

2007 DRAFTING REQUEST

Bill

Received: **10/03/2006**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wavrunek**

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - victims**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Wavrunek, BB0091 -

Topic:

Restitution payments to the crime victim restitution program

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>
/?	phurley 10/10/2006	kfollett 10/11/2006		_____			
/1	phurley 10/25/2006	kfollett 10/25/2006	rschluet 10/11/2006	_____	sbasford 10/11/2006		
/2	phurley 01/25/2007	kfollett 01/25/2007	rschluet 10/25/2006	_____	mbarman 10/25/2006		
/3	phurley	kfollett	nmatzke	_____	cduerst		

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	01/26/2007	01/26/2007	01/25/2007	_____	01/25/2007		
/4	phurley 01/30/2007	kfollett 01/30/2007	nmatzke 01/26/2007	_____ _____	sbasford 01/26/2007		
/5			pgreensl 01/30/2007	_____ _____	sbasford 01/30/2007		

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Restitution payments to the compensation program

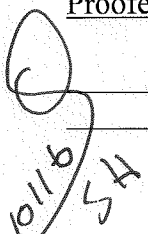
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/?	phurley	11/KF 10/17					

FE Sent For:


9/10/06
SH

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Crime Victim Compensation Program
- Tracking Code: BB0091
- SBO team: General Government and Justice
- SBO analyst: Leah Wavrunek
 - Phone: 267-0370
 - Email: leah.wavrunek@wisconsin.gov
- Agency acronym: DOJ
- Agency number: 455
- Priority (Low, Medium, High): Medium

The request intends to provide that restitution payments received by the state from defendants to offset awards made to victims under the crime victim compensation program would be credited to the compensation program instead of to the general fund.

now in ^{budget} legal services
20.455 (1) (hm)
↓
20.455 (5) (h)
^{US/wits}

DOA:.....Wavrunek, BB0091 - Restitution payments to the compensation program

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

10-10

Do Not Gen

1 AN ACT ...; relating to: the budget

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

Under current law, a court may order persons convicted of certain crimes to pay restitution to victims. These monies are currently credited to the DOC general fund and the DOJ general fund; this bill credits the monies to the Crime Victim compensation program.

moneys

X
X

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

- 2 SECTION 1. 20.410 (1) (h) of the statutes is repealed.
- 3 SECTION 2. 20.455 (1) (hm) of the statutes is repealed.
- 4 SECTION 3. 20.455 (5) (h) of the statutes is amended to read:
- 5 20.455 (5) (h) *Crime victim compensation services.* ~~The amounts in the~~
- 6 ~~schedule to provide crime victim compensation services.~~ All moneys received by the

4
X

1 department to provide restitution to victims when ordered by the court as the result
 2 of prosecutions under s. 49.49 and chs. 100, 133, 281 to 285, and 289 to 299 and under
 3 a federal antitrust law for the purpose of providing restitution to victims of the
 4 violation when ordered by the court, and the amounts in the schedule for the
 5 administration of court-ordered restitution programs under s. 973.20. All moneys
 6 received under s. 973.20 (11) (a) as surcharge payments shall be credited to this
 7 appropriation. All moneys transferred from s. 20.435 (6) (hx) shall be credited to this
 8 appropriation, except that the unencumbered balance on June 30 of each year shall
 9 revert to the appropriation under s. 20.435 (6) (hx).

note: bud

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27 ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237; 1999 a. 5, 9, 186; 2001 a. 16, 109; 2003 a. 33, 139, 309, 326; 2005 a. 25 ss. 356c to 363r, 415m to 415v, 415w, 416g, 416h; 2005 a. 60, 254, 433.

(END)

Corrections 20.410 (1)(h) - PR - A. (amounts in the schedule)
 The restitution surcharge under s 973.20(4)(a) is credited here for corrections costs in administering ~~app~~ restitution. Under s. 973.20(4)(a), defendants pay restitution to DOC or to clerk of court.

Justice 20.455 (1)(hm) PR - C (all moneys received)
 Moneys received as restitution by DOJ for certain kinds of cases - that are prosecuted by DOJ. To pay rest. tuition.

Justice 20.455 (5)(h) PR - S (amounts in schedule)
 Moneys transferred from 20.435(6)(hx) - services related to drivers - ~~from~~ 20.455(5)(h) is for "crime victim compensation services"

What appropriation does DOC use to pay restitution?

