



## ENGROSSED 1997 SENATE BILL 78

February 23, 1998 – Printed by direction of ASSEMBLY CHIEF CLERK.

1     **AN ACT** *to repeal* 973.05 (5) (h); *to renumber* 565.37 (5r) (title); *to renumber*  
2     *and amend* 565.37 (5r) and 973.05 (5) (a); *to amend* 20.566 (1) (h), 59.40 (2)  
3     (im), 973.05 (1), 973.05 (4) (b), 973.05 (5) (c), 973.05 (5) (d) and 973.05 (5) (e);  
4     and *to create* 565.30 (5r) (a), 565.30 (5t), 778.30, 973.05 (4) (c), 973.05 (4m) and  
5     973.05 (5) (a) 3. of the statutes; **relating to:** assignments of earnings, pension  
6     benefits, lottery winnings and other benefits for the payment of assessments,  
7     fines, forfeitures, costs, restitution and surcharges, making an appropriation  
8     and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

#### ***Engrossment information:***

The text of Engrossed 1997 Senate Bill 78, adopted in the senate on January 13, 1998, consists of the following documents: the bill as affected by Senate Amendment 1, Senate Amendment 2 and Senate Amendment 3 (as affected by Senate Amendment 1 to that amendment). Senate Amendment 3, as amended, made identical changes in the same text as Senate Amendments 1 and 2 and included additional changes not in those 2 amendments, so Senate Amendment 3, as amended, was used when engrossing the bill.

**ENGROSSED SENATE BILL 78*****Content of Engrossed 1997 Senate Bill 78:***

The bill, as amended, adds forfeitures and related costs to those unpaid obligations that may be collected as the result of an assignment by a circuit court. The court may issue an order assigning 25% of any money owed to a person, such as wages or lottery proceeds, for the payment of those unpaid obligations. The amended bill includes a procedure for the collection of forfeitures and related unpaid obligations that is parallel to the procedure in current law as amended by the original bill and that applies to unpaid fines, assessments and related charges. This procedure includes the requirement that the administrator of the lottery withhold from any lottery prize payable in instalments the amount that the court has ordered assigned for the payment of forfeitures and related unpaid obligations. The bill, as amended, establishes a priority for the administrator of the lottery to follow when withholding payments of a lottery winner. The administrator is required to use the withheld money to pay federal and state taxes, then delinquent state taxes, state debt or child support, and then any child, family or spousal support or maintenance ordered; and finally for the payment of unpaid fines, forfeitures, costs, assessments and related charges assigned by a circuit court.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 20.566 (1) (h) of the statutes is amended to read:

2           20.566 (1) (h) *Debt collection.* From moneys received from the collection of  
3 debts owed to state agencies under ss. 71.93 and 565.30 (5), from the collection of  
4 unpaid fines, forfeitures, costs, assessments, surcharges and restitution payments  
5 under s. 565.30 (5r) (b) and from moneys received from the collection of debts owed  
6 to municipalities and counties under s. 71.935, the amounts in the schedule to pay  
7 the administrative expenses of the department of revenue for the collection of those  
8 debts, fines, forfeitures, costs, assessments, surcharges and restitution payments.

9           **SECTION 2.** 59.40 (2) (im) of the statutes is amended to read:

10           59.40 (2) (im) Keep a record of all payments ordered by the court under s.  
11 973.05 (4) or 778.30 (1) to be paid to the clerk of circuit court ~~or ordered by a court~~  
12 ~~in another county or jurisdiction but enforced or received by the clerk's court.~~

13           **SECTION 3.** 565.30 (5r) (a) of the statutes is created to read:

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1           565.30 (5r) (a) Annually, the administrator shall provide each clerk of circuit  
2 court in the state with a list of the winners of a lottery prize that is payable in  
3 instalments. The list shall include each winner since the date of the previous list.

