

Testimony before the Senate Committee on Judiciary and Public Safety

State Senator André Jacque

October 3, 2023

Chairman Wanggaard and Colleagues on the Senate Committee on Judiciary and Public Safety,

Thank you for holding this hearing and the opportunity to appear before you today as the author of Senate Bill 410. When individuals get behind the wheel of a vehicle with no intent of obeying the traffic laws that were enacted to keep everyone safe, they put themselves and everyone else on the road in danger. Whether you are driving to work, taking your kids to the park, going to the grocery store, or coming in from a night out, we all deserve to feel safe on the road.

Unfortunately, many individuals are undeterred by present penalties for repeated hazardous driving behavior, to the point that removing access to a vehicle becomes a necessary consideration.

Senate Bill 410 adds impoundment for up to 90 days to the list of penalties which can be imposed for traffic offenses which endanger public safety, including fleeing from a law enforcement officer, speeding more than 25 miles per hour above the speed limit, racing on a highway, and operating a vehicle without a license more than 3 months after expiration or with a suspended or revoked operating privilege. As impoundment costs are otherwise currently borne by local government, this legislation would newly establish that a person found guilty of the violation upon which the impoundment is based must pay the costs that the law enforcement agency reasonably incurs for the impoundment of the vehicle. In addition, the law enforcement agency impounding the vehicle shall release it upon the request of the owner if the law enforcement agency is satisfied that the vehicle was not being operated with the owner's consent at the time of the violation.

This legislation has been requested by numerous law enforcement officials and is formally supported by Mothers Against Drunk Driving (MADD), the Wisconsin Professional Police Association and the Wisconsin Chapter of the Fraternal Order of Police. I introduced similar legislation with former Rep. David Bowen at the end of last session and am pleased that it has maintained bi-partisan support.

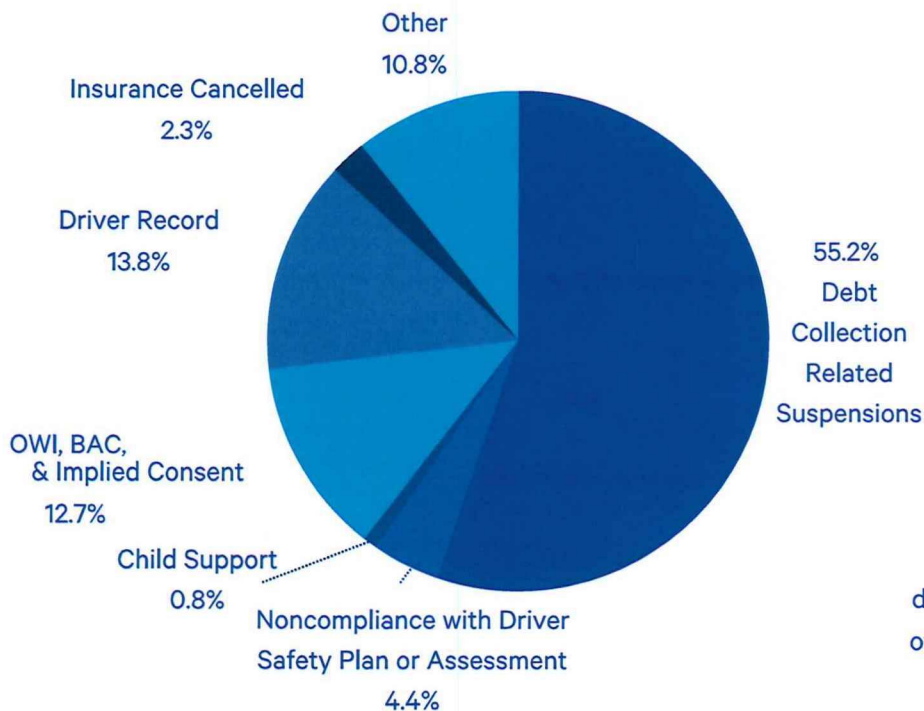
Senate Bill 410 is complementary to and does not conflict with recently enacted 2023 Wisconsin Act 1 (AB 56/SB 92 - impoundment of vehicles used in certain reckless driving offenses) authored by Representative Donovan and Senator Nass, as you see described in the chart below:

	2023 Wisconsin Act 1	Senate Bill 410
Covered Jurisdictions	Local governments that adopt an ordinance	Statewide
Covered Offenses	Reckless driving, if cited person has an outstanding unpaid reckless driving forfeiture	Operating without a license, (more than 3 months after expiration) operating after suspension, operating after revocation, speeding (greater than 25 mph over limit), fleeing a law enforcement officer, racing

	2023 Wisconsin Act 1	Senate Bill 410
Period of Impoundment	Undefined (until previously unpaid forfeiture paid)	90 days, subject to extension by court
Allows recovery of costs?	Yes	Yes

Thank you for your consideration of Senate Bill 410. I'd be happy to answer any questions

WI SB 410 will harm Legal Action of Wisconsin clients by treating Operating While Suspended as a safety violation when it is often caused by poverty



55%
OF DRIVER'S LICENSE
SUSPENSIONS IN WISCONSIN
OVER THE LAST TEN YEARS
HAVE BEEN ORDERED TO
COERCE PAYMENT OF DEBT
AND ARE NOT SAFETY
RELATED.