Leah

973.20(9) goes to gun fund
 ask to cr. new approp
 under 20.455(5)(h) for the \$

Hurley, Peggy

From: Wavrunek, Leah J - DOA [Leah.Wavrunek@wisconsin.gov]
Sent: Tuesday, October 17, 2006 1:37 PM
To: Hurley, Peggy
Subject: DOJ Victim Comp/Subrogation
Attachments: DOJ 6504 to LRB.pdf

Attached is the decision item from DOJ that may give a few more clues to their intent for the statutory language request. Please give me a call if you have any questions.

Thanks!
 Leah Wavrunek

Leah Wavrunek
 State Budget Office
 Ph: (608) 267-0370
 F: (608) 267-0372
 leah.wavrunek@wisconsin.gov

973 to be paid to Le
 \$ to DOJ to
 credited new PR

PR-5 = 20.455(5)(4)
 is a PR-5
 - make a new
 PR receiving
 the saying all \$ received
 by the dept. under
 973.2

301.03(3r)

(3r) If any restitution ordered under s. 973.20 (1r) remains unpaid at the time that a person's probation or sentence expires, or he or she is discharged by the department, *corrections* give to the person upon release, or send to the person at his or her last-known address, written notification that a civil judgment may be issued against the person for the unpaid restitution.

BUDG. ANALYSIS

CF ANGE
AUTHOR

1

B

DEPARTMENT PROGRAM	CODES	TITLES		PROGRAM ELEMENT DECISION ITEM	CODES	TITLES		ANALYSIS FORM B-2
		455	Justice			6504	Victim Compensation Restitution and Subrogation	
SUBPROGRAM	05	Crime Victim Services		NUMERIC APPN.	34	Victim Compensation Restitution/ Subrogation		PAGE
Expenditure Items		1st Year Cost			2nd Year Cost			
01	Permanent Position Salaries							
02	Turnover							
03	Project Position Salaries							
04	LTE Salaries							
05	Fringe Benefits							
06	Supplies and Services							
07	Permanent Property							
08	Unallotted Reserve							
09	Aids to Individuals & Organizations							
10	Local Assistance			300,000			300,000	
11	One-time Financing							
12								
13								
14								
15								
16								
17	TOTAL COSTS			300,000			300,000	
18	Project Positions Authorized							
19	Classified Positions Authorized							
20	Unclassified Positions Authorized							

NARRATIVE

The Department requests PR increases of \$300,000 in both FY08 and FY09 to a new appropriation under sec. 20.455 (5)(hh) to reflect restitution and subrogation payments made to the Crime Victim Compensation program. Currently, sec. 973.20 (9) requires restitution and subrogation payments to be paid to the General Fund. The intent of this initiative is to allow amounts received as restitution or subrogation in Crime Victim Compensation cases to be retained in the victim compensation program. Since FY04, the average amount of restitution paid to the General Fund averaged \$300,000.

Wisconsin is one of few, if any, states which does not make available to the Crime Victim Compensation program related restitution or subrogation moneys. Under the current arrangement, the Crime Victim Compensation program -- and consequently, innocent victims of crime -- are penalized. The funding in question comes out of the Crime Victim Compensation program appropriations. When it is returned to DOJ as restitution, it is not put back into that program, but is put into the General Fund. As a result, the program loses a portion of its budget, but also has that portion deducted from its federal award. Approximately \$300,000 annually that could be made available to victims is not.

The federal victim compensation award to Wisconsin is essentially 60% of the amount of state resources spent on the program. Because we do not get to spend restitution and subrogation moneys on the program, we forego 60% of that amount in "unawarded" federal moneys. Some victims must now wait years for full payment of their eligible claims due to a lack of funding for the victim compensation program and soaring health care costs. Allowing this program to keep and "re-award" restitution and subrogation payments would be fair, efficient and would help innocent victims of crime immensely.

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0434/lins
PJH:kjfrs

SECTION 1. 20.455 (5) (h) of the statutes is amended to read:

20.455 (5) (h) *Crime victim compensation services.* The amounts in the schedule to provide crime victim compensation services. All moneys authorized under s. 973.20 (9) (b) shall be credited to this account. All moneys transferred from s. 20.435 (6) (hx) shall be credited to this appropriation, except that the unencumbered balance on June 30 of each year shall revert to the appropriation under s. 20.435 (6) (hx).

