

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB247)

Received: **05/24/99**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Goetsch (608) 266-2540**

By/Representing: **Kent Vernon**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - delinquency**
Children - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Juvenile restitution and forfeitures; ability to pay

Instructions:

See Attached--eliminate requirement that juvenile court consider ability to pay of juvenile and parent in ordering restitution or a forfeiture

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 05/25/99	gilfokm 05/26/99		_____			
/1			kfollet 05/27/99	_____	lrb_docadmin 05/27/99	lrb_docadmin 05/27/99	

FE Sent For:

<END>

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1/?	malaigm	1-5-26-99 Kmg	KJf S/ab	Kf/Km 3/27			

FE Sent For:

<END>

Malaise, Gordon

From: Vernon, Kent
Sent: Monday, May 24, 1999 11:32 AM
To: Malaise, Gordon
Subject: Juvenile restitution

Gordon, following our discussion on parental liability, at the request Judge Robert Kinney, Rep. Goetsch wants a simple amendment to AB 247. On page 21, line 12, delete "alone is financially able to pay or" and replace with "~~alone~~ is financially able to pay or".

Gracias.

Kent D. Vernon
Committee Clerk
Assembly Committee on Criminal Justice,
State Representative Robert G. Goetsch, Chair
kent.vernon@legis.state.wi.us
Phone: 608-266-2540
Toll Free: 1-888-534-0039
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State of Wisconsin
1999 - 2000 LEGISLATURE

5000

LRBa0459/1

GMM.....

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ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 247

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

2 ✓1. Page 2, line 2: after "restitution" insert "and the payment of a forfeiture".

3 ✓2. Page 8, line 13: delete lines 13 and 14 and substitute "such deferred
4 prosecution agreement shall include a determination that the juvenile alone is
5 financially able to pay or physically able to perform the services, may allow".

6 ✓3. Page 8, line 16: after "services" insert ". Any deferred prosecution
7 agreement that requires the performance of services for the victim shall include a
8 determination that the juvenile is physically able to perform the services".

9 ✓4. Page 9, line 10: delete lines 10 and 11 and substitute "(1) (d). Any order
10 under this subd. 5. am. shall include a finding that the parent who has custody of the
11 juvenile is financially able to pay the amount ordered".

12 ✓5. Page 9, line 12: delete "and" and substitute "and paragraph".

1 ✓ **6.** Page 9, line 13: delete “the payment” and substitute “~~the payment~~ ^{plain} ~~payment~~
2 of the amount ordered”.

3 ✗ **7.** Page 16, line 16: delete lines 16 ^{and 17} and substitute “by a juvenile shall
4 ~~include a finding that the juvenile alone is financially able to pay or physically able~~
5 ~~to perform the services,~~ may allow up to the date of the expiration”.

6 ✓ **8.** Page 16, line 18: after “[✓]services” insert “. Any consent decree that requires
7 the performance of services for the victim shall include a finding that the juvenile is
8 physically able to perform the services”.

9 ✗ **9.** Page 17, line 13: delete lines 13 and 14 and substitute “parent who ^{has} custody
10 of the juvenile ~~shall include a finding that the parent who has custody of the juvenile~~
11 ~~is financially able to pay the amount ordered and may~~”.

12 ✓ **10.** Page 17, line 15: delete “the payment” and substitute “~~the payment~~ ^{plain}
13 payment of the amount required”.

14 ✗ **11.** Page 21, line 11: delete lines 11 and 12 and substitute “well-being and ^{and hyphen}
15 ~~behavior of the juvenile. Any such order shall include a finding that the juvenile~~
16 ~~alone is financially able to pay or physically able to perform the services,~~”.

17 ✓ **12.** Page 21, line 14: after “services” insert “. Any such order that requires the
18 performance of services for the victim shall include a finding that the juvenile is
19 physically able to perform the services”.

