

**2001 DRAFTING REQUEST**

**Bill**

Received: 02/12/2001

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Suzanne Jeskewitz (608) 266-3796

By/Representing: Erin

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Addl. Drafters: fasttn

Subject: Courts - civil procedure  
Transportation - traffic laws

Extra Copies:

Submit via email: NO

**Pre Topic:**

No specific pre topic given

**Topic:**

Judgment in traffic cases and in municipal court

**Instructions:**

See 99 AB 846 99-4552

**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>
/?	nelsorp1 03/07/2001	jdyer 03/08/2001		_____			S&L
/1			martykr 03/09/2001	_____	lrb_docadmin 03/09/2001		S&L
/2	phurley 08/20/2001	jdyer 09/04/2001	rschluet 09/04/2001	_____	lrb_docadmin 09/04/2001	lrb_docadmin 09/04/2001	

**FE Sent For:**

**<END>**

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*please jacket  
1/2 when done -  
Erin does not need  
to see 1/2*

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/?	nelsorp1 03/07/2001	jdye 03/08/2001					S&L
/1		1/2 8/30 jld	martykr 03/09/2001		lrb_docadmin 03/09/2001		

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*8-4-1 PG  
<END>*

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/?	nelsorp1	1 3/8 jld	km 3/9	27 3/9 <del>AM 9</del>			

FE Sent For:

<END>

2001  
1999 ASSEMBLY BILL 846

March 7, 2000 - Introduced by Representatives JESKEWITZ, RILEY, LA FAVE, KLUSMAN, VRAKAS, MILLER, COGGS, MUSSER, AINSWORTH, OWENS, ALBERS, F LASEE, RYBA, STASKUNAS, BOYLE and J. LEHMAN, cosponsored by Senators MOORE, ROESSLER, PLACHE and DARLING. Referred to Committee on Transportation.

1 AN ACT to amend 345.47 (1) (intro.), 800.09 (1) (a), 800.09 (1) (c), 800.095 (2) (a)  
2 (form), 800.095 (4) (a), 800.095 (4) (b) (intro.) and 800.095 (4) (c); and to create  
3 345.47 (4) and 800.09 (3) of the statutes; relating to: payment of judgments in  
4 traffic cases and in municipal court and the suspension of operating privileges.

*Analysis by the Legislative Reference Bureau*

Currently, if a person is found guilty of violating a traffic regulation, the court may enter judgment against the defendant for the forfeiture and for any applicable assessments, such as a penalty assessment. In addition, the court may suspend or revoke the person's operating privilege for a period not exceeding one year. This bill requires the court, when entering judgment, to tell the defendant, or to notify the defendant if he or she is not present in court, that he or she should notify the court if he or she is unable to pay the judgment because of poverty. The bill requires the court to determine if the defendant is unable to pay the judgment because of poverty, and if so, to give the defendant the opportunity to pay the judgment in installments, based on the defendant's income.

Under current law, if a defendant is found guilty in municipal court of an ordinance violation, the court orders the defendant to pay a forfeiture, restitution and applicable assessments and informs the defendant of the date on which the judgment must be paid and of the penalties of failure to pay the judgment, including imprisonment and operating privilege suspension. The bill requires the municipal court to also notify the defendant at the time the judgment is rendered that, if the defendant cannot pay the judgment because of poverty, he or she should notify the

? ?  
2 "L"

**ASSEMBLY BILL 846**

court. If a judgment is not paid, current law allows the municipal court to defer payments, provide for instalment payments of the judgment, allow the defendant to perform community service in lieu of paying the judgment, suspend the defendant's operating privilege or imprison the defendant for up to 90 days. This bill prohibits the judge from ordering the defendant imprisoned or the suspension of the defendant's operating privilege if the defendant has notified the municipal court of his or her poverty unless the defendant fails to comply with the court order to pay the judgment in instalments or to perform community service work.

Currently, a person found guilty of violating a traffic regulation or ordinance who fails to pay the ordered judgment may be imprisoned for up to 90 days or may have his or her operating privilege suspended for 30 days or until the judgment is paid, but not to exceed five years. Under this bill, the court may terminate the ordered operating privilege suspension and substitute an instalment plan for the payment of the judgment. The bill requires the court to terminate the ordered operating privilege suspension and substitute an instalment plan for the payment of the judgment if the defendant is unable to pay the judgment because of poverty and the defendant has not previously failed to comply with a court-ordered instalment plan. ??

For further information see the *state and local* 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) (intro.) of the statutes, ~~as affected by 1999 Wisconsin Act~~

2           ~~is~~ is amended to read:

3           345.47 (1) (intro.) If the defendant is found guilty, the court may enter  
4 judgment against the defendant for a monetary amount not to exceed the maximum  
5 forfeiture, penalty assessment, if required by s. 757.05, the jail assessment, if  
6 required by s. 302.46 (1), the railroad crossing improvement assessment, if required  
7 by s. 346.177, 346.495 or 346.65 (4r), and the crime laboratories and drug law  
8 enforcement assessment, if required by s. 165.755, provided for the violation and for  
9 costs under s. 345.53 and, in addition, may suspend or revoke his or her operating  
10 privilege under s. 343.30. Upon entering judgment, the court shall notify the  
11 defendant personally, if the defendant is present, and in writing that the defendant

ASSEMBLY BILL 846

1 should notify the court if he or she is unable to pay the judgment because of poverty,  
 2 as that term is used in s. 814.29 (1) (d). If the court, using the criteria in s. 814.29  
 3 (1) (d), determines that the defendant is unable to pay the judgment because of  
 4 poverty, the court may not suspend the defendant's operating privilege without first  
 5 providing the defendant with an opportunity to pay the judgment in instalments,  
 6 taking into account the defendant's income. If the judgment is not paid or if the  
 7 defendant fails to make any ordered instalment payment, the court shall order:

SECTION 2. 345.47 (4) of the statutes is created to read:

9 345.47 (4) (a) If the operating privilege of a defendant is suspended under this  
 10 section, the court may terminate that suspension and substitute an instalment  
 11 payment plan for paying the amount of the judgment that takes into account the  
 12 defendant's income.

