



# Crime Victim Restitution Collection in Wisconsin

A Guide To Help Victims of Crime Understand How Restitution is Collected

WISCONSIN CRIME VICTIMS COUNCIL 2017

Last Update: July 2017

# Crime Victim Restitution Collection in Wisconsin

*This document has been provided by the Wisconsin Crime Victims Council to provide general information regarding court ordered restitution for victims of crime in the State of Wisconsin.*

*The information provided is not written in “legal language” and is not legal advice. The information provided is for victims’ general information purposes only.*

PLEASE NOTE THAT THIS GUIDE DOES NOT ADDRESS THE JUVENILE JUSTICE SYSTEM PROCESSES OR CIVIL JUDGMENTS FOR RESTITUTION OVER \$10,000.

WISCONSIN CRIME VICTIMS COUNCIL 2017

A Guide To Help Victims of Crime Understand How Restitution is Collected

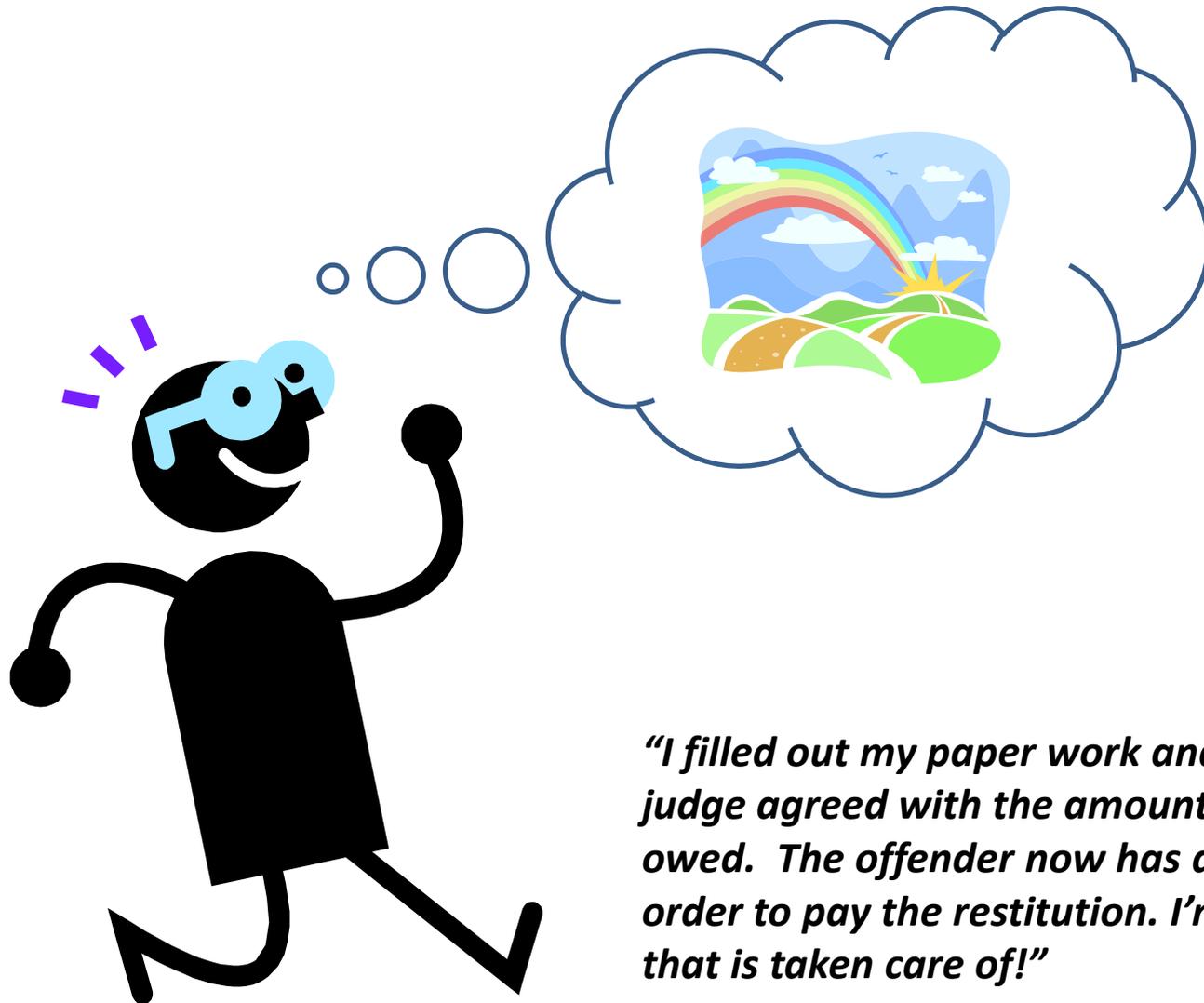
# Crime Victim Restitution

*More than a matter of money*

“[R]estitution is recognized as an effective rehabilitative penalty because it forces defendants to confront concretely—and take responsibility for—the harm they have inflicted, and it appears to offer a greater potential for deterrence.”

