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☞ (FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Judiciary, Corrections and Privacy...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (July 2012)

Present: (5) Senators Zien, Roessler, Grothman, Taylor and
Risser.

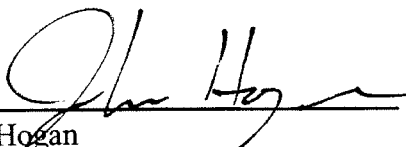
Absent: (0) None.

Moved by Senator Roessler, seconded by Senator Zien that **Senate
Bill 575** be recommended for passage.

Ayes: (3) Senators Zien, Roessler and Grothman.

Noes: (2) Senators Taylor and Risser.

PASSAGE RECOMMENDED, Ayes 3, Noes 2



John Hogan
Committee Clerk

Vote Record

Committee on Judiciary, Corrections and Privacy

Date: 2/16/06
 Moved by: Roess

Seconded by: Zien

AB _____ SB 575 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Senator David Zien, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Lena Taylor	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Fred Risser	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>3</u>	<u>2</u>	_____	_____





**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2005 Assembly Bill 969	Assembly Amendment 1
<i>Memo published: February 17, 2006</i>	<i>Contact: Anne Sappenfield, Senior Staff Attorney (267-9485)</i>

Assembly Bill 969 provides that, if a person forfeits bail by not complying with his or her bond conditions, the bail money or a portion of the bail money may be awarded to the victim of the person's offense as recompense. The amount of recompense is calculated in the same manner as restitution is calculated.

Assembly Amendment 1 deletes a provision of the bill that reduces the amount that the Department of Justice (DOJ) may recover in a civil action against the defendant if DOJ has paid crime victim compensation to the victim by the amount of any recompense paid. The provision appears to be unnecessary.

Legislative History

Representative Suder offered Assembly Amendment 1. On February 15, 2006, the Assembly Committee on Criminal Justice and Homeland Security recommended adoption of the amendment on a votes of Ayes, 11; Noes, 0, and recommended passage of the bill, as amended, on a vote of Ayes, 10; Noes, 1.

AS:ksm



Hogan, John

From: Renk, Jeff
Sent: Tuesday, February 21, 2006 7:13 PM
To: Hogan, John
Subject: RE: SB 569

It's not a sub though, just a simple amendment. All it does is "Page 2, line 13, delete lines 13-15" and "Page 3, line 1, delete lines 1 to 9."

I can return it to your office tomorrow.

From: Hogan, John
Sent: Tuesday, February 21, 2006 7:10 PM
To: Renk, Jeff
Subject: RE: SB 569

Shoot. I don't know anything about it. It looks like the companion AB 969 had a ~~sub~~ ^{simple} tacked on in committee. Our committee was probably supposed to vote on it to make them identical bills. How about Zien introduces it and we vote on it on the floor if it gets there.

From: Renk, Jeff
Sent: Tuesday, February 21, 2006 6:49 PM
To: Hogan, John
Subject: RE: SB 569

John,

There was also an amendment in SB 575 that wasn't acted on by the committee, at least according to the committee report. It's a simple amendment - LRB # a2301. Should that amendment go back to anyone, or should I just leave it in the jacket?

Jeff

From: Hogan, John
Sent: Tuesday, February 21, 2006 6:33 PM
To: Renk, Jeff
Subject: SB 569

Jeff - In that bill jacket, there should be an amendment that Brian was supposed to vote on in committee that didn't get voted on. That amendment should probably be returned to Patrick in Reynold's office, they may introduce it on the floor. Sorry for the mess, we're trying to clean it up!

John





Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Shirley S. Abrahamson
Chief Justice

16 East State Capitol
Telephone 608-266-6828
Fax 608-267-0980

A. John Voelker
Director of State Courts

HAND DELIVERED

March 23, 2006

The Honorable James E. Doyle
Governor of Wisconsin
Room 115 East, State Capitol
Madison, WI 53702

RE: Assembly Bill 969, Forfeiture of Cash Bond

Dear Governor Doyle:

I am writing on behalf of the Legislative Committee of the Judicial Conference to request that you veto Assembly Bill 969, which allows forfeited cash bond to be used to pay restitution. The Committee understands and has no objection to the primary goal of the legislation, but it has serious concerns about two provisions of the bill.

