

1999 DRAFTING REQUEST**Assembly Amendment (AA-AB620)**Received: **01/10/2000**Received By: **nelsorpl**Wanted: **Soon**

Identical to LRB:

For: **Michael Huebsch (608) 266-0631**By/Representing: **Don Dyke**This file may be shown to any legislator: **NO**Drafter: **nelsorpl**

May Contact:

Alt. Drafters:

Subject: **Courts - civil procedure
Courts - miscellaneous**Extra Copies: **Don Dyke, LC****Pre Topic:**

No specific pre topic given

Topic:

Assignment of debt and civil actions for property damage

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Reauired</u> |
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| /2 | nelsorp 1 01/14/2000 | chanaman 01/18/2000 | martykr 01/18/2000 | _____ | lrb-docadmin 01/18/2000 | lrb-docadmin 01/18/2000 | |
| | | | martykr 01/18/2000 | _____ | lrb-docadmin 01/18/2000 | | |
| | | | hhagen 01/19/2000 | _____ | lrb-docadmin 01/18/2000 | | |
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| /3 | isagerro | chanaman | haugeca | _____ | lrb-docadmin | lrb-docadmin | |

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| | | | | _____ | lrb_docadmin 01/18/2000 | | |
| /3 | | | haugeca 01/26 | _____ | lrb-docadmin | lrb-docadmin | |

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hb 1/26 *hb 1/26*

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Reaired</u> |
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| | | | 01/19/2000 _____ | | 01/19/2000 | 01/20/2000 | |

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| | | | martykr 01/18/2000 | _____ | lrb-docadmin 01/18/2000 | | |
| | | | <i>ch</i> 1-19 | <i>pell</i> 1-19 | | | |

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JSR, RJM

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END

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| /1 | nelsorpl | cm # 1/10 | nl 1/11 | nl 1/11 | | | |

FE Sent For:

<END>

ASSEMBLY BILL 620

1 **799.01 (2) PERMISSIVE USE OF SMALL CLAIMS PROCEDURE.** A taxing authority may
2 use the procedure in this chapter in an action to recover a tax from a person liable
3 for that tax where the amount claimed, including interest and penalties, is ~~\$5,000~~
4 ~~\$10,000~~ ~~chapter~~ is not the exclusive procedure for those actions.

5 SECTION 5. 812.34 (1) (a) of the statutes is amended to read:

6 **812.34 (1) (a)** Was ordered by a court under s. 128.21 or by a court of bankruptcy
7 *any court of the United States*
under **Title 11, USC 1301 to 1330.**

8 SECTION 6. 812.34 (2) (a) of the statutes is amended to read:

9 812.34 (2) (a) **Unless** the court grants relief under s. 812.38 (2) or par. (b) or (c)
10 applies, 80% of the debtor's disposable earnings are exempt from garnishment under
11 this subchapter.

12 SECTION 7. 812.34 (2) (b) 1. of the statutes is amended to read:

13 812.34 (2) (b) 1. The debtor's household income is below the poverty line-
14 ~~garnishment would cause that result~~; or

15 SECTION 8. '812.34 (2) (c) of the statutes is created to read:

16 812.34 (2) (c) If the garnishment of 20% of the debtor's disposable income under
17 this subchapter would result in the debtor's household income being below the
18 poverty line, the amount of the garnishment is limited to the debtor's household
19 income in excess of the poverty line before the garnishment is in effect.

20 SECTION 9. 812.37 (1) of the statutes is amended to read:

21 **812.37 (1)** Except as provided in s. 812.34 (l), the debtor may claim an
22 exemption under s. 812.34 (2) (b), a limit to the garnishment under s. 812.34 (2) (c),
23 or may assert any defense to the earnings garnishment, by completing the answer
24 form and delivering or mailing it to the garnishee, along with the schedules and
25 worksheets provided under s. 812.35 (4) (b) and any other documents supporting his

1 leased by the assignor or his assigns. This assignment shall be in
2 writing or consideration and shall state the amount owed to the original creditor, the
3 name of the debtor and the name of the person to whom the debt is assigned.

