



## 1995 ASSEMBLY BILL 110

February 8, 1995 - Introduced by Representatives KRUSICK, BOCK, BRANDEMUEHL, CARPENTER, GARD, GROBSCHMIDT, HANSON, LADWIG, LEHMAN, MORRIS-TATUM, OTT, OTTE, RILEY, VRAKAS, WALKER and WASSERMAN, cosponsored by Senators ROSENZWEIG, BURKE, DARLING, DRZEWIECKI and PANZER. Referred to Committee on Judiciary.

1     **AN ACT to amend** 66.12 (3) (b), 814.04 (intro.), 814.16 and 973.06 (1) (intro.); and  
2     **to create** 59.395 (5s), 66.12 (3) (cm) and 346.653 of the statutes; **relating to:**  
3     the recovery of costs of enforcing laws involving operating a motor vehicle while  
4     under the influence of alcohol or a controlled substance or both.

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### *Analysis by the Legislative Reference Bureau*

Current law provides that, if the state brings a successful action against a person who violates a statute, the state may recover certain costs in addition to any fine or forfeiture imposed. The costs that the state may recover vary according to whether the action is civil or criminal; and the costs include fees, disbursements, interest, and witness expenses.

This bill expands the type of costs that may be recovered in cases involving the operation of a motor vehicle while under the influence of an intoxicant or a controlled substance or both. Under the bill, the defendant is required to pay the costs incurred by the law enforcement agency in the apprehension and arrest of the defendant and in the investigation and prosecution of the offense.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

5     **SECTION 1.** 59.395 (5s) of the statutes is created to read:  
6     59.395 (5s) Pay monthly to the law enforcement agencies the enforcement costs  
7     as required under s. 346.653 (2) (a).

1           **SECTION 2.** 66.12 (3) (b) of the statutes is amended to read:

2           66.12 (3) (b) All forfeitures and penalties recovered for the violation of any  
3 ordinance, resolution or bylaw of any city or village shall be paid into the city or  
4 village treasury for the use of the city or village, except as otherwise provided in par.  
5 (c), sub. (1) (b) and s. 165.87. The Except as provided in par. (cm), the judge shall  
6 report and pay into the treasury, quarterly, or at more frequent intervals if so  
7 required, all moneys collected belonging to the city or village, which report shall be  
8 certified and filed in the office of the treasurer; and the judge shall be entitled to  
9 duplicate receipts for such moneys, one of which he or she shall file with the city or  
10 village clerk.

11           **SECTION 3.** 66.12 (3) (cm) of the statutes is created to read:

12           66.12 (3) (cm) The municipal court shall pay monthly to the law enforcement  
13 agencies the enforcement costs as required under s. 346.653 (2) (b).

14           **SECTION 4.** 346.653 of the statutes is created to read:

15           **346.653 Recovery of enforcement costs.** (1) (a) In addition to the costs  
16 allowed under ss. 814.04 and 973.06, the court shall determine the costs incurred by  
17 each law enforcement agency in the apprehension and arrest of the defendant and  
18 in the investigation and prosecution of the offense if the defendant enters a plea  
19 under sub. (5) or if the court imposes a fine or a forfeiture against the defendant for  
20 a violation of any of the following:

21           1. Section 346.63 (1), (2), (5), (6) or (7).

22           2. A local ordinance in conformity with s. 346.63 (1) or (5).

23           3. A law of a federally recognized American Indian tribe or band in the this state  
24 in conformity with s. 346.63 (1) or (5).

25           4. Section 940.09 (1).

1           5. Section 940.25.

2           (b) The prosecutor shall present evidence of the costs incurred by each law  
3 enforcement agency and the defendant shall be given an opportunity to refute that  
4 evidence. The court shall order the defendant to pay the costs incurred by each law  
5 enforcement agency in addition to the fine or forfeiture and any assessment,  
6 payment or surcharge imposed, after subtracting any of those costs recovered under  
7 s. 346.65 (6) (e).

8           **(2)** (a) Except as provided in par. (b), the clerk of court shall collect and transmit  
9 the costs ordered under sub. (1) (b) to the law enforcement agency that incurred the  
10 costs as provided in s. 59.395 (5s).

11           (b) If the forfeiture is imposed by a municipal court, the court shall collect and  
12 transmit the enforcement costs to the law enforcement agency that incurred the costs  
13 as provided in s. 66.12 (3) (cm).

14           (c) A law enforcement agency that receives a payment under this subsection  
15 shall provide the clerk of court or the municipal court with a receipt for the amount  
16 received.

17           **(3)** Costs imposed against a defendant under this section shall include:

18           (a) All wages or salary paid to law enforcement agency officers or supervisory  
19 personnel for time spent in the apprehension and arrest of the defendant,  
20 investigation of the offense, preparation of reports, court appearances and  
21 conferences with the district attorney, assistant district attorneys or other  
22 prosecutors.

23           (b) All costs for equipment used or fees for services incurred in connection with  
24 chemical analysis or testing done in the course of investigating or prosecuting the  
25 offense.

1           (4) In no case shall the costs imposed against a defendant under this section  
2 in connection with any one offense exceed \$1,000.

3           (5) Costs shall be imposed against a defendant under this section in any action  
4 in which the defendant is initially charged with a violation of one of the statutes  
5 enumerated in sub. (1) (a), even when the original charge is subsequently changed  
6 to a charge of a violation of one or more other statutes and the defendant enters a plea  
7 of guilty or no contest to that amended charge.

8           (6) A defendant who is required to pay costs imposed under this section shall  
9 pay the costs to the court in which they were imposed.

10           **SECTION 5.** 814.04 (intro.) of the statutes is amended to read:

11           **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 101.22 (6) (i)  
12 and (6m) (a), ~~346.653~~, 769.313, 814.025, 814.245, 895.035 (4), 895.75 (3), 895.77 (2),  
13 943.212 (2) (b), 943.245 (2) (d) and 943.51 (2) (b), when allowed costs shall be as  
14 follows:

15           **SECTION 6.** 814.16 of the statutes is amended to read:

16           **814.16 Settlement, costs on.** Except as provided in ~~s. ss. 93.20~~ and 346.653,  
17 upon settlement of an action no greater sum may be demanded for costs than at the  
18 rate prescribed in this chapter.

19           **SECTION 7.** 973.06 (1) (intro.) of the statutes is amended to read:

20           973.06 (1) (intro.) Except as provided in ~~s. ss. 93.20~~ and 346.653, the costs  
21 taxable against the defendant shall consist of the following items and no others:

22           **SECTION 8. Initial applicability.**

23           (1) This act first applies to offenses committed on the effective date of this  
24 subsection.

25

(END)