and collect from the defendant any costs charged to or paid by a law enforcement agency for the withdrawal of the defendant's blood if the court finds the defendant violated ss. 23.33(4c), 30.681(1), 346.63(1) or 350.101(1).

I would just ignore the authority for the draw. Who cares? If there is a concern about illegal blood draws being charged then just stick "pursuant to law" after the word "blood" in the sentence. A similar strategy could be employed in the other sections and significantly shorten and simplify them. That seems to be the strategy you used in s. 973.06; I don't know why it won't work in the other sections.

With regard to the situation he describes, what happens is this:

- (1) Cops stop driver.
- (2) Cops establish probable cause to arrest.
- (3) Cops read the informing the accused and ask driver to submit to test.
- (4) Guy refuses.
- (5) Cops ask hospital to withdraw blood anyway.
- (6) Blood is drawn by hospital and sent to state lab for testing.

Another alternative is this:

- (1) Cops stop driver.
- (2) Cops establish probable cause to arrest.
- (3) Cops ask hospital to withdraw blood.
- (4) Blood is drawn by hospital and sent to state lab for testing.

Either way, the cops get blood. Neither test is a test can result in admin suspension. That's because of the way 343.305(7) reads:

- (a) If a person submits to chemical testing administered in accordance with this section and any test results indicate the presence of a detectable amount of a restricted controlled substance in the person's blood or a prohibited alcohol concentration, the law enforcement officer shall report the results to the department and take possession of the person's license and forward it to the department.

Where the guy refuses, he doesn't "submit." Therefore, administrative suspension is inappropriate.

- John

-----  
John Sobotik  
Asst. General Counsel  
Wisconsin Dept. of Transportation  
4802 Sheboygan Avenue, Room 115B  
P.O. Box 7910  
Madison, WI 53707-7910  
Phone: (608) 267 9320  
Fax: (608) 267 6734

> -----Original Message-----  
> From: Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
> Sent: Thursday, April 30, 2009 11:46 AM

> To: Sobotik, John - DOT  
> Subject: RE: Amendment to AB-130: Reimbursement of Blood Draw Costs  
>  
>  
> Thanks, John. Perhaps I am misinterpreting the situation the officer  
> is describing, which seems to be an arrest following a refusal. In  
> any event, do you think it makes sense to simply remove the "pursuant  
> to s. 343.305" (or the relevant implied consent statutes cited for  
> each case) in the draft?  
> I think that's the simplest approach.  
>  
> Peggy  
>  
> -----Original Message-----  
> From: Sobotik, John - DOT [mailto:John.Sobotik@dot.wi.gov]  
> Sent: Thursday, April 30, 2009 11:44 AM  
> To: Hurley, Peggy  
> Subject: RE: Amendment to AB-130: Reimbursement of Blood Draw Costs  
>  
> Peggy:  
>  
> I can tell you that DMV does not interpret the law that way.  
> If a driver consents to a test or is incapable of consent and blood is  
>  
> drawn, we treat those as implied consent tests and will  
> administratively suspend a DL. On the other hand, if the driver  
> refuses chemical testing and officers forcibly collect blood evidence  
> outside of the implied consent law, or if they never bother with the  
> implied consent law formalities at all (which is not uncommon in  
> serious injury or death  
> cases) we do not treat those test results as implied consent results  
> and will not uphold an officer's order for an administrative  
> suspension. If the driver refused tests, then he can be issued a  
> refusal rev order.  
>  
> I believe there is case law consistent with this approach, but I don't  
>  
> have time to seek it out this a.m.  
>  
> - john  
>  
>  
> -----  
> John Sobotik  
> Asst. General Counsel  
> Wisconsin Dept. of Transportation  
> 4802 Sheboygan Avenue, Room 115B  
> P.O. Box 7910  
> Madison, WI 53707-7910  
> Phone: (608) 267 9320  
> Fax: (608) 267 6734  
>  
> > -----Original Message-----  
> > From: Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
> > Sent: Wednesday, April 29, 2009 4:35 PM  
> > To: Schimel, Brad; Collins@ci.brookfield.wi.us  
> > Cc: Dyke, Don - LEGIS; Freimuth, James M - DOJ; Sobotik,  
> > John - DOT;  
> > Loebel, Karen; Krueger, Dennis R - DOJ; Nilsen, Paul - DOT;  
> > Rep.Gundrum; rrosch@villageofhartland.com;  
> > Tushaus@ci.brookfield.wi.us  
> > Subject: RE: Amendment to AB-130: Reimbursement of Blood Draw Costs  
> >  
> >  
> > Brad,  
> >  
> > I share your concerns about "incident to arrest." That

