ASSEMBLY BILL 969 (LRB -2035)

An Act to renumber and amend 969.13 (5); to amend 895.80 (4), 943.245 (3m), 943.51 (3r), 949.15 (1), 969.02 (2), 969.02 (6), 969.03 (1) (d) and 969.03 (4); and to create 950.04 (1v) (qm), 969.13 (5) (b) and 973.20 (9m) of the statutes; relating to: applying cash deposited for bail to restitution payments or to recompense ordered in criminal cases. (FE)

2006

02-13.	A.	Introduced by Representatives **Suder**, **Wood**, **Gronemus**, **Musser**, **Townsend**, **Hines**, **Owens**, **LeMahieu**, **Albers**, **Petrowski** and **Van Roy**; cosponsored by Senators **Zien** and **Roessler**.	
02-02.	A.	Read first time and referred to committee on Criminal Justice and Homeland Security	780
02-08.	A.	Public hearing held.	
02-13.	A.	Assembly amendment 1 offered by Representative Suder **(LRB a2299)**	805
02-15.	A.	Executive action taken.	
02-21.	A.	Fiscal estimate received.	
02-21.	A.	Report Assembly Amendment 1 adoption recommended by committee on Criminal Justice and Homeland Security, Ayes 11, Noes 0	822
02-21.	A.	Report passage as amended recommended by committee on Criminal Justice and Homeland Security, Ayes 10, Noes 1	822
02-21.	A.	Referred to committee on Rules	822
02-21.	A.	Placed on calendar 2-23-2006 by committee on Rules.	
02-23.	A.	Read a second time	840
02-23.	A.	Assembly amendment 1 **adopted**	840
02-23.	A.	Ordered to a third reading	840
02-23.	A.	Rules suspended	840
02-23.	A.	Read a third time and **passed**, Ayes 56, Noes 40, Paired 2	840
02-23.	A.	Ordered immediately messaged	841
02-27.	S.	Received from Assembly.	
02-27.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy.	
03-08.	S.	Executive action taken.	
03-08.	S.	Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 3, Noes 2.	
03-08.	S.	Available for scheduling.	
03-08.	S.	Placed on calendar 3-9-2006 by committee on Senate Organization.	
03-09.	S.	Read a second time.	
03-09.	S.	Ordered to a third reading.	
03-09.	S.	Rules suspended.	
03-09.	S.	Read a third time and **concurred in**, Ayes 23, Noes 10.	
03-09.	S.	Ordered immediately messaged.	
03-14.	A.	Received from Senate concurred in.	

gmB

2005
ENROLLED BILL

05en A B- 969

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr ___ SubAmdt ___ 05- 2035/3

Amendments to above (if none, write "NONE"): AA1 — a 2299/1

Corrections – show date (if none, write "NONE"): None

Topic Rel

3-17-06
Date

Enrolling Drafter

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2005 ASSEMBLY BILL 969

February 2, 2006 – Introduced by Representatives SUDER, WOOD, GRONEMUS, MUSSER, TOWNSEND, HINES, OWENS, LEMAHIEU, ALBERS, PETROWSKI and VAN ROY, cosponsored by Senators ZIEN and ROESSLER. Referred to Committee on Criminal Justice and Homeland Security.

1 AN ACT ***to renumber and amend*** 969.13 (5); ***to amend*** 895.80 (4), 943.245 (3m),
2 943.51 (3r), 949.15 (1), 969.02 (2), 969.02 (6), 969.03 (1) (d) and 969.03 (4); and
3 ***to create*** 950.04 (1v) (qm), 969.13 (5) (b) and 973.20 (9m) of the statutes;
4 **relating to:** applying cash deposited for bail to restitution payments or to
5 recompense ordered in criminal cases.

Analysis by the Legislative Reference Bureau

Under current law, a judge may set conditions of release for a person charged with a crime (defendant) that are designed to assure the defendant's appearance in court. A judge may require the defendant to execute an unsecured appearance bond in a specified amount or, as an alternative to an unsecured appearance bond, a judge may require the defendant to execute an appearance bond in a specified amount. The amount specified in an appearance bond must be either posted as a cash deposit or guaranteed by solvent sureties. If the person does not comply with the conditions of the bond, any cash deposited for an appearance bond is forfeited and used to pay costs and the judgment of forfeiture. If the defendant is convicted and ordered to pay a fine or court costs or both, any cash deposited for an appearance bond is used to pay the fine and costs, with any remaining amount returned to the defendant.

The bill provides also that, if a person forfeits bail by not complying with the conditions of bond, an amount determined by the court will be distributed to the victim of the crime for which the bond conditions were imposed as recompense for that crime. This bill provides also that, if a defendant is convicted, ordered to pay

a fine or court costs or both, and ordered to pay restitution to the victim of the crime, any cash deposited for an appearance bond must be applied first to the payment of the restitution and then, if restitution is fully satisfied, to the payment of the fine and costs imposed on the defendant, with any amount remaining after the payment of restitution, fines, and costs returned to the defendant. If a defendant is not ordered to pay restitution, any cash deposited for an appearance bond would, as under current law, be applied to pay any fine and costs imposed on the defendant. The bill also requires that a person who deposits cash for an appearance bond must be notified that, if the defendant does not comply with the bond conditions or is convicted, the money will be applied to the payment of any recompense, restitution, fines, and costs that are ordered in the case in which the cash deposit was made.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 895.80 (4) of the statutes is amended to read:

895.80 **(4)** Any recovery under this section shall be reduced by the amount recovered as restitution under ss. 800.093 and 973.20 and ch. 938 <u>for the same act or as recompense under s. 939.13 (5) (a) for the same act</u>.

SECTION 2. 943.245 (3m) of the statutes is amended to read:

943.245 **(3m)** Any recovery under this section shall be reduced by the amount recovered as restitution for the same act under ss. 800.093 and 973.20 <u>or as recompense under s. 969.13 (5) (a) for the same act</u>.

SECTION 3. 943.51 (3r) of the statutes is amended to read:

943.51 **(3r)** Any recovery under this section shall be reduced by the amount recovered as restitution for the same act under ss. 800.093 and 973.20 <u>or as recompense under s. 969.13 (5) (a) for the same act</u>.

SECTION 4. 949.15 (1) of the statutes is amended to read:

949.15 **(1)** Whenever the department orders the payment of an award under this chapter as a result of the occurrence of an event that creates a cause of action

~~on the part of a claimant against any person, the department is subrogated to the rights of the claimant and may bring an action against the person for the amount of the damages sustained by the claimant. If an amount greater than that paid under the award order is recovered and collected in any such action, the department shall pay the balance to the claimant. If the person responsible for the injury or death has previously made restitution payments to the general fund under s. 973.20 or paid recompense under s. 969.13 (5) (a), any judgment obtained by the department under this section shall be reduced by the amount of the restitution payments to the general fund.~~

SECTION 5. 950.04 (1v) (qm) of the statutes is created to read:

950.04 **(1v)** (qm) To recompense as provided under s. 969.13 (5) (a).

SECTION 6. 969.02 (2) of the statutes is amended to read:

969.02 **(2)** In lieu of release pursuant to sub. (1), the judge may require the execution of an appearance bond with sufficient solvent sureties, or the deposit of cash in lieu ~~thereof~~ of sureties. If the judge requires a deposit of cash in lieu of sureties, the person making the cash deposit shall be given written notice of the requirements of sub. (6).

SECTION 7. 969.02 (6) of the statutes is amended to read:

969.02 **(6)** When a judgment ~~for a fine or costs or both~~ of conviction is entered in a prosecution in which a deposit had been made in accordance with sub. (2), the balance of such deposit, after deduction of the bond costs, shall be applied first to the payment of any restitution ordered under s. 973.20 and then, if ordered restitution is satisfied in full, to the payment of the judgment.

SECTION 8. 969.03 (1) (d) of the statutes is amended to read:

969.03 **(1)** (d) Require the execution of an appearance bond with sufficient solvent sureties, or the deposit of cash in lieu of sureties. If the judge requires a deposit of cash in lieu of sureties, the person making the cash deposit shall be given written notice of the requirements of sub. (4).

SECTION 9. 969.03 (4) of the statutes is amended to read:

969.03 **(4)** If a judgment ~~for a fine or costs or both~~ of conviction is entered in a prosecution in which a deposit had been made in accordance with sub. (1) (d), the balance of the deposit, after deduction of the bond costs, shall be applied first to the payment of any restitution ordered under s. 973.20 and then, if ordered restitution is satisfied in full, to the payment of the judgment.

SECTION 10. 969.13 (5) of the statutes is renumbered 969.13 (5) (a) and amended to read:

969.13 **(5)** (a) A cash deposit made with the clerk pursuant to this chapter shall be applied first to the payment of any recompense determined under par. (b) and then, if the recompense is paid in full, to the payment of costs. If any amount of such deposit remains after the payment of costs, it shall be applied to payment of the judgment of forfeiture. The person making the cash deposit shall be given written notice of the requirements of this paragraph.

SECTION 11. 969.13 (5) (b) of the statutes is created to read:

969.13 **(5)** (b) The court shall determine a recompense amount for any victim, or if the victim is deceased, for his or her estate, of the crime for which the bond was entered into unless the court finds substantial reason not to do so and states the reason on the record. The court shall determine the recompense amount in the same manner as the court would have determined the restitution amount under s. 973.20 (2), (3), (4), (4m), (5), and (7) had the person been convicted.

1 **SECTION 12.** 973.20 (9m) of the statutes is created to read:

2 973.20 **(9m)** When restitution is ordered, the court shall inquire to see if
3 recompense has been made under s. 969.13 (5) (a). If recompense has been made and
4 the restitution ordered is less than or equal to the recompense, the restitution shall
5 be paid only to the general fund. If recompense has been made and the restitution
6 ordered is greater than the recompense, the general fund shall receive an amount
7 equal to the recompense and the balance shall be paid to the victim. This subsection
8 applies without regard to whether the person who paid the recompense is the person
9 who is convicted of the crime.

10 **SECTION 13. Initial applicability.**

11 (1) This act first applies to cash deposits made on the effective date of this
12 subsection.

13 **(END)**

ASSEMBLY AMENDMENT 1,

TO 2005 ASSEMBLY BILL 969

February 13, 2006 – Offered by Representative SUDER.

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

2 **1.** Page 2, line 13: delete lines 13 to 15.

3 **2.** Page 3, line 1: delete lines 1 to 9.

4 **(END)**