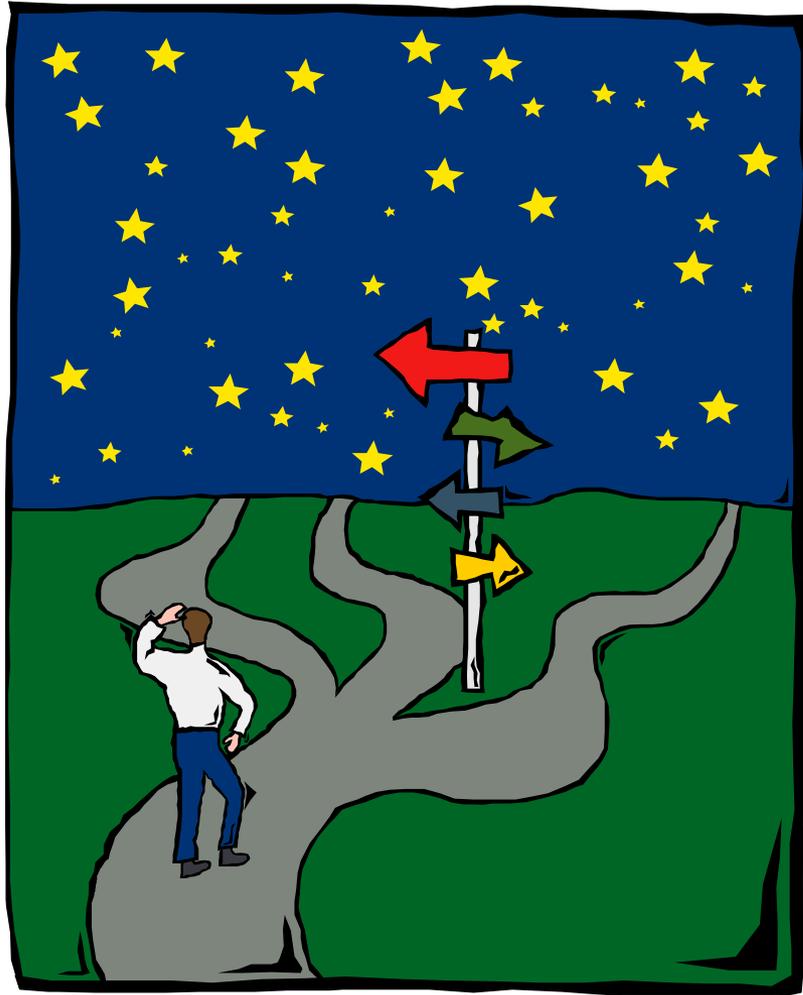
**People v. Hall-Wilson, 505 N.E.2d 584, 585 (N.Y. 1987) (internal citations omitted).**

# The Ideal Road to Restitution Collection...



***“I filled out my paper work and the judge agreed with the amounts I am owed. The offender now has a court order to pay the restitution. I’m glad that is taken care of!”***

How it really feels for many victims...



# You wonder, will it be ...

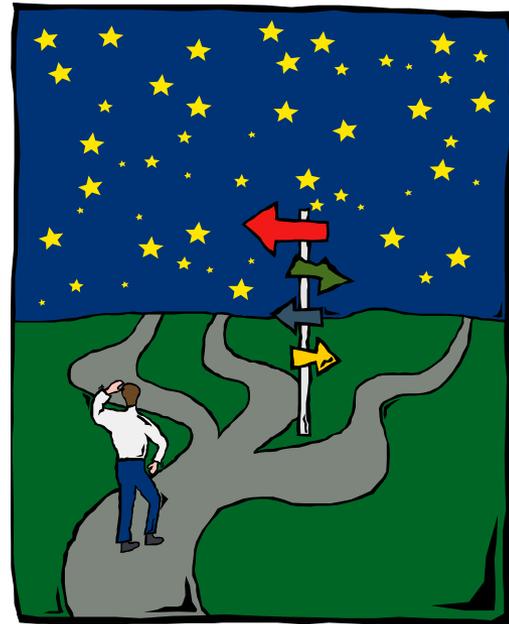
Paid through the DA's office as part of a deferred agreement?

Paid to the clerk?

Paid from prison?

Paid during probation?

Paid after a civil judgment is issued?



# You wonder...

...will it be  
paid at all?



# You wonder...

...who will make  
sure it gets paid  
as the court  
ordered?





**Let's start at the beginning.**

## *Wisconsin State Constitution Article I*

*Victims of crime. SECTION 9m. [As created April 1993] This state shall treat crime victims, as defined by law, with fairness, dignity and respect for their privacy. This state shall ensure that crime victims have all of the following privileges and protections as provided by law: timely disposition of the case; the opportunity to attend court proceedings; if the trial court finds sequestration is necessary to a fair trial for the defendant, reasonable protection from the accused throughout the criminal justice process; notification of public hearings; the opportunity to confer with the prosecution; the opportunity to make a statement to the court at disposition; restitution; compensation; and information about the outcome of the case and the release of the accused. The legislature shall provide remedies for the violation of this section. Nothing in this section, or in any statute enacted pursuant to this section, shall limit any right of the accused which may be provided by law. [1993 J.R. 2, vote April 1993]*

# Restitution is a Constitutional and Statutory Right in Wisconsin

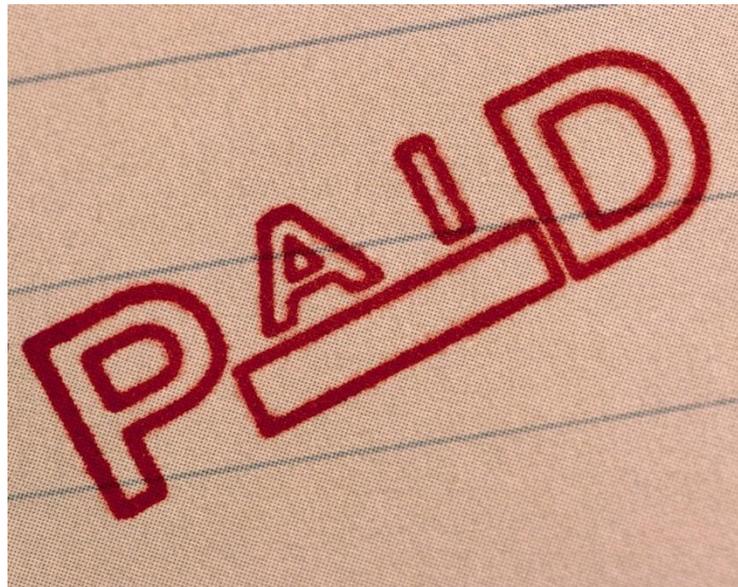
See Wisconsin Constitution Article I, Section 9m Wisconsin Stat. Ch. 950.04(lv)(q) and (r)

# RESTITUTION IS FUNDAMENTAL TO JUSTICE

The purpose of restitution is to pay for **ACTUAL** expenses that a victim has to pay. Expenses, such as medical bills, that only exist because the offender victimized the victim.