> phrase is not  
> > used anywhere else in the statutes and has been interpreted to mean  
> > different things by the courts, not all of which apply to the  
> > situation we are discussing.  
> >  
> > I maintain that blood drawn in a drunken driving case, whether  
> > voluntarily or forcibly after arrest, is a request made  
> pursuant to s.  
> > 343.305 (or other relevant implied consent sections).  
> However, if the  
> > prosecutors and/or law enforcement officers think this will  
> cause them  
> > more headaches down the line, I can remove the reference and simply  
> > have defendants pay whenever a court makes a finding of a violation  
> > and the violator had blood removed upon the request of an officer.  
> >  
> > The other sections in the substitute amendment also cite  
> the relevant  
> > implied consent test for intoxication statutory section; do  
> you think  
> > those should be removed as well?  
> >  
> >  
> > -----Original Message-----  
> > From: Schimel, Brad [mailto:Brad.Schimel@da.wi.gov]  
> > Sent: Wednesday, April 29, 2009 4:18 PM  
> > To: Collins@ci.brookfield.wi.us  
> > Cc: Dyke, Don; Freimuth, James M - DOJ; Sobotik, John -  
> DOT; Loebel,  
> > Karen; Krueger, Dennis R - DOJ; Nilsen, Paul - DOT; Hurley, Peggy;  
> > Rep.Gundrum; rrosch@villageofhartland.com;  
> > Tushaus@ci.brookfield.wi.us  
> > Subject: RE: Amendment to AB-130: Reimbursement of Blood Draw Costs  
> >  
> > Apparently, I was wrong when I suggested that I could "see  
> Assistant  
> > Chief Collins' concern." Thanks for setting me straight.  
> > Let me try again.  
> > Perhaps the language on page 2 line 6 and page 3 line 8 should read  
> > one of the two following ways:  
> > 1. "of the defendant's blood if the withdrawal was  
> requested by the  
> > law...." This simply leaves out the reference to Implied Consent  
> > altogether.  
> > OR  
> > 2. "of the defendant's blood under s. 343.305 or pursuant to any  
> > other legal means if the withdrawal was requested by the law...."  
> > This acknowledges that the sample could have been drawn  
> under a legal  
> > basis besides Implied Consent, but still leaves in the reference to  
> > Implied Consent. I am not sure why we would need to leave that  
> > reference in, though. Is there some reason for doing so?  
> > Does that resolve the problem? Am I missing the point again?  
> > I am uncomfortable with using the phrase "incident to  
> arrest", as that  
> > term has other connotations. Maybe it is just the timing of this  
> > discussion that has me twitchy about things "incident to arrest".  
> > Brad  
> >  
> > -----Original Message-----  
> > From: Collins@ci.brookfield.wi.us  
> > [mailto:Collins@ci.brookfield.wi.us]  
> > Sent: Wednesday, April 29, 2009 1:55 PM  
> > To: Schimel, Brad  
> > Cc: Dyke, Don; Freimuth, James M - DOJ; Sobotik, John -  
> DOT; Loebel,  
> > Karen; Krueger, Dennis R - DOJ; Nilsen, Paul - DOT; Hurley, Peggy;