AB 969 creates a new concept called "recompense," which is not defined. Nor does the bill give the courts much guidance on when or how the amount of recompense is to be determined. In many instances, the information needed to determine an amount of recompense would be unavailable during the pre-trial stage of the case, requiring the court to hold a hearing to determine an amount. In addition, there does not appear to be any provision for a case in which money is paid to a crime victim but the defendant is not convicted of the crime.

In addition, several judges have raised due process concerns about imposing the payment of recompense on a defendant before there is a judgment of conviction against that defendant. This provision seems certain to generate additional litigation challenging the constitutionality of this new requirement and additional uncertainty within the court system while these matters remain unsettled.

Section 12 of AB 969 is very difficult to understand, as written, but appears to represent both duplicate payment requirements for the defendant and a significant shift of resources from the counties to the state.

The Honorable James E. Doyle
March 23, 2006
Page Two

Under this section, at the time of sentencing, the court would be required to determine whether "recompense" has been made from forfeited cash bond. In the event the amount of restitution ordered is less than or equal to the amount of recompense that was earlier ordered to be paid, the bill requires the payment of the restitution to the state general fund. If the defendant had earlier paid the required recompense from the forfeited cash bond, does he or she have to pay the amount of restitution as well? There does not appear to be any mechanism for deducting payments already made. The bill also requires the restitution to be paid to the state. This is at odds with the definition and purpose of restitution. Under current law, the only payments made to the state are for reimbursements for payments advanced by the Crime Victims Fund.

Similarly, if the restitution ordered is greater than the amount of recompense that was made, it appears the defendant is required to make the restitution payment. The state general fund then receives an amount equal to the recompense ordered, and the victim receives the balance.

This legislative change may result in a significant shift in revenue from the counties to the state. Under current law, forfeited cash bond is used to pay costs and forfeitures and any unused balance is retained by the county. AB 969 would use forfeited cash bond first to pay restitution, a laudable goal that is not the object of our concern. It appears this legislation will result, however, in substantial sums of money being transferred to the state rather than the counties. For example, the Dane County line item for forfeited cash bond is over \$200,000. This transfer is a cause of concern because we believe counties use these funds to provide financial support for the court system and victim services.

Thank you for your consideration of these concerns. Please feel free to contact me if you have questions about this request.

Respectfully submitted,

A. John Voelker
Director of State Courts

AJV:NMR

cc: Representative Scott Suder
Senator Dave Zien
Wisconsin Counties Association
Patrick Henderson





JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

April 18, 2006

TO THE HONORABLE MEMBERS OF THE ASSEMBLY:

I am vetoing Assembly Bill 969. The bill provides that any cash deposit used as bond must first be applied to pay restitution to the victim of the crime if the defendant is convicted. Additionally, under AB 969, a new form of payment to the victim is created, called recompense. This payment is initiated when a defendant does not meet his or her bond conditions and forfeits his or her cash deposit. A judge may order the defendant to pay a recompense amount to the victim of the crime for which bond was established, using the forfeited cash. The recompense amount is ordered before the defendant is convicted.

While I agree with the goal of the restitution provisions of this bill, which allow cash deposits for bond to be used to get additional moneys to the victims of crimes, I am vetoing AB 969 based on the impact of the recompense portions of the bill. One of the bill's authors has actually requested that I do so because of an unintended drafting error which results in a shift of resources in cases where recompense and restitution are ordered. If the restitution amount is less than or equal to the recompense amount already ordered, the restitution is paid entirely to the state general fund. As a result, counties may lose significant amounts of money, even as they work hard to support the circuit court system and provide victim services.

