



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0683/1
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2011 ASSEMBLY BILL 108

April 26, 2011 - Introduced by Representatives JACQUE, PETERSEN, BIES, BROOKS, ENDSLEY, FARROW, JORGENSEN, KNILANS, KOOYENGA, MURSAU, A. OTT, RIVARD, SPANBAUER, STASKUNAS, TRANEL and ZIEGELBAUER, cosponsored by Senators KEDZIE, ZIPPERER, DARLING, GALLOWAY, LEIBHAM and WIRCH. Referred to Committee on Criminal Justice and Corrections.

- 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.

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.

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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.** 814.63 (3m) of the statutes is created to read:

2 814.63 **(3m)** (a) Except as provided in par. (d), if a defendant is required to
3 appear in court, in addition to any forfeiture, costs, fees, or surcharges it imposes, the
4 court shall impose and collect from the defendant any costs charged to or paid by a
5 law enforcement agency for the withdrawal of the defendant's blood if the court finds
6 that the defendant violated s. 23.33 (4c), 30.681, 346.63, or 350.101, or a local
7 ordinance in conformity therewith.

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

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

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

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

18 814.65 **(4m)** BLOOD TEST FEE. (a) Except as provided in par. (d), if a defendant
19 is required to appear in municipal court, in addition to any forfeiture, costs, fees, or
20 surcharges it imposes, the municipal court shall impose and collect from the
21 defendant any costs charged to or paid by a law enforcement agency for the

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1 withdrawal of the defendant's blood if the court finds that the defendant violated a
2 local ordinance in conformity with s. 23.33 (4c), 30.681, 346.63, or 350.101.

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

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

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

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

13 973.06 (1) (j) If the defendant violated s. 23.33 (4c), 30.681, 346.63, 350.101,
14 940.09 (1), or 940.25, any costs charged to or paid by a law enforcement agency for
15 the withdrawal of the defendant's blood, except that the court may not impose on the
16 defendant any cost for an alternative test provided free of charge as described in s.
17 343.305 (4). If at the time the court finds that the defendant committed the violation,
18 the law enforcement agency has not paid or been charged with the costs of
19 withdrawing the person's blood, the court shall impose and collect the costs the law
20 enforcement agency reasonably expects to be charged for the withdrawal, based on
21 the current charges for this procedure. Notwithstanding sub. (2), the court may not
22 remit these costs.

23 **SECTION 4. Initial applicability.**