13 ~~(b) If the operating privilege of a defendant is suspended under this section, the~~  
 14 ~~court shall terminate that suspension and substitute an instalment payment plan~~  
 15 ~~for the payment of the amount of the judgment that takes into account the~~  
 16 ~~defendant's income if all of the following conditions apply:~~

17 1. The defendant is unable to pay the judgment in full because of poverty, as  
 18 that term is used in s. 814.29 (1) (d).

19 2. The defendant has not previously failed to comply with an instalment  
 20 payment plan ordered under this section that takes into account the defendant's  
 21 income.

22 (c) If the defendant fails to comply with an instalment payment plan ordered  
 23 under this subsection, the court shall reinstate the suspension of the defendant's  
 24 operating privilege.

*a should this be  
a statute  
(19)*

*see insert clipped  
to page*

*under this section*

*no parallel 315.47(1)  
language -  
no information  
no reinstatement  
use the  
315.470  
language*

*notify DST*

*same language here*

*if you do a  
statute  
do was ref  
check*

*no, shall  
suspend  
under s. 814.29*

1           **SECTION 3.** 800.09 (1) (a) of the statutes, ~~as affected by 1999 Wisconsin Act 9,~~  
2 is amended to read:

3           800.09 (1) (a) The court may defer payment of any judgment or provide for  
4 instalment payments. At the time the judgment is rendered, the court shall inform  
5 the defendant, orally and in writing, of the date by which restitution and the  
6 payment of the forfeiture, the penalty assessment, the jail assessment, the crime  
7 laboratories and drug law enforcement assessment, any applicable consumer  
8 information assessment and any applicable domestic abuse assessment plus costs  
9 must be made, and of the possible consequences of failure to do so in timely fashion,  
10 including imprisonment, as provided in s. 800.095, or suspension of the defendant's  
11 motor vehicle operating privilege, as provided in par. (c), if applicable. In addition,  
12 the court shall inform the defendant, orally and in writing, that if the defendant  
13 cannot pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d),  
14 the defendant should so notify the court. If the defendant notifies the court of his or  
15 her poverty, the court may not order imprisonment or the suspension of the  
16 defendant's operating privilege, except as provided in s. 800.095. If the defendant  
17 is not present, the court shall ensure that the information is sent to the defendant  
18 by mail. In 1st class cities, all of the written information required by this paragraph  
19 shall be printed in English and Spanish and provided to each defendant.

20           **SECTION 4.** 800.09 (1) (c) of the statutes, ~~as affected by 1999 Wisconsin Act 9,~~  
21 is amended to read:

22           800.09 (1) (c) The court may suspend the defendant's operating privilege, as  
23 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments  
24 and costs are paid, if the defendant has not done so within 60 days after the date the  
25 restitution or payments or both are to be made under par. (a) and has not notified the



**ASSEMBLY BILL 846**

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

8 **SECTION 5.** 800.09 (3) of the statutes is created to read:

9 **800.09 (3) JUDGMENT REGARDING OPERATING PRIVILEGE.** (a) If the operating  
10 privilege of a defendant is suspended under this section or s. 800.095, the court may  
11 terminate that suspension and substitute an instalment payment plan for paying  
12 the amount of the judgment that takes into account the defendant's income.

13 (b) If the operating privilege of a defendant is suspended under this section or  
14 s. 800.095, the court shall terminate that suspension and substitute an instalment  
15 payment plan for the payment of the amount of the judgment that takes into account  
16 the defendant's income if all of the following conditions apply:

17 1. The defendant is unable to pay the judgment in full because of poverty, as  
18 that term is used in s. 814.29 (1) (d).

19 2. The defendant has not previously failed to comply with an instalment  
20 payment plan ordered under this section that takes into account the defendant's  
21 income.

22 (c) If the defendant fails to comply with an instalment payment plan ordered  
23 under this subsection, the court shall reinstate the suspension of the defendant's  
24 operating privilege.

25 **SECTION 6.** 800.095 (2) (a) (form) of the statutes is amended to read:

**ASSEMBLY BILL 846**

**SECTION 6**

1           800.095 (2) (a) (form):

2           STATE OF WISCONSIN

3           .... City/Village/Town

4           State of Wisconsin

5           vs.

6           .... Defendant(s)

7           THE STATE OF WISCONSIN TO THE DEFENDANT

8           A judgment, a copy of which is attached, has been entered against you for  
9           (restitution and) the payment of a civil forfeiture. You were ordered by the court on  
10          ..., ... (year) to (make the following payments: ...) (perform the following community  
11          service work order: ...) (make the following restitution: ...).