Respectfully submitted,

JIM DOYLE
Governor



Liedl, Kimberly

From: Hogan, Mary
Sent: Thursday, April 20, 2006 11:51 AM
To: Sen.Zien
Cc: Hogan, John; Liedl, Kimberly; Sandvick, Doug; Searing, Eric
Subject: Services to Crime Victims

Attachments: WVWP rest points.doc; wvwp rest Report Abstract.doc; wwwpocvsbulletin.htm



WVWP rest points.doc (34 KB) wvwp rest Report Abstract.doc ...
wwwpocvsbulletin.htm (15 KB)

Senator Zien,

My name is Mary Hogan and I serve as the Victim/Witness Coordinator for the Barron County District Attorney's Office. I also serve as president of the Wisconsin Victim Witness Professionals (WVWP), which is the professional association for victim/witness service providers in Wisconsin. I would like to take this opportunity to applaud your efforts on behalf of crime victims through your recent co-sponsorship of AB 969, which would have helped citizens by improving our ability to collect restitution owed to them.

Additionally, as the Chair of the Senate Judiciary Committee, I understand that you will be considering SB 692, which would allow for the expansion of the Victim/Witness surcharge to include forfeiture violations where victim/witness services are also provided. Our membership would be happy to provide you with whatever assistance or insight you may want with regard to the importance of services to crime victims and witnesses, as well as the mounting difficulties associated with rising caseloads and declining reimbursement to counties. Despite the fact that the current session is coming to a close, I would hope that a public hearing may be scheduled as soon as possible in order to help this needed legislation move forward.

I would also like you to be aware of the recent work by WVWP to implement significant change in the way restitution is collected and processed in Wisconsin. WVWP has identified restitution payment as the issue most important to crime victims, as well as the issue most in need of systemic overhaul. Historically, initiatives designed to address restitution have met with little success, due in part to the enormity of the problem and the complexities involved with implementing solutions that affect a variety of government agencies. As a result, focus is often shifted to other, more easily managed issues. The Governor's veto of AB 969 illustrates the complexity of the issue as well as the difficulty of implementing meaningful change.

On behalf of the WVWP, I would like to offer any assistance you may need in continuing your efforts to repairing some of the harm suffered by crime victims. There have been requests made for a joint legislative study committee on this issue, although I do not know the status of those requests at this point. I am hopeful that we can join together to make some great strides in this issue very soon.

I am attaching some of the information that has guided our thoughts on the subject of restitution so far. You should find a link to the December 2003 Office for Victims of Crime Bulletin, copies of federal GAO report abstracts on the subject and a summary of thoughts and points compiled by my colleagues in the field of victim service. If you prefer, I would be happy to mail you hard copies of the documents.

Again, please accept my thanks on behalf of crime victims and the professionals who provide victim/witness services. Please continue your efforts and join with WVWP in generating bi-partisan support for Wisconsin citizens who have already suffered the effects of crime.

<<WVWP rest points.doc>> <<wvwp
rest Report Abstract.doc>> <<wwwpocvsbulletin.htm>> Thank you for your attention,

Mary A. Hogan

President, WWP
-(715) 537-6220
Barron County DA Office
1420 Hwy 25 N Rm. 2301
Barron WI 54812

Frequent restitution scenario:

Citizens are victims of crime.

v

v

Victim/Witness & criminal justice system work with victim to document financial impact of crime in a dollar-for-dollar amount of actual loss.

v

v

Upon conviction, judge orders defendant to pay restitution as part of case disposition.

v

v

DOC, DA and/or Clerk of Court make efforts to collect restitution and distribute to victim.

v

v

Defendant fails to pay and civil judgment for restitution is filed on behalf of victim, which transfers responsibility of collection to victim.

Issues : Possible Solutions: Potential Result

Funds for existing victim/witness services are rapidly declining, yet need for services is greater than ever. Increase victim/witness surcharge amounts and expand types of offenses covered. Funding levels decrease at slower rate – possibly maintain current rate.

