## 2001 ASSEMBLY BILL 308

April 12, 2001 – Introduced by Representatives Powers, La Fave, Ainsworth, M. Lehman, Hundertmark, Albers, Olsen, Nass, Musser, D. Meyer, Townsend, Ward, Jeskewitz and Petrowski, cosponsored by Senators Erpenbach, Huelsman and Schultz. Referred to Committee on Judiciary.

- AN ACT to repeal 898.14; and to amend 818.05 of the statutes; relating to:
- 2 payment of the jail costs of a jailed debtor.

## Analysis by the Legislative Reference Bureau

Under current law, a debtor may be committed to jail as the result of the execution of a judgment recovered in a civil action, such as for contempt of court for failure to appear before the court regarding a debt, or as the result of an arrest in a civil action, such as in an action to recover personal property that has been concealed from execution by the sheriff. If a debtor is committed to jail under one of these situations, the creditor, agent, or attorney involved in the underlying civil action is required to advance to the jailer, within 24 hours of the imprisonment, an amount sufficient to pay for the debtor's costs while in jail, including any medical and hospital costs. Under current law, this requirement to make an advance payment to the jailer for the debtor's jail costs does not apply if the debtor is jailed for failure to pay maintenance payments in a divorce or legal separation action.

This bill repeals the requirement that the creditor, agent, or attorney involved in the underlying civil action advance to the jailer, within 24 hours of the debtor's imprisonment, an amount sufficient to pay for the debtor's costs while in jail.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

**Section 1.** 818.05 of the statutes is amended to read:

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**818.05 Bond, liability of plaintiff for support.** Before making the order for arrest the court or judge shall require a bond of the plaintiff, with or without sureties, to the effect that if the plaintiff fails to recover, the plaintiff will pay all costs that may be awarded to the defendant and all damages which the defendant may sustain by reason of the arrest, not exceeding the sum specified in the bond, which shall be at least \$100. If the bond be executed by the plaintiff without sureties the plaintiff shall annex thereto an affidavit that the plaintiff is a resident and householder or freeholder within the state and worth double the sum specified in the bond above all of the plaintiff's debts and liabilities in property in this state not exempt from execution. The plaintiff shall be liable for support of the defendant while the defendant is in jail, as specified in s. 898.14 (1). This section does not apply to an order for arrest in an action to determine paternity or to any action under ch. 767 brought by the state or its designee.

**SECTION 2.** 898.14 of the statutes is repealed.

15 (END)