



2019 SENATE BILL 233

May 23, 2019 - Introduced by Senators BERNIER, COWLES, CRAIG, MARKLEIN, NASS, SMITH, STROEBEL, WANGGAARD and KAPENGA, cosponsored by Representatives PETRYK, PRONSCHINSKE, EDMING, FELZKOWSKI, GUNDRUM, HORLACHER, JAMES, KNODL, KRUG, KULP, KURTZ, QUINN, RAMTHUN, RODRIGUEZ, SKOWRONSKI, SORTWELL, SUMMERFIELD, C. TAYLOR, THIESFELDT and TUSLER. Referred to Committee on Government Operations, Technology and Consumer Protection.

- 1 **AN ACT to renumber and amend** 973.20 (2); and **to create** 40.08 (1t) and 973.20
2 (2) (bm) of the statutes; **relating to:** withholding from a Wisconsin Retirement
3 System lump sum payment or annuity to satisfy an order of restitution.

Analysis by the Legislative Reference Bureau

This bill authorizes the Department of Employee Trust Funds to withhold money from a participant's Wisconsin Retirement System annuity or lump sum payment if DETF is ordered to do so by a court in a restitution order. Similarly, the bill authorizes DETF to deliver any money withheld from an annuity or lump sum payment under a restitution order as directed by the court in the order. Under the bill, a court may issue a restitution order that requires DETF to withhold from a WRS annuity or lump sum payment only if 1) the crime for which the restitution is ordered is both theft and misconduct in public office; 2) the crime resulted in a loss to the defendant's employer and the defendant's employer participates in the WRS; and 3) the crime is a felony.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

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

SENATE BILL 233**SECTION 1**

1 **SECTION 1.** 40.08 (1t) of the statutes is created to read:

2 40.08 **(1t)** PAYMENT OF RESTITUTION FOR CERTAIN MISCONDUCT. Notwithstanding
3 sub. (1), the department may withhold amounts from any lump sum payment or
4 annuity paid under s. 40.23, 40.24, 40.25 (1) or (2), or 40.63, as required by a
5 restitution order under s. 973.20 (2). Notwithstanding s. 40.01 (2), the department
6 shall deliver any amount withheld under this subsection in accordance with the
7 restitution order issued under s. 973.20 (2). The board and any member or agent
8 thereof and the department and any employee or agent thereof are immune from civil
9 liability for any act or omission while performing official duties relating to
10 withholding any payment under this subsection.

11 **SECTION 2.** 973.20 (2) of the statutes is renumbered 973.20 (2) (am), and 973.20
12 (2) (am) 2. (intro.), as renumbered, is amended to read:

13 973.20 **(2)** (am) 2. (intro.) If return of the property under ~~par. (a)~~ subd. 1. is
14 impossible, impractical or inadequate, pay the owner or owner's designee the
15 reasonable repair or replacement cost or the greater of:

16 **SECTION 3.** 973.20 (2) (bm) of the statutes is created to read:

17 973.20 **(2)** (bm) The restitution order may require the department of employee
18 trust funds to withhold the amount determined under par. (am) from any payment
19 of the defendant's annuity or lump sum under s. 40.08 (1t) and to deliver any amount
20 withheld from the defendant's annuity or lump sum in accordance with sub. (11) if
21 the crime considered at sentencing satisfies all of the following:

22 1. The crime was a violation of ss. 943.20 and 946.12.

23 2. The crime resulted in loss of property for the defendant's employer that
24 participates in the Wisconsin Retirement System.

SENATE BILL 233

SECTION 3

1 3. The value of the property described in subd. 2. exceeds \$2,500.

2 (END)