

March 5, 2014

To: Members of the Senate Committee on Judiciary & Labor
From: Senator Glenn Grothman
Re: Senate Bill 653

Thank you for the opportunity to testify in support of this simple change to current law regarding the duration allowed for driver's license suspension for Failure to Pay Forfeiture.

Current law allows for a court to suspend operating privileges for a failure to pay forfeiture for up to two years. This bill would reduce the maximum suspension from two years to one year.

Currently, license suspensions for failure to pay forfeiture constitute the largest and fastest growing category for license suspension throughout the state: Almost 2 million suspensions over the last 10 years. These suspensions are not related to unsafe or irresponsible driving but are given to those who are not able to pay a fine by the due date. With this in mind, the chiefs of police, circuit court judges, municipal courts and others in the judiciary system agree that a one year suspension adequately incentivizes timely payments without creating an undue burden on a worker who needs their car to drive to and from work.

A 2-year license suspension prevents a worker from driving to and from work to earn the money to satisfy the judgment. If an individual decides to continue driving under a suspension in order to get to work, they will continue to rack up more fines that they are unable to pay. Without the ability to drive, there is little hope of ever being able to satisfy outstanding judgments and individuals may continue to spiral into poverty.

Reducing the maximum time from two years to one, in addition to being supported by many in the justice community, still allows for an effective means of collecting outstanding judgments. After one year, tax intercepts can be used for collections which have not yet occurred. The Tax Refund Interception Program of the Wisconsin Department of Revenue enables the courts to intercept state tax refunds to pay overdue forfeitures.

This simple change will have a profound impact on Wisconsin workers and is supported by local municipal courts, circuit court and the law enforcement community. Please join me in support of this important, yet simple change.

**TESTIMONY IN SUPPORT OF SB 653
ATTORNEY JAMES A. GRAMLING JR.
SENATE COMMITTEE ON JUDICIARY AND LABOR
MARCH 5, 2014**

Chairman Grothman and Members of the Committee:

I am Jim Gramling, a volunteer attorney at the Center for Driver's License Recovery and Employability in Milwaukee. I used to be Judge James Gramling, serving in Br. 3 of the Milwaukee Municipal Court, for over 21 years, until my retirement in 2007. Based on these 2 experiences, I appear before you today to urge you to support enactment of SB 653, a bill which, by changing the word "two" to "one," will bring a measure of justice to our state's driver's license laws.

A bit of explanation. Two sets of courts in Wisconsin hear traffic cases. Tickets for speeding and running a red light and failure to yield, when written by police officers, typically are sent to Municipal Court to be processed. Similar tickets written by Sheriff's Deputies and State Patrol Officers are sent to the State Circuit Courts. In either instance, most defendants are found guilty – most of them by default judgment – and are ordered to pay forfeitures. If they do not pay the forfeitures as ordered, the judge has a number of options to enforce payment: order them to do time in the county jail; order their Wisconsin income tax refunds to be intercepted by the Department of Revenue; or order their driving privileges suspended for 2 years. Most judges, I would say somewhere in the order of 97%, order the 2-year license suspension. Now, for people who are interested in protecting their license and who have the ability to pay the forfeiture, it's a no-brainer. They pay it. On time.

Many people do not pay on time, and they are suspended. For 2 years. Many people. In 2013, according to DOT's statistics, there were 235,042 suspensions for Failure to Pay Forfeitures on time. Commonly known as FPF. In 2013, DOT says there were 97 ways to lose your driver's license. **FPF was Number One.** In fact, FPF suspensions constituted over 56% of all suspensions, 5 times the number for demerit point accumulations, 8 times the number for drunk driving convictions and 50 times the number for Operating While Suspended.

And these are not even suspensions for bad driving. They are suspensions designed to force people to pay their traffic forfeitures, nothing more than a collection mechanism for the courts. Now I do not say that lightly, for I used to be "the court." But let's look at what that 2-year

suspension actually accomplishes. We have talked with judges, we have studied the payment histories in the largest traffic court in the State, Milwaukee Municipal Court where I used to work. Over 80% of what is paid on traffic forfeitures is paid in the first year. The 2nd year of suspension is ineffective in getting people to pay. Those who are going to pay will pay within the first year. So the reason for this suspension – to enforce payment of forfeitures – is only meaningful for one year. Plain and simple.