*The bills don't go away just because an offender doesn't pay his or her restitution.*

Sometimes restitution is paid prior to the prosecution as a condition of an agreement with the prosecutor or part of a plea.



It is more common that restitution is ordered by the court after a conviction.



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Wisconsin law sets forth a process for  
determining and ordering  
restitution.

# Getting a Court Order for Restitution

Prior to sentencing, the district attorney shall attempt to obtain from the victim information pertaining to the victim's loss.

§ 973.20(13)(b)

# Getting a Court Order for Restitution

The court shall ask the district attorney for amount of claimed restitution at the sentencing hearing.

§ 973.20(13)(c)

# Getting a Court Order for Restitution

If there is agreement about the amount of restitution requested, the court enters an order which can require payment within a specified period or in specified installments.

§ 973.20(10)

# Getting a Court Order for Restitution

If the total owed is disputed or not determined during sentencing, the court can order payment of any undisputed amounts or order mediation to determine amounts. The court may also refer the matter to a circuit court for a restitution hearing .

§ 973.20(13)(c)



The district attorney is not required to represent the victim at a restitution hearing unless it is held at or prior to the sentencing proceeding or the court orders the DA to represent the victim.

§ 973.20(14)(a)

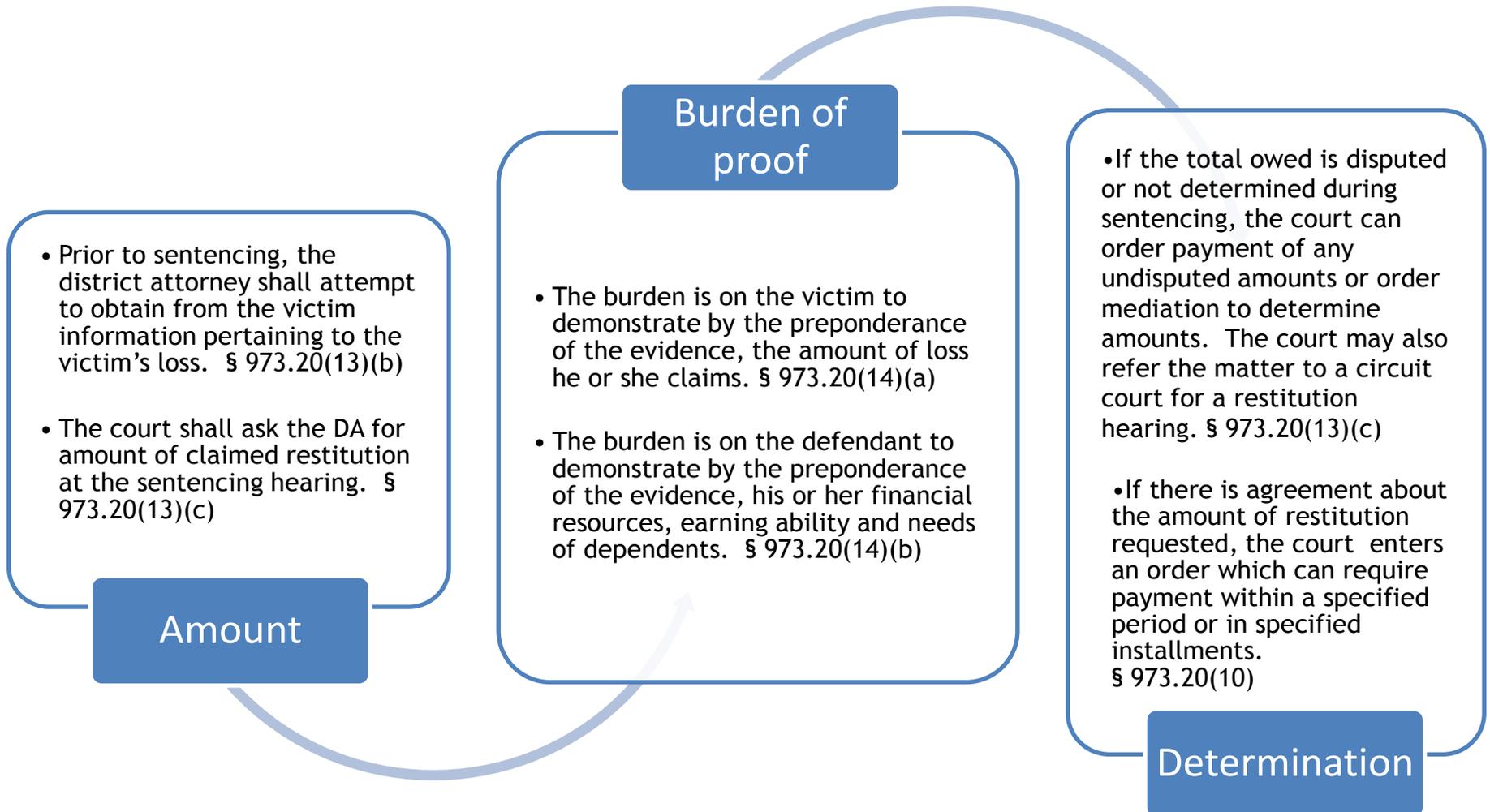


The burden is on the victim to prove the amount of loss he or she claims. § 973.20(14)(a)

**IMPORTANT**

The burden is on the defendant to show his or her financial resources, earning ability and needs of dependents. § 973.20(14)(b)

# Getting a Court Order for Restitution: Overview



# When is payment due?

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The court may require that restitution be paid right away or within a specified time or in specific installments. The court cannot set the time period to be later than the end of any term of probation, parole or extended supervision .

