

1979 Assembly Bill 1043

Date published: May 7, 1980

## CHAPTER 219, Laws of 1979

AN ACT to amend 885.05 (1) (b) and (d); and to create 20.455 (5), 59.07 (100), 103.87, 885.05 (1) (bn) and chapter 950 of the statutes, relating to rights of victims and witnesses of crimes, providing rule-making authority, providing a penalty and making an appropriation.

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

SECTION 1. At the appropriate place in the schedule in section 20.005 of the statutes, insert the following amounts for the purposes indicated:

			1979-80	1980-81
<b>20.455</b>	<b>Justice, department of</b>			
(5 )	VICTIM AND WITNESS SERVICES			
(a )	General program operations	GPR A	-0-	53,000
(b )	Reimbursement for victim and witness services	GPR A	-0-	200,000

SECTION 1m. 20.455 (5) of the statutes is created to read:

20.455 (5) VICTIM AND WITNESS SERVICES. (a) *General program operations.* The amounts in the schedule for general program operations under ch. 950.

(b) *Reimbursement for victim and witness services.* The amounts in the schedule to provide reimbursement to counties under s. 950.06 (2).

SECTION 2. 59.07 (100) of the statutes is created to read:

59.07 (100) VICTIMS AND WITNESSES OF CRIMES. Appropriate money for the implementation and operation of a program under s. 950.06.

SECTION 3. 103.87 of the statutes is created to read:

**103.87 Employee not to be disciplined for testifying.** No employer may discharge an employe because the employe is subpoenaed to testify in an action or proceeding pertaining to a crime or pursuant to ch. 48. On or before the first business day after the receipt of a subpoena to testify, the employe shall give the employer notice if he or she will have to be absent from employment because he or she has been subpoenaed to testify in an action or proceeding pertaining to a crime or pursuant to ch. 48. If a person is subpoenaed to testify in an action or proceeding as a result of a crime, as defined in s. 950.02 (1), against the person's employer or an incident involving the person during the course of his or her employment, the employer shall not decrease or withhold the employe's pay for any time lost resulting from compliance with the subpoena. An employer who violates this section may be fined not more than \$200 and may be required to make full restitution to the aggrieved employe, including reinstatement and back pay.

SECTION 3g. 885.05 (1) (b) of the statutes is amended to read:

885.05 (1) (b) For attending before any other court, officer, board or committee, for witnesses \$5 for each day, for interpreters \$10 per half day.

SECTION 3r. 885.05 (1) (bn) of the statutes is created to read:

885.05 (1) (bn) For attending before any other court, for witnesses \$16 for each day, for interpreters \$10 per half day.

SECTION 3u. 885.05 (1) (d) of the statutes, as created by chapter 34, laws of 1979, is amended to read:

885.05 (1) (d) The county board in any county may establish a witness fee higher than the ~~\$5~~ \$16 per day fee under par. ~~(b)~~ (bn) or a traveling expense rate higher than 10 cents per mile under par. (c) or both.

SECTION 4. Chapter 950 of the statutes is created to read:

#### CHAPTER 950

##### RIGHTS OF VICTIMS AND WITNESSES OF CRIME

**950.01 Legislative intent.** In recognition of the civic and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants.

**950.02 Definitions.** In this chapter:

- (1) "Crime" means an act committed in this state which, if committed by a competent adult, would constitute a crime, as defined in s. 939.12.
- (2) "Department" means the department of justice.
- (3) "Family member" means spouse, child, sibling, parent or legal guardian.
- (4) "Victim" means a person against whom a crime has been committed.
- (5) "Witness" means any person who has been or is expected to be summoned to testify for the prosecution, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

**950.03 Eligibility of victims.** A victim has the rights and is eligible for the services under this chapter only if the victim reported the crime to law enforcement authorities within 5 days of its occurrence or discovery, unless he or she had a reasonable excuse not to do so.

