

1999 DRAFTING REQUEST**Assembly Amendment (AA-AA(LRBa1141/3)-AB620)**Received: **02/02/2000**Received By: **olsenje**Wanted: **Today**

Identical to LRB:

For: **Tom Hebl (608) 266-7678**By/Representing: **Andy**This file may be shown to any legislator: **NO**Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Courts - civil procedure**Extra Copies: **RPN****Pre Topic:**

No specific pre topic given

Topic:

Small claims jurisdiction for negligence cases

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>Required</u>
/1	olsenje 02/02/2000	gilfokm 02/02/2000	kfollet 02/02/2000	_____	lrb_docadmin 02/02/2000	lrb_docadmin 02/02/2000	

FE Sent For:

<END>

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/1	olsenje	1-2-2-2000 bmg	Kjf 2/2	Kjf/SClf 2/2			

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**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 1g.** 218.04 (9j) of the statutes is created to read:

6 218.04 (9j) CML 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 an action on behalf of the creditor or creditors. A licensee that
10 brings an action under this subsection is the real party in interest under s. 803.01
11 (2) for purposes of maintaining an action. A licensee that brings an action under this
12 subsection shall comply with the caption requirements of s. 895.08.”.

13 3. Page 3, line 1: delete “**SECTION 1**” and substitute “**SECTION 1m**”.

1 **4.** Page 3, line 8: after that line insert:

2 “**SECTION 3m.** 799.01 (1) (e) of the statutes is created to read:

3 799.01 (1) (e) *Negligence claims.* Notwithstanding par. (d), civil actions arising
4 out of a claim based on negligence where the amount claimed is \$5,000 or less.”

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

7 **6.** Page 8, line 7: delete “equal to or”.

8 **7.** Page 9, line 22: after that line insert:

9 “**SECTION 21g.** 895.035 (4) of the statutes, as affected by 1999 Wisconsin Act
10 9, is amended to read:

11 895.035 (4) Except for recovery under sub. (4a) or for retail theft under s.
12 943.51, the maximum recovery under this section from any parent or parents may
13 not exceed ~~the amount specified in s. 799.01(1)(d) \$5000~~ [✓] for damages resulting from
14 any one act of a juvenile in addition to taxable costs and disbursements and
15 reasonable attorney fees, as determined by the court. If 2 or more juveniles in the
16 custody of the same parent or parents commit the same act the total [✓]recovery under
17 this section may not exceed ~~the amount specified in s. 799.01(1)(d) \$5000~~ in addition
18 to taxable costs and disbursements. The maximum recovery from any parent or
19 parents for retail theft by their minor child is established under s. 943.51.”

20 8. Page 9, line 23: delete lines 23 to 25.

21 **9.** Page 10, line 1: delete lines 1 to 15 and substitute:

22 “**SECTION 22g.** 895.08 of the statutes is created to read:

23 **895.08 Suit by collection agency.** In addition to the requirements of ss.
24 801.09 (1), 801.095, 802.04 (1) and 815.05 (intro.), in an action brought by a collection

1 agency under s. 218.04 (9j), the collection agency shall include in the caption, under
2 its name, the names of the creditors on whose behalf the action is brought.

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

4 895.80 (1) Any person who suffers damage or loss by reason of intentional
5 conduct that occurs on or after November 1, 1995, and that is prohibited under s.
6 943.01, 943.20, 943.21, 943.24, 943.26, 943.34, 943.395, 943.41, 943.50 or 943.61, or
7 by reason of intentional conduct that occurs on or after April 28, 1998, and that is
8 prohibited under s. 943.201, or by reason of intentional conduct that occurs on or
9 after the effective date of this subsection [revisor inserts datel. and that is
10 prohibited under s. 943.011, 943.012 or 943.017, has a cause of action against the
11 person who caused the damage or loss.“.