12          You have failed to comply with that order.

13          YOU ARE THEREFORE ORDERED to appear before the Honorable ... in ...  
14          Courtroom, at the ... Courthouse, in the City/Town/Village of ... at ... a.m./p.m. TO  
15          SHOW THAT YOU ARE UNABLE TO (PAY THE FORFEITURE OR MAKE  
16          RESTITUTION FOR GOOD CAUSE OR BECAUSE OF YOUR INDIGENCE  
17          POVERTY) (TO COMPLY WITH THE COMMUNITY SERVICE WORK ORDER  
18          FOR GOOD CAUSE). If (good cause or your ~~indigence~~ poverty has prevented you  
19          from paying the forfeiture or making restitution) (good cause has prevented you from  
20          complying with the community service work order), the court will modify the order.

21          IF YOU FAIL TO APPEAR AT THE TIME AND PLACE DESIGNATED  
22          ABOVE, AN ORDER FOR COMMITMENT SHALL BE ISSUED AND YOU WILL  
23          BE IMPRISONED IN THE JAIL/HOUSE OF CORRECTIONS. IN ADDITION, AN  
24          ORDER MAY BE ISSUED TO SUSPEND YOUR MOTOR VEHICLE OPERATING  
25          PRIVILEGE.

**ASSEMBLY BILL 846**

1 Dated: ....., .... (year)

2 Signature:....

3 (Municipal Court Judge)

4 **SECTION 7.** 800.095 (4) (a) of the statutes is amended to read:

5 800.095 (4) (a) If the defendant appears before the court pursuant to a warrant  
6 or summons issued under sub. (1) or the defendant otherwise notifies the court that  
7 he or she is unable to comply with the judgment or community service work order,  
8 the court shall conduct a hearing. If the defendant failed to pay the forfeiture, make  
9 restitution or comply with the work order, the court shall determine if the defendant  
10 is unable to comply with the judgment for good cause or because of the defendant's  
11 indigence poverty, as that term is used in s. 814.29 (1) (d), or is unable to comply with  
12 the work order for good cause.

13 **SECTION 8.** 800.095 (4) (b) (intro.) of the statutes is amended to read:

14 800.095 (4) (b) (intro.) If the defendant fails to appear before the court for a  
15 hearing conducted under par. (a) or if the court determines at a hearing under par.  
16 (a) that the failure of the defendant to comply with the judgment is not for good cause  
17 or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1)  
18 (d), or that the failure of the defendant to comply with the work order is not for good  
19 cause, the court shall order one of the following:

20 **SECTION 9.** 800.095 (4) (c) of the statutes is amended to read:

21 800.095 (4) (c) If the court determines that the failure of the defendant to  
22 comply with the judgment is for good cause or because of the defendant's indigence  
23 poverty, as that term is used in s. 814.29 (1) (d), or that the failure of the defendant  
24 to comply with the work order is for good cause, the court may enter an order under  
25 par. (b) 2. or 3.

**ASSEMBLY BILL 846**

**SECTION 10**

**1 SECTION 10. Initial applicability.**

**2 (1) This act first applies to violations committed on the effective date of this**  
**3 subsection.**

**4 (END)**

2/9/11

email Paul - look at 99/15 896

language esp 345.47(4)

Call Erin -

// exists, but Qs @ termination of suspension  
- usually reinstatement of privileges is  
done thru DOT

- usually a reinstatement fee

- no "notice" to DOT of "termination" of  
suspension look at 345.47(1)(c)

notice + reinstatement fee

Can I talk to DOT @ this?

need:

- notice to DOT +

- reinstatement fee +

4-9: f/c to Erin

4:10: She said that // is being looked at

Bob Anderson @ Legal Action is looking at it now  
- 256-2304 ext 104 to all community  
some

Sen. Moore - companion bill?

So: when instructions for //2 come back,  
make these changes.

2001  
**1999 ASSEMBLY BILL 846**

March 7, 2000 - Introduced by Representatives ~~JESKEWITZ, RILEY, LA FAVE, KLUSMAN, VRAKAS, MILLER, COGGS, MUSSER, AINSWORTH, OWENS, ALBERS, F. LASEE, RYBA, STASKUNAS, BOYLE and J. LEHMAN~~, cosponsored by Senators ~~MOORE, ROESSLER, PLACHE and DARLING~~. Referred to ~~Committee on Transportation~~.

regen cat.

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2 (form), 800.095 (4) (a), 800.095 (4) (b) (intro.) and 800.095 (4) (c); and to create  
3 345.47 (4) and 800.09 (3) of the statutes; relating to: payment of judgments in  
4 traffic cases and in municipal court and the suspension of operating privileges. ✓

**Analysis by the Legislative Reference Bureau**

Currently, if a person is found guilty of violating a traffic regulation, the court may enter judgment against the defendant for the forfeiture and for any applicable assessments, such as a penalty assessment. In addition, the court may suspend or revoke the person's operating privilege for a period not exceeding one year. This bill requires the court, when entering judgment, to tell the defendant, or to notify the defendant if he or she is not present in court, that he or she should notify the court if he or she is unable to pay the judgment because of poverty. The bill requires the court to determine if the defendant is unable to pay the judgment because of poverty, and if so, to give the defendant the opportunity to pay the judgment in ~~installments~~, based on the defendant's income.

