

1999 DRAFTING REQUEST

Bill

Received: **11/18/1999**

Received By: **nelsorpl**

Wanted: **As time permits**

Identical to LRB:

For: **Bonnie Ladwig (608) 266-9171**

By/Representing:

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

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Courts - civil procedure**

Extra Copies:

Bre Topic:

No specific pre topic given

Topic:

Suspension by municipal court of juvenile's license for failure to pay forfeiture

Instructions:

Budget bill changed this and want to reverse this change as related to juveniles.

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>
/?	nelsorp 1 1 1/18/1999 nilsepe 1 1/24/1999	csicilia 1 1/24/1999		_____			State
/1			martykr 11/29/1999	_____	lrb-docadmin 1 1/29/1999	lrb-docadmin 12/03/1999	

FE Sent For: **12/03/1999.**

"/1"

<END>

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Extra Copies: 12 PN, GMM

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FE Sent For:

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1999 BILL

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reger

1 AN ACT *to amend* **345.47** (1) **(b)**, 800.09(1) ~~(c)~~, 800.095; **(4)** **(b)** 4., 938.17 **(2)** **(d)**,

2 **938.34** **(8)** and 938.343 (2) of the statutes; and *to affect* 1999 Wisconsin Act 9,

3 section 9350 (11g); **relating to:** authority of a court to revoke or suspend a

4 ~~person's~~ ^{juvenile's} operating privilege for violations of ordinances unrelated to the

5 operation of a motor vehicle or for failing to pay a penalty for such a violation

6 and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, circuit courts and municipal courts may suspend or revoke a person's motor vehicle operating privilege for a variety of reasons, including failure to pay an amount ordered by the court. Suspensions and revocations for failure to pay generally last until the person pays the amount owed. The suspensions and revocation orders are forwarded to the department of transportation (DOT), which updates the person's driving record to reflect the suspension or revocation. 1999 Wisconsin Act 9 eliminates the authority of circuit courts and municipal courts to suspend or revoke a person's operating privilege solely because of the person's failure to pay a forfeiture imposed for an ordinance violation unrelated to the operation of a motor vehicle, effective December 1, 1999.

This bill restores the authority of circuit courts and municipal courts to suspend or revoke ~~a person's~~ ^{juvenile's} operating privilege solely because the ~~person~~ ^{juvenile} has not paid a forfeiture imposed for an ordinance violation unrelated to the operation of a motor

the of a juvenile (a person under 17 years of age who is alleged to have committed a crime or, if no crime is alleged, a person under 18 years of age)

. BILL

vehicle. ~~The bill also restores funding for DOT to process these revocations and suspensions ordered by a court.~~

For further information see the *state* 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.** 345.47 (1) (b) of the statutes, as affected by 1999 Wisconsin Act 9,
2 is amended to read:

3 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension
4 or revocation, that the defendant's operating privilege be suspended. ~~The operating
5 privilege shall be suspended for 30 days or until the person pays the forfeiture, the
6 penalty assessment, if required by s. 757.05, the jail assessment, if required by s.
7 302.46 (1), the railroad crossing improvement assessment, if required by s. 346.177,
8 346.495 or 346.65 (4r), and the crime laboratories and drug law enforcement
9 assessment, if required by s. 165.755, but not to exceed 5 years. Suspension under
10 this paragraph shall not affect the power of the court to suspend or revoke under s.
11 343.30 or the power of the secretary to suspend or revoke the operating privilege.
12 This paragraph does not apply if the judgment was entered solely for violation of an
13 ordinance unrelated to the violator's operation of a motor vehicle.~~

14 **SECTION 2.** 800.09 (1) (c) of the statutes, as affected by 1999 Wisconsin Act 9,
15 is amended to read:

16 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
17 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
18 and costs are paid, if the defendant has not done so within 60 days after the date the
19 restitution or payments or both are to be made under par. (a) and has not notified the
20 court that he or she is unable to comply with the judgment, as provided under s.

BILL

1 800.095 (4) (a), except that the suspension period may not exceed 5 years. The court
 2 shall take possession of the suspended license and shall forward the license, along
 3 with a notice of the suspension clearly stating that the suspension is for failure to
 4 comply with a judgment of the court, to the department of transportation. This
 5 paragraph does not apply if the forfeiture is assessed for violation of an ordinance
 6 that is unrelated to the violator's operation of a motor vehicle.

7 **SECTION 3.** 800.095 (4) (b) 4. of the statutes, as affected by 1999 Wisconsin Act
 8 9, is amended to read:

9 800.095 (4) (b) 4. That the defendant's operating privilege, as defined in s.
 10 340.01 (40), be suspended until the judgment is complied with, except that the
 11 suspension period may not exceed 5 years. This subdivision does not apply if the
 12 forfeiture is assessed for violation of an ordinance that is unrelated to the violator's
 13 operation of a motor vehicle.

14 **SECTION 4.** 938.17 (2) (d) of the statutes, as affected by 1999 Wisconsin Act 9,
 15 is amended to read:

16 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
 17 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
 18 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2)
 19 or 961.575 (2), the court shall enter any of the dispositional orders permitted under
 20 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture
 21 imposed by the municipal court, the court may not impose a jail sentence but may
 22 suspend any license issued under ch. 29 for not less than 30 days nor more than 5
 23 years, or, ~~unless the forfeiture was imposed for violating an ordinance unrelated to~~
 24 ~~the juvenile's operation of a motor vehicle, may suspend the juvenile's operating~~
 25 privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years.