4           **SECTION 3g.** 565.30 (5t) of the statutes is created to read:

5           565.30 (5t) PRIORITY OF WITHHOLDING. The administrator shall withhold  
6 payments under this section from a winner of a lottery prize in the following order:

7           (a) For any federal or state taxes required to be withheld under sub. (4).

8           (b) For any delinquent state taxes, child support or debt owed the state required  
9 to be withheld under sub. (5).

10          (c) For any child support, spousal support, maintenance or family support  
11 required to be withheld under sub. (5m).

12          (d) For any assignment of lottery prizes required to be withheld under sub. (5r).

13          **SECTION 4.** 565.37 (5r) (title) of the statutes is renumbered 565.30 (5r) (title).

14          **SECTION 5.** 565.37 (5r) of the statutes is renumbered 565.30 (5r) (b) and  
15 amended to read:

16          565.30 (5r) (b) If the administrator receives a notice under s. 973.05 (5) (a) or  
17 778.30 (2) (a) of the assignment of lottery prizes under s. 973.05 (4) (b), ~~he or she shall~~  
18 ~~periodically determine if the person subject to the assignment is a winner of a lottery~~  
19 ~~prize that is payable in instalments. If the administrator (c) or 778.30 (1) (c) and~~  
20 determines that a the person subject to an the assignment of lottery prizes under s.  
21 ~~973.05 (4) (b)~~ is a winner of a lottery prize that is payable in instalments, the  
22 administrator shall withhold the amount of the judgment that is the basis of the  
23 assignment from the next instalment payment. The administrator shall submit the  
24 withheld amount to the court that issued the assignment. At the time of the  
25 submittal, the administrator shall charge the administrative expenses related to

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1 that withholding and submittal to the winner of the lottery prize and withhold those  
2 expenses from the balance of the instalment payment. The administrator shall  
3 notify the winner of the reason that the amount is withheld from the ~~lottery prize~~  
4 instalment payment. If the initial instalment payment is insufficient to pay the  
5 judgment and administrative expenses, the administrator shall withhold and  
6 submit to the court an amount from any additional instalment payments until the  
7 judgment is and administrative expenses are paid in full ~~or until the court notifies~~  
8 ~~the administrator that the judgment is paid~~ and the assignment is no longer in effect.  
9 The administrative expenses received by the department shall be credited to the  
10 appropriation under s. 20.566 (1) (h).

11 **SECTION 5m.** 778.30 of the statutes is created to read:

12 **778.30 Collection of forfeitures and related charges by assignment. (1)**

13 In addition to the procedures under s. 23.795 or 345.47 or under this chapter for the  
14 collection of forfeitures, costs, assessments, surcharges or restitution payments if a  
15 defendant fails to pay the forfeiture, costs, assessment, surcharge or restitution  
16 payment within the period specified by the circuit court, the court may do any of the  
17 following:

18 (a) Issue a judgment for the unpaid amount and direct the clerk of circuit court  
19 to file and docket a transcript of the judgment, without fee. If the court issues a  
20 judgment for the unpaid amount, the clerk of circuit court shall send to the defendant  
21 at his or her last-known address written notification that a civil judgment has been  
22 issued for the unpaid forfeiture, costs, assessment, surcharge or restitution  
23 payment. The judgment has the same force and effect as judgments docketed under  
24 s. 806.10.

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1 (b) Issue an order assigning not more than 25% of the defendant's commissions,  
2 earnings, salaries, wages, pension benefits, benefits under ch. 102 and other money  
3 due or to be due in the future to the clerk of circuit court for payment of the unpaid  
4 forfeiture, costs, assessment, surcharge or restitution payment. In this paragraph,  
5 "employer" includes the state and its political subdivisions.

6 (c) Issue an order assigning lottery prizes won by a defendant whose name is  
7 on the list supplied to the clerk of circuit court under s. 565.30 (5r) (a), for payment  
8 of the unpaid forfeiture, costs, assessment, surcharge or restitution payment.