Under current law, if a defendant is found guilty in municipal court of an ordinance violation, the court orders the defendant to pay a forfeiture, restitution, and applicable assessments and informs the defendant of the date on which the judgment must be paid and of the penalties of failure to pay the judgment, including imprisonment and operating privilege suspension. The bill requires the municipal court to also notify the defendant at the time the judgment is rendered that, if the defendant cannot pay the judgment because of poverty, he or she should notify the

installments \*

**ASSEMBLY BILL 846**

~~installment~~ <sup>installment</sup> → installments  
 court. If a judgment is not paid, current law allows the municipal court to defer payments, provide for ~~installment~~ payments of the judgment, allow the defendant to perform community service in lieu of paying the judgment, suspend the defendant's operating privilege, or imprison the defendant for up to 90 days. This bill prohibits the judge from ordering the defendant imprisoned or the suspension of the defendant's operating privilege if the defendant has notified the municipal court of his or her poverty unless the defendant fails to comply with the court order to pay the judgment in ~~installments~~ or to perform community service work.

Currently, a person found guilty of violating a traffic regulation or ordinance who fails to pay the ordered judgment may be imprisoned for up to 90 days or may have his or her operating privilege suspended for 30 days or until the judgment is paid, but not to exceed five years. Under this bill, the court may terminate the ordered operating privilege suspension and substitute an ~~installment~~ plan for the payment of the judgment. The bill requires the court to terminate the ordered operating privilege suspension and substitute an ~~installment~~ plan for the payment of the judgment if the defendant is unable to pay the judgment because of poverty and the defendant has not previously failed to comply with a court-ordered ~~installment~~ plan. <sup>installment</sup>

For further information see the *state and local* 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:***

**SECTION 1.** 345.47 (1) (intro.) of the statutes, as affected by 1999 Wisconsin Act

*UP* is amended to read:

345.47 (1) (intro.) If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture, penalty assessment, if required by s. 757.05, the jail assessment, if required by s. 302.46 (1), the railroad crossing improvement assessment, if required by s. 346.177, 346.495 or 346.65 (4r), and the crime laboratories and drug law enforcement assessment, if required by s. 165.755, provided for the violation and for costs under s. 345.53 and, in addition, may suspend or revoke his or her operating privilege under s. 343.30. Upon entering judgment, the court shall notify the defendant personally, if the defendant is present, and in writing that the defendant

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ASSEMBLY BILL 846

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should notify the court if he or she is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d). If the court, using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay the judgment because of poverty, the court may not suspend the defendant's operating privilege without first providing the defendant with an opportunity to pay the judgment in installments, taking into account the defendant's income. If the judgment is not paid or if the defendant fails to make any ordered installment payment, the court shall order:

SECTION 2. 345.47 (4) of the statutes is created to read:

345.47 (4) (a) If the operating privilege of a defendant is suspended under this section, the court may terminate that suspension and substitute an installment payment plan for paying the amount of the judgment that takes into account the defendant's income.

(b) If the operating privilege of a defendant is suspended under this section, the court shall terminate that suspension and substitute an installment payment plan for the payment of the amount of the judgment that takes into account the defendant's income if all of the following conditions apply:

1. The defendant is unable to pay the judgment in full because of poverty, as that term is used in s. 814.29 (1) (d).

2. The defendant has not previously failed to comply with an installment payment plan ordered under this section that takes into account the defendant's income.

(c) If the defendant fails to comply with an installment payment plan ordered under this subsection, the court shall reinstate the suspension of the defendant's operating privilege.



**ASSEMBLY BILL 846**

**SECTION 3**

**SECTION 3.** 800.09 (1) (a) of the statutes, as affected by 1999 Wisconsin Act 9,

is amended to read:

800.09 (1) (a) The court may defer payment of any judgment or provide for ~~instalment~~ <sup>installment</sup> payments. At the time the judgment is rendered, the court shall inform the defendant, orally and in writing, of the date by which restitution and the payment of the forfeiture, the penalty assessment, the jail assessment, the crime laboratories and drug law enforcement assessment, any applicable consumer information assessment and any applicable domestic abuse assessment plus costs must be made, and of the possible consequences of failure to do so in timely fashion, including imprisonment, as provided in s. 800.095, or suspension of the defendant's motor vehicle operating privilege, as provided in par. (c), if applicable. In addition, the court shall inform the defendant, orally and in writing, that if the defendant cannot pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d), the defendant should so notify the court. If the defendant notifies the court of his or her poverty, the court may not order imprisonment or the suspension of the defendant's operating privilege, except as provided in s. 800.095. If the defendant is not present, the court shall ensure that the information is sent to the defendant by mail. In 1st class cities, all of the written information required by this paragraph shall be printed in English and Spanish and provided to each defendant.

**SECTION 4.** 800.09 (1) (c) of the statutes, as affected by 1999 Wisconsin Act 9,

is amended to read:

800.09 (1) (c) The court may suspend the defendant's operating privilege, as defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments and costs are paid, if the defendant has not done so within 60 days after the date the restitution or payments or both are to be made under par. (a) and has not notified the

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**ASSEMBLY BILL 846**

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

8 **SECTION 5.** 800.09 (3) of the statutes is created to read:

9 ✓ 800.09 (3) ✓ JUDGMENT REGARDING OPERATING PRIVILEGE. (a) If the operating  
 10 privilege of a defendant is suspended under this section or s. 800.095, the court may  
 11 terminate that suspension and substitute an instal<sup>l</sup>ment payment plan for paying  
 12 the amount of the judgment that takes into account the defendant's income.