Wis. Stat. § 973.20(10)



**FYI**

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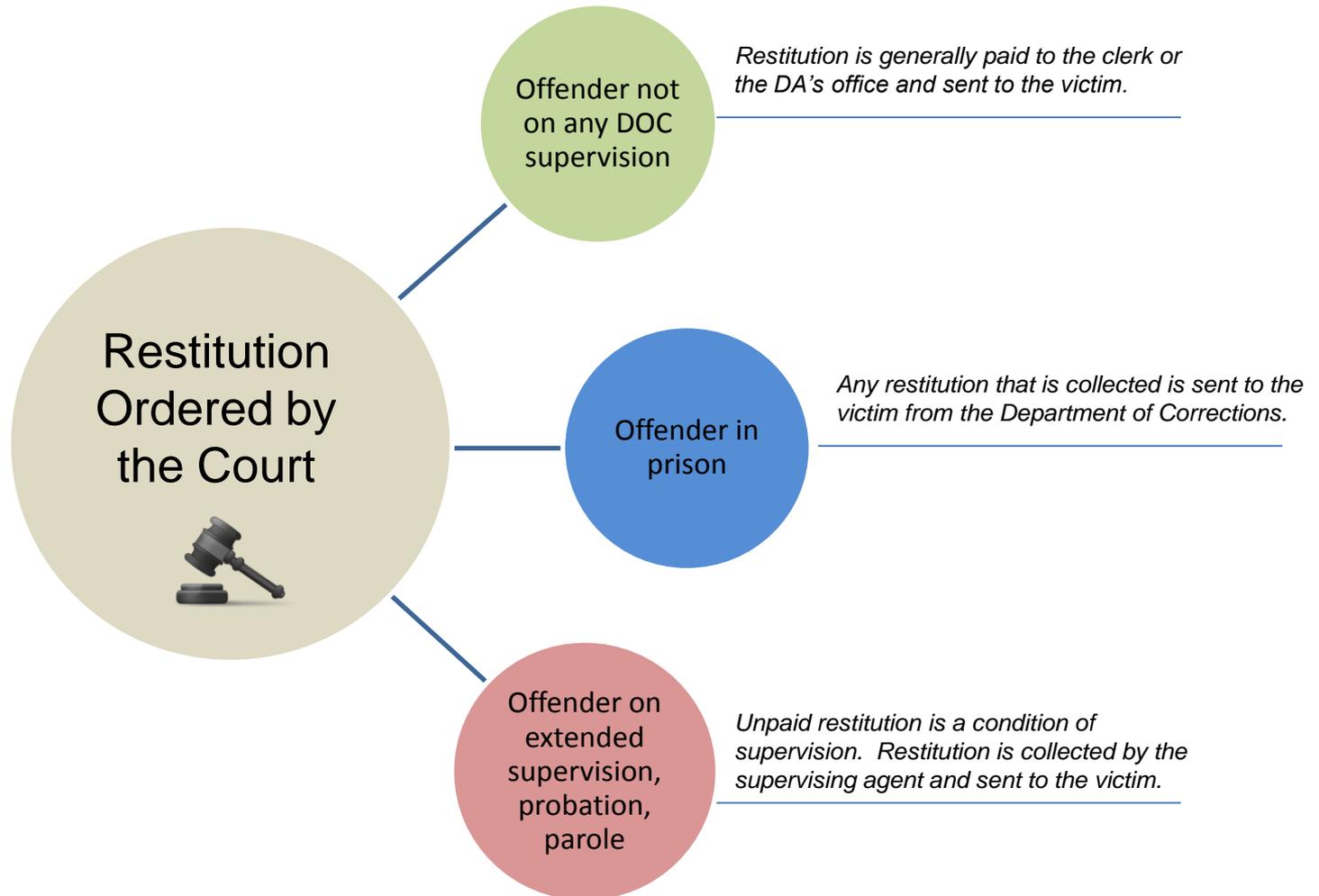
Wisconsin law allows bail to be applied to restitution after a judgment of conviction, as long as the bail was deposited on or after June 6, 2006.

Wis. Stat. § 969.03(4)

# How is it collected?



# Authorities Involved in Restitution Collection





Offender  
not on DOC  
supervision

- If restitution is not paid up front and the offender is not under DOC supervision, restitution ordered by the court is paid to the clerk of circuit court.
- When payments are made to the clerk, the restitution is mailed from the clerk's office, the district attorney's office or the victim/witness office (different counties have different procedures) directly to the victim.

Wis. Stat. § 973.20(11)



Offender  
not on DOC  
supervision

As of July 2016, the clerk **may** certify an amount owed for restitution to the Department of Revenue for collection actions 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.
3. The court required that restitution be paid in specified installments and the defendant is delinquent in making any of those payments.

Wis. Stat. § 973.20(10)(b)



Offender  
not on DOC  
supervision

While every clerk is authorized to certify restitution debt for collection by the Department of Revenue (DOR), they are not **required** to do so.

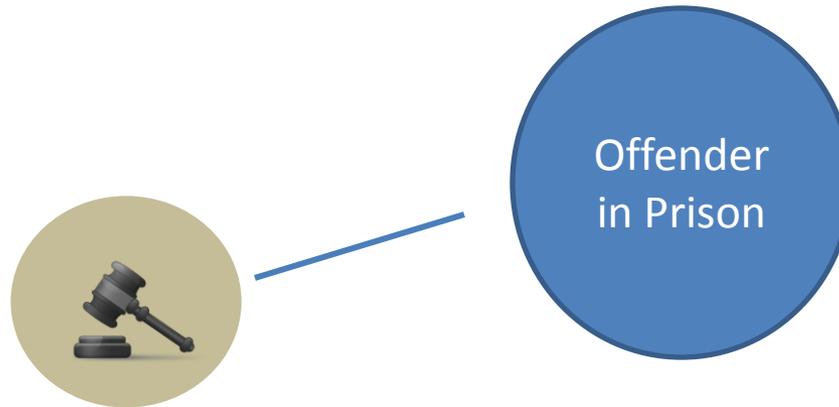
Many clerks of court have put in place policies to certify unpaid restitution to DOR, as a service to help victims of crime and to help enforce the court's restitution order.