4 (2) An assignee taking assignment of a debt under this section shall take the
5 assignment of the debt in his or her own name as real parties in interest for the
6 purpose of billing, collection and bringing suit in his or her own name. No suit
7 regarding an assigned debt may be instituted on behalf of or collection agency in any
8 court unless the collector or agency appears by a duly authorized and licensed attorney
9 at law. When a suit is commenced under this subsection, the court may authorize
10 payment of reasonable attorney fees and costs to the prevailing party.

11 (3) The person assigned a debt under this section shall send notice to the debtor
12 of the assignment by mail to the debtor's last known address within 30 calendar days
13 after making the assignment. If the person assigned the debt fails to send a notice
14 to the debtor within the time period required by this subsection, the assignment may
15 not be enforce until the notice is sent to the debtor.
16 SECTION 23. 89C.30 (2) of the statutes is amended to read:
17 89C.30 (2) The burden of proving a will action under sub. (1) is with the person
18 who suffers damage or loss to prove the will.

19 929.0104 929.0114 929.012 929.013 929.014 929.015 929.016 929.017 929.018 929.019
20 929.020 929.021 929.022 929.023 929.024 929.025 929.026 929.027 929.028 929.029
21 929.030 929.031 929.032 929.033 929.034 929.035 929.036 929.037 929.038 929.039
22 929.040 929.041 929.042 929.043 929.044 929.045 929.046 929.047 929.048 929.049
23 929.050 929.051 929.052 929.053 929.054 929.055 929.056 929.057 929.058 929.059
24 929.060 929.061 929.062 929.063 929.064 929.065 929.066 929.067 929.068 929.069

25 SECTION 24. 89C.30 (3) of the statutes is repealed and recaptured to read:



500a (1/10/00)
State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1141/1

RPN.....

cmk

**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 620**

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

2 1. Page 4, line 6: delete "a court of bankruptcy" and substitute "a court of
3 ~~bankruptcy~~ any court of the United States".

4 2. Page 10, line 7: after "agency" insert "licensed *by the department of
5 financial institutions".

6 3. Page 10, line 9: delete lines 9 and 10 and substitute
7 not "at law. The court may authorize payment of reasonable attorney fees and costs
8 to the prevailing party in an action brought under this subsection".

9 4. Page 10, line 14: delete "may".

10 5. Page 10, line 15: delete "not be" and substitute "is not".

11 6. Page 10, line 15: after that line insert:

1 2 "SECTION 22m. 895.80 (1) of the statutes is amended to read:

1 895.80 (1) Any person who suffers damage or loss by reason of intentional
2 conduct that occurs on or after November 1, 1995, and that is prohibited under s.
3 943.01, 943.011, 943.012, 943.017, 943.20, 943.201, 943.21, 943.24, 943.26, 943.34,
4 943.395, 943.41, 943.50 or 943.61, or by reason of intentional conduct that occurs on
5 or after April 28, 1998, and that is prohibited under s. 943.201, has a cause of action
6 against the person who caused the damage or loss.[✓]

7 History: 1995 a. 27; 1997 a. 101.

(END)

1/14

Don Dyke:

~~AD~~
1. Make s. 895.80 (1) change

(RPD) other
fix sections accordingly
apply to violations that occur on the effective date of this bill.

2. Remove S.# 33

3. Remove new ref. to s. 843.201
from s. 895.80 (1)



**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 620**

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

2 **1.** Page 4, line 6: delete “a court of bankruptcy” and substitute “~~a court of~~
3 ~~bankruptcy~~ any court of the United States”.

4 **2.** Page 10, line 7: after “agency” insert “licensed by the department of
5 financial institutions”.

6 **3.** Page 10, line 9: delete lines 9 and 10 and substitute “at law. The court may
7 authorize payment of reasonable attorney fees and costs to the prevailing party in
8 an action brought under this subsection.”.

9 **4.** Page 10, line 14: delete ‘may’.

10 **5.** Page 10, line 15: delete “not be” and substitute “is not”.