**950.04 Basic bill of rights for victims and witnesses.** Victims and witnesses of crimes have the following rights:

(1) To be informed by local law enforcement agencies and the district attorney of the final disposition of the case. If the crime charged is a felony or is specified in ch. 940, the victim shall be notified whenever the defendant or perpetrator is released from custody.

(2) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court.

(3) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available.

(4) To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services.

(5) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled.

(6) To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.

(8) To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

(9) To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.

(10) To have the family members of all homicide victims afforded all of the rights under subs. (1) to (4) and (6) to (9) and analogous services under s. 950.05, whether or not they are witnesses in any criminal proceedings.

**950.05 Services for victims and witnesses.** (1) Counties are encouraged to provide victims and witnesses the following services:

(a) Court appearance notification services, including cancellation of appearances.

(b) Victim compensation and social services referrals, including witness fee collection, case-by-case referrals and public information.

(c) Escort and other transportation services related to the investigation or prosecution of the case, if necessary or advisable.

(d) Case progress notification services which may be combined with services under par. (a).

(e) Employer intercession services.

(f) Expedited return of property services.

(g) Protection services.

(h) Family support services, including child and other dependent care services.

(i) Waiting facilities.

**950.06 Responsibility for rights and services.** (1) In each county, the county board is responsible for the enforcement of rights under s. 950.04 and the provision of services under s. 950.05. A county board may decide to discontinue enforcing the rights under s. 950.04 and the provision of services under s. 950.05 and the only penalty shall be the loss of reimbursement under sub. (2).

(2) The costs of enforcing rights under s. 950.04 and providing services under s. 950.05 shall be paid for by the county, but the county is eligible to receive reimbursement from the state for the costs incurred in providing services under s. 950.05 (1). The department shall determine the level of services for which a county may be reimbursed. The county board shall file a claim for reimbursement with the department. The department shall reimburse the counties from the appropriation under s. 20.455 (5) (b) on a semiannual basis for services provided on or after 6 months after the effective date of this act (1979).

(3) The county board shall provide for the implementation of the county's plan under sub. (4).

(4) The county board shall submit a program plan to the department, if the county seeks reimbursement under sub. (2), for its approval not later than 6 months after the effective date of this act (1979). The program plan shall describe the level of services to victims and witnesses that the county intends to provide; the personnel or agencies responsible for related administrative programs and individual services; proposed staffing for the program; proposed education, training and experience requirements for program staff and the staff of agencies providing related administrative programs and individual services; the county's budget for implementing the program and other information the department determines to be necessary for its review. The plan shall provide that the district attorney, local law enforcement agencies and the courts shall make available to the person or agency responsible for administering the program all reports or files, except reports or files which are required by statute to be kept confidential, if the reports or files are required by the person or agency to carry out program responsibilities. In August of each year, the county board shall submit a report to the department on the operation of the plan, including the enforcement of rights under s. 950.04 and the provision of services under s. 950.05.

(5) The department shall review and approve the implementation and operation of programs and the annual reports under this section. The department may suspend or terminate reimbursement under s. 20.455 (5) (b) if the county fails to comply with its duties under this section. The department shall promulgate rules under ch. 227 for implementing and administering county programs approved under this section.

**950.07 Intergovernmental cooperation.** The county board, district attorney, local law enforcement agencies, local social service agencies and courts shall all cooperate with each other to ensure that victims and witnesses of crimes receive the rights and services to which they are entitled under this chapter.

**SECTION 5. Program responsibilities.** In the list of program responsibilities specified for the department of justice in section 15.251 (intro.) of the statutes, reference to section "950.06 (2) and (5)" is inserted.

**SECTION 6. Effective dates.** (1) Except as provided in subs. (2) and (2m), this act takes effect on the first day of the 6th month commencing after its publication.

(2) The treatment of sections 59.07 (100) and 885.05 (1) (b) and (d) of the statutes and the creation of section 885.05 (1) (bn) of the statutes by this act take effect on the day after its publication.

(2m) The treatment of section 20.455 (5) (a) of the statutes by this act and SECTION 5m of this act take effect on July 1, 1980.

(3) This act expires July 1, 1983, unless extended by action of the state legislature.