9 (d) A child support withholding assignment or order listed under s. 767.265 (4)  
10 has priority over any assignment under this section.

11 **(2)** (a) 1. Upon entry of the assignment under sub. (1) (b), unless the court finds  
12 that income withholding is likely to cause the defendant irreparable harm, the clerk  
13 of circuit court shall provide notice of the assignment by regular mail to the  
14 last-known address of the person from whom the defendant receives or will receive  
15 money. If the clerk of circuit court does not receive the money from the person  
16 notified, the the clerk of circuit court shall provide notice of the assignment to any  
17 other person from whom the defendant receives or will receive money. Notice of an  
18 assignment under sub. (1) (b) shall inform the intended recipient that, if a prior  
19 assignment under sub. (1) (b) has been received relating to the same defendant, the  
20 recipient is required to notify the clerk of circuit court that sent the subsequent notice  
21 of assignment that another assignment has already been received. A notice of  
22 assignment shall include a form permitting the recipient to designate on the form  
23 that another assignment has already been received.

24 2. If, after receiving the annual list under s. 565.30 (5r) (a), the clerk of circuit  
25 court determines that a person identified in the list may be subject to an assignment

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1 under sub. (1) (c), the clerk shall inform the court of that determination. If the court  
2 issues an order under sub. (1) (c), the clerk of circuit court shall send the notice of that  
3 order to the administrator of the lottery division of the department of revenue,  
4 including a statement of the amount owed under the judgment and the name and  
5 address of the person owing the judgment. The court shall notify the administrator  
6 of the lottery division of the department of revenue when the judgment that is the  
7 basis of the assignment has been paid in full.

8 3. Notice under this paragraph may be a notice of the court, a copy of the  
9 executed assignment or a copy of that part of the court order which directs payment.

10 (b) For each payment made under the assignment under sub. (1) (b), the person  
11 from whom the defendant under the order receives money shall receive an amount  
12 equal to the person's necessary disbursements, not to exceed \$3, which shall be  
13 deducted from the money to be paid to the defendant.

14 (c) A person who receives notice of the assignment under sub. (1) (b) shall  
15 withhold the amount specified in the notice from any money that person pays to the  
16 defendant later than one week after receipt of the notice of assignment. Within 5  
17 days after the day on which the person pays money to the defendant, the person shall  
18 send the amount withheld to the clerk of circuit court that provided the notice. If the  
19 person has already received a notice of an assignment under sub. (1) (b) related to  
20 the same defendant, the person shall retain the later assignment and withhold the  
21 amount specified in that assignment after the last of any prior assignments is paid  
22 in full. Within 10 days of receipt of the later notice, the person shall notify the clerk  
23 of circuit court that sent the notice that the person has received a prior notice of an  
24 assignment under sub. (1) (b). Section 241.09 does not apply to assignments under  
25 this section.

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1 (d) If after receipt of notice of assignment under par. (a) 1. the person from  
2 whom the defendant receives money fails to withhold the money or send the money  
3 to the clerk of circuit court as provided in this subsection, the person may be  
4 proceeded against under the principal action under ch. 785 for contempt of court or  
5 may be proceeded against under this chapter and be required to forfeit not less than  
6 \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the  
7 amount not withheld or sent.

8 (e) If an employer who receives notice of an assignment under sub. (1) (b) fails  
9 to notify the clerk of circuit court within 10 days after an employe is terminated or  
10 after the employe temporarily or permanently leaves the employer's employment,  
11 the employer may be proceeded against under the principal action under ch. 785 for  
12 contempt of court.

13 **(3)** Compliance by the person from whom the defendant receives money with  
14 the order under sub. (1) (b) operates as a discharge of the person's liability to the  
15 defendant as to that portion of the defendant's commissions, earnings, salaries,  
16 wages, benefits or other money so affected.

