



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0395/P2
CMH:eev:rs

DOA:.....Kirby, BB0094 - Crime victim and Witness Surcharge revenue collections

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

CRIMES

Under current law, if a court imposes a sentence or places a person on probation, the court must impose a crime victim and witness assistance surcharge. The surcharge imposed is \$67 per misdemeanor offense or count and \$92 per felony offense or count. This bill specifies that the surcharge applies to every count. The bill also prohibits waiving, reducing, or forgiving an imposed crime victim and witness assistance surcharge.

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, a court may extend a term of probation, or issue a judgment for unpaid funds, if a person who is nearing the the end of his or her term of probation owes restitution or reimbursement fees. This bill allows a court to extend a term of probation, or issue a judgment for unpaid funds, if the person nearing the end of his or her term of probation owes any part of a crime victim and witness assistance surcharge imposed on him or her.

For further information see the *state* 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:

SECTION 1. 973.045 (1) of the statutes is amended to read:

973.045 (1) If a court imposes a sentence or places a person on probation, the court shall impose a crime victim and witness assistance surcharge. A surcharge imposed under this subsection may not be waived, reduced, or forgiven for any reason. The surcharge is the total amount calculated by adding up the amount for every misdemeanor count and every felony count as follows:

- (a) For each misdemeanor ~~offense or count~~ on which a conviction occurred, \$67.
- (b) For each felony ~~offense or count~~ on which a conviction occurred, \$92.

SECTION 2. 973.09 (3) (bg) of the statutes is created to read:

973.09 (3) (bg) 1. At least 90 days before the expiration date of a probationer's period of probation, the department shall notify the sentencing court and district attorney that a probationer owes an unpaid surcharge imposed under s. 973.045. Upon receiving notice from the department, the court shall schedule a probation review hearing to be held before the expiration date of the period of probation unless the probationer either pays the unpaid surcharge before the scheduled hearing date or voluntarily waives the hearing. A waiver of a probation review hearing under this paragraph must include an acknowledgment by the probationer that waiver may result in an extension of the probation period, a modification of the terms and conditions of probation, or a revocation of probation.

2. If the court does not extend probation, the court shall issue a judgment for the unpaid surcharge and direct the clerk of circuit court to file and enter the

judgment in the judgment and lien docket. The judgment has the same force and effect as judgments entered under s. 806.10.

3. At a probation review hearing scheduled under subd. 1., the department has the burden of proving that the probationer owes an unpaid surcharge imposed under s. 973.045 and the amount of the unpaid surcharge. If the department proves by a preponderance of the evidence that the probationer owes an unpaid surcharge under s. 973.045, the court may, by order, extend the period of probation for a stated period or modify the terms and conditions of probation.

4. If the court does not extend or modify the terms of probation under subd. 3., the court shall issue a judgment for the unpaid surcharge and direct the clerk of circuit court to file and enter the judgment in the judgment and lien docket without fee. If the court issues a judgment for the unpaid surcharge, the court shall send to the department a written notification that a civil judgment has been issued for the unpaid fees. The judgment has the same force and effect as judgments entered under s. 806.10.

****NOTE: Please review this section. Under current law, the court has the authority, when considering unpaid restitution at the the end of a probation period, to extend probation or convert the unpaid restitution into a civil judgment. This provision allows the court the same authority when considering unpaid crime victim and witness assistance surcharges. The instructions request that this authority “could be expanded” when a person is to be released from parole or extended supervision. Please review this section and confirm that you would like similar provisions for parole and ES — I wasn’t sure if the “could be expanded” was being suggested by DOJ to you or was part of the drafting request from you.

(END)