Offender  
not on DOC  
supervision

This certification of restitution debt to the Department of Revenue (DOR) can be done for one or both of the following collection methods:

1. To intercept an offender's tax refund and transfer that money to the crime victim to whom the offender owes restitution.
2. To turn the entire restitution debt over to DOR to collect using the same tools used to collect unpaid taxes: payment plans, tax refund intercepts, wage attachment orders and bank levies. Money collected this way is then sent to the clerk's office and forwarded it to the victim.



- As of July 2016, if the offender is in prison, the Department of Corrections (DOC) may use inmate account money and money the inmate had when admitted to prison to pay victim restitution. Wis. Stat. § 301.32(1) and § 302.13
- Any restitution that is collected by the DOC is handled by the DOC cashier's office. Checks are mailed from DOC to the last known address of the victim.

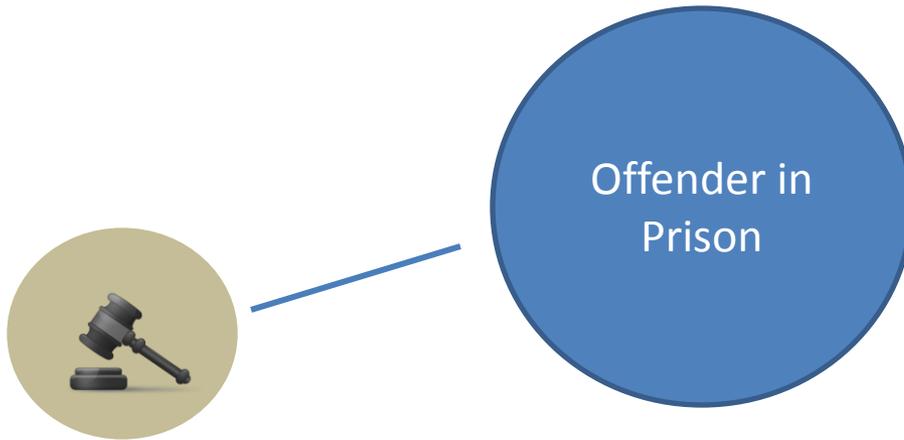


**FYI**

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If DOC does not have a victim's current address, the restitution money is put in the state's unclaimed property system for the victim to claim. To see if you have unclaimed restitution, go to the Department of Revenue's Unclaimed Property webpage:

<https://www.revenue.wi.gov/Pages/UnclaimedProperty/Home.aspx>



- Many offenders leave prison owing restitution. If he or she will be on extended supervision, payment of restitution becomes a condition of extended supervision.

Wis. Stat. § 973.20 (1r)



Offender on  
extended  
supervision,  
probation or  
parole

- The collection of restitution for offenders on probation, parole or extended supervision is supervised by the offender's probation/parole agent.
- When offenders pay restitution, the money goes through the DOC cashier's office and a check is sent to the victim's last known address.

Wis. Stat. § 973.20(11)



Offender on  
extended  
supervision,  
probation or  
parole

- As of July 2016, DOC may not collect any supervision reimbursement fees owed to the department by an offender until all restitution payments due from ANY court order have been paid.

Wis. Stat. § 304.074(3m)



Offender on  
extended  
supervision,  
probation or  
parole

As of July 2016, DOC may certify an amount owed for restitution to the Department of Revenue for collection actions 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.
- 3.** The court required that restitution be paid in specified installments and the offender is delinquent in making any of those payments.

Wis. Stat. § 973.20(10)(b)



Offender on  
extended  
supervision,  
probation or  
parole

This certification of restitution debt to the Department of Revenue (DOR) can be done for one or both of the following collection methods:

1. To intercept an offender's tax refund so that money can be transferred to the crime victim to whom the offender owes restitution.
2. To turn the entire restitution debt over to DOR for collection using the same tools used to collect unpaid taxes: payment plans, tax refund intercepts, wage attachment orders and bank levies. Money collected this way is sent to the DOC cashier's office to be forwarded to the victim.



Offender on  
extended  
supervision,  
probation or  
parole

While DOC is **authorized** to certify restitution debt for collection by the Department of Revenue (DOR), they are not **required** to do so.



Offender on  
extended  
supervision,  
probation or  
parole

Victims can contact probation or parole agents to discuss restitution collection or ask questions. The DOC Office of Victim Services will assist victims who need help contacting the agent.

### **DOC Office of Victim Services & Programs (OVSP)**

Madison area: 608-240-5888

Toll-Free: 800-947-5777

Monday-Friday: 7:45 a.m. – 4:30 p.m.

[www.WIVictimsVoice.org](http://www.WIVictimsVoice.org)



Offender  
extended  
supervision,  
probation or  
parole

- At least 90 days prior to an offender's scheduled discharge, the DOC Cashier prepares a status report of court-ordered financial obligations. The report is forwarded to the court, the agent and the agent's supervisor. DOC must notify the court, the district attorney and the victim of unpaid restitution.

Wis. Stat. § 973.09(3)(b)



Offender  
extended  
supervision,  
probation or  
parole

“The agent must take appropriate action to collect the balance of the unpaid obligations, request a court review, or initiate revocation.”

*State of Wisconsin Department of Corrections Division of Community Correction Policy Manual, 04.07.04, accessed online on July 2014  
[www.doc.wi.gov](http://www.doc.wi.gov)*



Offender  
extended  
supervision,  
probation or  
parole

- Probation may not be extended for non-payment of restitution if the offender has shown a good faith effort to pay but has lacked the ability to do so during the probation period.
- Parole and extended supervision cannot be extended for failure to pay restitution.

