



2011 ASSEMBLY BILL 385

November 18, 2011 – Introduced by Representatives JACQUE, ENDSLEY, MURSAU, A. OTT, SPANBAUER and TRANEL, cosponsored by Senator COWLES. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to create** 753.40, 755.20, 757.17, 814.75 (4), 814.76 (3), 814.77 (3), 814.78
2 (4), 814.79 (3), 814.80 (4), 814.81 (4), 973.06 (1) (f) and 973.09 (1x) of the
3 statutes; **relating to:** making a contribution to a crime prevention
4 organization as a surcharge or as an allowable cost in a criminal case, as a
5 condition of probation, or as a surcharge in a forfeiture case.

Analysis by the Legislative Reference Bureau

This bill allows a circuit court or a municipal court to order a person who violates an ordinance that is the same as or similar to a criminal statute to make a contribution surcharge to certain qualifying organizations (crime prevention organizations). The bill also allows a circuit court in a criminal action to require a person who is found guilty of a crime to make a contribution surcharge in lieu of or in addition to a fine or certain court costs or, if the court places the person on probation, as a condition of probation.

Under the bill, a court that requires a contribution surcharge must determine that the person has the financial ability to make the contribution and, in a forfeiture case, the amount of the surcharge may not exceed the maximum amount of the forfeiture for the violation. In a criminal case, the court must also determine that the contribution is appropriate under the facts of the case.

Under the bill, if a court imposes a contribution surcharge but does not require the person to pay a forfeiture, fine, or court costs, the court shall state on the record the reasons why it is not requiring the person to pay the forfeiture, fine, or court costs.

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Under the bill, a crime prevention organization may be a private, nonprofit organization that has as its primary purpose preventing crime, encouraging the public to report crime, or assisting law enforcement agencies in the apprehension of criminal offenders or a law enforcement agency that has a crime prevention fund, if the contribution is credited to the crime prevention fund and is used for crime prevention purposes. The bill requires any crime prevention organization that receives a contribution surcharge to submit a report annually to the clerk of the court that ordered the contribution. The report must list the names of the officers of the organization, the amount of contributions the organization received and the names of the contributors, how the contributions were spent, and the balance, if any, remaining at the time the report is 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:

1 **SECTION 1.** 753.40 of the statutes is created to read:

2 **753.40 Contributions to certain organizations and agencies.** (1) If a
3 circuit court finds in a forfeiture action that a person violated an ordinance that
4 prohibits conduct that is the same as or similar to conduct prohibited by state statute
5 punishable by fine or imprisonment, the circuit court may require, under ch. 814, the
6 person to make a contribution surcharge not to exceed the maximum amount of the
7 forfeiture that may be levied to an organization or agency specified in s. 973.06 (1)
8 (f) 1. if the court determines that the violator has the financial ability to make the
9 contribution.

10 (2) If the court does require a person to make a contribution surcharge to an
11 organization or agency specified in s. 973.06 (1) (f) 1. but does not require the person
12 to pay a forfeiture or court costs, the court shall state on the record the reasons why
13 it is not requiring the person to pay the forfeiture or court costs. All contribution
14 surcharges made under this section shall be made to the clerk of circuit court for
15 distribution to the organization or agency specified in s. 973.06 (1) (f) 1. The circuit

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1 court may not require a person to make a contribution surcharge under this section
2 to an organization or agency specified in s. 973.06 (1) (f) 1. that has not complied with
3 the provisions of s. 757.17.

4 **SECTION 2.** 755.20 of the statutes is created to read:

5 **755.20 Contributions to certain organizations and agencies.** (1) If a
6 municipal court finds in a forfeiture action that a person violated an ordinance that
7 prohibits conduct that is the same as or similar to conduct prohibited by state statute
8 punishable by fine or imprisonment, the municipal court may require the person to
9 make a contribution not to exceed the maximum amount of the forfeiture that may
10 be levied to an organization or agency specified in s. 973.06 (1) (f) 1. if the court
11 determines that the violator has the financial ability to make the contribution.

12 (2) If the court does require a person to make a contribution to an organization
13 or agency specified in s. 973.06 (1) (f) 1. but does not require the person to pay a
14 forfeiture or court costs, the court shall state on the record the reasons why it is not
15 requiring the person to pay the forfeiture or court costs. All contributions made
16 under this section shall be made to the municipal court for distribution to the
17 organization or agency specified in s. 973.06 (1) (f) 1. The municipal court may not
18 require a person to make a contribution under this section to an organization or
19 agency specified in s. 973.06 (1) (f) 1. that has not complied with the provisions of s.
20 757.17.

21 **SECTION 3.** 757.17 of the statutes is created to read:

22 **757.17 Reporting by certain organizations and agencies.** Every
23 organization or agency specified in s. 973.06 (1) (f) 1. that receives a contribution
24 under s. 753.40, 755.20, 973.06 (1) (f), or 973.09 (1x) shall submit a report annually
25 by February 1 to the clerk of the court that ordered the contribution. The report shall

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1 be on a form designed and provided by the director of state courts and shall include
2 all of the following information for the calendar year preceding the submittal of the
3 report:

4 (1) The amount of contributions received.

5 (2) The names of the persons who made the contributions.

6 (3) The expenditures made with the contributions.

7 (4) The balance of the contributions remaining.

8 (5) The name of the organization or agency that received the contribution and
9 the names of the officers of the organization or agency.

10 **SECTION 4.** 814.75 (4) of the statutes is created to read:

11 814.75 (4) The crime prevention organization contribution surcharge under s.
12 753.40, 973.06 (1) (f), or 973.09 (1x).

13 **SECTION 5.** 814.76 (3) of the statutes is created to read:

14 814.76 (3) The crime prevention organization contribution surcharge under s.
15 753.40, 973.06 (1) (f), or 973.09 (1x).

16 **SECTION 6.** 814.77 (3) of the statutes is created to read:

17 814.77 (3) The crime prevention organization contribution surcharge under s.
18 753.40, 973.06 (1) (f), or 973.09 (1x).

19 **SECTION 7.** 814.78 (4) of the statutes is created to read:

20 814.78 (4) The crime prevention organization contribution surcharge under s.
21 753.40, 973.06 (1) (f), or 973.09 (1x).

22 **SECTION 8.** 814.79 (3) of the statutes is created to read:

23 814.79 (3) The crime prevention organization contribution surcharge under s.
24 753.40, 973.06 (1) (f), or 973.09 (1x).

25 **SECTION 9.** 814.80 (4) of the statutes is created to read:

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1 814.80 (4) The crime prevention organization contribution surcharge under s.
2 753.40, 973.06 (1) (f), or 973.09 (1x).

3 **SECTION 10.** 814.81 (4) of the statutes is created to read:

4 814.81 (4) The crime prevention organization contribution surcharge under s.
5 753.40, 973.06 (1) (f), or 973.09 (1x).

6 **SECTION 11.** 973.06 (1) (f) of the statutes is created to read:

7 973.06 (1) (f) 1. An amount determined by the court to make a reasonable
8 contribution surcharge to any of the following, if the court determines that the person
9 has the financial ability to make the contribution surcharge and the contribution
10 surcharge is appropriate:

11 a. A private nonprofit organization that has as its primary purpose preventing
12 crime, encouraging the public to report crime, or assisting law enforcement agencies
13 in the apprehension of criminal offenders.

14 b. A law enforcement agency that has a crime prevention fund, if the
15 contribution is credited to the crime prevention fund and is used for crime prevention
16 purposes.

17 2. If the court does require a person to make a contribution surcharge to an
18 organization or agency specified in subd. 1. but does not require the person to pay any
19 fine that may be imposed for the offense or court costs, the court shall state on the
20 record the reasons why it is not requiring the person to pay the fine or court costs.
21 All contribution surcharges made under this paragraph shall be made to the clerk
22 of circuit court for distribution to the organization or agency specified in subd. 1. The
23 court may not order a person to make a contribution surcharge under this paragraph
24 to a crime prevention organization that has not complied with the provisions of s.
25 757.17.