> >'Rep.Gundrum; rrosch@villageofhartland.com;  
> Tushaus@ci.brookfield.wi.us  
> > Subject: RE: Amendment to AB-130: Reimbursement of Blood Draw Costs  
> >  
> >  
> > My concern was not so much addressed to the "request' by law  
> > enforcement as to the requirement that the request be made "under s.  
> > 343.305." If the  
> > blood is forcibly drawn against the driver's wishes, is the  
> > draw still  
> > done "under s. 343.305"? I submit that the blood is then  
> > drawn under  
> > different legal authority, e.g. exigent search incident to arrest  
> > (ephemeral evidence). Should the draft be amended to include that  
> > authority?  
> >  
> > Dean J. Collins  
> > Assistant Chief of Police  
> > City of Brookfield Police Dept.  
> > 2100 N. Calhoun Rd.  
> > Brookfield, WI 53005-5054  
> > (262) 787-3567  
> > Fax: (262) 796-6701  
> > collins@ci.brookfield.wi.us  
> >  
> >  
> >  
> > "Schimel, Brad"  
> >  
> > <Brad.Schimel@da.  
> > wi.gov>  
> > To  
> >  
> ><Collins@ci.brookfield.wi.us>,  
> >  
> > 04/29/2009 11:43 "Rep.Gundrum"  
> >  
> > AM  
> > <Rep.Gundrum@legis.wisconsin.gov>  
> >  
> > cc  
> >  
> > "Dyke, Don"  
> >  
> ><Don.Dyke@legis.wisconsin.gov>,  
> >  
> >  
> > "Freimuth, James M - DOJ"  
> > <freimuthjm@DOJ.STATE.WI.US>,  
> >  
> > "Sobotik, John - DOT"  
> > <John.Sobotik@wisconsin.gov>,  
> >  
> > "Krueger, Dennis R - DOJ"  
> > <kruegerdr@doj.state.wi.us>,  
> >  
> > "Loebel, Karen"  
> > <Karen.Loebel@da.wi.gov>,  
> > "Nilsen,  
> > Paul - DOT"



> > Mark:  
> > Thanks for keeping me in the loop. I have only one  
> > observation/suggestion concerning the language on page 2,  
> > line 6 and  
> > on page 3, line 8 and wherever else it may appear in the  
> > bill: "for  
> > the withdrawal of the defendant's blood under s. 343.305 if the  
> > withdrawal was requested by the law enforcement agency, ..."  
> >  
> > My concern is with suspects who refuse to provide a sample  
> > under the  
> > Implied Consent law (343.305). Under those circumstances,  
> > most police  
> > agencies would take blood forcibly under a 'search incident  
> > to arrest'  
> > theory rather than 343.305. [See Wis. v. Marshall, 2002  
> > WIApp 73 at  
> > para.  
> > 12; 251  
> > Wis.2d 408.]  
> >  
> > What do you think about adding language to the phrase above:  
> > "under s.  
> > 343.305 OR INCIDENT TO ARREST" or by including a reference  
> > to 353.305  
> > (3)(c)?  
> >  
> >  
> > Dean J. Collins  
> > Assistant Chief of Police  
> > City of Brookfield Police Dept.  
> > 2100 N. Calhoun Rd.  
> > Brookfield, WI 53005-5054  
> > (262) 787-3567  
> > Fax: (262) 796-6701  
> > collins@ci.brookfield.wi.us  
> >  
> >  
> >  
> > "Rep.Gundrum"  
> > <Rep.Gundrum@legi  
> > s.wisconsin.gov>  
> > To  
> > "Dyke, Don"  
> > 04/28/2009 03:42  
> > <Don.Dyke@legis.wisconsin.gov>,  
> > PM "Schimel, Brad - DAIT"  
> > <Schimel.Brad@mail.da.state.wi.us>,  
> > "Loebel, Karen - DAIT"  
> > <Loebel.Karen@mail.da.state.wi.us>,  
> > "Sobotik, John - DOT"  
> > <John.Sobotik@wisconsin.gov>,  
> > <Collins@ci.brookfield.wi.us>,  
> >





State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-0683

PJH:.....

2011 BILL

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

12-13-10

✓

Gen

1

AN ACT ...; relating to: costs of administering tests for intoxication. ✓

*Analysis by the Legislative Reference Bureau*

\*

Under current law, a law enforcement officer may request a person to provide a sample of breath, blood, or urine for analysis if the person is arrested for operating while intoxicated, or with a prohibited alcohol or drug concentration, a vehicle, an all-terrain vehicle, a boat, or a snowmobile or for injury or homicide by intoxicated use of a vehicle (OWI-related offense). Upon the request of a law enforcement officer, a test facility must perform an analysis of a person's sample of blood or urine. Current law allows the person to request an alternative test free of charge.

