



## 2009 ASSEMBLY BILL 182

April 2, 2009 – Introduced by Representatives KRUSICK, GOTTLIEB, RICHARDS, SINICKI, BALLWEG, TOWNSEND and GRIGSBY, cosponsored by Senators PLALE, DARLING, CARPENTER, LEHMAN, OLSEN, SCHULTZ and TAYLOR. Referred to Committee on Corrections and the Courts.

1     **AN ACT to amend** 565.30 (5r) (a), 565.30 (5r) (b), 778.30 (1) (intro.) and 800.09  
2             (1) (intro.); and **to create** 800.09 (1) (d) of the statutes; **relating to:** assignment  
3             of income, prizes, and earnings to pay a municipal court judgment.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a person fails to pay a judgment ordered by a municipal court, the court may do any of the following:

1. Defer any payment of the judgment for a period of time.
2. Allow the person to pay the judgment by making installment payments.
3. Order the person to perform community service work in lieu of paying the judgment.
4. Suspend the person's driving privileges until the judgment is paid, including taking possession of the person's license to drive.

This bill adds another option to the court, allowing the court to issue an order assigning not more than 25 percent of the person's earnings, worker's compensation, pension, and other money due to the person, such as lottery prizes, to pay an unpaid judgment. The bill allows the municipal court to use the same procedures, notices, and penalties that the circuit court utilizes for persons who are the subject of a circuit court-ordered assignment. The bill also adds municipal court judgments to those judgments that may be collected in circuit court.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 565.30 (5r) (a) of the statutes is amended to read:

2           565.30 **(5r)** (a) Annually, the administrator shall provide each municipal court  
3 and clerk of circuit court in the state with a list of the winners or assignees of a lottery  
4 prize that is payable in installments. The list shall include each winner or assignee  
5 since the date of the previous list.

6           **SECTION 2.** 565.30 (5r) (b) of the statutes is amended to read:

7           565.30 **(5r)** (b) Subject to par. (c), if the administrator receives a notice under  
8 s. 778.30 (2) (a), 800.09 (1) (d), or 973.05 (5) (a) or ~~778.30 (2) (a)~~ of the assignment of  
9 lottery prizes under s. 778.30 (2) (a), 800.09 (1) (d), or 973.05 (4) (c) or ~~778.30 (1) (c)~~  
10 and determines that the person subject to the assignment is a winner or assignee of  
11 a lottery prize that is payable in installments, the administrator shall withhold the  
12 amount of the judgment that is the basis of the assignment from the next installment  
13 payment. The administrator shall submit the withheld amount to the court that  
14 issued the assignment. At the time of the submittal, the administrator shall charge  
15 the administrative expenses related to that withholding and submittal to the winner  
16 or assignee of the lottery prize and withhold those expenses from the balance of the  
17 installment payment. The administrator shall notify the winner or assignee of the  
18 reason that the amount is withheld from the installment payment. If the initial  
19 installment payment is insufficient to pay the judgment and administrative  
20 expenses, the administrator shall withhold and submit to the court an amount from  
21 any additional installment payments until the judgment and administrative

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1 expenses are paid in full and the assignment is no longer in effect. The  
2 administrative expenses received by the department shall be credited to the  
3 appropriation under s. 20.566 (1) (h).

4 **SECTION 3.** 778.30 (1) (intro.) of the statutes is amended to read:

5 778.30 (1) (intro.) In addition to the procedures under s. 23.795 or 345.47 or  
6 under this chapter for the collection of forfeitures, costs, assessments, surcharges,  
7 municipal court judgments, or restitution payments if a defendant fails to pay the  
8 forfeiture, costs, assessment, surcharge, municipal court judgment, or restitution  
9 payment within the period specified by the circuit court, the court may do any of the  
10 following:

11 **SECTION 4.** 800.09 (1) (intro.) of the statutes is amended to read:

12 800.09 (1) JUDGMENT. (intro.) If a municipal court finds a defendant guilty, it  
13 may render judgment by ordering restitution under s. 800.093 and payment of a  
14 forfeiture, plus costs, fees, and surcharges imposed under ch. 814. The court shall  
15 apply any payment received on a judgment that includes restitution to first satisfy  
16 any payment of restitution ordered, then to pay the forfeiture, costs, fees, and  
17 surcharges. If the judgment is not paid, the court may proceed under par. (a), (b), ~~or~~  
18 (c), or (d) or any combination of those paragraphs, as follows:

19 **SECTION 5.** 800.09 (1) (d) of the statutes is created to read:

20 800.09 (1) (d) 1. In this paragraph, “employer” includes the state and the  
21 political subdivisions of the state.

22 2. The court may issue an order assigning not more than 25 percent of the  
23 defendant’s commissions, earnings, salaries, wages, pension benefits, benefits under  
24 ch. 102, and other money due or to be due in the future, including lottery prizes, to

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1 the municipal court for payment of the unpaid restitution, forfeiture, costs, fees, or  
2 surcharges.

