

## **Wood County Criminal Justice Task Force Minutes March 22, 2017**

**Present:** Adam Stublaski, Dept. of Corrections; Caitlin Saylor, Dept of Corrections; Cindy Joosten, Clerk of Courts; Jackie Arnold, Clerk of Courts; David Dickmann, Public Defender; Lori Heideman, Wood County Dispatch; Shawn Woods, Nekoosa PD; Craig Lambert, District Attorney; Patrick Zeps, Marshfield PD; Melvin Pedersen, Grand Rapids PD; Bill Clendenning, Wood County Board; Greg Potter, Branch 1; Emily Nolan Plutchak; Public Defender; Lance Pliml, Wood County Board; Todd Wolf, Branch 3, Trisha Anderson, Victim Witness.

Judge Potter called meeting to order. No additions or corrections to Minutes of 12/7/16 meeting and minutes are approved. No additions to today's agenda. No public comments

**Restitution Changes Per Act 355** – Trisha Anderson addresses victim's not getting restitution. She asks Justice Task Force for help and presents new legislation. See attached. She states that the Clerk of Courts can collect restitution and do tax intercept. She asks that Clerk of Courts speak to task force and have victims speak at task force as to hardship of not receiving restitution. Cindy Joosten addresses group and explains that she does not have the manpower at this time to collect restitution when a defendant is released from probation. Probation & Parole indicates that they are stepping up efforts to collect the restitution when defendant is on probation. Trisha talks about a program that has been tried that has increased collections significantly. It will be put on agenda for next meeting. She will also attempt to get some victims to come in and speak at next meeting. A question arose as to what Wood County history is in collecting restitution. Those numbers will be looked into and Clerk of Courts and Probation and Parole will provide those numbers at the next meeting.

**Pre-Trial/Jury Trial Process and Efiling** – Judge Potter addresses difficulties with efiling and how that affects new PTC process. Discussion of possible issue regarding Public Defender appointing counsel and not having the criminal complaints. Possible solution would be to push initial appearance back 3 weeks after bond hearing. David Dickmann thinks that efiling is working well now. Other efiling issues are discussed. Victim Impact Statements are discussed. Victim Impact Statements should be sent to Judges for review.

**Restorative Justice** – Trisha Anderson states that Victim Impact Panel was held on 3/14/17 and 48 people attended. There was a total of 62 people signed up. There were 4 warrants requested for defendants that did not show. Trisha is asking if anyone is interested in taking over for her if the Justice Task Force decides to continue the program. Craig Lambert feels it is a good program and it should be continued. The Restorative Justice committee does not meet. David Dickmann adds that most counties have a Criminal Justice person that handles Victim Impact Panels.

**Drug Court** – Todd Wolf states that Drug Court received a 5-year grant, but is reviewable. As a requirement of the grant, there must be an oversight committee, which he feels would be this committee. He will be providing statistics to be reviewed at future meetings. Risk assessment tool will be re-evaluated. CBRF is no longer being funded by the County and it is being worked on to get it back in the county budget. Future of CBRF is uncertain at this time. County Board is unsure if building will be used or sold. Drug Court currently has 31 participants. Group seems to be progressing at the current time.

**Juvenile Issues** – None at this time.

## **Round Table:**

DA Craig Lambert states that they have a new ADA, Leigh Neville-Neil. She is from Brown County.

Trisha Anderson introduces Act 356, which is effective 4/1/17, which addresses confidentiality program run by DOJ. Mail for victims who fear for their safety goes to an address in Madison and then is forwarded to them. Family Center and PDC may be using the program. Webinar is being held at Safe at Home Wisconsin.

Shawn Woods from Nekoosa PD indicates that there have been no problems with e-filing.

David Dickmann states that they will be adding public defender attorneys to his district and one will probably be added to Wood County. He questions work space in the courthouse for the attorneys.

Cindy Joosten states that the Clerk of Courts Office has been working on criminal e-filing, as it was implemented on 2/27/17.

Probation & Parole received a thank you from Team Leadership class. Adam Stublaski introduces Caitlin Saylor, a new supervisor at Probation & Parole. Judge Wolf questions ATR form from Marathon County. He likes the form and wonders if local Probation department can adopt the form. Caitlyn says she likes it too and will try to implement the form.

