



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4046/1
MLJ:ahc

2017 ASSEMBLY BILL 928

February 9, 2018 - Introduced by Representatives JACQUE and HORLACHER.
Referred to Committee on Corrections.

1 **AN ACT** *to amend* 304.074 (3m), 893.40, 973.20 (1r) and 973.20 (10) (b) (intro.);
2 and *to create* 71.935 (3) (c) and 758.20 of the statutes; **relating to:** the
3 collection of victim restitution.

Analysis by the Legislative Reference Bureau

This bill prohibits the Department of Corrections from collecting supervision fees from an individual who is or was previously on probation, parole, or supervised release until all restitution owed by that individual has been paid. Under current law, DOC may not collect supervision fees from an individual who owes restitution debt while that person is on probation, parole, or supervised release, but current law is silent as to whether supervision fees may be collected once that individual is no longer on probation, parole, or supervised release if a civil judgment has been entered for that individual's restitution debt.

This bill also directs the director of state courts to ensure that the court system website organizes restitution by the individual who owes restitution, not by the case in which restitution is owed, and to apportion all payments made by an individual across all victims to whom he or she owes restitution. Currently, the court system website organizes debt by the case in which restitution debt is owed, which allows an individual making a payment through the website to select which case to pay restitution towards.

This bill changes the statute of limitations for a civil action to enforce a restitution order so that such an action may be filed at any time. Under current law, a civil action to enforce a restitution order must be filed within 20 years.

ASSEMBLY BILL 928

The bill requires that DOC or clerks of courts certify outstanding restitution debt to the Department of Revenue unless the victim requests that the debt not be certified. Under current law, clerks of courts may certify restitution debt but are not required to do so. This bill also requires DOR to begin collection efforts at the time of certification. Under current law, there is no required time frame in which DOR must begin collection efforts. The bill also requires DOR to apply collected amounts to outstanding child support and restitution debt before any other debt.

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

1 **SECTION 1.** 71.935 (3) (c) of the statutes is created to read:

2 71.935 (3) (c) If a debtor owes a debt related to victim restitution and other debt
3 certified under sub. (2), the department shall apply amounts collected under this
4 section to debt under s. 49.855 (1) and then to the debt related to victim restitution
5 before any other debt certified under sub. (2).

6 **SECTION 2.** 304.074 (3m) of the statutes is amended to read:

7 304.074 (3m) The department may not collect a fee charged under this section
8 until all restitution payments debt in any form due pursuant to any court order under
9 ~~s. 973.20~~ from the probationer, parolee, or person on extended supervision ~~have~~ has
10 been paid.

11 **SECTION 3.** 758.20 of the statutes is created to read:

12 **758.20 Consolidated court automation programs. (1)** In this section,
13 “Wisconsin Circuit Court Access Internet site” means the Internet site of the
14 consolidated court automation programs, which is the statewide electronic circuit
15 court case management system established under s. 758.19 (4) and maintained by
16 the director of state courts.

17 **(2)** The director of state courts shall ensure the Wisconsin Circuit Court Access
18 Internet site organizes restitution owed under s. 973.20 by the individual who owes

ASSEMBLY BILL 928

1 restitution, and not by the case in which restitution is owed. The director of state
2 courts shall ensure that the Wisconsin Circuit Court Access Internet site allocates
3 any payment made through the Internet site first to restitution owed by the
4 individual and allocates any payment proportionately to all victims to whom the
5 individual owes restitution.

6 **SECTION 4.** 893.40 of the statutes is amended to read:

7 **893.40 Action on judgment or decree; court of record.** Except as provided
8 in ss. 846.04 (2) and (3) ~~and, 893.415, and 973.20 (1r)~~, action upon a judgment or
9 decree of a court of record of any state or of the United States shall be commenced
10 within 20 years after the judgment or decree is entered or be barred.

11 **SECTION 5.** 973.20 (1r) of the statutes is amended to read:

12 973.20 (1r) When imposing sentence or ordering probation for any crime, other
13 than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1)
14 (am) or 968.075 (1) (a), for which the defendant was convicted, the court, in addition
15 to any other penalty authorized by law, shall order the defendant to make full or
16 partial restitution under this section to any victim of a crime considered at
17 sentencing or, if the victim is deceased, to his or her estate, unless the court finds
18 substantial reason not to do so and states the reason on the record. When imposing
19 sentence or ordering probation for a crime involving conduct that constitutes
20 domestic abuse under s. 813.12 (1) (am) or 968.075 (1) (a) for which the defendant was
21 convicted or that was considered at sentencing, the court, in addition to any other
22 penalty authorized by law, shall order the defendant to make full or partial
23 restitution under this section to any victim of a crime or, if the victim is deceased, to
24 his or her estate, unless the court finds that imposing full or partial restitution will
25 create an undue hardship on the defendant or victim and describes the undue

ASSEMBLY BILL 928**SECTION 5**

1 hardship on the record. Restitution ordered under this section is a condition of
2 probation, extended supervision, or parole served by the defendant for a crime for
3 which the defendant was convicted. After the termination of probation, extended
4 supervision, or parole, or if the defendant is not placed on probation, extended
5 supervision, or parole, restitution ordered under this section is enforceable in the
6 same manner as a judgment in a civil action by the victim named in the order to
7 receive restitution, except that an enforcement action may be commenced at any
8 time, or restitution may be enforced under ch. 785.

9 **SECTION 6.** 973.20 (10) (b) (intro.) of the statutes is amended to read:

10 973.20 (10) (b) (intro.) The department or the clerk of court ~~may~~ shall certify
11 an amount owed under par. (a) to the department of revenue unless the victim
12 requests that the debt not be certified, and the department of revenue shall begin
13 collection efforts if any of the following apply:

14 **SECTION 7. Initial applicability.**

15 (1) The treatment of section 758.20 (2) of the statutes first applies to restitution
16 entered before the effective date of this subsection if information regarding the
17 restitution is available on the Wisconsin Circuit Court Access Internet site, as
18 defined in section 758.20 (1) of the statutes, on the effective date of this subsection.

19 (2) Notwithstanding section 990.06 of the statutes, the treatment of section
20 893.40 of the statutes first applies to an act for which the time limit under section
21 893.40 of the statutes for commencement of the action has not expired as of the
22 effective date of this subsection.

23 (END)