

2009 DRAFTING REQUEST

Senate Amendment (SA-SB37)

Received: **02/23/2009**

Received By: **rnelson2**

Wanted: **Today**

Identical to LRB:

For: **Lena Taylor (608) 266-5810**

By/Representing: **don Dyke**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Taylor@legis.wisconsin.gov**

Carbon copy (CC:) to: **don.dyke@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Suspension of license

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>
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FE Sent For:

<END>

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1/bjk 2/23

JD
WB
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<END>

licenses by making payments of forfeitures in installments. The bill has an important effect on the success of W-2. W-2 providers report that one of the greatest barriers to successful employment for W-2 participants is their inability to drive to job sites because of suspended driver's licenses. Many W-2 participants have suspended driver's licenses because they failed to pay parking tickets, failed to pay forfeitures for moving traffic ordinance violations, or failed to pay forfeitures for other municipal ordinance violations. In many cases, participants have had their licenses suspended because default judgements were entered against them for failure to appear on the return dates.

The bill allows indigent defendants one opportunity to have an installment payment plan ordered in lieu of the suspension of a driver's license. That one opportunity can be offered before the judgment is initially entered or it can be offered after a judgement is entered. Allowing installment payment plans already is the practice for many municipal courts. The bill will make this a uniform practice and will allow jurisdictions, who currently do not believe they have the authority, to enter these installment payment plans.

II. Provisions of the Bill

A. Before Judgements are Initially Entered, Municipal Courts and Circuit Courts are Required to Offer Indigent Defendants Installment Payment Plans Before Suspending their Driver's Licenses, When Defendants Appear in Court.

When defendants appear in court to answer to the charges and are found guilty of ordinance violations, courts are required to first offer them an opportunity to pay the forfeitures by installments, before suspending their driver's licenses, if the defendants are unable to pay because of their poverty. If the defendants subsequently fail to comply with the installment payment plans, their licenses will be suspended.

This is the practice that is actually being followed by many municipal courts and circuit courts. The bill ensures that this practice will be codified in the statutes and that it will be followed by all courts, in municipal ordinance violation cases.

B. After Judgments Have Already Been Entered, Defendants Who are Unable to Pay Because of Poverty may Obtain Installment Payment Plans in Lieu of the Suspension of their Licenses, Provided that They Have Not Previously Been Given an Installment Payment Plan and Failed to Comply with the Plan.

This bill provides that a court shall terminate the suspension of a driver's license that was previously ordered because of an ordinance violation, and substitute an installment payment plan therefor, if all of the following circumstances are met:

- (1) the defendant requests the installment payment plan.
- (2) the defendant is unable to pay because of poverty.



263
State of Wisconsin
2009 - 2010 LEGISLATURE

0088/11
LRBa00854
RPN:bjk:jf
Lstay

Now

SENATE AMENDMENT,
TO 2009 SENATE BILL 37

IF the defendant is present and

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

- 2 1. Page 3, line 1: after "(1) (d)." insert "If the court, using the criteria in s.
- 3 814.29 (1) (d), determines that the defendant is unable to pay the judgment because
- 4 of poverty, the court may not suspend the defendant's operating privilege without
- 5 first providing the defendant with an opportunity to pay the judgment in
- 6 installments, taking into account the defendant's income."

7 (END)

shall provide

insert
1-6a
1-6b

insert 1-6a

#. Page 4a line 1988 after that line insert

Section # 345.47 (2) of the statutes is amended to read:

Except in those cases in which the court orders payment by installments, the

345.47 (2) The payment of any judgment may be suspended or deferred for not more than 60 days in the discretion of the court. In cases where a deposit has been made, any forfeitures, plus costs, fees, and surcharges imposed under ch. 814, shall be taken out of the deposit and the balance, if any, returned to the defendant.

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; 2001 a. 16; 2003 a. 139; 2007 a. 20.



**SENATE AMENDMENT ,
TO 2009 SENATE BILL 37**

Insert
1-6b

If the defendant
is present and

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

- 2 1. Page ⁵ ~~8~~ line ²⁴ ~~1~~: after ^{mail} ~~(1)(d)~~ ^{plain} insert "If the court, using the criteria in s.
- 3 814.29 (1) (d), determines that the defendant is unable to pay the judgment because
- 4 of poverty, the court may not suspend the defendant's operating privilege without
- 5 first providing the defendant with an opportunity to pay the judgment in
- 6 installments, taking into account the defendant's income."

7 (END)

shall provide



Lstay

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,
TO 2009 SENATE BILL 37**

D-D

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

2 **1.** Page 3, line 1: after “(1) (d).” insert “If the defendant is present and the court,
3 using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay
4 the judgment because of poverty, the court shall provide the defendant with an
5 opportunity to pay the judgment in installments, taking into account the defendant’s
6 income.”.

7 **2.** Page 4, line 19: after that line insert:

8 “**SECTION 4m.** 345.47 (2) of the statutes is amended to read:

9 345.47 (2) The Except in those cases in which the court orders payment by
10 installments, the payment of any judgment may be suspended or deferred for not
11 more than 60 days in the discretion of the court. In cases where a deposit has been

1 made, any forfeitures, plus costs, fees, and surcharges imposed under ch. 814, shall
2 be taken out of the deposit and the balance, if any, returned to the defendant.”.

3 **3.** Page 5, line 24: after “mail.” insert “If the defendant is present and the court,
4 using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay
5 the judgment because of poverty, the court shall provide the defendant with an
6 opportunity to pay the judgment in installments, taking into account the defendant’s
7 income.”.

8 (END)

D-N
Date
This draft replaces LRB a/0088/10

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

LRBa0088/1dn
RPN:bjk:rs

February 23, 2009

This draft replaces LRBa0085/1.

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