



1995 ASSEMBLY BILL 404

May 30, 1995 - Introduced by Representatives HUBER, LAZICH, SCHNEIDERS, BALDUS, KRUG, WARD, OWENS, WIRCH, R. YOUNG, HAHN, OTT, PLACHE, ZIEGELBAUER, RUTKOWSKI, WASSERMAN, MURAT, SPRINGER, TRAVIS, SERATTI, ALBERS, F. LASEE, GROTHMAN, WILDER, MORRIS-TATUM and KREUSER, cosponsored by Senators PETAK, BURKE, LEEAN, BRESKE, A. LASEE, MOEN, DARLING, WINEKE, DECKER, PANZER and BUETTNER. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to repeal** 949.08 (2) (g); **to amend** 20.435 (4) (a) and 46.255 (7); and **to**
2 **create** 20.455 (5) (kc) and 949.08 (4) of the statutes; **relating to:** payment of
3 awards to crime victims who owe child support and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the department of justice (DOJ) may order the payment of awards to or on behalf of victims of certain crimes for personal injury or death resulting from the crime. DOJ is prohibited from ordering such a payment, however, if the crime victim has been certified to DOJ by the department of health and social services (DHSS) as being delinquent in the payment of child support or maintenance.

Also under current law, if a person who is delinquent in paying child support wins a lottery prize equal to or greater than \$1,000, the delinquent amount, certified by DHSS, is withheld from the winnings and sent to the department of revenue for remittance to the appropriate agency or person. Similarly, delinquent child support or maintenance may be withheld from a tax refund owed to the delinquent obligor after a certification process and an opportunity for a hearing.

This bill provides that, if a crime victim who is entitled to an award is delinquent in the payment of child support or maintenance, DOJ may order payment of the award but must withhold from the award the amount of the delinquency, as certified by DHSS. DOJ must notify the award claimant that the state intends to withhold the certified amount and that the claimant may request a hearing. If the claimant does request a hearing, the hearing is held before the court that ordered the child support or maintenance payments. The sole issues are whether the victim owes the certified amount and, if not, whether the amount should be held for future child support or maintenance. Unless the court orders otherwise, DOJ must transfer the withheld amount to DHSS for distribution to the appropriate clerk of court or other person. DOJ must charge its administrative expenses to DHSS.

For further information see the *state and local* 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:

1 **SECTION 1.** 20.435 (4) (a) of the statutes is amended to read:

2 20.435 (4) (a) *General program operations.* The amounts in the schedule for
3 general program operations relating to economic support, including field services
4 and, administrative services and the payments under s. 949.08 (4) (b).

5 **SECTION 2.** 20.455 (5) (kc) of the statutes is created to read:

6 20.455 (5) (kc) *Interagency reimbursement; child support and maintenance*
7 *collection.* All moneys received from the department of health and social services
8 under s. 949.08 (4) (b) to pay administrative expenses of the department of justice
9 for child support and maintenance collection under s. 949.08 (4).

10 **SECTION 3.** 46.255 (7) of the statutes is amended to read:

11 46.255 (7) The department may provide a certification under sub. (1) to a state
12 agency or authority under s. 21.49 (2) (e), 36.11 (6) (b), 36.25 (14), 36.34 (1), 39.30 (2)
13 (e), 39.38 (2), 39.435 (6), 39.44 (4), 39.47 (2m), 45.351 (2) (c), 45.356 (6), 45.396 (6),
14 45.74 (6), 144.25 (8) (L), 145.245 (5m) (b), 234.04 (2), 234.49 (1) (c), 234.59 (3) (c),
15 234.65 (3) (f), 234.90 (3) (d) or (3g) (c), 234.905 (3) (d) or ~~949.08 (2) (g)~~ (4).

16 **SECTION 4.** 949.08 (2) (g) of the statutes is repealed.

17 **SECTION 5.** 949.08 (4) of the statutes is created to read:

18 949.08 (4) (a) If a victim to whom, or on whose behalf, an award is payable has
19 been certified to the department under s. 46.255 (7) as being delinquent in making
20 court-ordered child support or maintenance payments, the department shall
21 withhold the certified amount and shall notify the claimant that the state intends

1 to reduce any award under this chapter to which the claimant is entitled by the
2 amount that the victim is delinquent under the support or maintenance order. The
3 notice shall provide that within 20 days the claimant may request a hearing before
4 the circuit court rendering the order. If the claimant timely requests a hearing, the
5 court, within 10 days after receiving the request, shall set the matter for hearing.
6 Pending further order by the court or family court commissioner, the department is
7 prohibited from disbursing the withheld amount. The family court commissioner may
8 conduct the hearing. The sole issues at that hearing shall be whether the victim owes
9 the amount certified and, if not, whether the money withheld from the award shall
10 be paid to the claimant or held for future support or maintenance.

11 (b) Except as provided by order of the court after a hearing under par. (a), the
12 department of justice shall transfer the amount withheld under par. (a) to the
13 department of health and social services for distribution to the appropriate clerk of
14 court or other person. At the time of transfer, the department of justice shall charge
15 its administrative expenses to the department of health and social services. The
16 department of justice shall deposit the payments received for administrative
17 expenses in the appropriation account under s. 20.455 (5) (kc).

18 (END)