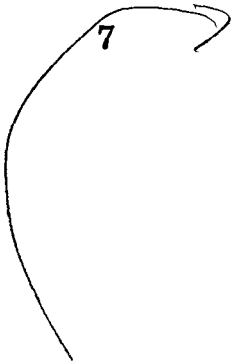
11 **6.** Page 10, line 15: after that line insert:

12 “SECTION 22m. 895.80 (1) of the statutes is amended to read:

the effective date of this subsection
(reviser? insert date)

1 895.80 (1) Any person who suffers damage or loss by reason of intentional
 2 conduct that occurs on or after ~~November 1, 1995~~ and that is prohibited under s.
 3 943.01, 943.011, 943.012, 943.017, 943.20, ~~943.201~~ 943.21, 943.24, 943.26, 943.34,
 4 943.395, 943.41, 943.50 or 943.61, or by reason of intentional conduct that occurs on
 5 or after April 28, 1998, and that is prohibited under s. 943.201, has a cause of action
 6 against the person who caused the damage or loss."

(END)



#. Page 12, line 20: delete the material beginning with that line and ending with page 13, line 8.

#. Page 13, line 19: delete "This" ^{act} and substitute "Except as provided in, subsection (2), this" ^{act}.

#. Page 13, line 20: after that line insert: (Insert E)



1999

(Insert E)

LRB 11/4/2

Nonstat File Sequence: **EEE**

_____:_____:_____

INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: **create → action: → *NS: → inappl**
 For the budget action phrase, execute: **create → action: → *NS: → 93XX**
 For the text, execute: **create → text: → *NS: → inappl**
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the **9300** department code; and fill in "____" or "()" only if a "frozen" number is needed.

SECTION # [93] **Initial applicability;**

initial app

(9) (2)

The treatment of sections ...

895.035(2), 895.80(1), (2), (3)(a), (b) and (c), (4) and (6), 943.24(3)(b) and (c), 943.245(3) and (4) and 943.5(3) and (3m)

first applies to violations committed on
the effective date of this
subsection."

↑
3m

- In the component bar:
 For the action phrase, execute: **create → action: → *NS: → inappl**
 For the text, execute: **create → text: → *NS: → inapplA**
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # ____ **Initial applicability,**

(#1) () This act first ap-

plies to

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WISCONSIN LEGISLATIVE COUNCIL STAFF
One East Main Street, Suite 401
P.O. Box 2536
Madison, WI 53701-2536

FAX # 608/266-3830

DATE: 1/18/00

NUMBER OF PAGES SENT, INCLUDING COVER PAGE: 2

[If pages are not all received or are illegible, please call 608/266-1304.]

PLEASE DELIVER TO: Ivy Sager-Rosenthal

FAX NUMBER: 264-8522

FROM: Jon Lyke (266-0292)

MESSAGE: Please do following to LRBa1141
(amend. to AB620):

- ① Delete SEC. 22
- ② Revise s. 218.04, Stats. to include attached language.

Thanks



Now

**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 620**

Item # Page 1; line 11: delete "assignment of debt" and substitute "civil actions by collection agencies".

Item # Page 3, line 1: delete "Section 1" and substitute "Section 1m".

Item # Page 3 line 1; before that line insert:
"Section 9. 218.04 (9j) of the statutes is created to read:"

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

Insert 1-1

Insert 1-3

1. Page 4, line 6: delete "a court of bankruptcy" and substitute "a court of bankruptcy any court of the United States".

Item # Page 9, line 23: delete lines 23-25.

2. Page 10, line 7: after "agency" insert "licensed by the department of financial institutions".

3. Page 10, line 9: delete lines 9 and 10 and substitute at law. The court may authorize payment of reasonable attorney fees and costs to the prevailing party in an action brought under this subsection.

4. Page 10, line 14: delete "may".

5. Page 10, line 15: delete "not be" and substitute "is not".

6. Page 10, line 15: after that line insert:

SECTION 22m. 895.80 (1) of the statutes is amended to read:

12

Assignment of Debt for Purposes of Collection

Insert 1

A licensee may, after receiving authorization from the creditor ^{relating to a particular} ~~or~~ ^{consolidate the} creditor's account or accounts ^{relating to} ~~for a particular~~ debtor with those of any other creditor ^{or creditors} ~~or creditors~~ ^{on behalf of the creditor or creditors} ~~for that debtor~~ and may bring suit ^{in the name of the licensee} ~~in the name of the creditor~~ ^{under s.} ~~in such circumstances~~ shall be deemed ^{is} ~~to be~~ the real party in interest, ^{pursuant to §803.01(2)} ~~as a party~~ for purposes of maintaining suit. The licensee shall include in the caption, under its name, the names of creditors on whose behalf the action is brought.

that brings suit under this subsection

Amend s. 218.04
Substitute for Section 22
 of AB ~~620~~ ... for " 895.08 ...
 as created by AB 620.

Add this to s. 218.04 (B)

(9) 218.04 (9j)
 CIVIL ACTION BY LICENSEE.

CS

Item # Page 10, line 1: delete lines 2-15 and substitute:

Section 22.

ⓑ

CR # 895.08. Suit by collection agency. In addition to the requirements of ss. 801.09(1), 801.095, 802.04(1) and 815.05(intro.), in an action brought by a collection agency under s. 218.04(9), the collection agency shall include in the caption, under its name, the names of the creditors on whose behalf the action is

brought.

brought

Insert 1-3



7
Hayz

**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 620**

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

2 1. Page 1, line 11: delete "assignment of debt" and substitute "civil actions by
3 collection agencies".

4 **2.** Page 3, line 1: before that line insert:

5 "SECTION **lg.** 218.04 (9j) of the statutes is created to read:

6 218.04 **(9j)** CIVIL ACTION BY LICENSEE. A licensee may, after receiving
7 authorization from a creditor, consolidate the creditor's account or accounts relating
8 to a particular debtor with those of any other creditor or creditors relating to that
9 debtor and may bring suit on behalf of the creditor or creditors. A licensee that brings
10 suit under this subsection is the real party in interest under s. 803.01 (2) for purposes
11 of maintaining suit."

12 **3.** Page 3, line 1: delete "SECTION 1" and substitute "SECTION **lm**".

4. Page 4, line 6: delete "a court of bankruptcy" and substitute "~~a court of bankruptcy~~ any court of the United States".

5. Page 9, line 23: delete lines 23 to 25.

6. Page 10, line 1: delete lines 1 to 15 and substitute:

"SECTION 22. 895.08 of the statutes is created to read:

895.08 Suit by collection agency. In addition to the requirements of ss. 801.09 (1), 801.095, 802.04 (1) and 815.05 (intro.), in an action brought by a collection agency under s. 281.04 (9j), the collection agency shall include in the caption, under its name, the names of the creditors on whose behalf the action is brought.

SECTION 22m. 895.80 (1) of the statutes is amended to read:

895.80 (1) Any person who suffers damage or loss by reason of intentional conduct that occurs on or after ~~November 1, 1995~~ the effective date of this subsection ... [revisor inserts date], and that is prohibited under s. 943.01, 943.011, 943.012, 943.017, 943.20, 943.21, 943.24, 943.26, 943.34, 943.395, 943.41, 943.50 or 943.61, or by reason of intentional conduct that occurs on or after April 28, 1998, and that is prohibited under s. 943.201, has a cause of action against the person who caused the damage or loss."

7. Page 12, line 20: delete the material beginning with that line and ending with page 13, line 8.

8. Page 13, line 19: delete "This act" and substitute "Except as provided in subsection (2), this act".

9. Page 13, line 20: after that line insert:

"(2) The treatment of sections 895.035 (2), 895.80 (1), (2), (3) (a), (b) and (c), (4) and (6), 943.24 (3) (b) and (c), 943.245 (3) and (4) and 943.51 (3) and (3m) of the

1 statutes first applies to violations committed on the effective date of this
2 subsection.“.

3 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB
ISR:.....
omh

This version of LRBa1141 is identical to LRBa1141/2 except that one technical error has been fixed.

Ivy G. Sager-Rosenthal
Legislative Attorney
Phone: (608) 2614455
E-mail: Ivy.Sager-Rosenthal@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

.LRBa1141/3dn
ISR:cmh:ch

January 19, 2000

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Legislative Attorney
Phone: (608) 261-4455
E-mail: Ivy.Sager-Rosenthal@legis.state.wi.us

AB620

Don Dyke Leg Council 2:00 1/2/00

* all 42 -

- X-ref
- 895.08??