20 ✓ **13.** Page 24, line 14: after that line insert:
21 “SECTION 47m. 938.34 (8) of the statutes is amended to read:
22 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that
23 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The

1 maximum forfeiture that the court may impose under this subsection for a violation
 2 by a juvenile is the maximum amount of the fine that may be imposed on an adult
 3 for committing that violation or, if the violation is applicable only to a person under
 4 18 years of age, \$100. Any such order shall include a finding that the juvenile alone
 5 is financially able to pay the forfeiture and shall allow up to 12 months for payment.
 6 If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order
 7 other alternatives under this section, in accordance with the conditions specified in
 8 this chapter; or the court may suspend any license issued under ch. 29 for not less
 9 than 30 days nor more than 5 years, or suspend the juvenile's operating privilege as
 10 defined in s. 340.01 (40) for not less than 30 days nor more than 5 years. If the court
 11 suspends any license under this subsection, the clerk of the court shall immediately
 12 take possession of the suspended license and forward it to the department which
 13 issued the license, together with a notice of suspension clearly stating that the
 14 suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is
 15 paid during the period of suspension, the suspension shall be reduced to the time
 16 period which has already elapsed and the court shall immediately notify the
 17 department which shall then return the license to the juvenile. Any recovery under
 18 this subsection shall be reduced by the amount recovered as a forfeiture for the same
 19 act under s. 938.45 (1r) (b).

NOTE: NOTE: Sub. (8) is amended eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read: NOTE:

20 SECTION 47p. 938.34 (8) of the statutes, as affected by 1997 Wisconsin Act 84
 21 and 1999 Wisconsin Act . . . (this act), is repealed and recreated to read:

938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that this disposition is in the best interest of the juvenile and in aid of rehabilitation. The maximum forfeiture that the court may impose under this subsection for a violation by a juvenile is the maximum amount of the fine that may be imposed on an adult for committing that violation or, if the violation is applicable only to a person under 18 years of age, \$100. Any such order shall allow up to 12

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 (8) & remove rest of bold in (8).
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months for payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order other alternatives under this section, in accordance with the conditions specified in this chapter; or the court may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege as defined in s. 340.01 (40) for not more than 2 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with a notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the juvenile. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

NOTE: NOTE: Sub. (8) is shown as affected by two acts of the ~~1997 legislature~~ and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).

1 **SECTION 47r. 938.343 (2)** of the statutes is amended to read:

2 938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may
3 be imposed on an adult for committing that violation or, if the violation is only
4 applicable to a person under 18 years of age, \$50. Any such order shall include a
5 finding that the juvenile alone is financially able to pay and shall allow up to 12
6 months for the payment. If a juvenile fails to pay the forfeiture, the court may
7 suspend any license issued under ch. 29 or suspend the juvenile's operating privilege
8 as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. The court
9 shall immediately take possession of the suspended license and forward it to the
10 department which issued the license, together with the notice of suspension clearly
11 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
12 the forfeiture is paid during the period of suspension, the court shall immediately
13 notify the department, which will thereupon return the license to the person. Any
14 recovery under this subsection shall be reduced by the amount recovered as a
15 forfeiture for the same act under s. 938.45 (1r) (b).

NOTE: NOTE: Sub. (2) is amended eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read:NOTE:

1 SECTION 47t. 938.343 (2) of the statutes, as affected by 1997 Wisconsin Act 84
2 and 1999 Wisconsin Act 14 (this act), is repealed and recreated to read:

① remove rest of bold in (2).
~~938.343~~ **938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a person under 18 years of age, \$50. Any such order shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which will thereupon return the license to the person. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b)."**

NOTE: NOTE: Sub. (2) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:

History: 1995 a. 77, 352, 448; 1997 a. 84, 183, 197, 198, 205, 248; s. 13.93 (2) (c).

3 ~~X~~ **14.** Page 25, line 1: delete lines 1 to 3 and substitute *add key phrase* "well being and behavior
4 of the juvenile. Any such order requiring payment for repairs or restitution shall
5 include a finding that the juvenile alone is financially able to pay or physically able
6 to perform the services, may allow up to the date of the".

7 **15.** Page 25, line 4: after "services" insert "Any such order that requires the
8 performance of services for the victim shall include a finding that the juvenile is
9 physically able to perform the services".

10 **16.** Page 28, line 4: delete "shall".

11 ~~X~~ **17.** Page 28, line 5: delete lines 5 and 6 and substitute *e* "shall include a finding
12 that the parent who has custody of the juvenile is financially able to pay the amount
13 ordered and may allow up to the date of expiration of the order".

14 **18.** Page 28, line 7: delete "the payment" and substitute *plain* "the payment
15 ~~payment~~ of the amount ordered".

16 **19.** Page 28, line 8: after that line insert:

