



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1932/P3
EKL:wlj&kjf

DOA:.....Gilchrist, BB0317 - Technical changes to improve clarity and scope of TRIP and debt collection statutes

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

GENERAL TAXATION

1. Modifications to state debt collection programs

This bill modifies the programs under which DOR is authorized to collect debt owed to state agencies, municipalities, and counties by offsetting tax refunds and other state payments due the debtor. The bill consolidates provisions under which a state agency, municipality, or county refers a debt to DOR for collection and includes the State of Wisconsin in the definition of "state agency" for purposes of the debt collection programs. Under the bill, any legal action contesting the validity of a debt must be brought against the unit of government that referred the debt. The bill repeals the requirement that DOR provide quarterly status updates to a state agency, municipality, or county regarding the debt collection. Under the bill, DOR may provide, upon request, information to a state agency, municipality, or county about each debt's status and may provide weekly reports of the amounts collected and payments disbursed. The bill replaces the current requirement that DOR charge debtors for administration expenses with a requirement that debtors pay a collection fee, and repeals the requirement that DOR annually review its prior year's administrative costs and adjust the charges accordingly.

For further information see the **state** 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. 59.40 (4) of the statutes is amended to read:

59.40 (4) CLERK OF CIRCUIT COURT; DEBT COLLECTOR CONTRACT. If authorized by the board under s. 59.52 (28), the clerk of circuit court may contract with a debt collector, as defined in s. 427.103 (3), or enter into an agreement with the department of revenue under s. 71.93 (8) for the collection of debt. Any contract entered into with a debt collector shall provide that the debt collector shall be paid from the proceeds recovered by the debt collector. Any contract entered into with the department shall provide that the department shall charge a collection fee, as provided under s. 71.93 (8) ~~(b) 1.~~ (am). The net proceeds received by the clerk of circuit court after the payment to the debt collector shall be considered the amount of debt collected for purposes of distribution to the state and county under sub. (2) (m).

SECTION 2. 71.93 (title) of the statutes is amended to read:

71.93 (title) Setoffs for other state agencies and debt collection for state agencies, municipalities, and counties.

SECTION 3. 71.93 (1) (a) 3. of the statutes is repealed.

SECTION 4. 71.93 (1) (a) 4. of the statutes is repealed.

SECTION 5. 71.93 (1) (a) 5. of the statutes is repealed.

SECTION 6. 71.93 (1) (a) 6. of the statutes is repealed.

SECTION 7. 71.93 (1) (a) 7m. of the statutes is repealed.

SECTION 8. 71.93 (1) (a) 8. of the statutes is repealed.

SECTION 9. 71.93 (1) (a) 9. of the statutes is created to read:

71.93 (1) (a) 9. A delinquent child support or spousal support obligation that is certified under s. 49.855 and is owed to, or may be recovered by the department of children and families on behalf of, a custodial parent, former spouse, or other person.

SECTION 10. 71.93 (1) (a) 10. of the statutes is created to read:

71.93 (1) (a) 10. Restitution owed pursuant to an order or judgment under s. 973.09 (3) (b) or 973.20 (1r) that may be owed to, paid to, or recovered by the victim, the department of corrections, a court, or a clerk of court.

SECTION 11. 71.93 (1) (b) of the statutes is amended to read:

71.93 (1) (b) “Debtor” means any person owing a debt to a state agency and any person who owes a delinquent child support or spousal support obligation to an agency of another state.

SECTION 12. 71.93 (1) (e) of the statutes is renumbered 71.93 (1) (e) (intro.) and amended to read:

71.93 (1) (e) (intro.) “State agency” has the meaning set forth under s. 20.001 (1). means any of the following:

SECTION 13. 71.93 (1) (e) 1. of the statutes is created to read:

71.93 (1) (e) 1. An office, department, or independent agency in the executive branch of the Wisconsin state government, the legislature, or the courts.

SECTION 14. 71.93 (1) (e) 2. of the statutes is created to read:

71.93 (1) (e) 2. The State of Wisconsin.

SECTION 15. 71.93 (2) (title) of the statutes is amended to read:

71.93 (2) (title) CERTIFICATION OF STATE AGENCY DEBTS.

SECTION 16. 71.93 (2) of the statutes is renumbered 71.93 (2) (a) and amended to read:

71.93 (2) (a) A state agency may certify to the department any properly identified debt exceeding \$20 so that the department may set off the amount of the debt against a refund to the debtor or so that the department of administration may reduce a disbursement to the debtor by the amount of the debt. At least 30 days prior to certification each debtor shall be sent a notice by the state agency of its intent to certify the debt to the department for setoff or reduction and of the debtor's right of appeal. At the time of certification, the certifying state agency shall furnish the social security number or operator's license number of individual debtors and the federal employer identification number of other debtors.

SECTION 17. 71.93 (2) (b) of the statutes is created to read:

71.93 (2) (b) A state agency wishing to certify a debt to the department shall enter into a written agreement with the department prior to any certification under par. (a). A certification of debt by a state agency, or changes to a certification, shall be in a manner and form prescribed by the department. The secretary of revenue shall be the final authority in the resolution of an interagency dispute regarding the certification of a debt. If a refund or disbursement is adjusted after a setoff or reduction, the department may readjust any erroneous settlement with the certifying state agency.

SECTION 18. 71.93 (3) (title) of the statutes is repealed and recreated to read:

71.93 (3) (title) SETOFF.

SECTION 19. 71.93 (3) (a) (intro.) of the statutes is amended to read:

71.93 (3) (a) (intro.) The department of revenue shall setoff set off any debt or other amount owed to the department, regardless of the origin of the debt or of the amount, its nature or its date. ~~The department's setoff shall include the use of unclaimed property owed to the debtor under s. 177.24, against a refund owed to the~~

debtor. If after the setoff there remains a refund in excess of \$10, the department shall set off the remaining refund against certified debts of other entities in the following order:

****NOTE: This is reconciled s. 71.93 (3) (a) (intro.). This SECTION has been affected by drafts with the following LRB numbers: -1932/P2 and -1933/P2.

SECTION 20. 71.93 (3) (a) 1. of the statutes is amended to read:

71.93 (3) (a) 1. Debt under s. 49.855 (1), certified by the department of children and families under sub. (2) (a).

SECTION 21. 71.93 (3) (a) 1m. of the statutes is amended to read:

71.93 (3) (a) 1m. ~~Debt certified~~ Restitution under s. ~~973.20 (10) (b)~~ sub. (1) (a)
10. that is certified by the department of corrections, a court, or a clerk of court.

SECTION 22. 71.93 (3) (a) 3. of the statutes is amended to read:

71.93 (3) (a) 3. Debt under s. 71.935 owed to ~~local units of government a~~
municipality or county and collected pursuant to an agreement under sub. (8).

SECTION 23. 71.93 (3) (a) 4. of the statutes is amended to read:

71.93 (3) (a) 4. Debt certified under sub. (2) (a), other than child support debt certified by the department of children and families.

SECTION 24. 71.93 (3) (a) 7. of the statutes is amended to read:

71.93 (3) (a) 7. Federal tax obligations collected pursuant to an agreement under s. 73.03 (52) (a) or (b).

SECTION 25. 71.93 (3) (b) of the statutes is amended to read:

71.93 (3) (b) The department shall provide the information obtained under sub. (2) (a) to the department of administration. Before reducing any disbursement as provided under this paragraph, the department of administration shall contact the department to verify whether a certified debt that is the basis of the reduction has

been collected by other means. If the certified debt remains uncollected, the department of administration shall reduce the disbursement by the amount of the debtor's certified debt under sub. (2) (a), notify the department of such reduction and disbursement, and remit the amount of the reduction to the department in the manner prescribed by the department. If more than one certified debt exists for any debtor, the disbursement shall be reduced first by any debts certified under s. 73.12 then by the earliest debt certified. Any legal action contesting a reduction under this paragraph shall be brought against the state agency that certified the debt under sub. (2) (a).

SECTION 26. 71.93 (3) (d) of the statutes is created to read:

71.93 (3) (d) The department may provide, upon request by a state agency, a report that details each active debt subject to this section of the state agency, including the ending balance. The department may provide a weekly report to a state agency of amounts collected and payments through electronic funds transfer or state account system general ledger transfer.

SECTION 27. 71.93 (4) of the statutes is repealed.

SECTION 28. 71.93 (5) of the statutes is renumbered 71.93 (3) (e) and amended to read:

71.93 (3) (e) ~~Debtor charged for costs.~~ Each debtor shall be charged for ~~administration expenses~~ a collection fee, and the amounts charged shall be credited to the department's appropriation under s. 20.566 (1) (h). The department may set off amounts charged to the debtor under this subsection against any refund owed to the debtor, in the manner provided in sub. (3). ~~Annually on or before November 1, the department shall review its costs incurred during the previous fiscal year in~~

~~administering state agency setoffs and reductions and shall adjust its subsequent charges to each debtor to reflect that experience.~~

SECTION 29. 71.93 (6) of the statutes is repealed.

SECTION 30. 71.93 (7) (title) of the statutes is repealed.

SECTION 31. 71.93 (7) of the statutes is renumbered 71.93 (3) (f).

SECTION 32. 71.93 (8) (title) of the statutes is amended to read:

71.93 (8) (title) ~~STATE AGENCY DEBT~~ DEBT COLLECTION AGREEMENTS.

SECTION 33. 71.93 (8) (a) of the statutes is repealed.

SECTION 34. 71.93 (8) (b) 1. of the statutes is renumbered 71.93 (8) (am) and amended to read:

71.93 (8) (am) Except for debts under sub. (1) (a) 2. and 9. and except as provided in subd. 2. par. (bm), a state agency and the department of revenue shall enter into a written agreement to have the department collect any amount owed to the state agency a debt that is more than 90 days past due, unless negotiations between the agency and debtor are actively ongoing, the debt is the subject of legal action or administrative proceedings, or the agency determines that the debtor is adhering to an acceptable payment arrangement. At least 30 days before the department pursues the collection of any debt referred by a state agency, either the department or the agency shall provide the debtor with a written notice that the debt will be referred to the department for collection. Any legal action contesting the validity of a debt shall be brought against the state agency that referred the debt. The department may collect amounts owed, pursuant to the written agreement, from the debtor in addition to offsetting the amounts as provided under sub. (3). The department shall charge each debtor whose debt is subject to collection under this

paragraph a collection fee and that amount shall be credited to the appropriation under s. 20.566 (1) (h).

SECTION 35. 71.93 (8) (b) 2. of the statutes is renumbered 71.93 (8) (bm) and amended to read:

71.93 (8) (bm) The department may enter into agreements described under subd. 1. par. (am) with the courts, the legislature, authorities, as defined in s. 16.41 (4), and local units of government, to collect debt under s. 71.935, municipalities and counties. Any legal action contesting the validity of a debt shall be brought against the unit of government that referred the debt to the department.

SECTION 36. 71.93 (8) (b) 3. of the statutes is repealed.

SECTION 37. 71.93 (8) (b) 4. of the statutes is renumbered 71.93 (8) (c).

SECTION 38. 71.93 (8) (b) 5. of the statutes is renumbered 71.93 (8) (d).

SECTION 39. 71.93 (8) (b) 6. of the statutes is renumbered 71.93 (8) (e).

SECTION 40. 71.935 (1) (a) of the statutes is amended to read:

71.935 (1) (a) "Debt" means a parking citation of at least \$20 that is unpaid and for which there has been no court appearance by the date specified in the citation or, if no date is specified, that is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least \$20; delinquent general property taxes, as defined in s. 74.01 (1), or a delinquent special assessment, as defined in s. 74.01 (3), special charge, as defined in s. 74.01 (4), or special tax, as defined in s. 74.01 (5), and any interest or penalty charged due to the delinquency; and any other debt that is at least \$20, including debt related to property taxes, if the debt has been reduced to a judgment or the municipality or county to which the debt is owed has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt. For purposes of this subsection, a debt owed to an ambulance service provider operating

pursuant to a contract with a municipality or county under s. 59.54 (1), 60.565, 61.64, or 62.133, is considered a debt owed to the municipality or county, if the debt relates to providing ambulance services to individuals in that municipality or county as a result of responding to requests that originate from a government-operated 911 call center.

SECTION 41. 71.935 (1) (am) of the statutes is repealed.

SECTION 42. 71.935 (1) (ar) of the statutes is repealed.

SECTION 43. 71.935 (1) (b) of the statutes is amended to read:

71.935 (1) (b) “Debtor” means a person who owes a debt ~~related to victim restitution or who owes a debt~~ to a municipality or county.

SECTION 44. 71.935 (4) (a) of the statutes is repealed and recreated to read:

71.935 (4) (a) The department may provide, upon request by a municipality or county, a report that details each active debt subject to this section of the municipality or county, including the ending balance. The department may provide a weekly report to a municipality or county of amounts collected and payments disbursed through electronic funds transfer or state account system general ledger transfer.

SECTION 45. 71.935 (5) of the statutes is amended to read:

71.935 (5) Each debtor shall be charged ~~for administration expenses a~~ collection fee, and the amounts charged shall be credited to the appropriation account under s. 20.566 (1) (h). The department may set off amounts charged to the debtor under this subsection against any refund owed to the debtor, in the manner provided in sub. (3). ~~Annually on or before November 1, the department shall review its costs incurred during the previous fiscal year in administering setoffs and~~

~~reductions under this section and shall adjust its subsequent charges to each debtor to reflect that experience.~~

SECTION 46. 73.03 (67) of the statutes is amended to read:

73.03 **(67)** To submit a request for a supplement under s. 16.515 for administering the debt collection program under s. 71.93 (8) ~~(b)~~ that includes a detailed plan for implementing the program, a listing of agencies and other entities that would participate in the program, an estimate of the amount of debt collections under the program, and the fees that the debtors would pay under the program.

SECTION 47. 77.59 (5) of the statutes is amended to read:

77.59 **(5)** The department may offset the amount of any refund for a period, together with interest on the refund, against deficiencies for another period, and against penalties and interest on the deficiencies, or against any amount of whatever kind, due and owing on the books of the department from the person who is entitled to the refund. If the refund is to be paid to a buyer, the department may also set off amounts in the manner in which it sets off income tax and franchise tax refunds under s. 71.93 and may set off amounts for child support or maintenance or both in the manner in which it sets off income taxes under ss. 49.855 and 71.93 (3), ~~(6)~~ and ~~(7)~~. No person has any right to, or interest in, any refund under this chapter until setoff under ss. 49.855, 71.93, and 71.935 has been completed.

SECTION 48. 806.11 (1) (intro.) of the statutes is amended to read:

806.11 **(1)** (intro.) At the time of filing the warrant provided by s. 71.74 (14), 71.91 (5), or 71.93 (8) ~~(b) 5-~~ (d), the clerk of circuit court shall enter the warrant in the judgment and lien docket, including:

SECTION 49. 806.11 (2) of the statutes is amended to read:

806.11 (2) If a warrant provided by s. 71.74 (14), 71.91 (5), or 71.93 (8) ~~(b) 5.~~ (d) is against several persons, the warrant shall be entered, in accordance with the procedure under sub. (1), in the judgment and lien docket under the name of each person against whom the warrant was issued.

SECTION 50. 806.115 of the statutes is amended to read:

806.115 Filing of duplicate copy of warrant. The department of revenue may file in any county a duplicate copy of a warrant filed under s. 71.74 (14), 71.91 (5), or 71.93 (8) ~~(b) 5.~~ (d) and the clerk of circuit court shall enter the duplicate copy on the judgment and lien docket as provided in s. 806.11. When so entered, the duplicate copy shall have the same legal effect as the warrant filed under s. 71.91 (5).

SECTION 51. 973.20 (1r) of the statutes is amended to read:

973.20 (1r) When imposing sentence or ordering probation for any crime, other than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1) (am) or 968.075 (1) (a), for which the defendant was convicted, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime considered at sentencing or, if the victim is deceased, to his or her estate, unless the court finds substantial reason not to do so and states the reason on the record. When imposing sentence or ordering probation for a crime involving conduct that constitutes domestic abuse under s. 813.12 (1) (am) or 968.075 (1) (a) for which the defendant was convicted or that was considered at sentencing, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime or, if the victim is deceased, to his or her estate, unless the court finds that imposing full or partial restitution will create an undue hardship on the defendant or victim and describes the undue

hardship on the record. Restitution ordered under this section is a condition of probation, extended supervision, or parole served by the defendant for a crime for which the defendant was convicted. After the termination of probation, extended supervision, or parole, or if the defendant is not placed on probation, extended supervision, or parole, restitution ordered under this section is enforceable in the same manner as a judgment in a civil action by the victim named in the order to receive restitution or enforced under ch. 785, and the department or clerk of court may certify the restitution to the department of revenue in accordance with s. 71.93.

(END)