

2003 DRAFTING REQUEST

Senate Amendment (SA-AB306)

Received: **03/10/2004**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Judith Robson (608) 266-2253**

By/Representing: **Kathy**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Robson@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Deferred prosecution agreements for worthless check violations; licensing requirement for collection agencies

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------------|------------------------|------------------------|----------------|------------------------|------------------------|-----------------|
| /? | mdsida 03/10/2004 | kfollett 03/10/2004 | | _____ | | | |
| /1 | | | jfrantze 03/10/2004 | _____ | sbasford 03/10/2004 | sbasford 03/10/2004 | |

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FE Sent For:

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1? | mdsida | 1/1 kgj 3/10 | 2/3/10 | 2/6/RS 3/10 | | | |

FE Sent For:

<END>

2003

Date (time) needed

Wed

LRBa 2824, 1

AMENDMENT

msd: kif
jld

See form AMENDMENTS — COMPONENTS & ITEMS.

(S) A AMENDMENT

TO S A AMENDMENT _____ (LRBa 1),

TO S A SUBSTITUTE AMENDMENT _____ (LRBs 1),

TO 2003 SB SJR SR (AB) AJR AR 306 (LRB- 1)

as shown by assembly substitute amendment 1,

At the locations indicated, amend the bill as follows:

(fill ONLY if "engrossed" or "as shown by")

#. Page 1, line 14: after "checks" insert " (INS A)

#. Page 2, line 4: after that line insert:

INS B

#. Page, line

(End)

#. Page, line

#. Page, line

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.

INS A

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AN ACT ~~to amend 943.245 (3m); and to create 971.41 of the statutes; relating~~
~~to~~, deferred prosecution agreements for persons charged with issuing a
bad ~~worthless~~ check or other order for payment and allowing a district attorney to
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:

²⁹
SECTION 1. 943.245 (3m) of the statutes is amended to read:

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

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

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

(a) "Collection agency" has the meaning given in s. 218.04 (1) (a).

(b) "Collector" has the meaning given in s. 218.04 (1) (b).

(c) "Solicitor" has the meaning given in s. 218.04 (1) (b).

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

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SENATE BILL 457

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)~~

NS B