

State of Wisconsin



1995 Assembly Bill 467

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1995 WISCONSIN ACT 141

AN ACT to *renumber and amend* 973.20 (1); to *amend* 301.03 (3r), 973.20 (2) (intro.), 973.20 (3) (intro.), 973.20 (3) (c), 973.20 (4), 973.20 (5) (a), 973.20 (5) (b), 973.20 (5) (c), 973.20 (13) (a) 1. and 973.20 (14) (a); and to *create* 973.20 (1g) of the statutes; **relating to:** restitution.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the revisor of statutes and introduced by the law revision committee under s. 13.83 (1) (c) 1., stats. After careful consideration of the court of appeals decision in *State v. Szarkowitz*, 157 Wis. 2d. 740 (Ct. App. 1990), the law revision committee has determined that codifying this decision is desirable as a matter of public policy.

SECTION 1. 301.03 (3r) of the statutes is amended to read:

301.03 (3r) If any restitution ordered under s. 973.20 (1) (1r) remains unpaid at the time that a person's probation or sentence expires, or he or she is discharged by the department, 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.

SECTION 2. 973.20 (1) of the statutes is renumbered 973.20 (1r) and amended to read:

973.20 (1r) When imposing sentence or ordering probation for any crime for which the defendant was convicted, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of the a crime considered at sentencing or, if the victim is de-

ceased, to his or her estate, unless the court finds substantial reason not to do so and states the reason on the record. Restitution ordered under this section is a condition of probation or parole served by the defendant for ~~the a~~ a crime for which the defendant was convicted. After the termination of probation or parole, or if the defendant is not placed on probation or parole, restitution ordered under this section is enforceable in the same manner as a judgment in a civil action by the victim named in the order to receive restitution or enforced under ch. 785.

SECTION 3. 973.20 (1g) of the statutes is created to read:

973.20 (1g) In this section:

(a) "Crime considered at sentencing" means any crime for which the defendant was convicted and any read-in crime.

(b) "Read-in crime" means any crime that is uncharged or that is dismissed as part of a plea agreement, that the defendant agrees to be considered by the court at the time of sentencing and that the court considers at the time of sentencing the defendant for the crime for which the defendant was convicted.

SECTION 4. 973.20 (2) (intro.) of the statutes is amended to read:

973.20 (2) (intro.) If ~~the a~~ a crime considered at sentencing resulted in damage to or loss or destruction of

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

property, the restitution order may require that the defendant:

SECTION 5. 973.20 (3) (intro.) of the statutes is amended to read:

973.20 (3) (intro.) If ~~the~~ a crime considered at sentencing resulted in bodily injury, the restitution order may require that the defendant do one or more of the following:

SECTION 6. 973.20 (3) (c) of the statutes is amended to read:

973.20 (3) (c) Reimburse the injured person for income lost as a result of ~~the~~ a crime considered at sentencing.

SECTION 7. 973.20 (4) of the statutes is amended to read:

973.20 (4) If ~~the~~ a crime considered at sentencing resulted in death, the restitution order may also require that the defendant pay an amount equal to the cost of necessary funeral and related services under s. 895.04 (5).

SECTION 8. 973.20 (5) (a) of the statutes is amended to read:

973.20 (5) (a) Pay all special damages, but not general damages, substantiated by evidence in the record, which could be recovered in a civil action against the defendant for his or her conduct in the commission of ~~the~~ a crime considered at sentencing.

SECTION 9. 973.20 (5) (b) of the statutes is amended to read:

973.20 (5) (b) Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom ~~the~~ a crime considered at sentencing was committed resulting from the filing of charges or cooperating in the investigation and prosecution of the crime.

SECTION 10. 973.20 (5) (c) of the statutes is amended to read:

973.20 (5) (c) Reimburse any person or agency for amounts paid as rewards for information leading to the apprehension or successful prosecution of the defendant for ~~the~~ a crime for which the defendant was convicted or to the apprehension or prosecution of the defendant for a read-in crime.

SECTION 11. 973.20 (13) (a) 1. of the statutes is amended to read:

973.20 (13) (a) 1. The amount of loss suffered by any victim as a result of ~~the~~ a crime considered at sentencing.

SECTION 12. 973.20 (14) (a) of the statutes is amended to read:

973.20 (14) (a) The burden of demonstrating by the preponderance of the evidence the amount of loss sustained by a victim as a result of ~~the~~ a crime considered at sentencing is on the victim. The district attorney is not required to represent any victim unless the hearing is held at or prior to the sentencing proceeding or the court so orders.
