



1997 ASSEMBLY BILL 91

February 12, 1997 - Introduced by Representatives KRUSICK, ALBERS, BAUMGART, BOCK, DOBYNS, HAHN, HARS DORF, KRUG, LA FAVE, J. LEHMAN, M. LEHMAN, NOTESTEIN, OLSEN, OTT, OTTE, PLALE, RYBA, SCHAFER, STASKUNAS, TURNER, URBAN, WALKER and WASSERMAN, cosponsored by Senators WIRCH, BUETTNER, COWLES, DARLING, A. LASEE and FARROW. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber* 345.47 (1) (a) and (b); *to renumber and amend* 345.47 (1)
2 (intro.), 345.47 (1) (c) and 345.47 (1) (d); *to amend* 66.12 (3) (b), 85.13, 341.08
3 (4m), 341.10 (7), 345.28 (6), 814.04 (intro.), 814.16 and 973.06 (1) (intro.); and
4 **to create** 59.40 (2) (mg), 66.12 (3) (cm), 345.47 (1g) (intro.) and 346.653 of the
5 statutes; **relating to:** the recovery of costs of enforcing laws involving
6 operating a motor vehicle while under the influence of alcohol or a controlled
7 substance or both.

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.

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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 **SECTION 1.** 59.40 (2) (mg) of the statutes is created to read:

2 59.40 (2) (mg) Pay monthly to the law enforcement agencies the enforcement
3 costs as required under s. 346.653 (2) (a).

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

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

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

20 66.12 (3) (cm) The municipal court shall pay monthly to the law enforcement
21 agencies the enforcement costs as required under s. 346.653 (2) (b).

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1 **SECTION 4.** 85.13 of the statutes is amended to read:

2 **85.13 Cost of traffic violation and registration program.** The
3 department shall develop a system for charging local units of government or other
4 authority as defined in s. 345.28 (1) (a) for the cost of the development and operation
5 of the traffic violation and registration program under ss. 341.08 (4m), 341.10 (7) and
6 (7m), 341.63 (1) (c), 345.28 (4) and 345.47 ~~(1) (d)~~ (1j) (b) based on the number of
7 transactions processed by the local unit of government or other authority. No notices
8 under s. 345.28 (4) submitted by an authority or under s. 345.47 ~~(1) (d)~~ (1j) (b)
9 submitted by the court may be processed by the department unless the local unit of
10 government or other authority involved has paid the department the appropriate
11 amount determined by the department under this section.

12 **SECTION 5.** 341.08 (4m) of the statutes is amended to read:

13 **341.08 (4m)** At least 30 days prior to the expiration of a vehicle's registration,
14 the department shall mail to the last-known address of the registrant or, if the
15 vehicle is subject to a lease agreement, of the lessee designated by the registrant, a
16 notice of the date upon which the registration must be renewed and an application
17 form for renewal of registration. The application form or an accompanying document
18 shall include a list of any unpaid citations for nonmoving traffic violations or any
19 judgments for violation of ch. 110, 194 or 341 to 350, an administrative rule of the
20 department, or an ordinance enacted in accordance with s. 349.06, including parking
21 violations, entered against the registrant which remain unpaid. The list of unpaid
22 citations for nonmoving traffic violations shall be based on information obtained
23 under s. 345.28 (4). The list of unpaid judgments shall be based on information
24 obtained under s. 345.47 ~~(1) (d)~~ (1j) (b). If there is a citation for any nonmoving traffic
25 violation entered against the registrant or designated lessee which is unpaid, he or

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1 she shall be notified that the vehicle may not be registered until the citation is paid
2 or the registrant or designated lessee appears in court to respond to the citation. If
3 there is a judgment entered against the registrant or designated lessee which is
4 unpaid, he or she shall be notified that the vehicle may not be registered until the
5 judgment is paid.

6 **SECTION 6.** 341.10 (7) of the statutes is amended to read:

7 341.10 (7) A court has notified the department under s. 345.47 (1) ~~(d)~~ (1j) (b)
8 that a judgment has been entered against the applicant and the judgment remains
9 unpaid.