The only purpose of "Failure to Pay Forfeiture" driver's license suspensions is to coerce payment of debt. This type of driver's license suspension is often caused by poverty.

The chart above is a visualization of the following data points from the last decade in Wisconsin: Debt collection suspensions 2,016,155; Noncompliance with Driver Safety Plan or Assessment 159,999; Child Support 32,498; OWI, BAC, and Implied Consent 463,344; Driver Record 504,554; Insurance Cancelled 82,998; Other 395,011.

OPERATING WHILE SUSPENDED IS NOT A SAFETY VIOLATION -- TARGETING THAT VIOLATION FOR ENHANCED PUNISHMENT WILL DISPROPORTIONATELY HARM PEOPLE EXPERIENCING POVERTY AND PEOPLE OF COLOR

In Wisconsin, Black men were 4.5 times more likely to have a suspended driver's license than white men and Latinx men were 3.2 times more likely to have a suspended driver's license than non-Hispanic white men. -- UWM Employment & Training Institute

“Debt-related restrictions on driving privileges force an impossible choice: stop driving and lose everything — or keep driving and risk more fines and fees, criminal charges, arrest and jail time. Driver's license suspensions trigger a decades-long cycle of poverty and punishment that many people never escape. For the 86% of Americans that drive to work — losing the ability to drive also means losing the ability to work, provide for your family, and get medical care.”
-- The Free to Drive Coalition Report

“A person whose driver's license is suspended will often find it more difficult to earn a living and therefore pay the debt they owe to the government. The number of individuals with a suspended license also places a burden on the limited resources of law enforcement. This resolution encourages state policymakers to revise laws to limit driver's license suspensions imposed for violations against the government to conduct that involves offenders with dangerous driving such as drunk driving or multiple moving violations.”
-- The American Legislative Exchange Council (ALEC)

This information is provided by:



Wisconsin Justice Initiative

The logo for the Wisconsin Justice Initiative features a stylized blue wave or swoosh graphic positioned below the main title.

October 3, 2023

Senate Committee on Judiciary and Public Safety
Sen. Van Wanggaard, Chair
Room 122 South
State Capitol
PO Box 7882
Madison, WI 53707

Dear Chairman Wanggaard and Committee Members,

At the Wisconsin Justice Initiative we advocate for policies and laws that improve access to justice and increase fair outcomes in the judicial system.

WJI strongly objects to Senate Bills 404 and 410 because they exacerbate unfairness in our judicial system. These bills criminalize and punish poverty.

SB 404 increases penalties for operating while suspended; if passed, operating while suspended would be a criminal offense. SB 410 would permit impoundment of a vehicle for operating while suspended.

The majority of license suspensions are not caused by safety issues. They are caused by a driver's lack of money.

The number-one cause of license suspensions or revocations each year, by a significant margin, is failure to pay a prior court forfeiture. Municipal judges are permitted to suspend a driver's license as a sanction for nonpayment of forfeitures.

In 2022, failure to pay prior forfeitures was the basis for 47.22% of suspensions or revocations according to [Department of Transportation data](#). This percentage does not even include other poverty-adjacent reasons such as failure to pay support or juvenile forfeiture amounts. The next highest reason for suspension or revocation—a poor driving record—caused only 17.22% in comparison.

Moreover, failure to pay is the consistent number-one cause of suspensions/revocations, and it actually dipped during the pandemic. From 2013 through 2019 the percentage of suspensions/revocations due to failure to pay fluctuated between 53.71% and 58.75%. It's also important to note that those whose licenses are revoked for operating-while-intoxicated offenses already face criminal penalties under current law if they drive after revocation.

The vast majority of those with outstanding forfeiture debt lack the means to pay. Losing a driver's license already inhibits one's ability to get to and from work or school or maintain employment that requires driving. Penalizing those who drive on a revoked or suspended license with criminal penalties or impoundment of their vehicles is an excessive punishment not faced by those who are able to afford their forfeiture amounts. And it does little to nothing to keep others safe.

We urge you to reject these bills.

Sincerely,

A handwritten signature in black ink, appearing to read 'C.R. Johnson', written in a cursive style.

Craig R. Johnson
WJI President