Defendants post cash bond yet court only has authority to attach bond for forfeiture payment – not restitution. Enact legislation allowing courts to order cash bonds be applied to any outstanding restitution. Some relief provided to victims fairly quickly.

Defendants face financial hardships through increasing court costs/fees/fines. Reduce cost of fees associated with criminal debt collection through automated collection systems. Reduced financial burden to defendant.

Wage assignments for restitution not automatic. Mandate wage assignments for outstanding restitution when defendant is employed. Reduce need for extreme “hands on” approach by DOC agents. Allow restitution payments to become more automatic.

DOC needs court order for mandatory minimum monthly payments. Mandate monthly payments for restitution unless defendant shows extreme poverty. Maintains regular contact with victims, which leads to fewer undistributed payments. Reinforces obligation to defendant and contributes to rehabilitation.

Defendants not always required to be employed – especially if on lay-off status. Give DOC authority to mandate employment as necessary to maintain monthly restitution payments – need similar improvements in county-collection cases. Victims not made to suffer financially while defendant unemployed and not searching for work.

Over one million dollars in undistributed restitution deposited in general fund – including restitution ordered for payments by Crime Victim Compensation program. Return funds collected as restitution to Crime Victim Compensation Program to that program for future benefits to victims. Divide portion of undistributed restitution equally between DOC (who collects restitution), County Victim/Witness Programs (who work with crime victims in providing information to court) and Crime Victim Compensation Program to further benefit victims. Remaining funds should be transferred to interest-bearing account with interest returned to victim services. Money collected for victims remains for victim use. Needed services are maintained without further taxpayer burden.

Restitution is such an enormous issue that there has been a statewide (maybe nationwide) tendency to target issues that are easier to deal with. (i.e. victim/offender conferencing, victim impact panels, automated jail release notification.) Consequently, the gaping hole of restitution in victim service is left unplugged while maintenance of existing services dwindles. Call for statewide audit of restitution collection while implementing currently identified collection improvements. Comprehensive view of current state of restitution collection with concurrent efforts to reduce scope of problem will lead to somewhat more manageable task for individuals creating long-term, statewide strategic plan.

Some questions to be answered:

- How much restitution is ordered in Wisconsin in any given year?
- How much restitution is collected in Wisconsin in any given year?
- How many cases are closed with restitution paid in full?
- How many cases are closed without restitution paid in full?
- How many defendants with outstanding restitution owing are employed?
- How many defendants with outstanding restitution owing are collecting unemployment or other financial benefits?
- How often is cash bond posted in cases where restitution is owed upon conviction?
- How often is permission given to use cash bond for restitution?
- How often are wage assignments used for restitution collection in DOC cases? in non-DOC cases?
- How often are incarcerated defendants required to pay restitution out of inmate funds?
- How often are inmates discharged from prison with funds exceeding 2 months living expenses in cases where restitution is owed?
- How often are tax refund intercepts used in cases where restitution is owed?
- How often are defendants **not** required to make monthly restitution payments? (in cases where restitution is owed.)
- How often are restitution payments made to CV Compensation program and returned to general fund?
- How much undistributed restitution is returned to the general fund annually?
- How much restitution is currently owed to citizens of Wisconsin?

Report Abstract

Criminal Debt: Oversight and Actions Needed to Address Deficiencies in Collection Processes GAO-01-664 July 16, 2001
PDF