Wis. Stat. § 973.09(3)(b)



Offender  
extended  
supervision,  
probation or  
parole

If restitution is owed, a probation review hearing is held unless the offender waives the right to the hearing. If probation is not extended, the court issues a **judgment** for the unpaid restitution.

Wis. Stat. § 973.09 (3)(b)

# Enforcement of Unpaid Restitution

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In non-probation, non-prison cases; or when restitution remains unpaid at the end of Department of Corrections supervision, restitution is enforceable in the same manner as a judgment in a civil action or enforced under ch. 785 (contempt of court).

Wis. Stat. § 973.20 (1r)

# Judgment for Restitution

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If payment of restitution has not been made and the court does not extend probation, the court shall issue a judgment for the unpaid restitution. The court will tell the clerk of circuit court to file and enter the judgment in the judgment and lien docket. The court is required to provide the victim notice that the judgment was entered. Some counties provide the victim with a copy of the judgment, as well.

Wis. Stat. § 973.09 (3)(b)

But what does that mean for a victim?



# Judgment for Restitution

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A judgment is an official court determination that the restitution is owed to the victim. It allows the victim to use the courts to collect unpaid restitution through various civil court actions. A docketed judgment is a lien for ten years which may affect the debtor's ability to get a loan.

See Wis. Stats Ch. 806 and S.C. 6090V, 11/13, Post-Judgment: Basic Steps in Collecting on a Judgment for Money

# Crime Victims Must Pursue Collection

“The court cannot do anything to automatically collect a judgment on your behalf and has no funds to pay your judgment for you. It is your responsibility to collect on your own judgment.”

State Court Publication 6090V, 11/13, Post-Judgment: Basic Steps in Collecting on a Judgment for Money

# Collecting on a Judgment for Money

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The clerk in the county where the judgment was entered is authorized (but not required) to attempt to collect on the judgment by certifying debt to the Department of Revenue. See slides 27-29. Many county clerks have instituted policies to assist victims in this way, knowing victims will otherwise have to try to enforce the judgment on their own.

# Collecting on a Judgment for Money

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A crime victim can try to collect on his or her own judgment by initiating new actions in civil court. No one in the 'system' is assigned to assist the victim with this process.

# Collecting on a Judgment

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These actions might include hiring a collection agency or garnishing the offender's wages or bank accounts until the judgment is paid off.

# Collecting on a Judgment

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The victim may also seek to have the sheriff seize property of the offender and sell it on his or her behalf to pay the restitution. This is called an **execution against property**.



# The Judgment Will Expire

**Within 10 years** of the entry of the judgment, you can ask the court to extend the enforcement period by 10 years. The court can “redocket” the judgment for a second 10-year period.

However, altogether, the judgment period cannot exceed a 20-year period from the initial entry of judgment.

See §§ 806.10, 860.15, and 893.40, Wis. Stats.

# Collecting on a Judgment

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- Using the small claims court process requires that the victim submit, or file, specific forms with the court.
- Keep good records. If any fees are required in order to file the forms, these fees can often be added to what the offender owes the victim.

# Collecting on a Judgment

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Victims can file on their own or obtain a private attorney to file these actions for them. Victims will have to pay the attorney fees themselves. Some attorneys do not charge for an initial consultation. Ask about fees when making an initial appointment with an attorney.

# Collecting on a Judgment for Money

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- Small claims court is where civil actions to collect on a debt under \$10,000 are handled.
- There is information online which might be helpful to understanding the small claims procedure at the Wisconsin State Courts Self-Help Law Center:

[www.wi.courts.gov/services/public/selfhelp/smallclaims](http://www.wi.courts.gov/services/public/selfhelp/smallclaims)

# Important Note

- Forms must be filled out by the creditor (victim) or a licensed attorney. Most forms require the address of the person filling them out. The offender-debtor will receive copies of the forms.
- Be aware that the victim's address is likely on the judgment for restitution, which the offender also receives. Consult your clerk of court **before** a judgment is entered to discuss any concerns regarding this. A list of county clerks can be found at: <http://gab.wi.gov/clerks/directory>. County policies differ regarding what, if anything, can be done to protect a victim's address.



# Protecting Your Address

The Wisconsin Department of Justice offers *Safe at Home, Wisconsin's Address Confidentiality Program*. It is a free statewide address confidentiality program that provides victims of actual or threatened domestic abuse, child abuse, sexual abuse, stalking, and trafficking, or those who simply fear for their physical safety with a legal substitute address to be used for both public and private purposes. Wis. Stat. § 165.68

Learn more at: <https://www.doj.state.wi.us/ocvs/safe-home>

Safe At Home  
*Wisconsin's Address Confidentiality Program*





# Protecting Your Address

If you become a participant in the Safe at Home program, you can make a written request to a county clerk, register of deeds, clerk of court or municipal clerk to keep your actual address private. The clerk may not disclose any record in his or her possession that would reveal the actual address, except pursuant to a court order. Wis. Stat. § 66.0504 (2)

Safe At Home  
*Wisconsin's Address Confidentiality Program*



# Collecting on a Judgment: Garnishment

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A victim with a judgment for restitution can file to have an offender's employer take money out of the offender's paycheck to pay the judgment. This is called an **earnings garnishment**.

A victim can also file for a **non-earnings garnishment** to garnish money from other sources that are not considered earnings.

# Garnishment

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Small claims garnishments (the amount owed is \$10,000 or less) are usually filed in the county where the original judgment was entered. It can be filed in a different county, however, if the victim files a copy of the original judgment in that county.

Wis. Stat. § 812.31(3).

# Earnings Garnishment

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Courts use a specific form to initiate an earnings garnishment called an **Earnings Garnishment Notice**. A victim can get the form (form #CV-421) from the Clerk of Court or online at:

[www.wicourts.gov](http://www.wicourts.gov) (go to “forms”)

# Earnings Garnishment

- STEP 1: File an *Earnings Garnishment Notice* with the clerk of court. As of July 2016, there is NO FILING FEE when filing a garnishment to recover crime victim restitution, pursuant to Wis. Stat. § 814.62(1). The filer will receive two *Earnings Garnishment* forms at the time of filing.
- STEP 2: Both of the *Earnings Garnishment* forms must be filled out by the victim and served on 1) the employer who will be taking wages out of the offender's paycheck (the "garnishee") and 2) the offender who owes restitution (the "debtor").