BILL

1 If a court suspends a license or privilege under this section, the court shall
2 immediately take possession of the applicable license and forward it to the
3 department that issued the license, together with the notice of suspension clearly
4 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
5 the forfeiture is paid during the period of suspension, the court shall immediately
6 notify the department, which shall thereupon return the license to the person.

7 **SECTION 5.** 938.34 (8) of the statutes, as affected by 1999 Wisconsin Act 9, is
8 amended to read:

9 938.34 (8) **FORFEITURE.** Impose a forfeiture based upon a determination that
10 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The
11 maximum forfeiture that the court may impose under this subsection for a violation
12 by a juvenile is the maximum amount of the fine that may be imposed on an adult
13 for committing that violation or, if the violation is applicable only to a person under
14 18 years of age, \$100. Any such order shall include a finding that the juvenile alone
15 is financially able to pay the forfeiture and shall allow up to 12 months for payment.
16 If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order
17 other alternatives under this section, in accordance with the conditions specified in
18 this chapter; or the court may suspend any license issued under ch. 29 for not less
19 than 30 days nor more than 5 years, or, ~~unless the forfeiture was imposed for~~
20 ~~violating an ordinance unrelated to the juvenile's operation of a motor vehicle, may~~
21 suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not less
22 than 30 days nor more than 5 years. If the court suspends any license under this
23 subsection, the clerk of the court shall immediately take possession of the suspended
24 license and forward it to the department which issued the license, together with a
25 notice of suspension clearly stating that the suspension is for failure to pay a

BILL

1 forfeiture imposed by the court. If the forfeiture is paid during the period of
2 suspension, the suspension shall be reduced to the time period which has already
3 elapsed and the court shall immediately notify the department which shall then
4 return the license to the juvenile. Any recovery under this subsection shall be
5 reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r)
6 (b).

7 **SECTION 6.** 938.343 (2) of the statutes, as affected by 1999 Wisconsin Act 9, is
8 amended to read:

9 938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may
10 be imposed on an adult for committing that violation or, if the violation is only
11 applicable to a person under **18** years of age, \$50. Any such order shall include a
12 finding that the juvenile alone is financially able to pay and shall allow up to 12
13 months for the payment. If a juvenile fails to pay the forfeiture, the court may
14 suspend any license issued under ch. 29 or, ~~unless the forfeiture was imposed for~~
15 ~~violating an ordinance unrelated to the juvenile's operation of a motor vehicle, may~~
16 suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not less
17 than 30 days nor more than 5 years. The court shall immediately take possession
18 of the suspended license and forward it to the department which issued the license,
19 together with the notice of suspension clearly stating that the suspension is for
20 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the
21 period of suspension, the court shall immediately notify the department, which will
22 thereupon return the license to the person. Any recovery under this subsection shall
23 be reduced by the amount recovered as a forfeiture for the same act under s. 938.45
24 (1r) (b).

25 ~~SECTION 7. 1999 Wisconsin Act 9, section 9350 (1g) is repealed.~~

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SECTION 8. Appropriation changes.

(1) **SUSPENSION OF OPERATING PRIVILEGE FOR FAILURE TO PAY CERTAIN FORFEITURES.**

In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of transportation under section 20.395 (5) (cq) of the statutes, as affected by the acts of 1999, the dollar amount is increased by \$657,900 for fiscal year 1999-00 and the dollar amount is increased by \$657,900 for fiscal year 2000-01 to increase the authorized FTE positions for the department of transportation related to processing requests to suspend or revoke operators' licenses for failure to pay fines or forfeitures by 2.0 SEG positions on the effective date of this act.

(END)

insert

d-note

plain

~~XXXXXXXXXXXXXXXXXXXX~~
CS - leave as is

1 SECTION 1. 1999 Wisconsin Act 9, section 9350 (11g) is amended to read:

2 (11g) SUSPENSION OF OPERATING PRIVILEGES FOR FAILURE TO PAY CERTAIN
3 FORFEITURES. The treatment of sections 345.47 (1) (b), 800.09 (1) (c), and 800.095 (4) ✓
4 (b) 4., ~~938.17 (2) (d), 938.34 (8) and 938.343 (2)~~ of the statutes first applies to ✓
5 forfeitures imposed on the first day of the second month beginning after publication.

[1999 Wisconsin Act 9] Section 9350

(and insert)

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

LRB-3977/1dn
PEN:cjs:km

November 24, 1999

Representative Ladwig:

1999 Wisconsin Act 9 eliminated 2.0 SEG FTE positions from the department of transportation (DOT), and reduced DOT's appropriations by \$657,900 in each fiscal year of the biennium to reflect the reduced workload (e.g. no processing of driver license suspensions ordered for failure to pay forfeitures (FPF) unrelated to driving). This bill restores the authority of driver license suspension orders for FPF by juveniles, thereby increasing DOT's workload. The bill does not include any additional positions or money to pay for processing those orders. Do you want to provide positions or money or both? If so, how much of each?

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 11/29/1999

To: Representative Ladwig

Relating to LRB drafting number: LRB-3977

Topic

Suspension by municipal court of juvenile's license for failure to pay forfeiture

Subject(s)

Courts - civil procedure

1. **JACKET** the draft for introduction Bonnie Ladwig
in the Senate _____ or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction Bonnie Ladwig
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Paul E. Nilsen, Legislative Attorney
Telephone: (608) 261-6926

Williams, Landon

To: Hale, Janine
cc: Nilsen, Paul
Subject: 99-3977 per your request



99-3977/1



99-3977/1dn



99-3977/1ins

Landon T. Williams

Legislative Program Assistant
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