10 **SECTION 7.** 345.28 (6) of the statutes is amended to read:

11 345.28 (6) No person may be arrested or imprisoned under s. 345.47 (1) (1g) (a)
12 or ch. 785 for failure to pay a judgment assessed under this section and s. 345.47.

13 **SECTION 8.** 345.47 (1) (intro.) of the statutes is renumbered 345.47 (1) and
14 amended to read:

15 345.47 (1) If the defendant is found guilty, the court may enter judgment
16 against the defendant for a monetary amount not to exceed the maximum forfeiture
17 provided for the violation, the penalty assessment, if required by s. 165.87, and the
18 jail assessment, if required by s. 302.46 (1), provided for the violation and for costs
19 under s. 345.53 and, if required, under s. 346.653 and, in addition, may suspend or
20 revoke his or her operating privilege under s. 343.30. ~~If the judgment is not paid, the~~
21 ~~court shall order:~~

22 **SECTION 9.** 345.47 (1) (a) and (b) of the statutes are renumbered 345.47 (1g) (a)
23 and (b).

24 **SECTION 10.** 345.47 (1) (c) of the statutes is renumbered 345.47 (1j) (a) and
25 amended to read:

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1 345.47 (1j) (a) If a court or judge suspends an operating privilege under this
2 section ~~sub. (1)~~, the court or judge shall immediately take possession of the
3 suspended license and shall forward it to the department together with the notice of
4 suspension, which shall clearly state that the suspension was for failure to pay a
5 forfeiture, a penalty assessment, if required by s. 165.87, and a jail assessment, if
6 required by s. 302.46 (1), imposed by the court. The notice of suspension and the
7 suspended license, if it is available, shall be forwarded to the department within 48
8 hours after the order of suspension. If the forfeiture, penalty assessment and jail
9 assessment are paid during a period of suspension, the court or judge shall
10 immediately notify the department. Upon receipt of the notice and payment of the
11 reinstatement fee under s. 343.21 (1) (j), the department shall return the
12 surrendered license.

13 **SECTION 11.** 345.47 (1) (d) of the statutes is renumbered 345.47 (1j) (b) and
14 amended to read:

15 345.47 (1j) (b) In addition to or in lieu of imprisonment or suspension under
16 ~~par. sub. (1g)~~ (a) or (b), the court may notify the department, in the form and manner
17 prescribed by the department, that a judgment has been entered against the
18 defendant and remains unpaid. The notice shall include the name and last-known
19 address of the person against whom the judgment was entered, the date judgment
20 was entered, the amount of the judgment, the license number of the vehicle involved,
21 certification by the court that a warrant has been served on the person against whom
22 the judgment was entered or, in the case of a judgment entered under s. 345.28, that
23 the person has been notified of the entry of judgment and the judgment remains
24 unpaid and the place where the judgment may be paid. If the person subsequently

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1 pays the judgment the court shall immediately notify the department of the payment
2 in the form and manner prescribed by the department.

3 **SECTION 12.** 345.47 (1g) (intro.) of the statutes is created to read:

4 345.47 **(1g)** (intro.) If the judgment under sub. (1) is not paid, the court shall
5 order:

6 **SECTION 13.** 346.653 of the statutes is created to read:

7 **346.653 Recovery of enforcement costs. (1)** (a) In addition to the costs
8 allowed under ss. 814.04 and 973.06, the court shall determine the costs incurred by
9 each law enforcement agency in the apprehension and arrest of the defendant and
10 in the investigation and prosecution of the offense if the defendant enters a plea
11 under sub. (5) or if the court imposes a fine or a forfeiture against the defendant for
12 a violation of any of the following:

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

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

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

17 4. Section 940.09 (1), while operating a motor vehicle.

18 5. Section 940.25, while operating a motor vehicle.

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

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1 **(2)** (a) Except as provided in par. (b), the clerk of court shall collect and transmit
2 the costs ordered under sub. (1) (b) to the law enforcement agency that incurred the
3 costs as provided in s. 59.40 (2) (mg).

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

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

10 **(3)** Costs imposed against a defendant under this section may only include:

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

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

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

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