17 **(4)** No employer may use an assignment under sub. (1) (b) as a basis for the  
18 denial of employment to a defendant, the discharge of an employe or any disciplinary  
19 action against an employe. An employer who denies employment or discharges or  
20 disciplines an employe in violation of this subsection may be fined not more than  
21 \$500 and may be required to make full restitution to the aggrieved person, including  
22 reinstatement and back pay. Restitution shall be in accordance with s. 973.20. An  
23 aggrieved person may apply to the district attorney or to the department of workforce  
24 development for enforcement of this subsection.

25 **(5)** (a) In this subsection, "payroll period" has the meaning given in s. 71.63 (5).

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1 (b) If after an assignment of earnings is in effect the defendant's employer  
2 changes its payroll period, or the defendant changes employers and the new  
3 employer's payroll period is different from the former employer's payroll period, the  
4 clerk of circuit court may, unless otherwise ordered by a judge, amend the  
5 withholding assignment or order so that all of the following apply:

6 1. The withholding frequency corresponds to the new payroll period.

7 2. The amounts to be withheld reflect the adjustment to the withholding  
8 frequency.

9 (c) The clerk of circuit court shall provide notice of the amended withholding  
10 assignment or order under this subsection by regular mail to the defendant's  
11 employer and to the defendant.

12 **SECTION 6.** 973.05 (1) of the statutes is amended to read:

13 973.05 (1) When a defendant is sentenced to pay a fine, the court may grant  
14 permission for the payment of the fine, of the penalty assessment imposed by s.  
15 165.87, the jail assessment imposed by s. 302.46 (1), the crime victim and witness  
16 assistance surcharge under s. 973.045, any applicable deoxyribonucleic acid analysis  
17 surcharge under s. 973.046, any applicable drug abuse program improvement  
18 surcharge imposed by s. 961.41 (5), any applicable domestic abuse assessment  
19 imposed by s. 971.37 (1m) (c) 1. or 973.055, any applicable driver improvement  
20 surcharge imposed by s. 346.655, any applicable weapons assessment imposed by s.  
21 167.31, any applicable uninsured employer assessment imposed by s. 102.85 (4), any  
22 applicable environmental assessment imposed by s. 299.93, any applicable wild  
23 animal protection assessment imposed by s. 29.9965, any applicable natural  
24 resources assessment imposed by s. 29.997 and any applicable natural resources  
25 restitution payment imposed by s. 29.998 to be made within a period not to exceed



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1     ~~120~~ 60 days. If no such permission is embodied in the sentence, the fine, the penalty  
2     assessment, the jail assessment, the crime victim and witness assistance surcharge,  
3     any applicable deoxyribonucleic acid analysis surcharge, any applicable drug abuse  
4     program improvement surcharge, any applicable domestic abuse assessment, any  
5     applicable driver improvement surcharge, any applicable weapons assessment, any  
6     applicable uninsured employer assessment, any applicable environmental  
7     assessment, any applicable wild animal protection assessment, any applicable  
8     natural resources assessment and any applicable natural resources restitution  
9     payment shall be payable immediately.

10     **SECTION 7.** 973.05 (4) (b) of the statutes is amended to read:

11     973.05 (4) (b) Issue an order assigning ~~lottery prizes that are payable in~~  
12     ~~instalments~~ and not more than 25% of the defendant's commissions, earnings,  
13     salaries, wages, pension benefits, benefits under ch. 102 and other money due or to  
14     be due in the future to the clerk of circuit court for payment of the unpaid fine,  
15     assessment, surcharge or restitution payment. In this paragraph, "employer"  
16     includes the state and its political subdivisions.

17     **SECTION 8.** 973.05 (4) (c) of the statutes is created to read:

18     973.05 (4) (c) Issue an order assigning lottery prizes won by a defendant whose  
19     name is on the list supplied to the clerk of circuit court under s. 565.30 (5r) (a), for  
20     payment of the unpaid fine, assessment, surcharge or restitution payment.

