

CO-SPONSORSHIP MEMORANDUM

TO: All Legislators

**FROM: Sen. André Jacque
Rep. Cody Horlacher**

DATE: Monday, January 14, 2019

RE: Co-sponsorship of LRB-0171/1 & LRB-1392/1, Crime Victim Restitution Fairness Act

DEADLINE: Tuesday, January 29 at 5:00pm

We will be introducing the Crime Victim Restitution Fairness Act, which was drafted in partnership with Wisconsin's Victims Rights Evidence-Based Decision Making Workgroup. This proposal was referenced in testimony delivered to the Assembly Committee on Corrections and the Senate Committee on Judiciary and Public Safety last session by the Community Justice Coordinating Council. In an effort to further the goal of increasing the collection of restitution for victims of crime, this proposal improves and refines a number of components included within 2015 Wisconsin Act 355 and the process of restitution collection in general:

1. Act 355 allowed Clerks of Court and the Department of Corrections (DOC) to certify restitution debt to the Department of Revenue (DOR) once payment is 30 days past due. The DOR has advised it will only take debt that is 90 days past due. LRB 0171/1 requires the DOR to begin collection efforts at time of certification as intended by Act 355.
2. Act 355 allowed Clerks of Court and the DOC to certify restitution debt to DOR, but the lack of requirement that they do so has left room for great inconsistency among counties. Additionally, Clerks of Court have the option to recertify current restitution debt from the Tax Return Intercept Program (TRIP) to State Debt Collection, but some may choose not to. LRB 0171/1 requires that all Clerks of Court should be required to certify restitution debt – current and new – to State Debt Collection under DOR to maximize the collection of restitution for crime victims, unless the victim requests that the debt not be certified.
3. The DOC has interpreted Act 355 to allow for the collection of supervision fees once the offender is no longer on supervision (the debt is certified or docketed as a civil judgment). LRB 0171/1 clarifies state statutes to affirm that supervision fees, like all other fees and costs, may not be collected until restitution debt in any form is satisfied.
4. Currently, a civil action to enforce a restitution order must be filed within 20 years. LRB 0171/1 eliminates the statute of limitations for a civil action to enforce a restitution order so that such an action may be filed at any time.
5. Presently, when paying fines online through the Wisconsin Circuit Court Access Program (CCAP), offenders can choose to pay other fines and costs before satisfying restitution, especially when an offender has multiple cases. LRB 0171/1 directs the director of state courts to ensure that the court system website organizes restitution by the individual who owes restitution, not by the case in which restitution is owed, and to apportion all payments made by an individual across all victims to whom he or she owes restitution.

6. LRB 0171/1 requires the DOR to apply collected amounts to outstanding child support and restitution debt before any other debt.

To be added on as a co-sponsor of this legislation, please reply to this email or contact Nik in Sen. Jacque's office at 6-3512 or Anna in Rep. Horlacher's office at 6-5715 by 5:00pm on Tuesday, January 29th.

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 by the individual who owes restitution, not by the case in which restitution is owed, and to apportion all payments made by an individual across all victims to whom he or she owes restitution. Currently, the court system website organizes 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. 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.