- Sec. 22m

- Don't affect \$5000 juror limit

895.035(4)

938.245 (2)(a) 5am

938.32 (1)(a) 1m

938.45(1r)(a)

- Ch. 11e \$40,000 OK

- Pg. 11, line 8, delete line 8

Negligence claims exemption



**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 620**

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

2 1. Page 1, line 11: delete "assignment of debt" and substitute "civil actions by
3 collection agencies".

4 2. Page 3, line 1: before that line insert:

under this subsection

5 "SECTION lg. 218.04 (9j) of the statutes is created to read:

6 218.64 (9j) CIVIL ACTION BY LICENSEE. A licensee may, after receiving
7 authorization from a creditor, consolidate the creditor's account or accounts relating
8 to a particular debtor with those of any other creditor or creditors relating to that
9 debtor and may bring ~~suit~~ ^{an action} on behalf of the creditor or creditors. A licensee that brings

10 ^{an action} ~~suit~~ under this subsection is the real party in interest under s. 803.01 (2) for purposes
11 of maintaining ^{an action} ~~suit~~. *A licensee that brings an action shall comply with the*
caption requirements of s. 895.08.

12 3. Page 3, line 1: delete "SECTION 1" and substitute "SECTION 1m".

#. Page 3, line 2: after that line insert:
SECTION 1m. 799.01(1)(e) ^{is amended} is created to read:
799.01(1)(e) ² Negligence claims. Notwithstanding par. (d),

civil actions arising out of a claim based on negligence where the amount claimed is \$5,000 or less.

1 4. Page 4, line 6: delete "a court of bankruptcy" and substitute "a court of
2 bankruptcy any court of the United States".

3 5. line 23: delete lines 23 to 25. 91,30943.012.
Page 9, or 912.011

4 6. Page 10, line 1: delete lines 1 to 15 and substitute:

5 "SECTION 22. 895.08 of the statutes is created to read:

6 895.08 **Suit by collection agency.** In addition to the requirements of ss.

7 801.09 (1), 801.095, 802.04 (1) and 815.05 (intro.), in an action brought by a collection
8 agency under s. ^{218.04} ~~811.04~~ (9j), the collection agency shall include in the caption, under
9 its name, the names of the creditors on whose behalf the action is brought.

10 SECTION 22m. 895.80 (1) of the statutes is amended to read:

11 895.80 (1) Any person who suffers damage or loss by reason of intentional
12 conduct that occurs on or after ^{plain text} November 1, 1995 the effective date of this subsection

13 ... [revisor inserts date], and that is prohibited under s. 943.01, ~~943.011, 943.012,~~
14 ~~943.017,~~ 943.20, 943.21, 943.24, 943.26, 943.34, 943.395, 943.41, 943.50 or 943.61,

15 ^{plain} ~~or~~ by reason of intentional conduct that occurs on or after April 28, 1998, and that
16 ~~is prohibited under s. 943.201,~~ ^{or by reason of intentional conduct that occurs on or after} has a cause of action against the person who caused
17 the damage or loss."

18 7. Page 12, line 20: delete the material beginning with that line and ending
19 with ~~page~~, line 8.

20 8. Page 13, line 19: delete "This act" and substitute "Except as provided in
21 subsection (2), this act".

22 9. Page 13, line 20: after that line insert:

23 "(2) The treatment of sections 895.035 (2), 895.80 (1), (2), (3) (a), (b) and (c), (4)
24 and (6), 943.24 (3) (b) and (c), 943.245 (3) and (4) and 943.51 (3) and (3m) of the

Insert 2-2

5

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Insert 2-17


&. & J that is prohibited
91,30943.012.
or 912.011

plain text
November 1, 1995 the effective date of this subsection
... [revisor inserts date], and that is prohibited under s. 943.01, ~~943.011, 943.012,~~
~~943.017,~~ 943.20, 943.21, 943.24, 943.26, 943.34, 943.395, 943.41, 943.50 or 943.61,

plain
~~or~~ by reason of intentional conduct that occurs on or after April 28, 1998, and that
~~is prohibited under s. 943.201,~~ ^{or by reason of intentional conduct that occurs on or after} has a cause of action against the person who caused
the damage or loss."

1 statutes first applies to violations committed on the effective date of this
2 subsection.“.