The collection of outstanding criminal debt has been a long-standing problem for the federal government. Since October 1985, as reported in the U.S. Attorney's statistical reports, the balance of outstanding criminal debt has grown from \$260 million to more than \$13 billion. Currently, the receipting of collections and recordkeeping for criminal debt is primarily the responsibility of the U.S. Courts, while the Department of Justice is responsible for collecting criminal debt. This report reviews (1) the key reasons for the growth in reported uncollected criminal debt; (2) whether adequate processes exist to collect criminal debt; and (3) what role, if any, the Office of Management and Budget (OMB) and the Department of the Treasury play in monitoring the government's collection of criminal debt. GAO found that four key factors have contributed to the significant growth of uncollected criminal debt. These factors are (1) the nature of the debt, in that it involves criminals who may be incarcerated or deported or who have minimal earning capacity; (2) the assessment of mandatory restitution regardless of the criminal's ability to pay, as required by the Mandatory Victims Restitution Act of 1996; (3) interpretation by the Financial Litigation Units of payment schedules set by judges which limit collection activities; and (4) state laws that may limit the type of property that can be seized and the amount of wages that can be garnished. Financial Litigation Units do not always follow their policies and procedures to ensure that collection actions are prompt and adequate. The present management practices and processes do not ensure that offenders are deprived of their ill-gotten gains and that innocent victims are compensated for their losses to the fullest extent possible. Collection responsibilities continue to be divided between Justice and the courts, with neither having a central management oversight role. Neither OMB nor Treasury has identified the need to take an active oversight role in the collection of the growing balance of outstanding criminal debt.

Subject Terms

Debt collection
Criminals
Restitution
Prisoners
Internal controls
Interagency relations
Fines (penalties)
BOP Inmate Financial Responsibility Program
Crime Victims Fund
IRS Income Tax Refund Offset Program

Report Abstract

Criminal Debt: Actions Still Needed to Address Deficiencies in Justice's Collection Processes GAO-04-338 March 5, 2004
Highlights-PDF PDF Accessible Text

In July 2001, GAO reported that outstanding criminal debt, as reported in Department of Justice (Justice) statistical reports, had increased from about \$6 billion as of September 30, 1995, to more than \$13 billion as of September 30, 1999. Although some of the key factors that contributed to this increase were beyond Justice's control, GAO concluded--after accounting for such factors--that Justice's criminal debt collection processes were inadequate. Accordingly, in the 2001 report, GAO made 14 recommendations to Justice to improve the effectiveness and efficiency of its criminal debt collection processes. To follow up on the 2001 report, GAO was asked to (1) provide information on the amount and growth of criminal debt for fiscal years 2000 through 2002, (2) examine the extent to which Justice has acted on GAO's previous recommendations, and (3) review Justice's collection efforts for selected criminal debt cases related to white-collar financial fraud. This report addresses the first two objectives; GAO will report separately on its ongoing work to address the third.

Justice reported an unaudited amount of total outstanding criminal debt of about \$25 billion as of September 30, 2002, almost double when compared to Justice's unaudited amount from 3 years earlier. This increase, which was not unexpected, continued a trend that began in fiscal year 1996. A primary factor contributing to the increase is a mandate that requires restitution to be assessed regardless of the ability of the offender to pay. As we reported in 2001, collections as a percentage of outstanding criminal debt averaged about 7 percent for fiscal years 1995 through 1999. As indicated in Justice's unaudited records, because collections decreased slightly while debt increased, collections as a percentage of outstanding debt declined to an average of about 4 percent for fiscal years 2000, 2001, and 2002. For each of these 3 fiscal years, according to Justice's unaudited records, about two-thirds or more of criminal debt was related to white-collar financial fraud. Justice has made progress responding to GAO's 2001 recommendations related to criminal debt collection, but not to the degree that had been expected. A key recommendation in 2001 was for Justice, the Administrative Office of the U.S. Courts, the Office of Management and Budget, and the Department of the Treasury to work as a joint task force to develop a strategic plan that addresses managing, accounting for, and reporting criminal debt. As of mid-December 2003, Justice had not yet worked with these other agencies to develop this plan. We also made 13 interim recommendations to Justice to help improve the efficiency and effectiveness of criminal debt collection while the strategic plan was being developed. Since July 2001, Justice has completed action on 7 of these