21     **SECTION 9.** 973.05 (4m) of the statutes is created to read:

22     973.05 (4m) As provided in s. 767.265 (4), a child support withholding  
23     assignment under state law has priority over any assignment or order under sub. (4).

24     **SECTION 10.** 973.05 (5) (a) of the statutes is renumbered 973.05 (5) (a) 1. and  
25     amended to read:

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1           973.05 (5) (a) 1. Upon entry of the assignment under sub. (4) (b), unless the  
2 court finds that income withholding is likely to cause the defendant irreparable  
3 harm, the court shall provide notice of the assignment by regular mail to the  
4 last-known address of the person from whom the defendant receives or will receive  
5 money. If the clerk of circuit court does not receive the money from the person  
6 notified, the court shall provide notice of the assignment to any other person from  
7 whom the defendant receives or will receive money. ~~Notice under this paragraph~~  
8 ~~may be a notice of the court, a copy of the executed assignment or a copy of that part~~  
9 ~~of the court order directing payment. If the court issues an order under sub. (4) (b)~~  
10 ~~assigning lottery prizes, of an assignment under sub. (4) (b) shall inform the intended~~  
11 ~~recipient that, if a prior assignment under sub. (4) (b) has been received relating to~~  
12 ~~the same defendant, the recipient is required to notify the clerk of circuit court that~~  
13 ~~sent the subsequent notice of assignment that another assignment has already been~~  
14 ~~received. A notice of assignment shall include a form permitting the recipient to~~  
15 ~~designate on the form that another assignment has already been received.~~

16           2. If, after receiving the annual list under s. 565.30 (5r) (a), the clerk of circuit  
17 court determines that a person identified in the list may be subject to an assignment  
18 under sub. (4) (c), the clerk shall inform the court of that determination. If the court  
19 issues an order under sub. (4) (c), the clerk of circuit court shall send the notice of that  
20 order to the administrator of the lottery division of the gaming commission  
21 department of revenue, including a statement of the amount owed under the  
22 judgment and the name and address of the person owing the judgment. The court  
23 shall notify the administrator of the lottery division of the gaming commission  
24 department of revenue when the judgment that is the basis of the assignment has  
25 been paid in full.

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1           **SECTION 11.** 973.05 (5) (a) 3. of the statutes is created to read:

2           973.05 (5) (a) 3. Notice under this paragraph may be a notice of the court, a copy  
3 of the executed assignment or a copy of that part of the court order which directs  
4 payment.

5           **SECTION 12.** 973.05 (5) (c) of the statutes is amended to read:

6           973.05 (5) (c) A person who receives notice of the assignment under ~~par. (a)~~ sub.  
7 (4) (b) shall withhold the amount specified in the notice from any money that person  
8 pays to the defendant later than one week after receipt of the notice of assignment.  
9 Within 5 days after the day on which the person pays money to the defendant, the  
10 person shall send the amount withheld to the clerk of circuit court of the jurisdiction  
11 providing notice. If the person has already received a notice of an assignment under  
12 sub. (4) (b), the person shall retain the later assignment and withhold the amount  
13 specified in that assignment after the last of any prior assignments is paid in full.  
14 Within 10 days of receipt of the later notice, the person shall notify the clerk of circuit  
15 court that sent the notice that the person has received a prior notice of an assignment  
16 under sub. (4) (b). Section 241.09 does not apply to assignments under this section.

17           **SECTION 13.** 973.05 (5) (d) of the statutes is amended to read:

18           973.05 (5) (d) If after receipt of notice of assignment under par. (a) 1, the person  
19 from whom the defendant receives money fails to withhold the money or send the  
20 money to the clerk of circuit court as provided in this subsection, the person may be  
21 proceeded against under the principal action under ch. 785 for contempt of court or  
22 may be proceeded against under ch. 778 and be required to forfeit not less than \$50  
23 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the  
24 amount not withheld or sent.

25           **SECTION 14.** 973.05 (5) (e) of the statutes is amended to read:

