

September 25, 2025

Chair Tusler, Vice-Chair Jacobson, and Honorable Members of the Assembly Committee on Judiciary:

**The American Civil Liberties Union of Wisconsin appreciates the opportunity to provide written testimony regarding Assembly Bill 148, Assembly Bill 178, and Assembly Bill 320.**

**ACLU-WI Opposes Assembly Bill 148**

Wis. Stat. § 885.38 establishes the requirements regarding interpreters in circuit and appellate court proceedings. Under current law, if the court determines that the person has limited English proficiency and that an interpreter is necessary, the court must advise the person of the right to a qualified interpreter if they are:

- A party in interest
- A witness, while testifying in a court proceeding
- An alleged victim
- A parent or legal guardian of a minor party in interest or legal guardian of a party in interest
- Another person affected by the proceedings, if the court determines that the appointment is necessary and appropriate

“Limited English proficiency” means:

- The inability, because of the use of a language other than English, to adequately understand or communicate effectively in English in a court proceeding, or
- The inability, due to a speech impairment, hearing loss, deafness, deaf-blindness, or other disability, to adequately hear, understand, or communicate effectively in English in a court proceeding

Under current law, “on request of any party, the court may permit an interpreter to act in any [civil or criminal] proceeding other than a trial by telephone or live audiovisual means.” As current guidance<sup>1</sup> from Wisconsin Courts highlights, “[t]elephonic interpreting is best suited to short proceedings under 15 minutes such as arraignments, initial appearances, scheduling or status conferences,” not longer, evidentiary hearings.

AB-148 removes the exclusion for criminal and civil trials, so that an interpreter may act by phone or video in *any* proceeding. While remote technology can be a vital tool for courts, the limitations of interpreters acting by telephone or audiovisual means in substantive and evidentiary proceedings raise significant concerns—particularly in criminal cases and matters under Chapter 48 and Chapter 938 that have a profound impact on individuals’ liberty interests.

---

<sup>1</sup> “Telephone Interpreting Best Practices,” Wisconsin Courts (Feb. 2025), <https://www.wicourts.gov/services/interpreter/docs/telephoneinterpret.pdf>.

Title II of the ADA requires state and local government facilities (including courts) provide appropriate steps to ensure people with disabilities can participate, including ensuring “effective communication” through free, qualified interpreters. For people who are deaf and hard of hearing, for example, effective ASL communication through audiovisual means may be logistically impossible in many circumstances.

Considering the practical realities of attorney-client communication and confidentiality in a trial or other evidentiary hearing, remote interpretation raises concerns regarding the right to a fair trial and effective assistance of counsel under the Sixth Amendment and the right to due process under the Fifth and Fourteenth Amendments.

ACLU-WI appreciates the significant change that would be made to the bill through Assembly Amendment 1 requiring consent of all parties. However, it is unclear how to guarantee a party’s consent is knowing and voluntary if they do not have access to an in-person qualified interpreter when making the decision. If significant problems may arise with technology after consent is given (and potentially after a jury has been impaneled in a trial), it is unclear how a party’s consent could be reassessed.

### **ACLU-WI Supports Assembly Bill 178**

AB-178 would expand access to Treatment Alternative and Diversion (TAD) programs to people with mental illness. The ACLU of Wisconsin is grateful for the bill authors’ continued advocacy for counties and tribes to continue administering these successful programs with maximal impact for participants and communities.

The TAD program continues to be a cost-effective component of Wisconsin’s criminal legal system: for every \$1 spent on TAD programs, the state is estimated to save between \$5.15-\$5.92 for treatment court programs and \$8.18-\$9.12 for diversion programs.<sup>2</sup> By providing greater flexibility to jurisdictions in program eligibility, programs can be better tailored to the needs of local communities while reducing recidivism, encouraging voluntary treatment in the community, and saving money.

The rates of people with disabilities in the United States criminal system are two to six times those of the general population. In particular, people with mental illness are dramatically overrepresented in jails and prisons across the country. According to DOC data, 43% of men and 90% of women in Wisconsin’s DOC institutions have a mental health condition.<sup>3</sup> AB-178 is a critical step to addressing the treatment needs of Wisconsinites on the front-end of the system.

### **ACLU-WI Opposes Assembly Bill 320**

While “fines and fees” are often spoken of in conjunction with one another, they are separate and distinct. Fines are ostensibly imposed as a punishment for violating the law, while fees exist solely to generate revenue. Over the past three decades, the number and amount of fees and surcharges imposed by the criminal legal system has grown exponentially, as states and local governments have chosen to become reliant on them to fund growing systems of policing, surveillance, and incarceration.