And that is why we seek this simple change in the law. You might ask: what about the 20% that doesn't get paid in the first year? Courts throughout the State make use of the Department of Revenue's Tax Refund Intercept Program - TRIP. This allows the courts to sit on defendants' tax returns for years and capture any unpaid forfeitures painlessly. Even defendants with marginal incomes are subject to tax intercepts since refunds from homestead tax credits can be intercepted through TRIP. And we're talking about a lot of money here. The amount seized from individual taxpayers through the TRIP program, for all uses, has grown to \$84,724,207 in FY 2013. The courts will get their money.

So, will the courts grind to a halt if you approve this common-sense change? Hardly. The 250 Circuit Court judges in Wisconsin, the ones who sit in every one of our 72 counties, have gone on record supporting this shorter suspension period. There are even courts in Wisconsin that do not immediately order driver's license suspensions but instead wait through a tax refund season to see what will be collected through TRIP. These are courts which understand all the collateral consequences of license suspensions and seek to minimize harm by using suspensions as a last resort.

Court systems are a bumpy ride for low-income defendants. They cannot pay their way out; they don't have the resources. So they often default and take what comes, usually a 2-year suspension. The statutes permit municipal judges to offer community service on traffic cases; but we know from experience that many courts do not permit this, including Milwaukee. If defendants do end up in front of a judge willing to work out a payment plan solution, they still need to pay back the full judgment, and if they miss a payment their license is suspended again. Is the debate here all about the money? I hope not. It should be about what's fair. A one-year suspension is penalty enough.

Members of the Committee, your support for SB 653 will indeed bring a measure of justice to our driver's license laws. Thank you.



**Written Testimony of Representative Garey Bies
Senate Committee on Judiciary and Labor
Senate Bill 653 –Suspension of Operating Privilege for Failure to Pay
Monetary Judgment**

Chairman Grothman, committee members. Thank you for the opportunity to submit written testimony on Senate Bill 653, relating to Suspension of Operating Privilege for Failure to Pay Monetary Judgment.

When Senator Grothman asked me to be the lead author on this bill in the Assembly, I was happy to say yes, and I'll explain why.

First, I'll give a little background information on the bill itself. Failure to pay forfeiture ("FPF") is the largest category of license suspensions and revocations in Wisconsin. This bill amends the statutes to reduce the driver's license suspension period of those who fail to make timely payment of traffic forfeitures from two years to one.

The two-year FPF suspensions are not an issue of safety, yet they are longer than the suspensions for safety-related violations, such as those for OWIs, which can be six months, nine months, or one year, or demerit point accumulations, which range from two months to one year.

FPF suspensions obstruct the ability of drivers to get to and from work. Most people pay their forfeiture within that first year, the people being punished under the current law are those who can't afford to pay, and the two year suspension only exacerbates the issue.

After the one-year suspension period, if someone still owes on a forfeiture, there is an effective method for collection of forfeitures already in place: the Tax Refund Interception Program of the Wisconsin Department of Revenue enables the courts to intercept state tax refunds to pay overdue forfeitures.

This change is supported by law enforcement and circuit court judges so that municipalities will be able to better direct and utilize their local resources. This bill also has bi-partisan support in both houses.

Once again, thank you for the opportunity to submit written testimony on Senate Bill 653 I am happy to answer any questions you may have.

First for Wisconsin!

Testimony In Support Of SB 653
Senate Judiciary Committee
March 5, 2014
Molly Gena, Attorney
Legal Action of Wisconsin

I am here to speak in support of Senate Bill 653.

I am an attorney with Legal Action of Wisconsin, and I work at the Center for Driver's License Recovery and Employability in Milwaukee. I have been representing low-income individuals in their effort to obtain a valid driver's license for six and a half years. Many of my clients need a driver's license to work, not just to obtain a driving job, but also to get to jobs that are located outside of Milwaukee. I have seen just about every kind of driver's license suspension and have appeared in courts and administrative hearings all across the state on behalf of my clients.

The current two-year suspension for failure to pay a traffic ticket is longer than many safety-related suspensions and revocations. For example, if you get too many demerit points on your license, it can be suspended from 2 months to 1 year at the most. And you would have to have over 30 demerit points to get a one-year suspension. A revocation for the first Operating While Intoxicated ticket is 6-9 months. A DOT administrative suspension for failing to pay for damages due to an uninsured accident is one year. Being convicted of fleeing an officer is 6 months or 1 year if it causes bodily harm to another or property damage. These are examples of punishments for poor driving. A failure to pay suspension is not safety-related, but is currently at least two times longer than these suspensions.

