

2003 SENATE BILL 457

February 11, 2004 – Introduced by Senators ROBSON, RISSER and M. MEYER, cosponsored by Representatives SCHOOFF, KAUFERT, BOYLE, MILLER, MUSSER, LOTHIAN, BERCEAU, PLOUFF, J. LEHMAN, GUNDRUM, ZIEGELBAUER and MOLEPSKE. Referred to Committee on Judiciary, Corrections and Privacy.

1 **AN ACT** *to amend* 943.245 (3m); and *to create* 971.41 of the statutes; **relating**
2 **to:** deferred prosecution agreements for persons charged with issuing a
3 worthless check or other order for payment and allowing a district attorney to
4 collect money owed to others.

Analysis by the Legislative Reference Bureau

Current law prohibits intentionally issuing a worthless check. As with nearly all other crimes, a case alleging a violation of this prohibition may be resolved through a deferred prosecution agreement between the district attorney and the defendant. Under such an agreement, the district attorney agrees to amend or dismiss a charge if the defendant complies with specified conditions, such as paying restitution to the victim.

This bill makes several changes relating to the use of deferred prosecution agreements in worthless check cases. Under the bill, a deferred prosecution agreement in a worthless check case may require the defendant to pay money owed for the worthless check to the district attorney for remittance to the payee. If it contains such a requirement, the deferred prosecution agreement must also require that the defendant attend a class or counseling regarding financial management and the impact of issuing worthless checks. The bill also allows a district attorney to charge a defendant a fee for entering into such an agreement, which the district attorney may not otherwise do under current law. Finally, the bill permits a district attorney to contract with a nonprofit organization that is licensed as a collection

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agency to collect money under deferred prosecution agreements in worthless check cases and to administer such agreements.

For further information see the *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.** 943.245 (3m) of the statutes is amended to read:

2 943.245 **(3m)** Any recovery under this section shall be reduced by the amount
3 recovered as restitution for the same act under ss. 800.093 and 973.20 and by any
4 amount that a district attorney collects in connection with the act and pays to the
5 plaintiff under a deferred prosecution agreement under s. 971.41.

6 **SECTION 2.** 971.41 of the statutes is created to read:

7 **971.41 Deferred prosecution program; worthless checks. (1)** In this
8 section:

9 (a) “Collection agency” has the meaning given in s. 218.04 (1) (a).

10 (b) “Collector” has the meaning given in s. 218.04 (1) (b).

11 (c) “Solicitor” has the meaning given in s. 218.04 (1) (b).

12 **(2)** A district attorney may require, as a condition of a deferred prosecution
13 agreement with a defendant charged with violating s. 943.24, that the defendant pay
14 money owed for the worthless check or other order issued in violation of s. 943.24 to
15 the district attorney for remittance to the payee of the worthless check or order. If
16 it includes such a requirement, the deferred prosecution agreement shall also
17 require that the defendant attend a class or counseling regarding financial
18 management and the impact of issuing worthless checks. Notwithstanding s. 978.06
19 (1), a district attorney may charge a defendant who is a party to a deferred

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1 prosecution agreement under this section a fee to cover the district attorney's costs
2 under the agreement.

3 **(3)** A district attorney may contract with a nonprofit organization that is
4 licensed as a collection agency to collect money from defendants under deferred
5 prosecution agreements under this section and to administer such agreements.

6 **(4)** Notwithstanding s. 218.04, a district attorney is not required to be licensed
7 as a collection agency, a collector, or a solicitor under s. 218.04 for purposes of
8 collecting money from defendants under this section.

9 **(END)**