All restitution worksheets are confidential. Confidentiality of Victim Impact Statements is still being discussed. May be on a case-by-case basis. It will be discussed more at next meeting.

Judge Potter raises issue with the District Attorney about the late advising to the courts of the unavailability of witnesses. He said it is not fair to the defense counsel of the late notice. They need to notify Court and defense counsel as soon as they know of the unavailability of witnesses and conflicts.

Meeting adjourned at 1:10

Submitted 4/28/17

Jackie Arnold

Deputy Clerk of Courts

Adam Stablaschi  
Caitlin Saylor  
Cindy ~~Forrest~~  
David Dickmann  
Lou Heideman  
Shawn Woods  
CRAIG LAMBERT  
Patrick Zeps  
Melvin Pedersen  
Bill Clendinning  
Lance Potter  
Emily Nefan Plutchak  
Lance Plutchak  
Todd Wolf

DOC  
DOC  
COC  
PD  
WC dispatch  
Nekoosa PD  
D. A.  
Marshfield P.D.  
Grand Rapids P.D.  
Wood Co Board Dist 15  
Br. I  
PD  
Co. Board  
Br. 3

# Memorandum

SUPREME COURT OF WISCONSIN  
OFFICE OF COURT OPERATIONS  
PHONE (608) 266-3121 FAX (608) 267-0911



**DATE:** June 28, 2016

**TO:** Clerks of Circuit Court  
District Court Administrators

**FROM:** Amber Peterson, Legal Advisor

**SUBJECT:** New Restitution Legislation (2015 WI Act 355)

Effective July 1, 2016, 2015 WI Act 355

(<https://docs.legis.wisconsin.gov/2015/related/acts/355.pdf>) makes significant changes to the laws regarding restitution owed to victims of crime. The following is a summary of the legislative changes that most significantly affect clerks of court.

## **Certifying Restitution to the Department of Revenue (DOR) for Collection**

2015 WI Act 355 creates Wis. Stat. § 973.20(10)(b) that allows clerks of court and the department of corrections to certify restitution to DOR for collection through State Debt Collection (SDC) or Tax Refund Intercept Program (TRIP) if any of the following apply:

1. The court required that restitution be paid immediately and more than 30 days have passed since the order was entered;
2. The court required that restitution be paid within a specified period and more than 30 days have passed since the expiration of that period; or
3. The court required that restitution be paid in specified installments and the defendant is delinquent in making any of those payments.

To allow the 30 days to start "running" as soon as possible so restitution can be certified to DOR, a best practice recommendation is to have judges include specific dates by which restitution must be paid in their orders, as opposed to ordering that it be paid by the end of supervision.

### **Change in DOR Policy**

Before this legislative change, it was DOR's position that restitution could only be certified if a court order required the restitution be paid to the clerk of court. DOR's reasoning was that it

could not accept debts unless they were owed to a government agency. This legislation changes DOR's previous policy by explicitly allowing restitution to be certified to DOR, meaning that the order for restitution no longer has to be payable to the clerk of court. (See Wis. Stat. §§ 71.93(1)(a)7.; 71.935(1)(ar); and 973.20(10)(b).)

### **DOR Payment Order**

The legislation also modifies the order in which debts collected by DOR will be paid. Now, restitution debt will be paid after child support and before state agency debt. Money collected by DOR will be applied in the following order (See Wis. Stat. § 71.93(3)(a)1.-9. for a complete list):

1. DOR debt
2. Child support debt
3. Restitution debt
4. State agency debt, including courts
5. Etc.

### **County Policy**

If your county is not already certifying restitution to DOR for collection through SDC or TRIP, you may want to consider discussing this policy with your county. While clerks are not statutorily required to certify restitution to DOR, it is a helpful service to provide to victims of crime who are otherwise responsible for collecting restitution on their own.

## **Notifying Department of Corrections (DOC) of Satisfaction of Restitution**

Wis. Stat. § 973.20(11)(d) was created to require each clerk of court who collects restitution to "notify the department [of corrections] when a defendant has satisfied an order for restitution." This requirement is most likely intended to avoid the situation where a case is in DOC collect, but the defendant pays money to the clerk of court, and DOC is not aware that a payment was made.