recommendations; actions to address 4 of the 7 were completed about 2 years after GAO made them. Actions to address the remaining 6 interim recommendations are in process. According to Justice, GAO did not fully recognize its progress in improving the criminal debt collection process. GAO said that it had given Justice full credit for its efforts to implement the 2001 recommendations, as well as for some related efforts outside the scope of those recommendations. GAO noted, however, that Justice had not yet led efforts to resolve key jurisdictional issues and functional responsibilities. While acknowledging that Justice was laying the foundation for improved collections by establishing policies and procedures in response to certain of the interim recommendations, GAO noted that it is important that the new policies and procedures be effectively implemented and that it will likely take some time for collection results to be realized from full implementation. Until Justice takes action to fully implement these recommendations, Justice's management processes and procedures will not provide adequate assurance that offenders are not afforded their ill-gotten gains and that innocent victims are compensated for their losses to the fullest extent possible.

Subject Terms

Crimes

Collection procedures

Strategic planning

Restitution

Fines (penalties)

Debt collection

Criminals

Treasury Offset Program



Liedl, Kimberly

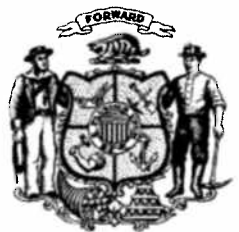
From: Liedl, Kimberly
Sent: Monday, April 24, 2006 10:28 AM
To: Schoenfeldt, Eileen
Cc: Hogan, John
Subject: SB 575

Hi, Eileen, Dave would like to have SB 575 scheduled for the floor, if possible. The bill has to do with applying money deposited for bail to restitution payments or recompense in criminal cases. Dave has a SB 575 amendment ready to go that he would introduce on the floor, should the bill be scheduled. The Assembly companion, AB 969, already moved through the Senate minus Dave's amendment, but at the request of Rep. Suder, the Assembly author, the Gov. vetoed the bill as they feel it is stronger with the Zien amendment.

Thanks much,
Kimber Liedl
Office of Senator Dave Zien



WISCONSIN STATE LEGISLATURE





Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Shirley S. Abrahamson
Chief Justice

16 East State Capitol
Telephone 608-266-6828
Fax 608-267-0980

A. John Voelker
Director of State Courts

HAND DELIVERED

May 12, 2006

The Honorable James E. Doyle
Governor of Wisconsin
Room 115 East, State Capitol
Madison, WI 53702

RE: Senate Bill 575, Forfeiture of Cash Bond

Dear Governor Doyle:

On April 18, 2006 you vetoed Assembly Bill 969, which allows forfeited cash bond to be used to pay restitution. My office was among those who requested a veto. The companion bill to AB 969, Senate Bill 575, is now before you for your signature. SB 575 was amended and passed by the Legislature during its most recent floorperiod.

I am writing on behalf of the Legislative Committee of the Judicial Conference to request that you veto Senate Bill 575. The Committee remains concerned about one provision of the bill that remains unchanged.

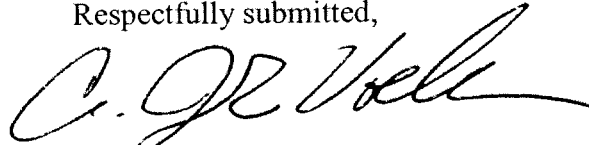
SB 575 retains the new concept called "recompense," which is not defined. The bill does not give the courts much guidance on when or how the amount of recompense is to be determined. In many instances, the court will be required to hold a hearing to determine an amount. These are hearings in addition to current required proceedings and will add to the court's workload in every appropriate case. In addition, it appears to contemplate a determination and payment of recompenses to a crime victim, even if the defendant is found not guilty of the crime.

Several judges have raised due process concerns about imposing the payment of recompense on a defendant before there is a judgment of conviction against that defendant. This provision seems certain to generate additional litigation challenging the constitutionality of this new requirement and additional uncertainty within the court system while these matters remain unsettled.

