



## 1995 ASSEMBLY BILL 467

June 27, 1995 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary.

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

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### *Analysis by the Legislative Reference Bureau*

Current law provides a procedure for courts to require a convicted criminal defendant to pay restitution to any victim of the crime. In *State v. Szarkowitz*, 157 Wis. 2d. 740 (Ct. App. 1990), the court of appeals determined that “any victim of the crime” extends beyond the crime for which the defendant was convicted to also cover “read-in crimes”. Read-in crimes are crimes that are not charged, but they are crimes that the defendant admits to and that the court considers when sentencing the defendant. This bill codifies that decision.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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***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.

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

1           301.03 **(3r)** If any restitution ordered under s. 973.20 ~~(1)~~ (1r) remains unpaid  
2 at the time that a person's probation or sentence expires, or he or she is discharged  
3 by the department, give to the person upon release, or send to the person at his or  
4 her last-known address, written notification that a civil judgment may be issued  
5 against the person for the unpaid restitution.

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

8           973.20 **(1r)** When imposing sentence or ordering probation for any crime for  
9 which the defendant was convicted, the court, in addition to any other penalty  
10 authorized by law, shall order the defendant to make full or partial restitution under  
11 this section to any victim of ~~the~~ a crime considered at sentencing or, if the victim is  
12 deceased, to his or her estate, unless the court finds substantial reason not to do so  
13 and states the reason on the record. Restitution ordered under this section is a  
14 condition of probation or parole served by the defendant for ~~the~~ a crime for which the  
15 defendant was convicted. After the termination of probation or parole, or if the  
16 defendant is not placed on probation or parole, restitution ordered under this section  
17 is enforceable in the same manner as a judgment in a civil action by the victim named  
18 in the order to receive restitution or enforced under ch. 785.

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

20           973.20 **(1g)** In this section:

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

23           (b) "Read-in crime" means any crime that is uncharged, that the defendant  
24 admits to having committed and that the court considers at the time of sentencing  
25 the defendant for the crime for which the defendant was convicted.

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

2           973.20 (2) (intro.) If ~~the~~ a crime considered at sentencing resulted in damage  
3 to or loss or destruction of property, the restitution order may require that the  
4 defendant:

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

6           973.20 (3) (intro.) If ~~the~~ a crime considered at sentencing resulted in bodily  
7 injury, the restitution order may require that the defendant do one or more of the  
8 following:

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

10          973.20 (3) (c) Reimburse the injured person for income lost as a result of ~~the~~  
11 a crime considered at sentencing.

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

13          973.20 (4) If ~~the~~ a crime considered at sentencing resulted in death, the  
14 restitution order may also require that the defendant pay an amount equal to the cost  
15 of necessary funeral and related services under s. 895.04 (5).

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

17          973.20 (5) (a) Pay all special damages, but not general damages, substantiated  
18 by evidence in the record, which could be recovered in a civil action against the  
19 defendant for his or her conduct in the commission of ~~the~~ a crime considered at  
20 sentencing.

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

22          973.20 (5) (b) Pay an amount equal to the income lost, and reasonable  
23 out-of-pocket expenses incurred, by the person against whom ~~the~~ a crime considered  
24 at sentencing was committed resulting from the filing of charges or cooperating in  
25 the investigation and prosecution of the crime.