13 (b) If the operating privilege of a defendant is suspended under this section or  
 14 s. 800.095, the court shall terminate that suspension and substitute an instal<sup>l</sup>ment  
 15 payment plan for the payment of the amount of the judgment that takes into account  
 16 the defendant's income if all of the following conditions apply:

17 1. The defendant is unable to pay the judgment in full because of poverty, as  
 18 that term is used in s. 814.29 (1) (d). ✓

19 2. The defendant has not previously failed to comply with an instal<sup>l</sup>ment  
 20 payment plan ordered under this section that takes into account the defendant's  
 21 income.

22 (c) If the defendant fails to comply with an instal<sup>l</sup>ment payment plan ordered  
 23 under this subsection, the court shall reinstate the suspension of the defendant's  
 24 operating privilege.

25 **SECTION 6.** 800.095 (2) (a) (form) of the statutes is amended to read:

✓ 6  
 insert  
 5-7 →

**ASSEMBLY BILL 846**

1 ✓ 800.095 (2) (a) (form):

2 STATE OF WISCONSIN

3 .... City/Village/Town

4 State of Wisconsin

5 vs.

6 .... Defendant(s)

7 THE STATE OF WISCONSIN TO THE DEFENDANT

8 A judgment, a copy of which is attached, has been entered against you for  
9 (restitution and) the payment of a civil forfeiture. You were ordered by the court on  
10 ...., .... (year) to (make the following payments: ....) (perform the following community  
11 service work order: ....) (make the following restitution: ....).

12 You have failed to comply with that order.

13 YOU ARE THEREFORE ORDERED to appear before the Honorable .... in ....  
14 Courtroom, at the .... Courthouse, in the City/Town/Village of .... at .... a.m./p.m. TO  
15 SHOW THAT YOU ARE UNABLE TO (PAY THE FORFEITURE OR MAKE  
16 RESTITUTION FOR GOOD CAUSE OR BECAUSE OF YOUR INDIGENCE  
17 POVERTY) (TO COMPLY WITH THE COMMUNITY SERVICE WORK ORDER  
18 FOR GOOD CAUSE). If (good cause or your indigence poverty has prevented you  
19 from paying the forfeiture or making restitution) (good cause has prevented you from  
20 complying with the community service work order), the court will modify the order.

21 IF YOU FAIL TO APPEAR AT THE TIME AND PLACE DESIGNATED  
22 ABOVE, AN ORDER FOR COMMITMENT SHALL BE ISSUED AND YOU WILL  
23 BE IMPRISONED IN THE JAIL/HOUSE OF CORRECTIONS. IN ADDITION, AN  
24 ORDER MAY BE ISSUED TO SUSPEND YOUR MOTOR VEHICLE OPERATING  
25 PRIVILEGE.

RWF

**ASSEMBLY BILL 846**

Dated: ....., .... (year)

Signature:.....

(Municipal Court Judge)

**SECTION 7.** 800.095 (4) (a) of the statutes is amended to read:

✓ 800.095 (4) (a) If the defendant appears before the court pursuant to a warrant or summons issued under sub. (1) or the defendant otherwise notifies the court that he or she is unable to comply with the judgment or community service work order, the court shall conduct a hearing. If the defendant failed to pay the forfeiture, make restitution or comply with the work order, the court shall determine if the defendant is unable to comply with the judgment for good cause or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1) (d), or is unable to comply with the work order for good cause.

**SECTION 8.** 800.095 (4) (b) (intro.) of the statutes is amended to read:

✓ 800.095 (4) (b) (intro.) If the defendant fails to appear before the court for a hearing conducted under par. (a) or if the court determines at a hearing under par. (a) that the failure of the defendant to comply with the judgment is not for good cause or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1) (d), or that the failure of the defendant to comply with the work order is not for good cause, the court shall order one of the following:

**SECTION 9.** 800.095 (4) (c) of the statutes is amended to read:

✓ 800.095 (4) (c) If the court determines that the failure of the defendant to comply with the judgment is for good cause or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1) (d), or that the failure of the defendant to comply with the work order is for good cause, the court may enter an order under par. (b) 2. or 3.

PWF

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2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2479/?ins  
RPN:.....

1 insert 5-7:

2 SECTION 1. 800.09 (1) (c) <sup>X</sup> of the statutes is amended to read:

3 800.09 (1) (c) The court may suspend the defendant's operating privilege, as  
4 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments  
5 and costs are paid, if the defendant has not done so within 60 days after the date the  
6 restitution or payments or both are to be made under par. (a) and has not notified the  
7 court that he or she is unable to comply with the judgment, as provided under s.  
8 ~~800.095 (4) par.~~ <sup>✓</sup> (a), except that the suspension period may not exceed 2 years. The  
9 court shall take possession of the suspended license and shall forward the license,  
10 along with a notice of the suspension clearly stating that the suspension is for failure  
11 to comply with a judgment of the court, to the department of transportation. This  
12 paragraph does not apply if the forfeiture is assessed for violation of an ordinance  
13 that is unrelated to the violator's operation of a motor vehicle.