Currently, if a person is ordered to pay a forfeiture or found to have committed an offense in municipal or circuit court, or if the person is found guilty of a crime, the person is required to pay certain costs, fees, and surcharges.

Under this bill, if a person is found to have committed an OWI-related offense, the municipal or circuit court must assess costs associated with acquiring a blood sample and administering a blood test or analysis that were charged to, paid by, or expected to be paid by, the law enforcement agency that requested the test. The bill does not require a person to pay for an alternative test if the person chose to have an alternative test administered.

LPS - line check/spacing →

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:*

1

(END) ✓

Insert A ✓  
Insert B ✓



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBs0037/1  
PJH:bjk:md

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2009 ASSEMBLY BILL 130**

May 13, 2009 - Offered by Representative GUNDRUM.

*Insert A*

1 **AN ACT** to create 814.63 (3m), 814.65 (4m) and 973.06 (1) (j) of the statutes;  
2 relating to: costs of administering tests for intoxication.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3 **SECTION 1.** 814.63 (3m)<sup>✓</sup> of the statutes is created to read:

4 814.63 (3m) (a) Except as provided in par.<sup>✓</sup>(d), if a defendant is required to  
5 appear in court, in addition to any<sup>✓</sup>forfeiture, costs, fees, or surcharges it imposes, the  
6 court shall impose and collect from the defendant any costs charged to or paid by a  
7 law enforcement agency for the withdrawal of the defendant's blood if the court finds  
8 that the defendant violated s. 23.33 (4c)<sup>✓</sup>, 30.681<sup>✓</sup>, 346.63<sup>✓</sup>, 350.101<sup>✓</sup>, or a local ordinance  
9 in conformity therewith.

10 (b) Except as provided in par. (d)<sup>✓</sup>, if at the time the court finds that the  
11 defendant committed the violation, the law enforcement agency has not paid or been  
12 charged with the costs of withdrawing the defendant's blood, the court shall impose

INSERT  
A, cont

1 and collect the costs the law enforcement agency reasonably expects to be charged  
2 for the withdrawal, based on the current charges for this procedure.

3 (c) The court shall disburse the amounts it collects under this subsection to the  
4 law enforcement agency that requested the blood withdrawal.

5 (d) The court may not impose on the defendant any cost for an alternative test  
6 provided free of charge as described in s. 343.305 (4).

7 **SECTION 2.** 814.65 (4m) of the statutes is created to read:

8 814.65 (4m) BLOOD TEST FEE. (a) Except as provided in par. (d), if a defendant  
9 is required to appear in municipal court, in addition to any forfeiture, costs, fees, or  
10 surcharges it imposes, the municipal court shall impose and collect from the  
11 defendant any costs charged to or paid by a law enforcement agency for the  
12 withdrawal of the defendant's blood if the court finds that the defendant violated a  
13 local ordinance in conformity with s. 23.33 (4c), 30.681, 346.63, or 350.101.

14 (b) Except as provided in par. (d), if at the time the court finds that the  
15 defendant committed the violation, the law enforcement agency has not paid or been  
16 charged with the costs of withdrawing the defendant's blood, the court shall impose  
17 and collect the costs the law enforcement agency reasonably expects to be charged  
18 for the withdrawal, based on the current charges for this procedure.

19 (c) The court shall disburse the amounts it collects under this subsection to the  
20 law enforcement agency that requested the blood withdrawal.

21 (d) The court may not impose on the defendant any cost for an alternative test  
22 provided free of charge as described in s. 343.305 (4).