---

<sup>2</sup> “Treatment Alternatives and Diversion (TAD) Program 2019-2023: Participant Summary, Post-Program Recidivism, and Cost-Benefit Analysis,” Wisconsin Department of Justice, [https://www.wisdoj.gov/Documents/2025%20TAD%20Report\\_04%2014%202025.pdf](https://www.wisdoj.gov/Documents/2025%20TAD%20Report_04%2014%202025.pdf).

<sup>3</sup> <https://doc.wi.gov/DataResearch/DataAndReports/DAIAtAGlance.pdf>

Fees exist at every stage of the justice system—booking fees, pretrial supervision fees, diversion program fees, “pay-to-stay” fees,<sup>4</sup> fees for medical care,<sup>5</sup> phone calls<sup>6</sup> and more during incarceration, supervision fees, among countless others. Almost everyone contacting the system is required to pay fees, from people cited for a minor traffic violation or charged with low-level misdemeanor, to those charged with more serious felonies — who typically spend years in prison without the ability to earn a living, only to reenter their communities trapped in insurmountable debt.

As the co-sponsorship memo for this bill notes, the average price of a Big Mac has increased 343.7% since 1985; the average price of a used car has increased 413.7%. It is also the case that the number of Wisconsin courts’ fees, costs, and surcharges and their cumulative amounts have increased significantly over time.<sup>7</sup> The fees and surcharges imposed on top of a typical \$50 forfeiture increased from \$26 in 1984 to \$150.50 currently (a 479% increase). The fees and surcharges issued on top of a typical \$100 misdemeanor fine increased from \$52 in 1984 to \$479 currently (an 821% increase). Under the bill, fees in circuit court forfeiture actions and criminal cases are increased further in addition to being indexed to inflation.

Fees in municipal court actions are also increased and indexed to inflation. While municipal courts in Wisconsin do not enforce criminal penalties, they have gone so far as to order the arrest and jailing of people who fail to pay their municipal tickets or fall behind on their payments, in addition to other debt-based sanctions such as issuing a driver’s license suspension.<sup>8</sup> The issuance of these types of sanctions creates a two-tiered system of punishment: one for those with financial means and one for those without. It’s expensive to be poor, and fees and surcharges added on to fines or forfeitures are a hidden regressive tax that can force hard-working people living paycheck to paycheck into a vicious cycle of debt and punishment.

In addition to the human costs, criminal legal system fees are an inefficient and unreliable source of revenue. Research has shown the cost of collecting fees consumes nearly 100 times as many taxpayer dollars as collecting revenue through taxation.<sup>9</sup> It is certainly the case that jailing Wisconsinites for non-criminal municipal court debt is not an efficient way to generate revenue.

---

<sup>4</sup> Will Maher, “Poverty Fact Sheet: Pay-to-Stay Jail Fees in Wisconsin,” Institute for Research on Poverty (2017-2018), <https://www.irp.wisc.edu/wp/wp-content/uploads/2018/10/Factsheet15-Pay-to-Stay-Jail-Fees-in-WI.pdf>; Izabela Zaluska, “Pay-to-stay, other fees, can put jail inmates hundreds or thousands in debt,” Wisconsin Watch (Sept. 15, 2019), <https://wisconsinwatch.org/2019/09/pay-to-stay/>.

<sup>5</sup> Jonah Beleckis, “Perpetuating poverty: Formerly incarcerated people warn of ‘agonizing’ choices around Wisconsin’s prison copays,” WPR (June 8, 2022), <https://www.wpr.org/justice/perpetuating-poverty-formerly-incarcerated-people-warn-agonizing-choices-around-wisconsins-prison>.

<sup>6</sup> Wanda Bertram, New data: Wisconsin jails and telecom giants profiting from high phone rates that keep families apart, Prison Policy Initiative (Sept. 10, 2021), <https://www.prisonpolicy.org/blog/2021/09/10/wisconsin-phones/>.

<sup>7</sup> “Legal Financial Obligations in Wisconsin,” Wisconsin Director of State Courts Office & National Center for State Courts (Dec. 2018), <https://www.wicourts.gov/publications/reports/docs/studylegalfinobligation.pdf>.

<sup>8</sup> Dr. Emma Shakeshaft, “Failure to Pay: The Use of Debt-Based Carceral Sanctions and Warrants in Wisconsin’s Municipal Courts,” ACLU of Wisconsin (Nov. 2024), <https://www.aclu-wi.org/app/uploads/2024/11/2024.11.21-wi-finesfees-web.pdf>.

<sup>9</sup> <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>