History: 1977 c. 305; 1979 c. 32 s. 68; Stats. 1979 s. 800.09; 1981 c. 317; 1985 a. 179; 1987 a. 27, 389; 1987 a. 399 s. 494u; 1989 a. 107; 1991 a. 39, 40, 189; 1993 a. 16;  
1997 a. 27, 84; 1999 a. 9, 185.

14



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

March 9, 2001

### MEMORANDUM

To: Representative Jeskewitz

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-2479 Judgment in traffic cases and in municipal court

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY     JACKET FOR SENATE

*Ann M. Bilot*

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

## Barman, Mike

---

**From:** Barman, Mike

**Sent:** Monday, August 06, 2001 10:53 AM

**To:** Rep.Jeskewitz

**Subject:** LRB-2479/1 (attached) (requested by Erin)



7-14-01

tlc to Erin Bilot @ Rep Jankowitz' office -

2479/1 really should be redrafted. I'll do a 12 p send to her before jacketing.

Erna said fine, but! LRB 2581/1 is a Senate companion bill that is also being jacketed. (Sen Moore)

So: need to call Sen Moore's office to get jacket back & redraft both bills.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2479/A  
RPN;jld:km  
+ PSH  
Rme

2001 BILL

8-20-01  
SWN

Regen

1 AN ACT to amend 345.47 (1) (intro.), 800.09 (1) (a), 800.09 (1) (c), 800.095 (2) (a)  
2 (form), 800.095 (4) (a), 800.095 (4) (b) (intro.) and 800.095 (4) (c); and to create  
3 345.47 (4) and 800.09 (3) of the statutes; relating to: payment of judgments in  
4 traffic cases and in municipal court and the suspension of operating privileges.

**Analysis by the Legislative Reference Bureau**

Currently, if a person is found guilty of violating a traffic regulation, the court may enter judgment against the defendant for the forfeiture and for any applicable assessments, such as a penalty assessment. In addition, the court may suspend or revoke the person's operating privilege for a period not exceeding one year. This bill requires the court, when entering judgment, to tell the defendant, or to notify the defendant if he or she is not present in court, that he or she should notify the court if he or she is unable to pay the judgment because of poverty. The bill requires the court to determine if the defendant is unable to pay the judgment because of poverty, and if so, to give the defendant the opportunity to pay the judgment in installments, based on the defendant's income.

Under current law, if a defendant is found guilty in municipal court of an ordinance violation, the court orders the defendant to pay a forfeiture, restitution, and applicable assessments and informs the defendant of the date on which the judgment must be paid and of the penalties of failure to pay the judgment, including imprisonment and operating privilege suspension. The bill requires the municipal court to also notify the defendant at the time the judgment is rendered that, if the defendant cannot pay the judgment because of poverty, he or she should notify the

**BILL**

court. If a judgment is not paid, current law allows the municipal court to defer payments, provide for installment payments of the judgment, allow the defendant to perform community service in lieu of paying the judgment, suspend the defendant's operating privilege, or imprison the defendant for up to 90 days. This bill prohibits the judge from ordering the defendant imprisoned or the suspension of the defendant's operating privilege if the defendant has notified the municipal court of his or her poverty unless the defendant fails to comply with the court order to pay the judgment in installments or to perform community service work.

Currently, a person found guilty of violating a traffic regulation or ordinance who fails to pay the ordered judgment may be imprisoned for up to 90 days or may have his or her operating privilege suspended for 30 days or until the judgment is paid, but not to exceed five years. Under this bill, the court may terminate the ordered operating privilege suspension and substitute an installment plan for the payment of the judgment. The bill requires the court to terminate the ordered operating privilege suspension and substitute an installment plan for the payment of the judgment if the defendant is unable to pay the judgment because of poverty and the defendant has not previously failed to comply with a court-ordered installment plan.

For further information see the *state and local* 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:*

**SECTION 1.** 345.47 (1) (intro.) of the statutes is amended to read:

345.47 (1) (intro.) If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture, penalty assessment, if required by s. 757.05, the jail assessment, if required by s. 302.46 (1), <sup>the truck driver education assessment, if required by s. 349.04,</sup> the railroad crossing improvement assessment, if required by s. 346.177, 346.495 or 346.65 (4r), and the crime laboratories and drug law enforcement assessment, if required by s. 165.755, provided for the violation and for costs under s. 345.53 and, in addition, may suspend or revoke his or her operating privilege under s. 343.30. Upon entering judgment, the court shall notify the defendant personally, if the defendant is present, and in writing that the defendant should notify the court if he or she is unable to pay the judgment because of poverty.

, as affected by 2001 Wisconsin Act 16,

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**BILL**

1 as that term is used in s. 814.29 (1) (d). If the court, using the criteria in s. 814.29  
 2 (1) (d), determines that the defendant is unable to pay the judgment because of  
 3 poverty, the court may not suspend the defendant's operating privilege without first  
 4 providing the defendant with an opportunity to pay the judgment in installments,  
 5 taking into account the defendant's income. If the judgment is not paid or if the  
 6 defendant fails to make any ordered installment payment, the court shall order:

7 **SECTION 2.** 345.47 (4) of the statutes is created to read:

8 345.47 (4) (a) If the operating privilege of a defendant is suspended under this  
 9 section, the court may terminate that suspension and substitute an installment  
 10 payment plan for paying the amount of the judgment that takes into account the  
 11 defendant's income.

