



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBa0885/1
RPN:jlg:jf

**SENATE AMENDMENT 3,
TO 1997 SENATE BILL 78**

November 4, 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 1, line 7: delete that line and substitute "and surcharges, making an
4 appropriation and providing a penalty."

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

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

7 **5.** Page 3, line 4: after that line insert:

8 "SECTION 3g. 565.30 (5t) of the statutes is created to read:

9 565.30 (5t) PRIORITY OF WITHHOLDING. The administrator shall withhold
10 payments under this section from a winner of a lottery prize in the following order:

11 (a) For any federal or state taxes required to be withheld under sub. (4).

12 (b) For any delinquent state taxes, child support or debt owed the state required
13 to be withheld under sub. (5).

1 (c) For any child support, spousal support, maintenance or family support
2 required to be withheld under sub. (5m).

3 (d) For any assignment of lottery prizes required to be withheld under sub.
4 (5r).”.

5 **6.** Page 3, line 8: after “973.05 (5) (a)” insert “or 778.30 (2) (a)”.

6 **7.** Page 3, line 11: after “(c)” insert “or 778.30 (1) (c)”.

7 **8.** Page 3, line 15: delete “department”.

8 **9.** Page 3, line 16: delete lines 16 and 17 and substitute “court that issued the
9 assignment. At the time of the submittal, the administrator shall charge the
10 administrative expenses related to that withholding and submittal to the winner of
11 the lottery”.

12 **10.** Page 4, line 2: after that line insert:

13 “**SECTION 5m.** 778.30 of the statutes is created to read:

14 **778.30 Collection of forfeitures and related charges by assignment. (1)**

15 In addition to the procedures under s. 23.795 or 345.47 or under this chapter for the
16 collection of forfeitures, costs, assessments, surcharges or restitution payments if a
17 defendant fails to pay the forfeiture, costs, assessment, surcharge or restitution
18 payment within the period specified by the circuit court, the court may do any of the
19 following:

20 (a) Issue a judgment for the unpaid amount and direct the clerk of circuit court
21 to file and docket a transcript of the judgment, without fee. If the court issues a
22 judgment for the unpaid amount, the clerk of circuit court shall send to the defendant
23 at his or her last-known address written notification that a civil judgment has been
24 issued for the unpaid forfeiture, costs, assessment, surcharge or restitution

1 payment. The judgment has the same force and effect as judgments docketed under
2 s. 806.10.

3 (b) Issue an order assigning not more than 25% of the defendant's commissions,
4 earnings, salaries, wages, pension benefits, benefits under ch. 102 and other money
5 due or to be due in the future to the clerk of circuit court for payment of the unpaid
6 forfeiture, costs, assessment, surcharge or restitution payment. In this paragraph,
7 "employer" includes the state and its political subdivisions.

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

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

13 **(2)** (a) 1. Upon entry of the assignment under sub. (1) (b), unless the court finds
14 that income withholding is likely to cause the defendant irreparable harm, the clerk
15 of circuit court shall provide notice of the assignment by regular mail to the
16 last-known address of the person from whom the defendant receives or will receive
17 money. If the clerk of circuit court does not receive the money from the person
18 notified, the the clerk of circuit court shall provide notice of the assignment to any
19 other person from whom the defendant receives or will receive money. Notice of an
20 assignment under sub. (1) (b) shall inform the intended recipient that, if a prior
21 assignment under sub. (1) (b) has been received relating to the same defendant, the
22 recipient is required to notify the clerk of circuit court that sent the subsequent notice
23 of assignment that another assignment has already been received. A notice of
24 assignment shall include a form permitting the recipient to designate on the form
25 that another assignment has already been received.

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

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

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

16 (c) A person who receives notice of the assignment under sub. (1) (b) shall
17 withhold the amount specified in the notice from any money that person pays to the
18 defendant later than one week after receipt of the notice of assignment. Within 5
19 days after the day on which the person pays money to the defendant, the person shall
20 send the amount withheld to the clerk of circuit court that provided the notice. If the
21 person has already received a notice of an assignment under sub. (1) (b) related to
22 the same defendant, the person shall retain the later assignment and withhold the
23 amount specified in that assignment after the last of any prior assignments is paid
24 in full. Within 10 days of receipt of the later notice, the person shall notify the clerk
25 of circuit court that sent the notice that the person has received a prior notice of an

1 assignment under sub. (1) (b). Section 241.09 does not apply to assignments under
2 this section.

3 (d) If after receipt of notice of assignment under par. (a) 1. the person from
4 whom the defendant receives money fails to withhold the money or send the money
5 to the clerk of circuit court as provided in this subsection, the person may be
6 proceeded against under the principal action under ch. 785 for contempt of court or
7 may be proceeded against under this chapter and be required to forfeit not less than
8 \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the
9 amount not withheld or sent.

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

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

19 **(4)** No employer may use an assignment under sub. (1) (b) as a basis for the
20 denial of employment to a defendant, the discharge of an employe or any disciplinary
21 action against an employe. An employer who denies employment or discharges or
22 disciplines an employe in violation of this subsection may be fined not more than
23 \$500 and may be required to make full restitution to the aggrieved person, including
24 reinstatement and back pay. Restitution shall be in accordance with s. 973.20. An

1 aggrieved person may apply to the district attorney or to the department of workforce
2 development for enforcement of this subsection.

3 (5) (a) In this subsection, “payroll period” has the meaning given in s. 71.63 (5).

4 (b) If after an assignment of earnings is in effect the defendant’s employer
5 changes its payroll period, or the defendant changes employers and the new
6 employer’s payroll period is different from the former employer’s payroll period, the
7 clerk of circuit court may, unless otherwise ordered by a judge, amend the
8 withholding assignment or order so that all of the following apply:

9 1. The withholding frequency corresponds to the new payroll period.

10 2. The amounts to be withheld reflect the adjustment to the withholding
11 frequency.

12 (c) The clerk of circuit court shall provide notice of the amended withholding
13 assignment or order under this subsection by regular mail to the defendant’s
14 employer and to the defendant.”.

15 **11.** Page 7, line 24: delete “sentences” and insert “, fines and forfeitures”.

16 (END)