To implement this requirement, the recommended practice is to send an Assessment Report to DOC indicating the payment and current restitution balance. We can assess whether a more formal process is needed based on feedback received.

## Modifications to the Judgment of Conviction (JOC) (CR-212)

2015 WI Act 355 requires that two changes be made to the JOC. The new JOC will be posted on July 1, 2016.

### 1. JOC Must Authorize DOC to Collect Restitution from Prison Account

Wis. Stat. § 973.20(11)(c) was created to require that if a defendant sentenced to prison is ordered to pay restitution, the JOC must authorize DOC to collect from the wages and other money held in the prisoner's account an amount or percentage DOC determines is reasonable for payment to victims. After consulting with DOC, the Records Management Forms Committee (RMC) added a statement to this effect on the JOC. There is no check box in front of the statement, meaning judges do not have to decide if it applies in each case – if applicable, it will apply automatically.

### 2. JOC Must Include DOC's Supervision Fee

Wis. Stat. § 973.20(12)(a) was modified to require the DOC supervision fee to be included with the amount of fines, costs, fees, surcharges, and restitution ordered on the JOC. The challenge with this requirement is that the exact amount of the supervision fee is not generally known at the time the JOC is completed. To avoid having to amend JOCs, DOC and RMC agreed to amend the JOC to include the following statement "If the defendant is placed on probation or released to extended supervision, IT IS ORDERED that the defendant pay supervision fees as determined by the Department of Corrections." This statement satisfies the requirement to include the amount of supervision costs on the JOC.

## Clerk's Annual Report to the Legislature

Wis. Stat. § 973.20(11)(e) was created to require DOC and each clerk of court office that collects restitution to annually submit a report to the legislature that specifies:

1. The total amounts of restitution ordered for each clerk of court to collect;
2. The administrative fee (5% restitution surcharge) each clerk of court collects; and
3. The amount of restitution collected by the clerk of court and disbursed to victims.

The reports will reflect numbers from July 1<sup>st</sup> to June 30<sup>th</sup> of each year. **The first report will be due in July 2017 and will represent restitution numbers from July 1, 2016 – June 30, 2017.**

### **How To Capture These Numbers**

CCAP will create a report that clerks can run next July to satisfy this new requirement. The report will use the RHT (Restitution Held in Trust) and the REST5 (Restitution Administrative Surcharge – 5%) Accounts to gather the required information.

### **How Reports Will Be Submitted**

To satisfy the reporting requirement, clerks will email a PDF version of the report to the chief clerk of each house of the legislature. As the July 2017 reporting date gets closer, Court Operations will email instructions for how to run the report and where to send it.

### **Payment Priority of DOC Supervision Fee**

Wis. Stat. § 304.074(3m) was created require that restitution be collected before the DOC supervision fee. This does not directly affect the clerks, but is informational.

### **Changes to Garnishment Practice**

2015 WI Act 355 makes two significant changes related to garnishment actions, including forms changes.

#### **1. No Filing Fee for Garnishments to Collect Victim Restitution**

Wis. Stat. § 814.62(1) was modified to read “there is no filing fee for commencing a garnishment action to satisfy an order for victim restitution.” To help clerks identify when a garnishment action is intended to satisfy an order for victim restitution, a new check box has been added to the *Earnings Garnishment Notice (CV-421)*, which will be released July 1, 2016. Also, the Wisconsin Circuit Court Fee, Forfeiture, Fine and Surcharges Table (<https://www.wicourts.gov/courts/circuit/docs/fees.pdf>) will be updated and posted on the court’s website before July 1, 2016.

#### **2. No 13-Week Expiration for Garnishments to Collect Victim Restitution**

Wis. Stat. § 814.405 was created to read that a garnishment of a debtor who owes victim restitution remains valid until the judgment is satisfied, unless sooner terminated by the court. Most other types of garnishment actions have a 13-week expiration period. The instruction page for *Earnings Garnishment (CV-422)* was modified to explain this change and will be released July 1, 2016.