12 (b) If the operating privilege of a defendant is suspended under this section, the  
 13 court shall terminate that suspension and substitute an installment payment plan  
 14 for the payment of the amount of the judgment that takes into account the  
 15 defendant's income if all of the following conditions apply:

16 1. The defendant is unable to pay the judgment in full because of poverty, as  
 17 that term is used in s. 814.29 (1) (d).

18 2. The defendant has not previously failed to comply with an installment  
 19 payment plan ordered under this section that takes into account the defendant's  
 20 income.

21 (c) If the defendant fails to comply with an installment payment plan ordered  
 22 under this subsection, the court shall reinstate the suspension of the defendant's  
 23 operating privilege.

24 **SECTION 3.** 800.09 (1) (a) of the statutes is amended to read:

as affected by 2001  
Wisconsin Act 16,

**BILL**

1           800.09 (1) (a) The court may defer payment of any judgment or provide for  
 2 ~~instalment~~ installment payments. At the time the judgment is rendered, the court  
 3 shall inform the defendant, orally and in writing, of the date by which restitution and  
 4 the payment of the forfeiture, the penalty assessment, the jail assessment, the crime  
 5 laboratories and drug law enforcement assessment, any applicable consumer  
 6 information <sup>protection</sup> assessment, and any applicable domestic abuse assessment plus costs  
 7 must be made, and of the possible consequences of failure to do so in timely fashion,  
 8 including imprisonment, as provided in s. 800.095, or suspension of the defendant's  
 9 motor vehicle operating privilege, as provided in par. (c), if applicable. In addition,  
 10 the court shall inform the defendant, orally and in writing, that if the defendant  
 11 cannot pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d),  
 12 the defendant should so notify the court. If the defendant notifies the court of his or  
 13 her poverty, the court may not order imprisonment or the suspension of the  
 14 defendant's operating privilege, except as provided in s. 800.095. If the defendant  
 15 is not present, the court shall ensure that the information is sent to the defendant  
 16 by mail. In 1st class cities, all of the written information required by this paragraph  
 17 shall be printed in English and Spanish and provided to each defendant.

18           **SECTION 4.** 800.09 (1) (c) <sup>X</sup> of the statutes is amended to read:

19           800.09 (1) (c) The court may suspend the defendant's operating privilege, as  
 20 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments  
 21 and costs are paid, if the defendant has not done so within 60 days after the date the  
 22 restitution or payments or both are to be made under par. (a) and has not notified the  
 23 court that he or she is unable to comply with the judgment, as provided under s.  
 24 ~~800.095 (4) par.~~ (a), except that the suspension period may not exceed 2 years. The  
 25 court shall take possession of the suspended license and shall forward the license,

**BILL**

1 along with a notice of the suspension clearly stating that the suspension is for failure  
2 to comply with a judgment of the court, to the department of transportation. This  
3 paragraph does not apply if the forfeiture is assessed for violation of an ordinance  
4 that is unrelated to the violator's operation of a motor vehicle.

5 **SECTION 5.** 800.09 (3) <sup>✓</sup> of the statutes is created to read:

6 800.09 (3) JUDGMENT REGARDING OPERATING PRIVILEGE. (a) If the operating  
7 privilege of a defendant is suspended under this section or s. 800.095, <sup>✓</sup> the court may  
8 terminate that suspension and substitute an installment payment plan for paying  
9 the amount of the judgment that takes into account the defendant's income.

10 (b) If the operating privilege of a defendant is suspended under this section or  
11 s. 800.095, the court shall terminate that suspension and substitute an installment  
12 payment plan for the payment of the amount of the judgment that takes into account  
13 the defendant's income if all of the following conditions apply:

14 1. The defendant is unable to pay the judgment in full because of poverty, as  
15 that term is used in s. 814.29 (1) (d). <sup>✓</sup>

16 2. The defendant has not previously failed to comply with an installment  
17 payment plan ordered under this section that takes into account the defendant's  
18 income.

19 (c) If the defendant fails to comply with an installment payment plan ordered  
20 under this subsection, the court shall reinstate the suspension of the defendant's  
21 operating privilege.

22 **SECTION 6.** 800.095 (2) (a) (form) <sup>✓</sup> of the statutes is amended to read:

23 800.095 (2) (a) (form):

24 STATE OF WISCONSIN

25 .... City/Village/Town

**BILL**

1 State of Wisconsin

2 vs.

3 ... Defendant(s)

4 **THE STATE OF WISCONSIN TO THE DEFENDANT**

5 A judgment, a copy of which is attached, has been entered against you for  
6 (restitution and) the payment of a civil forfeiture. You were ordered by the court on  
7 ..., ... (year) to (make the following payments: ...) (perform the following community  
8 service work order: ...) (make the following restitution: ...).