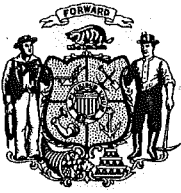
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****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 973.20 (9) (b) of the statutes is amended to read:

973.20 (9) (b) When restitution is ordered, the court shall inquire to see if an award has been made under ch. 949 and if the department of justice is subrogated to the cause of action under s. 949.15. If the restitution ordered is less than or equal to the award under ch. 949, the restitution shall be paid only to the general fund credited to the appropriation account under s. 20.455 (5) (h). If the restitution ordered is greater than the award under ch. 949, the general fund appropriation account under s. 20.455 (5) (h) shall receive an amount equal to the award under ch. 949 and the balance shall be paid to the victim.

History: 1987 a. 398 ss. 39 to 41, 43; 1989 a. 31, 188; 1991 a. 39, 269; 1993 a. 213; 1995 a. 141, 161; 1997 a. 283; 2001 a. 16, 61; 2003 a. 139, 321; 2005 a. 277, 447.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0434/1 ²
PJH:kjf:js
stays

Crime victim restitution
compensation

DOA:.....Wavrunek, BB0091 - Restitution payments to the compensation program

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

UPS:
Please
fix request
sheet.

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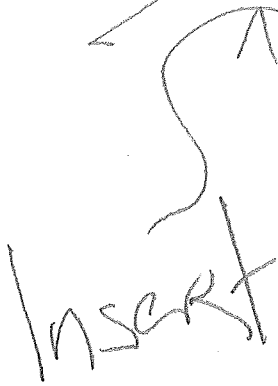
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20.455 (5) (hm) *Crime victim restitution*. All moneys received by the department under s. 973.20 (9) (b) to provide crime victim restitution.

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Hurley, Peggy

From: Wavrunek, Leah J - DOA
Sent: Thursday, January 25, 2007 11:11 AM
To: Hurley, Peggy
Subject: LRB-0434/2 Revision

Hi Peggy,

For LRB-0434/2 draft, relating to crime victim restitution, could we use alpha 20.455(5)(hh) instead of 20.455(5)(hm)? It is the alpha requested by DOJ but I think I forgot to include that in my original request.

Thanks!
Leah Wavrunek

Leah Wavrunek
State Budget Office
Ph: (608) 267-0370
F: (608) 267-0372
leah.wavrunek@wisconsin.gov

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5 to the award under ch. 949, the restitution shall be paid ~~only to the general fund~~
6 credited to the appropriation account under s. 20.455 (5) (hm). If the restitution
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8 amount equal to the award under ch. 949 shall be credited to the appropriation
9 account under s. 20.455 (5) (hm) and the balance shall be paid to the victim. (hh)

10

(hh)
(END)



State of Wisconsin
2007 - 2008 LEGISLATURE

4
LRB-0434/3

PJH:kjf:awn

DOA:.....Wavrunek, BB0091 - Restitution payments to the crime victim
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10 (END)

5

DOA:.....Wavrunek, BB0091 - Restitution payments to the crime victim
restitution program

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

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OTHER COURTS AND PROCEDURE

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

3 20.455 (5) (hh) *Crime victim restitution.* All moneys received by the
4 department under s. 973.20 (9) (b) to provide crime victim restitution.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

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subch. I of

1 973.20 (9) (b) When restitution is ordered, the court shall inquire to see if an
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subch. I of

use 3 times →

drafts with the following LRB #'s:
LRB-0434 and

***NOTE: This is reconciled s. 973.20(a)(b). This section has been affected by LRB-1537.

D-note:

Leah,

LRB-0434/4
PJH: kjf

This draft reconciles LRB-0434/4 with LRB-1537/3
Both LRB-0434 and LRB-1537 should continue to appear in the compiled bill.

Q PJH

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0434/5dn
PJH:kjf:pg

January 30, 2007

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This draft reconciles LRB-0434/4 with LRB-1537/3. Both LRB-0434 and LRB-1537 should continue to appear in the compiled bill.

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E-mail: peggy.hurley@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0434/5

PJH:kjf:pg

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