



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBa0262/1
RPN:kaf:jf

**SENATE AMENDMENT 2,
TO 1997 SENATE BILL 78**

April 2, 1997 - Offered by Senator C. POTTER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 6: after "fines," insert "forfeitures, costs,".

3 **2.** Page 2, line 4, on lines 4 and 7: after "fines," insert "forfeitures, costs,".

4 **3.** Page 2, line 11: after "973.05 (4)" insert "or 778.30 (1)".

5 **4.** Page 3, line 8: after "973.05 (5) (a)" insert "or 778.30 (2) (a)".

6 **5.** Page 3, line 11: after "(c)" insert "or 778.30 (1) (c)".

7 **6.** Page 4, line 2: after that line insert:

8 "SECTION 5m. 778.30 of the statutes is created to read:

9 **778.30 Collection of forfeitures and related charges by assignment. (1)**

10 In addition to the procedures under s. 23.795 or 345.47 or under this chapter for the
11 collection of forfeitures, costs, assessments, surcharges or restitution payments if a
12 defendant fails to pay the forfeiture, costs, assessment, surcharge or restitution

1 payment within the period specified by the circuit court, the court may do any of the
2 following:

3 (a) Issue a judgment for the unpaid amount and direct the clerk of circuit court
4 to file and docket a transcript of the judgment, without fee. If the court issues a
5 judgment for the unpaid amount, the clerk of circuit court shall send to the defendant
6 at his or her last-known address written notification that a civil judgment has been
7 issued for the unpaid forfeiture, costs, assessment, surcharge or restitution
8 payment. The judgment has the same force and effect as judgments docketed under
9 s. 806.10.

10 (b) Issue an order assigning not more than 25% of the defendant’s commissions,
11 earnings, salaries, wages, pension benefits, benefits under ch. 102 and other money
12 due or to be due in the future to the clerk of circuit court for payment of the unpaid
13 forfeiture, costs, assessment, surcharge or restitution payment. In this paragraph,
14 “employer” includes the state and its political subdivisions.

15 (c) Issue an order assigning lottery prizes won by a defendant whose name is
16 on the list supplied to the clerk of circuit court under s. 565.30 (5r) (a), for payment
17 of the unpaid forfeiture, costs, assessment, surcharge or restitution payment.

18 (d) A child support withholding assignment or order listed under s. 767.265 (4)
19 has priority over any assignment under this section.

20 **(2)** (a) 1. Upon entry of the assignment under sub. (1) (b), unless the court finds
21 that income withholding is likely to cause the defendant irreparable harm, the clerk
22 of circuit court shall provide notice of the assignment by regular mail to the
23 last-known address of the person from whom the defendant receives or will receive
24 money. If the clerk of circuit court does not receive the money from the person
25 notified, the the clerk of circuit court shall provide notice of the assignment to any

1 other person from whom the defendant receives or will receive money. Notice of an
2 assignment under sub. (1) (b) shall inform the intended recipient that, if a prior
3 assignment under sub. (1) (b) has been received relating to the same defendant, the
4 recipient is required to notify the clerk of circuit court that sent the subsequent notice
5 of assignment that another assignment has already been received. A notice of
6 assignment shall include a form permitting the recipient to designate on the form
7 that another assignment has already been received.

8 2. If, after receiving the annual list under s. 565.30 (5r) (a), the clerk of circuit
9 court determines that a person identified in the list may be subject to an assignment
10 under sub. (1) (c), the clerk shall inform the court of that determination. If the court
11 issues an order under sub. (1) (c), the clerk of circuit court shall send the notice of that
12 order to the administrator of the lottery division of the department of revenue,
13 including a statement of the amount owed under the judgment and the name and
14 address of the person owing the judgment. The court shall notify the administrator
15 of the lottery division of the department of revenue when the judgment that is the
16 basis of the assignment has been paid in full.

17 3. Notice under this paragraph may be a notice of the court, a copy of the
18 executed assignment or a copy of that part of the court order which directs payment.

19 (b) For each payment made under the assignment under sub. (1) (b), the person
20 from whom the defendant under the order receives money shall receive an amount
21 equal to the person's necessary disbursements, not to exceed \$3, which shall be
22 deducted from the money to be paid to the defendant.

23 (c) A person who receives notice of the assignment under sub. (1) (b) shall
24 withhold the amount specified in the notice from any money that person pays to the
25 defendant later than one week after receipt of the notice of assignment. Within 5

1 days after the day on which the person pays money to the defendant, the person shall
2 send the amount withheld to the clerk of circuit court that provided the notice. If the
3 person has already received a notice of an assignment under sub. (1) (b) related to
4 the same defendant, the person shall retain the later assignment and withhold the
5 amount specified in that assignment after the last of any prior assignments is paid
6 in full. Within 10 days of receipt of the later notice, the person shall notify the clerk
7 of circuit court that sent the notice that the person has received a prior notice of an
8 assignment under sub. (1) (b). Section 241.09 does not apply to assignments under
9 this section.

10 (d) If after receipt of notice of assignment under par. (a) 1. the person from
11 whom the defendant receives money fails to withhold the money or send the money
12 to the clerk of circuit court as provided in this subsection, the person may be
13 proceeded against under the principal action under ch. 785 for contempt of court or
14 may be proceeded against under this chapter and be required to forfeit not less than
15 \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the
16 amount not withheld or sent.

17 (e) If an employer who receives notice of an assignment under sub. (1) (b) fails
18 to notify the clerk of circuit court within 10 days after an employee is terminated or
19 after the employee temporarily or permanently leaves the employer's employment,
20 the employer may be proceeded against under the principal action under ch. 785 for
21 contempt of court.

22 (3) Compliance by the person from whom the defendant receives money with
23 the order under sub. (1) (b) operates as a discharge of the person's liability to the
24 defendant as to that portion of the defendant's commissions, earnings, salaries,
25 wages, benefits or other money so affected.

