



**Testimony of Representative Garey Bies
Assembly Committee on Transportation
Assembly Bill 829 –Suspension of Operating Privilege for Failure to Pay
Monetary Judgment**

Chairman Ripp, committee members. Thank you for the opportunity to submit testimony on Assembly Bill 829, 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 testify on Assembly Bill 829. I am happy to answer any questions you may have.

First for Wisconsin!

March 4, 2014

To: Members of the Senate Committee on Transportation
From: Senator Glenn Grothman
Re: Assembly Bill 829

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.

**STATEMENT IN SUPPORT OF AB 829
ATTORNEY JAMES A. GRAMLING JR.
ASSEMBLY COMMITTEE ON TRANSPORTATION
MARCH 4, 2014**

Chairman Ripp 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 AB 829, 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 conservatively 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 reports 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 and 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.

There are municipal judges, friends and former colleagues, who disagree with this bill. Some of them offer payment arrangements in an attempt to avoid suspensions. These are a good option for some defendants, but they are a one-time offer and they require a regular source of income. Defendants need to pay back the full judgment, and if they miss a payment their license is suspended again. Many poor defendants do not know about this option and many courts require full payment before lifting suspensions. Considering that, a one-year suspension is penalty enough.

Your support for AB 829 will indeed bring a measure of justice to our driver's license laws.

Thank you.

Testimony In Support Of AB 829
Assembly Transportation Committee
March 4, 2014
Molly Gena, Attorney
Legal Action of Wisconsin

I am here to speak in support of Assembly Bill 829.

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 and dealt with 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. There are plenty of bad 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.

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 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 many 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 AB 829.