23 **SECTION 3.** 973.06 (1) (j) of the statutes is created to read:

24 973.06 (1) (j) If the defendant violated s. 23.33 (4c), 30.681, 346.63, 350.101,  
25 940.09 (1), or 940.25, any costs charged to or paid by a law enforcement agency for

INSERT A, cont

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the withdrawal of the defendant's blood, except that the court may not impose on the  
defendant any cost for an alternative test provided free of charge as described in s.  
343.305 (4). If at the time the court finds that the defendant committed the violation,  
the law enforcement agency has not paid or been charged with the costs of  
withdrawing the person's blood, the court shall impose and collect the costs the law  
enforcement agency reasonably expects to be charged for the withdrawal, based on  
the current charges for this procedure. Notwithstanding sub. (2), the court may not  
remit these costs. (end Insert A)

VENA

**ASSEMBLY BILL 130**

1 If you take all the requested tests, you may choose to take further tests. You  
 2 may take the alternative test that this law enforcement agency provides free of  
 3 charge, but if you are convicted of a violation of s. 346.63, 940.09, or 940.25 where the  
 4 offense involved the use of a vehicle, you may be required to pay any costs charged  
 5 to or paid by a law enforcement agency for the withdrawal, testing, or analysis of your  
 6 blood. You also may have a test conducted by a qualified person of your choice at your  
 7 expense. You, however, will have to make your own arrangements for that test.

8 If you have a commercial driver license or were operating a commercial motor  
 9 vehicle, other consequences may result from positive test results or from refusing  
 10 testing, such as being placed out of service or disqualified.”

11 **SECTION 3.** 346.65 (2) (am) 1m. of the statutes is created to read:

12 346.65 (2) (am) 1m. In addition to the forfeiture imposed under subd. 1. or a  
 13 forfeiture imposed pursuant to a local ordinance in conformity with s. 346.63 (1), the  
 14 person shall pay any costs charged to or paid by a law enforcement agency for the  
 15 withdrawal, testing, or analysis of the person’s blood under s. 343.305.

16 **SECTION 4.** 350.11 (3) (a) 1m. of the statutes is created to read:

17 350.11 (3) (a) 1m. In addition to the forfeiture imposed under subd. 1. or a  
 18 forfeiture imposed pursuant to a local ordinance in conformity with s. 350.101 (1),  
 19 the person shall pay any costs charged to or paid by a law enforcement agency for the  
 20 withdrawal, testing, or analysis of the person’s blood under s. 350.104.

21 **SECTION 5.** 973.06 (1) (j) of the statutes is created to read:

22 973.06 (1) (j) Any costs charged to or paid by a law enforcement agency for the  
 23 withdrawal, testing, or analysis of the person’s blood under s. 23.33 (4p), 30.684,  
 24 343.305, or 350.104.

25 **SECTION 6. Initial applicability.**

Insert  
B

**ASSEMBLY BILL 130**

**SECTION 6**

1 (1) This act first applies to a blood withdrawal that occurs on the effective date  
2 of this subsection. ✓ (end ins B)

3 ~~when~~

Insert **B** cont

## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Thursday, January 27, 2011 9:20 AM  
**To:** Rep.Suder  
**Subject:** RE:

Thanks ... needed something in writing for the drafting files.

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**From:** Rep.Suder  
**Sent:** Thursday, January 27, 2011 9:18 AM  
**To:** Barman, Mike  
**Cc:** Fladeboe, David  
**Subject:** RE:

Yes, that is correct. Thanks Mike!

### Luke Hilgemann

Chief of Staff  
Majority Leader Scott Suder's Office  
State Capitol Room 215 West  
(608)-267-0280

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**From:** Barman, Mike  
**Sent:** Wednesday, January 26, 2011 4:46 PM  
**To:** Rep.Suder; Fladeboe, David  
**Cc:** Rep.Jacque; Murphy, Michael; Hurley, Peggy; Champagne, Rick; Kuczenski, Tracy  
**Subject:**  
**Importance:** High

Dave,

Just to confirm your request to transfer LRB-0683, LRB-0685 & LRB-0716 from a Rep. Suder to a Rep. Jacque request ...turning re-draft, jacketing and introduction control over to their office.

Is this correct?

Thanks,

**Mike Barman** (Lead Program Assistant)  
State of Wisconsin - Legislative Reference Bureau  
Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)

**Godwin, Gigi**

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**From:** Rep.Jacque  
**Sent:** Wednesday, April 20, 2011 2:05 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-0683/1 Topic: Costs of tests for intoxication

Please Jacket LRB 11-0683/1 for the ASSEMBLY.