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

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

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

16 938.245 (2) (a) 5. am. That the parent who has custody, as defined in s. 895.035
17 (l), of the juvenile make reasonable restitution for any damage to the property of
18 another, or for any actual physical injury to another excluding pain and suffering,
19 resulting from the act for which the deferred prosecution agreement is being entered
20 into. Except for recovery for retail theft under s. 943.5 1, the maximum amount of any
21 restitution ordered under this subd. 5. am. for damage or injury resulting from any
22 one act of a juvenile or from the same act committed by 2 or more juveniles in the
23 custody of the same parent may not exceed ~~the amount specified in s 799.01(1)(d)~~
24 ⁴\$5000. Any order under this subd. 5. am. shall include a finding that the parent who

1 has custody of the juvenile is financially able to pay the amount ordered and may
2 allow up to the date of the expiration of the deferred prosecution agreement for the
3 payment. Any recovery under this subd. 5. am. shall be reduced by the amount
4 recovered as restitution for the same act under subd. 5. a.

5 **SECTION 28m. 938.32 (1t)** (a) lm. of the statutes is amended to read:

6 938.32 **(1t)** (a) lm. If the petition alleges that the juvenile has committed a
7 delinquent act that has resulted in damage to the property of another, or in actual
8 physical injury to another excluding pain and suffering, the judge or juvenile court
9 commissioner may require a parent who has custody, as defined in s. 895.035 (1), of
10 the juvenile, as a condition of the consent decree, to make reasonable restitution for
11 the damage or injury. Except for recovery for retail theft under s. 943.51, the
12 maximum amount of any restitution ordered under this subdivision for damage or
13 injury resulting from any one act of a juvenile or from the same act committed by 2
14 or more juveniles in the custody of the same parent may not exceed ~~the amount~~
15 ~~specified in s. 99.011 (d) \$5000.~~ Any consent decree that includes a condition of
16 restitution by a parent who has custody of the juvenile shall include a finding that
17 the parent who has custody of the juvenile is financially able to pay the amount
18 ordered and may allow up to the date of the expiration of the consent decree for the
19 payment. Objection by the parent to the amount of damages claimed shall entitle the
20 parent to a hearing on the question of damages before the amount of restitution is
21 made part of the consent decree. Any recovery under this subdivision shall be
22 reduced by the amount recovered as restitution for the same act under subd. 1.

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

24 938.45 **(lr)** (a) In a proceeding in which a juvenile has been found to have
25 committed a delinquent act or a civil law or ordinance violation that has resulted in

1 damage to the property of another, or in actual physical injury to another excluding
2 pain and suffering, the court may order a parent who has custody, as defined in s.
3 895.035 (1), of the juvenile to make reasonable restitution for the damage or injury.
4 Except for recovery for retail ~~theft~~ under s. 943.51, the maximum amount of any
5 restitution ordered under this paragraph for damage or injury resulting from any
6 one act of a juvenile or from the same act committed by 2 or more juveniles in the
7 custody of the same parent may not exceed ~~the amount specified in s. 799.01 (1) (d)~~
8 \$5000. Order under this paragraph shall include a finding that the parent who
9 has custody of the juvenile is financially able to pay the amount ordered and may
10 allow up to the date of expiration of the order for the payment. Any recovery under
11 this paragraph shall be reduced by the amount recovered as restitution for the same
12 act under s. 938.34 (5) or 938.343 (4).

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

14 938.45 (1r) (b) In a proceeding in which the court has determined under s.
15 938.34 (8) or 938.343 (2) that the imposition of a forfeiture would be in the best
16 interest of the juvenile and in aid of rehabilitation, the court may order a parent who
17 has custody, as defined in s. 895.035 (1), of the juvenile to pay the forfeiture. The
18 amount of any forfeiture ordered under this paragraph may not exceed ~~the amount~~
19 ~~specified in s. 799.01 (1) (d)~~ [✓] \$5000. Order under this paragraph shall include a
20 finding that the parent who has custody of the juvenile is financially able to pay the
21 amount ordered and shall allow up to 12 months after the date of the order for the
22 payment. Any recovery under this paragraph shall be reduced by the amount
23 recovered as a forfeiture for the same act under s. 938.34 (8) or 938.343 (2).”.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1277/1

JEO:.....
kmgf

Thurs 2/3 by 8:30 am

**ASSEMBLY AMENDMENT,
TO ASSEMBLY AMENDMENT (LRBa1141/3),
TO 1999 ASSEMBLY BILL 620**

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

2 **1.** Page 2, line 1: delete lines 1 to 4.

3 (END)