3 3. Upon entry of the assignment under subd. 2., unless the court finds that  
4 income withholding is likely to cause the defendant irreparable harm, the court shall  
5 provide notice of the assignment by regular mail to the last-known address of the  
6 person from whom the defendant receives or will receive money. If the municipal  
7 court does not receive the money from the person notified, the court shall provide  
8 notice of the assignment to any other person from whom the defendant receives or  
9 will receive money. Notice of an assignment under subd. 2. shall inform the intended  
10 recipient that, if a prior assignment under subd. 2. or s. 778.30 (1) or 973.05 (4) has  
11 been received relating to the same defendant, the recipient is required to notify the  
12 municipal court that sent the subsequent notice of assignment that another  
13 assignment has already been received. A notice of assignment shall include a form  
14 permitting the recipient to designate on the form that another assignment has  
15 already been received.

16 4. If, after receiving the annual list under s. 565.30 (5r) (a), the municipal court  
17 determines that a person identified in the list may be subject to an assignment under  
18 subd. 2., the court shall send the notice of that order to the administrator of the  
19 lottery division of the department of revenue, including a statement of the amount  
20 owed under the judgment and the name and address of the person owing the  
21 judgment. The municipal court shall notify the administrator of the lottery division  
22 of the department of revenue when the judgment that is the basis of the assignment  
23 has been paid in full.

24 5. Notice under this paragraph may be a notice of the court, a copy of the  
25 executed assignment or a copy of that part of the court order that directs payment.

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1           6. For each payment made under the assignment under subd. 2., the person  
2 from whom the defendant under the order receives money shall receive an amount  
3 equal to the person's necessary disbursements, not to exceed \$3, which shall be  
4 deducted from the money to be paid to the defendant.

5           7. A person who receives notice of the assignment under this paragraph shall  
6 withhold the amount specified in the notice from any money that person pays to the  
7 defendant later than one week after receipt of the notice of assignment. Within 5  
8 days after the day on which the person pays money to the defendant, the person shall  
9 send the amount withheld to the municipal court of the jurisdiction providing notice.  
10 If the person has already received a notice of an assignment under this paragraph  
11 or s. 778.30 (2) or 973.05 (5), the person shall retain the later assignment and  
12 withhold the amount specified in that assignment after the last of any prior  
13 assignments is paid in full. Within 10 days of receipt of the later notice, the person  
14 shall notify the municipal court that sent the notice that the person has received a  
15 prior notice of an assignment under subd. 2. Section 241.09 does not apply to  
16 assignments under this paragraph.

17           8. If after receipt of notice of assignment under this paragraph the person from  
18 whom the defendant receives money fails to withhold the money or send the money  
19 to the municipal court as provided in this paragraph, the person may be proceeded  
20 against under the principal action under s. 800.12 for contempt of court or may be  
21 proceeded against under ch. 778 and be required to forfeit not less than \$50 nor more  
22 than an amount, if the amount exceeds \$50, that is equal to 1 percent of the amount  
23 not withheld or sent.

24           9. If an employer who receives notice of an assignment under this paragraph  
25 fails to notify the municipal court within 10 days after an employee is terminated or

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1 otherwise temporarily or permanently leaves the employer's employment, the  
2 employer may be proceeded against under the principal action under s. 800.12 for  
3 contempt of court.

4 10. Compliance by the person from whom the defendant receives money with  
5 the order operates as a discharge of the person's liability to the defendant as to that  
6 portion of the defendant's commission, earnings, salaries, wages, benefits, or other  
7 money so affected.

8 11. No employer may use an assignment under subd. 2. as a basis for the denial  
9 of employment to a defendant, the discharge of an employee, or any disciplinary  
10 action against an employee. An employer who denies employment or discharges or  
11 disciplines an employee in violation of this subdivision may be fined not more than  
12 \$500 and may be required to make full restitution to the aggrieved person, including  
13 reinstatement and back pay. Restitution shall be in accordance with s. 973.20. An  
14 aggrieved person may apply to the district attorney or to the department of workforce  
15 development for enforcement of this subdivision.

16 12. a. In this subdivision, "payroll period" has the meaning given in s. 71.63 (5).

17 b. If after an assignment is in effect the defendant's employer changes its  
18 payroll period, or the defendant changes employers and the new employer's payroll  
19 period is different from the former employer's payroll period, the municipal court  
20 may amend the withholding assignment or order so that the withholding frequency  
21 corresponds to the new payroll period and the amounts to be withheld reflect the  
22 adjustment to the withholding frequency.

23 13. The municipal court shall provide notice of the amended withholding  
24 assignment or order under subd. 12. by regular mail to the defendant's employer and  
25 to the defendant.

**ASSEMBLY BILL 182****SECTION 6. Initial applicability.**

(1) This act first applies to judgments entered on the effective date of this subsection.

**SECTION 7. Effective date.**

(1) This act takes effect on the first day of the 4th month beginning after publication.

**(END)**