# Earnings Garnishment

When the *Earnings Garnishment* is given to the garnishee (the employer who is taking money out of the paycheck), the victim must pay that person a \$15 garnishee fee as well as provide an additional form, called the *Garnishee Answer to Creditor* form, which the victim will have received from the clerk when he or she filed the garnishment notice.

See Wis. Stat. § 812.33; Wis. Stat. § 812.35 and SC-6070V, 08/11 *Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment*.

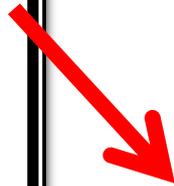


# Recovering Related Costs

In addition to the restitution owed, the victim can attempt to recover any fees paid in order to file the garnishment, such as paying to serve the garnishment and the \$15.00 fee paid to the garnishee. Such costs should be included on the *Earnings Garnishment* form under “estimated costs of this earnings garnishment.”

The creditor has been awarded a court judgment that has not been paid. As a result, the creditor claims that the amount owed by the debtor is as follows:

Unpaid balance on judgment	\$
Unpaid post judgment interest	\$
Estimated costs of this earnings garnishment	\$
<b>Total amount owed by the debtor</b>	<b>\$</b>



# Earnings Garnishment

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After the Earnings Garnishment forms are filled out, they must be **served** (delivered) in a specific way. The papers can be served by the sheriff, a private process server or by first class mail or certified mail with return receipt requested. *They may not be personally delivered to the debtor.*

Wis. Stat. § 812.35 and SC-6070V, 08/11 Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment.

# Earnings Garnishment

The victim has time limits to follow throughout this process:

- Earnings Garnishments must be served within **60 days** of filing the Earnings Garnishment Notice with the clerk.
- The offender must be served within **7 business days** of the date the garnishee was served.
- The offender must be served at least **3 business days** before the first payday affected (this date will need to be obtained from the garnishee).

*Wis. Stat. § 812.35 and SC-6070V, 08/11 Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment.*

# Earnings Garnishment

There is no guarantee that a garnishment will be put in place. There are several reasons why the garnishee may not be able to garnish wages, or will limit the amount to be garnished including if:

- There are already other garnishments in effect for the offender (only one can be executed at a time).
- The offender's household income is below the poverty line.
- The garnishment will result in the offender's household income being under the poverty line
- The garnishee will not be paying wages to the offender.

See Wis. Stat. § 812.34(2)(b); Wis. Stat. § 812.35; Wis. Stat. § 812.37 and SC-6070V, 08/11 *Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment.*

# Earnings Garnishment

If the offender/debtor claims that earnings are exempt from garnishment for these, or other, reasons, he or she must provide this information in writing to the garnishee who will provide it to the victim/creditor. **The victim can petition the court for a hearing to review the appropriateness of the debtor's claims.**

The court is obligated to schedule a hearing on the matter within 5 days of receiving the petition and must schedule the hearing “as promptly as practicable.” (Wis. Stat. § 812.38)

See Wis. Stat. § 812.34(2)(b); Wis. Stat. § 812.35 and SC-6070V, 08/11 *Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment.*

# Earnings Garnishment

If wages will be garnished, money will be withheld beginning on the first pay period after the garnishee receives the *Earnings Garnishment* from the victim. 20% of the offender's after tax earnings withheld and sent directly to the victim. Pursuant to Wis. Stat. § 812.405, the garnishment is valid and effective until the judgment is satisfied, unless a court orders it terminated earlier.

See Wis. Stat. § 812.349(2); Wis. Stat. § 812.35 and SC-6070V, 08/11 *Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment*.

# Non-Earnings Garnishment

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Another way to attempt to collect on the judgment for restitution is to file a “non-earnings garnishment”.

This action seeks to collect the money from the offender’s bank account or other source not considered to be an ‘earning’.

**Note:** Earnings means “compensation paid or payable by the garnishee for personal services, whether designated as wages, salary, commission, bonus or otherwise, and includes periodic payments under a pension or retirement program.”  
Wis. Stat. § 812.30(7).

# Non-Earnings Garnishment

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“The court may adjudge the recovery of any debt, the conveyance, transfer or delivery to the sheriff or any officer appointed by the judgment of any real estate or personal property disclosed or found to be liable to be applied to the plaintiff’s [victim-creditor] demand; or by judgment pass the title thereto...or direct the manner of making sale and disposing of the proceeds thereof, or of any money or other thing paid or delivered to the clerk or officer.”

Wis. Stat. Ch. 812 Garnishment § 812.16.



# Non-Earnings Garnishment

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Garnishment affecting the property of a spouse who is not a defendant in the action cannot be taken. Wis. Stat. § 812.02 (2e).

# How to Seek a Non-Earnings Garnishment

(For debts of \$10,000 or less)

- A non-earnings garnishment action is started when the victim files form *CV-301, 05/14 Small Claims Non-Earnings Garnishment Summons and Complaint*, which can be obtained from the Clerk of Court or online at [www.wicourts.gov](http://www.wicourts.gov) (go to “forms”).\*
- The summons is filed with the clerk in the county where the original judgment was entered or where the garnishee resides or in a different county if the victim files a copy of the original judgment in that county.

\*See *WISCONSIN CIRCUIT COURT FEE, FORFEITURE, FINE AND SURCHARGE TABLES* at [www.wi.courts.gov](http://www.wi.courts.gov) for filing fees.

