



2019 SENATE BILL 33

February 15, 2019 - Introduced by Senators JACQUE, DARLING, NASS and OLSEN, cosponsored by Representatives HORLACHER, BRANDTJEN, HUTTON, KNODL, KUGLITSCH, KULP, MURPHY, RAMTHUN, SKOWRONSKI, SORTWELL, STEFFEN, TITTL and TUSLER. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 304.074 (3m), 893.40, 973.20 (1r) and 973.20 (10) (b) (intro.);
2 and *to create* 71.935 (3) (c) and 758.20 (3) of the statutes; **relating to:** the
3 collection of victim restitution.

Analysis by the Legislative Reference Bureau

This bill prohibits the Department of Corrections from collecting supervision fees from an individual who is or was previously on probation, parole, or supervised release until all restitution owed by that individual has been paid. Under current law, DOC may not collect supervision fees from an individual who owes restitution debt while that person is on probation, parole, or supervised release, but current law is silent as to whether supervision fees may be collected once that individual is no longer on probation, parole, or supervised release if a civil judgment has been entered for that individual's restitution debt.

This bill also directs the director of state courts to ensure that the court system website organizes restitution debt by the individual who owes restitution, not by the case in which restitution is owed, and that it apportions all payments made by an individual across all victims to whom he or she owes restitution. Currently, the court system website organizes restitution debt by the case in which restitution debt is owed, which allows an individual making a payment through the website to select which case to pay restitution towards.

This bill changes the statute of limitations for a civil action to enforce a restitution order so that such an action may be filed at any time. Under current law, a civil action to enforce a restitution order must be filed within 20 years.

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The bill requires that DOC or clerks of courts certify outstanding restitution debt to the Department of Revenue unless the victim requests that the debt not be certified. Under current law, clerks of courts may certify restitution debt but are not required to do so. This bill also requires DOR to begin collection efforts at the time of certification. Under current law, there is no required time frame in which DOR must begin collection efforts. The bill also requires DOR to apply collected amounts to outstanding child support and restitution debt before any other debt.

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

1 **SECTION 1.** 71.935 (3) (c) of the statutes is created to read:

2 71.935 (3) (c) If a debtor owes a debt related to victim restitution and other debt
3 certified under sub. (2), the department shall apply amounts collected under this
4 section to debt under s. 49.855 (1) and then to the debt related to victim restitution
5 before any other debt certified under sub. (2).

6 **SECTION 2.** 304.074 (3m) of the statutes is amended to read:

7 304.074 (3m) The department may not collect a fee charged under this section
8 until all restitution payments debt in any form due pursuant to any court order under
9 ~~s. 973.20~~ from the probationer, parolee, or person on extended supervision ~~have~~ has
10 been paid.

11 **SECTION 3.** 758.20 (3) of the statutes is created to read:

12 758.20 (3) The director of state courts shall ensure that the Wisconsin Circuit
13 Court Access Internet site organizes restitution owed under s. 973.20 by the
14 individual who owes restitution, and not by the case in which restitution is owed.
15 The director of state courts shall ensure that the Wisconsin Circuit Court Access
16 Internet site allocates any payment made through the Internet site first to
17 restitution owed by the individual and allocates any payment proportionately to all
18 victims to whom the individual owes restitution.

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1 **SECTION 4.** 893.40 of the statutes is amended to read:

2 **893.40 Action on judgment or decree; court of record.** Except as provided
3 in ss. 846.04 (2) and (3) ~~and~~, 893.415, and 973.20 (1r), action upon a judgment or
4 decree of a court of record of any state or of the United States shall be commenced
5 within 20 years after the judgment or decree is entered or be barred.

6 **SECTION 5.** 973.20 (1r) of the statutes is amended to read:

7 **973.20 (1r)** When imposing sentence or ordering probation for any crime, other
8 than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1)
9 (am) or 968.075 (1) (a), for which the defendant was convicted, the court, in addition
10 to any other penalty authorized by law, shall order the defendant to make full or
11 partial restitution under this section to any victim of a crime considered at
12 sentencing or, if the victim is deceased, to his or her estate, unless the court finds
13 substantial reason not to do so and states the reason on the record. When imposing
14 sentence or ordering probation for a crime involving conduct that constitutes
15 domestic abuse under s. 813.12 (1) (am) or 968.075 (1) (a) for which the defendant was
16 convicted or that was considered at sentencing, the court, in addition to any other
17 penalty authorized by law, shall order the defendant to make full or partial
18 restitution under this section to any victim of a crime or, if the victim is deceased, to
19 his or her estate, unless the court finds that imposing full or partial restitution will
20 create an undue hardship on the defendant or victim and describes the undue
21 hardship on the record. Restitution ordered under this section is a condition of
22 probation, extended supervision, or parole served by the defendant for a crime for
23 which the defendant was convicted. After the termination of probation, extended
24 supervision, or parole, or if the defendant is not placed on probation, extended
25 supervision, or parole, restitution ordered under this section is enforceable in the

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1 same manner as a judgment in a civil action by the victim named in the order to
2 receive restitution, except that an enforcement action may be commenced at any
3 time, or restitution may be enforced under ch. 785.

4 **SECTION 6.** 973.20 (10) (b) (intro.) of the statutes is amended to read:

5 973.20 (10) (b) (intro.) The department or the clerk of court may shall certify
6 an amount owed under par. (a) to the department of revenue unless the victim
7 requests that the debt not be certified, and the department of revenue shall begin
8 collection efforts if any of the following apply:

9 **SECTION 7. Initial applicability.**

10 (1) The treatment of s. 758.20 (3) first applies to restitution ordered before the
11 effective date of this subsection if information regarding the restitution is available
12 on the Wisconsin Circuit Court Access Internet site, as defined in s. 758.20 (1), on the
13 effective date of this subsection.

14 (2) Notwithstanding s. 990.06, the treatment of s. 893.40 first applies to an act
15 for which the time limit under s. 893.40 for commencement of the action has not
16 expired as of the effective date of this subsection.

17 (END)