9 You have failed to comply with that order.

10 **YOU ARE THEREFORE ORDERED** to appear before the Honorable ... in ...  
11 Courtroom, at the ... Courthouse, in the City/Town/Village of ... at ... a.m./p.m. **TO**  
12 **SHOW THAT YOU ARE UNABLE TO (PAY THE FORFEITURE OR MAKE**  
13 **RESTITUTION FOR GOOD CAUSE OR BECAUSE OF YOUR INDIGENCE**  
14 **POVERTY) (TO COMPLY WITH THE COMMUNITY SERVICE WORK ORDER**  
15 **FOR GOOD CAUSE). If (good cause or your ~~indigence~~ poverty has prevented you**  
16 **from paying the forfeiture or making restitution) (good cause has prevented you from**  
17 **complying with the community service work order), the court will modify the order.**

18 **IF YOU FAIL TO APPEAR AT THE TIME AND PLACE DESIGNATED**  
19 **ABOVE, AN ORDER FOR COMMITMENT SHALL BE ISSUED AND YOU WILL**  
20 **BE IMPRISONED IN THE JAIL/HOUSE OF CORRECTIONS. IN ADDITION, AN**  
21 **ORDER MAY BE ISSUED TO SUSPEND YOUR MOTOR VEHICLE OPERATING**  
22 **PRIVILEGE.**

23 Dated: ..., ... (year)

24 Signature:....

25 (Municipal Court Judge)

**BILL**

1           **SECTION 7.** 800.095 (4) (a) <sup>✓</sup> of the statutes is amended to read:

2           800.095 (4) (a) If the defendant appears before the court pursuant to a warrant  
3 or summons issued under sub. (1) or the defendant otherwise notifies the court that  
4 he or she is unable to comply with the judgment or community service work order,  
5 the court shall conduct a hearing. If the defendant failed to pay the forfeiture, make  
6 restitution or comply with the work order, the court shall determine if the defendant  
7 is unable to comply with the judgment for good cause or because of the defendant's  
8 indigence poverty, as that term is used in s. 814.29 (1) (d), <sup>✓</sup> or is unable to comply with  
9 the work order for good cause.

10           **SECTION 8.** 800.095 (4) (b) (intro.) <sup>✓</sup> of the statutes is amended to read:

11           800.095 (4) (b) (intro.) If the defendant fails to appear before the court for a  
12 hearing conducted under par. (a) or if the court determines at a hearing under par.  
13 (a) that the failure of the defendant to comply with the judgment is not for good cause  
14 or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1)  
15 (d), <sup>✓</sup> or that the failure of the defendant to comply with the work order is not for good  
16 cause, the court shall order one of the following:

17           **SECTION 9.** 800.095 (4) (c) <sup>✓</sup> of the statutes is amended to read:

18           800.095 (4) (c) If the court determines that the failure of the defendant to  
19 comply with the judgment is for good cause or because of the defendant's indigence  
20 poverty, as that term is used in s. 814.29 (1) (d), <sup>✓</sup> or that the failure of the defendant  
21 to comply with the work order is for good cause, the court may enter an order under  
22 par. (b) 2. or 3.

23           **SECTION 10. Initial applicability.**





2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2479/2ins  
PJH:.....

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Insert A:

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~~SECTION 14.~~ <sup>#</sup> 345.47 (1) (c) <sup>x</sup> of the statutes <sup>is</sup> amended to read:

3

345.47 (1) (c) If a court or judge suspends an operating privilege under this

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section, the court or judge shall immediately take possession of the suspended license

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and shall forward it to the department together with the notice of suspension, which

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shall clearly state that the suspension was for failure to pay a forfeiture, a penalty

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assessment, if required by s. 757.05, <sup>a truck driver education assessment, if</sup> a jail assessment, if required by s. 302.46 (1), <sup>required</sup>

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a railroad crossing improvement assessment, if required by s. 346.177, 346.495 or <sup>347.04,</sup>

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346.65 (4r), and a crime laboratories and drug law enforcement assessment, if

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required by s. 165.755, imposed by the court, or for failure to comply with an

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installment payment plan ordered under this section. <sup>✓</sup> The notice of suspension and

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the suspended license, if it is available, shall be forwarded to the department within

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48 hours after the order of suspension. If the forfeiture, penalty assessment, jail

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assessment, <sup>truck driver education assessment,</sup> railroad crossing improvement assessment, and crime laboratories and

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drug law enforcement assessment are paid during a period of suspension, or if the

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court orders an installment payment plan under sub. (4). <sup>✓</sup> the court or judge shall

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immediately notify the department. Upon receipt of the notice and payment of the

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reinstatement fee under s. 343.21 (1) (j), the department shall return the

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surrendered license.

<sup>#</sup>  
History: 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185.

20

~~SECTION 14.~~ <sup>#</sup> 345.47 (1) (d) <sup>x</sup> of the statutes is amended to read:

21

345.47 (1) (d) In addition to or in lieu of imprisonment or suspension under par.

22

(a) or (b), the court may notify the department, in the form and manner prescribed

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by the department, that a judgment has been entered against the defendant and

as affected by 2001 Wisconsin Act 16,

required by s. 347.04,



1 remains unpaid. The notice shall include the name and last-known address of the  
2 person against whom the judgment was entered, the date judgment was entered, the  
3 amount of the judgment, the license number of the vehicle involved, certification by  
4 the court that a warrant has been served on the person against whom the judgment  
5 was entered or, in the case of a judgment entered under s. 345.28, that the person has  
6 been notified of the entry of judgment and the judgment remains unpaid and the  
7 place where the judgment may be paid. If the person subsequently pays the  
8 judgment or the court orders an installment payment plan under sub. (4), the court  
9 shall immediately notify the department of the payment or installment plan in the  
10 form and manner prescribed by the department. This paragraph does not apply if  
11 the court orders an installment payment plan under sub. (1) (intro) and the  
12 defendant makes all installment payments ordered.

History: 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185.

(end ins A)