



**ASSEMBLY AMENDMENT 7,
TO 1995 ASSEMBLY BILL 130**

March 23, 1995 – Offered by Representative LADWIG.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 167, line 8: delete lines 8 to 25 and substitute:

3 “**SECTION 564m.** 895.035 (2m) of the statutes is created to read:

4 895.035 (**2m**) (a) If a child fails to pay restitution under s. 938.245, 938.32,
5 938.34 (5) or 938.343 (4) as ordered by the court assigned to exercise jurisdiction
6 under chs. 48 and 938 or as agreed to in a deferred prosecution agreement or if it
7 appears likely that the child will not pay restitution as ordered or agreed to, the
8 victim, the victim’s insurer, the representative of the public interest under s. 938.09
9 or the agency, as defined in s. 938.38 (1) (a), supervising the child may petition that
10 court to order that the amount of restitution unpaid by the child be entered and
11 docketed as a judgment against the child and the parent with custody of the child.
12 A petition under this paragraph may be filed after the expiration of the deferred
13 prosecution agreement, consent decree or dispositional order under which the
14 restitution is payable, but no later than one year after the expiration of the deferred
15 prosecution agreement, consent decree or dispositional order or any extension of the
16 consent decree or dispositional order.

1 (b) If a child fails to pay a forfeiture as ordered by the court assigned to exercise
2 jurisdiction under chs. 48 and 938 or if it appears likely that the child will not pay
3 the forfeiture as ordered, the representative of the public interest under s. 938.09,
4 the agency, as defined in s. 938.38 (1) (a), supervising the child or the law
5 enforcement agency that issued the citation to the child may petition that court to
6 order that the amount of the forfeiture unpaid by the child be entered and docketed
7 as a judgment against the child and the parent with custody of the child. A petition
8 under this paragraph may be filed after the expiration of the dispositional order
9 under which the forfeiture is payable, but no later than one year after the expiration
10 of the dispositional order or any extension of the dispositional order.

11 (bm) 1. Before issuing an order under par. (a) or (b), the court assigned to
12 exercise jurisdiction under chs. 48 and 938 shall give the child and the parent notice
13 of the intent to issue the order and an opportunity to be heard regarding the order.
14 The court shall give the child and the parent an opportunity to present evidence as
15 to the amount of the restitution or forfeiture unpaid, but not as to the amount of the
16 restitution or forfeiture originally ordered. The court shall also give the child and
17 the parent an opportunity to present evidence as to the reason for the failure to pay
18 the restitution or forfeiture and the ability of the child or the parent to pay the
19 restitution or forfeiture. In considering the ability of the child or the parent to pay
20 the restitution or forfeiture, the court may consider the assets, as well as the income,
21 of the child or the parent and may consider the future ability of the child or parent
22 to pay the restitution or forfeiture within the time specified in s. 893.40.

23 2. In proceedings under this subsection, the court assigned to exercise
24 jurisdiction under chs. 48 and 938 may take judicial notice of any deferred
25 prosecution agreement, consent decree, dispositional order, extension of a consent

1 decree or dispositional order or any other finding or order in the court's records of the
2 child.

3 3. In proceedings under this subsection, the child and the parent may retain
4 counsel of their own choosing at their own expense, but a child or a parent has no
5 right to be represented by counsel in a proceeding under this subsection.”

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(END)