The Honorable James E. Doyle
March 23, 2006
Page Two

Thank you for your consideration of these concerns. Please feel free to contact me if you have questions about this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. John Voelker". The signature is fluid and cursive, with a long horizontal stroke at the end.

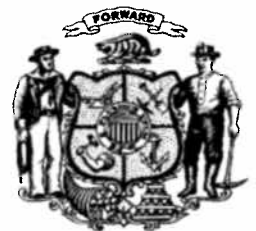
A. John Voelker
Director of State Courts

AJV:NMR

cc: Representative Scott Suder
Senator Dave Zien
Patrick Henderson



WISCONSIN STATE LEGISLATURE



no date

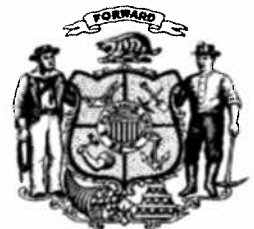
Senate Bill 575... relating to: applying cash deposited for bail to restitution payments or to recompense ordered in criminal cases. (FE)

BILL SPONSORS	<p>Authored by Senators Zien and ROESSLER.</p> <p>Cosponsored by Representatives SUDER, WOOD, GRONEMUS, MUSSER, TOWNSEND, HINES, OWENS, LEMAHIEU, ALBERS, PETROWSKI and VAN ROY.</p>
BILL HISTORY	<p>Senate Bill 575 was introduced February 6, 2006 and referred to the Senate Committee on Judiciary, Corrections and Privacy.</p> <p>A public hearing was held on February 8, 2006, and an executive session was held on February 16, 2006 where the bill passed 3-2 (No: Risser, Taylor).</p>
LRB ANALYSIS	<p>Current Law: Under current law, a judge may set conditions of release for a person charged with a crime (defendant) that are designed to assure the defendant's appearance in court. A judge may require the defendant to execute an unsecured appearance bond in a specified amount or, as an alternative to an unsecured appearance bond, a judge may require the defendant to execute an appearance bond in a specified amount. The amount specified in an appearance bond must be either posted as a cash deposit or guaranteed by solvent sureties. If the person does not comply with the conditions of the bond, any cash deposited for an appearance bond is forfeited and used to pay costs and the judgment of forfeiture. If the defendant is convicted and ordered to pay a fine or court costs or both, any cash deposited for an appearance bond is used to pay the fine and costs, with any remaining amount returned to the defendant.</p> <p>Proposed Changes: The bill provides also that, if a person forfeits bail by not complying with the conditions of bond, an amount determined by the court will be distributed to the victim of the crime for which the bond conditions were imposed as recompense for that crime.</p> <p>This bill provides also that, if a defendant is convicted, ordered to pay a fine or court costs or both, and ordered to pay restitution to the victim of the crime, any cash deposited for an appearance bond must be applied first to the payment of the restitution and then, if restitution is fully satisfied, to the payment of the fine and costs imposed on the defendant, with any amount remaining after the payment of restitution, fines, and costs returned to the defendant. If a defendant is not ordered to pay restitution, any cash deposited for an appearance bond would, as under current law, be applied to pay any fine and costs imposed on the defendant.</p> <p>The bill also requires that a person who deposits cash for an appearance bond must be notified that, if the defendant does not comply with the bond conditions or is convicted, the money will be applied to the payment of any recompense, restitution, fines, and costs that are ordered in the case in which the cash deposit was made.</p> <p>Major Impact: SB 575 mandates that money posted as cash bail is first distributed to crime victims.</p>
FISCAL	<p>The Dept. of Administration cites that SB 575 will have no state or local fiscal effect.</p> <p>The State Public Defender cites that the bill may increase the number of cases in</p>