3 (END)


Page 8, line 7: delete "equal to or".
1. Page 9, line 22: after that line insert:

“SECTION 21g. 895.035 (4) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

895.035 (4) Except for recovery under sub. (4a) or for retail theft under s. 943.51, the maximum recovery under this section from any parent or parents may not exceed ~~the amount specified in s. 799.01(1)(d)~~ \$5000 for damages resulting from any one act of a juvenile in addition to taxable costs and disbursements and reasonable attorney fees, as determined by the court. If 2 or more juveniles in the custody of the same parent or parents commit the same act the total recovery under this section may not exceed ~~n s. 799.01(1)(d) \$5000~~, in addition to taxable costs and disbursements. The maximum recovery from any parent or parents for retail theft by their minor child is established under s. 943.51.”

History: 1999 a 9.


Insert 2-17

2. Page 11, line 7: delete the material beginning with “victim,” and ending with “fees” on line 8 and substitute “victim”.

3. Page 11, line 18: after that line insert:

“SECTION 28g. 938.245 (2) (a) 5. am. of the statutes is amended to read:

938.245 (2) (a) 5. am. That the parent who has custody, as defined in s. 895.035 (l), of the juvenile make reasonable restitution for any damage to the property of another, or for any actual physical injury to another excluding pain and suffering, resulting from the act for which the deferred prosecution agreement is being entered



into. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this subd. 5. am. for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed ~~the amount specified in s. 799.01 (1) (d)~~ [✓] \$5000. Any order under this subd. 5. am. shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and may allow up to the date of the expiration of the deferred prosecution agreement for the payment. Any recovery under this subd. 5. am. shall be reduced by the amount recovered as restitution for the same act under subd. 5. a.

History: 1995 a 77, 352, 448; 1997 a. 80, 181, 183, 205, 239, 292; s. 13 93 (2) (c).

SECTION 28m. 938.32 (It) (a) 1m. of the statutes is amended to read:

938.32 (1t) (a) 1m. If the petition alleges that the juvenile has committed a delinquent act that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the judge or juvenile court commissioner may require a parent who has custody, as defined in s. 895.035 (1), of the juvenile, as a condition of the consent decree, to make reasonable restitution for the damage or injury. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this subdivision for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed ~~the amount specified in s. 799.01 (1) (d)~~ [✓] \$5000. Any consent decree that includes a condition of restitution by a parent who has custody of the juvenile shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and may allow up to the date of the expiration of the consent decree for the payment. Objection by the parent to the amount of damages claimed shall entitle the



parent to a hearing on the question of damages before the amount of restitution is made part of the consent decree. Any recovery under this subdivision shall be reduced by the amount recovered as restitution for the same act under subd. 1.

History: 1995 a. 77, 352, 448; 1997 a. 181, 183, 205, 239; s. 13.93 (2) (c).

SECTION 28r. 938.45 (lr) (a) of the statutes is amended to read:

938.45 (1r) (a) In a proceeding in which a juvenile has been found to have committed a delinquent act or a civil law or ordinance violation that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the court may order a parent who has custody, as defined in s. 895.035 (1), of the juvenile to make reasonable restitution for the damage or injury. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this paragraph for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed ~~the amount specified in s. 799.01 (1) (d)~~ \$5000. Any order under this paragraph shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and may allow up to the date of expiration of the order for the payment. Any recovery under this paragraph shall be reduced by the amount recovered as restitution for the same act under s. 938.34 (5) or 938.343 (4).

History: 1995 a. 77; 1997 a. 35,205.

SECTION 28s. 938.45 (lr) (b) of the statutes is amended to read:

938.45 (1r) (b) In a proceeding in which the court has determined under s. 938.34 (8) or 938.343 (2) that the imposition of a forfeiture would be in the best interest of the juvenile and in aid of rehabilitation, the court may order a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the forfeiture. The amount of any forfeiture ordered under this paragraph may not exceed ~~the amount~~

specific ~~in s. 799.01 (1)(d)~~ ^J \$5000. Any order under this paragraph shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and shall allow up to 12 months after the date of the order for the payment. Any recovery under this paragraph shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.34 (8) or 938.343 (2).”.

History: 1995 a. 77; 1997 a. 35,205.