This legislative change will not affect any safety-related suspensions. People will still have their licenses suspended for getting too many speeding tickets, and being convicted of serious violations. They will still be punished for that behavior. This change will only affect the amount of time they can be suspended for their inability to pay the tickets. In fact, there are drivers out there who get lots of speeding tickets or OWIs, but if they have the means to pay the tickets and pay them on time, they are not subject to a failure to pay suspension at all. A one-year suspension will hold people accountable for not paying their tickets. And everyone whose license is suspended must pay a \$60 reinstatement fee to the DOT.

Most of my clients with failure to pay forfeiture suspensions lose their license because of their poverty. Sometimes it starts with some problem with a vehicle like the inability to renew the sticker on their license plate or a burnt out light that they cannot afford to fix. They are pulled over and written a ticket for that violation. They cannot pay that ticket and then their license is suspended for two years. Some stop driving, and unfortunately many of my clients have lost their jobs because they can no longer drive to them. If they continue to drive to get to work or transport their children or buy groceries, then they start to get Operating While Suspended tickets and it escalates from there. They cannot afford to pay those tickets and get more two-year failure to pay suspensions.

A two-year suspension is not a sensible penalty for not paying a ticket. It is simply too harsh and creates bad public policy. It denies individuals a driver's license that will foster employment.

Two-year failure to pay suspensions seriously harm Wisconsin drivers. A one-year suspension is a more reasonable penalty, and is more in line with other Wisconsin driver's license suspensions and revocations. Therefore, I ask that you support SB 653.

Wisconsin Municipal Judges Association

Honorable Scott R. Letteney, President

N3496 Como Road
Lake Geneva, Wisconsin 5317

March 4, 2014

Wisconsin Senate
Committee on Judiciary and Labor

Re: 2013 Senate Bill 653/2013 Assembly Bill 829

Senator Grothman, Senator Vukmir, and Committee Members,

Thank you for the opportunity for the Wisconsin Municipal Judges Association to address the Committee. I apologize that my schedule does not permit me to appear before you in person. The Wisconsin Municipal Judges Association opposes Senate Bill 653/Assembly Bill 829, which shortens the maximum period of a driver license suspension under Wisconsin Statutes section 345.47(1)(b) from two years to one year, and respectfully requests that you reject or at least defer the bill.

As you are aware, there are approximately 250 municipal courts in the State of Wisconsin. Municipal courts conduct a significant part of the work of the judiciary throughout Wisconsin. Whether operating in urban, suburban, or rural settings, Wisconsin's dedicated municipal judges daily attend to the interests of justice both to the municipalities they serve and to the defendants appearing before them.

Of the various penalties that may be imposed by a municipal court upon conviction of a traffic offense, forfeitures are the most common. As you may imagine, some people fail to pay their forfeitures. Municipal courts are responsible for the collection of unpaid forfeitures on behalf of their municipalities and so are compelled to find ways to induce payment from delinquent convicted defendants. A driver license suspension is perhaps the most valuable tool available to municipal courts in this regard.

Driver license suspensions are not lightly imposed, and they are not imposed upon convicted defendants who have an inability to pay their forfeitures. Suspensions are imposed upon convicted defendants who have failed to pay despite their ability to pay. While municipal courts have other methods available to help induce payment, some are far more invasive, such commitment to jail, and some, such as intercepting tax refunds and the use of collection agencies, have an inconsistent response.

The Wisconsin Municipal Judges Association understands that the ability to suspend the driver license of a convicted defendant would still remain if this bill were passed, albeit of a shorter duration. However, there does not seem to be a compelling reason to reduce such duration and no pressing reason to so do at this time.

The WMJA is aware of a study, conducted in Milwaukee, regarding the timing of payment of forfeitures by those convicted in municipal court. However, there was no attempt in such study to determine whether the imposition of a driver license suspension, or the length of such suspension, would make it more or less likely that a convicted defendant would make good on his or her debt to the municipality. Such study has specious validity in this matter.

Before the legislature undertakes to water down a valuable tool – indeed one of the few tools available – to assist in the collection of municipal forfeitures, it is incumbent upon the members of this Committee and the entire legislature to be truly certain of the effect of such a change. Further, it is important to determine if the simple reduction of a maximum period of driver license suspension is the most effective way to modify Wisconsin Statutes section 345.47(1)(b). Meaningful study and due consideration is warranted.

Again, on behalf of the members of the Wisconsin Municipal Judges Association, I ask that you reject or defer this legislation. Thank you for your service and attention to this matter.

Sincerely,

/s/

Scott R. Letteney
Municipal Judge, Town of Geneva
President, Wisconsin Municipal Judges Association