EFFECT	which contested restitution hearings are held, resulting in increased workload and cost. They feel that it is also likely that the state, cities, and counties will see a decrease in revenue because cash bail will not be available in as many cases or in the same amount once restitution has been deducted.
SUPPORT	<p>The following persons appeared in favor of this bill:</p> <ol style="list-style-type: none"> 1. Senator Dave Zien 2. Representative Scott Suder <p>The following persons registered in favor of this bill:</p> <ol style="list-style-type: none"> 1. Mike Murray, Wisconsin Coalition Against Sexual Assault 2. Kristin Kaplan Wolfe, Citizens for a Safe Wisconsin <p>The following organizations registered their support for the bill with the State Ethics Board, but did not testify or register at the public hearing:</p> <ol style="list-style-type: none"> 1. None
OPPOSITION	<p>The following people testified in opposition to this bill:</p> <ol style="list-style-type: none"> 1. None <p>The following people registered in opposition to this bill:</p> <ol style="list-style-type: none"> 1. None <p>The following organizations registered their opposition to the bill with the State Ethics Board, but did not testify or register at the public hearing:</p> <ol style="list-style-type: none"> 1. Wisconsin Counties Association
NEUTRAL	<p>The following organization(s) appeared or registered for information only:</p> <ol style="list-style-type: none"> 1. None <p>The following organization registered their intention to lobby with the State Ethics Board but did not take a position on the bill:</p> <ol style="list-style-type: none"> 1. None
CONTACT	Kimber Liedl, Committee Clerk, Senate Committee on Judiciary, Corrections & Privacy
DATE	April 27 2006



WISCONSIN STATE LEGISLATURE



no date

Talking Points for SB 575

- **SB 575 Provides that if a person forfeits bail by not complying with the conditions of bond, an amount determined by the court will be distributed to the victim of the crime**
- **If the defendant is convicted and ordered to pay a fine or court costs or both and ordered to pay restitution to the victim any cash deposited for an appearance bond must be applied first to the payment of restitution to the victim**
- **Bottom Line: Money that is posted as cash bail will go to the victims of crimes first.**

Fun Fact

This bill is the companion to AB 969. The Governor vetoed it per Rep. Suder's request. Suder wanted to clarify the "recompense" portion of the bill, something which the Governor also agreed needed clarification. Senate Amendment 2 addresses that factor.

Senate Amendment 1 (needs to be adopted today)

Deletes a provision of the bill that reduces the amount that the Department of Justice may recover in a civil action against the defendant if DOJ has paid crime victim compensation to the victim by the amount of any recompense paid. Wisconsin Legislative Council stated that the provision appears to be unnecessary.

Senate Amendment 2 (needs to be adopted today)

Clarifies "recompense"

-When restitution is ordered, the court shall inquire to see if recompense has been made under s. 969.13 (5) (a).

-If recompense has been made and the restitution ordered is less than or equal to the recompense, the restitution shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment.

-If recompense has been made and the restitution ordered is greater than the recompense, the victim shall receive an amount equal to the amount of restitution

less the amount of recompense and the balance shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment.

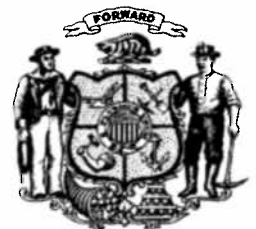
-This subsection applies without regard to whether the person who paid the recompense is the person who is convicted of the crime.

Fun fact - The Supreme Court has notified us that they still feel that this amendment doesn't clarify "recompense" to the level that they feel is necessary, thus they still would recommend this for veto.

Leg Council drafters said that they did not add a definition for "recompense" because it would be identical to the dictionary definition and wouldn't add anything to the draft. Without a definition, the common and approved usage of a nontechnical word or phrase is presumed to be the usage intended, and this usage will be determined by reference to a recognized dictionary. Also, similar terms such as "restitution" are not defined in the statutes. (memo is in this packet)



WISCONSIN STATE LEGISLATURE



no date

John, SB 575

Here's your
amendment
back.

JH

Was supposed to be
added in Judiciary ^{2/16}
Will have to be added
on Senate Floor.

(Passed Jud 3-2)

LRB 92301

= AB 974