# How to Seek a Non-Earnings Garnishment

(For debts of \$10,000 or less)

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- The victim must identify the garnishee (a bank, for example) on the form and provide information about the judgment for restitution.
- The victim must serve both the garnishee and the debtor/offender with the *Non-Earnings Garnishment Summons and Complaint* and must pay the garnishee a \$3.00 garnishee fee. Wis. Stat. § 812.06

# How to Seek a Non-Earnings Garnishment

(For debts of \$10,000 or less)

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If the offender/debtor wants to contest the garnishment, he or she must provide an answer to the court within 20 days of being served. If the offender-debtor claims an exemption to the garnishment, the garnishee must freeze the funds until the court makes a determination about the garnishment.

Wis. Stat. § 812.13(1) and Wis. Stat. § 812.15

# How to Seek a Non-Earnings Garnishment

(For debts of \$10,000 or less)

- The garnishee is required to answer the summons in person or in writing within 20 days of service of the summons. Wis. Stat. § 812.11
- In the garnishee's answer to the court, he or she must tell the court whether he or she is indebted to the offender and whether any of the debtor/offender's property is in the garnishee's possession or under his or her control.
- From the time of service upon the garnishee, the garnishee is liable to the victim-creditor for any property then in his or her possession or under his or her control belonging to the offender-debtor. Wis. Stat. § 812.18

# How to Seek a Non-Earnings Garnishment

(For debts of \$10,000 or less)

- The garnishee's answer to the court will indicate whether he or she is in possession of the offender's property/funds which can be used to satisfy the judgment.
- No one will investigate the garnishee's answer. **If the victim does not object, the garnishee's answer will be taken as true.**
- **The victim can object** to the answer provided by either the debtor/offender or the garnishee and can demand a court hearing about the answer(s). The objection must be filed within 20 days of receiving the answer to which the victim objects. The victim must file *CV-304, Non-Earnings Garnishment Objection to Answer(s) and Demand for Hearing*.

Wis. Stat. § 812.14

# How to Seek a Non-Earnings Garnishment

(For debts of \$10,000 or less)

CV-304. 09/13 Non-Earnings Garnishment Objection to Answer(s) and Demand for Hearing

<b>STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY</b>		<i>For Official Use</i>
Creditor: _____	<b>Non-Earnings Garnishment Objection to Answer and Demand for Hearing</b>	
Debtor: _____		
and		
Garnishee: _____	Case No. _____	
To the clerk of court:		
1. I object to the <input type="checkbox"/> garnishee's answer <input type="checkbox"/> debtor's answer and demand a hearing to resolve the issues in controversy. I object to the answer(s) for the following reasons: [Explain briefly]		
_____		
_____		
_____		
_____		
2. To the best of my knowledge, the garnishee's current address is <input type="checkbox"/> the same as that stated in the notice I filed to commence this non-earnings garnishment. <input type="checkbox"/> now: _____		
_____		
3. To the best of my knowledge, the debtor's current address is		

# How to Seek a Non-Earnings Garnishment

(For debts of \$10,000 or less)

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- If the garnishee fails to answer the summons or fails to freeze the offender's funds, the garnishee can be held liable for the unpaid judgment amount. Wis. Stat. § 812.18.
- If court determines the garnishment is to occur and the funds are available, the garnishee can pay the sum to the clerk. If the victim-creditor makes a written request to the garnishee that the funds be released to the clerk of court, the garnishee must comply within 5 days or the victim is entitled to a judgment against the garnishee and may collect the amount by execution by the sheriff. Wis. Stat. § 812.13(1).

# Execution Against Property

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A victim who has received a civil judgment for restitution can use the judgment to seek an execution against property.

An execution against property is an order from the court to the sheriff telling the sheriff to seize a debtor's property, sell it, and deliver the money received to the creditor. Note: There are many exceptions to what can be seized.

If it has been more than 5 years since receiving a judgment for restitution, a victim will need to get permission from the court in order to seek an execution.

# Execution Against Property

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Executions can only be issued out of the county where the:

- 1) judgment was originally granted;
- 2) a certified copy of the judgment has been filed; or,
- 3) a transcript of the municipal judge's judgment has been filed.

Wis. Stat. § 815.05

# Execution Against Property

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If the property is located in the same county where the judgment for restitution was entered, the victim can go to the Clerk of Court in that county for an execution.

If the property is in a county other than where the judgment for restitution was entered, the victim can seek an execution in that county by filing a certified copy of the judgment for restitution with that Clerk of Court and paying a filing fee to begin a new action in that county.

*See SC06080V, Post-Judgment Steps for Handing an Execution Against Property*

# Execution Against Property

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The victim must request an execution from the Clerk of Court and pay a filing fee to receive the execution .

The execution is form GF-115. The clerk may fill it out or ask the victim-creditor to fill it out.

There is no requirement that the execution specify certain items of property, but sometimes creditors will identify specific items.

The sheriff will serve the debtor; the victim must bring the execution to the sheriff for service. There may be an additional fee for service.

*See SC06080V, Post-Judgment Steps for Handing an Execution Against Property*

# Execution Against Property

Within 60 days of receiving the execution, the sheriff will contact the debtor to determine if there is money or property that can be sold to satisfy the judgment.

The sheriff must return the execution to the Clerk of Court where the execution was issued. The sheriff may deliver the money seized or proceeds from sales to the creditor-victim or to the clerk.

If the sheriff was unable to collect the judgment in full, the victim may begin the process again to file for a new execution and may do so until the judgment has been paid in full.

*See SC06080V, Post-Judgment Steps for Handing an Execution Against Property*

# Execution Against Property

There are many statutory exemptions to what can be seized to satisfy a judgment through execution against property. The following cannot be seized to satisfy a judgment:

*Provisions for burial, Business and farm property, Child support, family support or maintenance payments*

*Consumer goods including:* Household goods and furnishings, wearing apparel, keepsakes, jewelry and other articles of personal adornment, appliances, books, musical instruments, firearms, sporting goods, animals, or other tangible personal property held primarily for the personal, family or household use of the debtor or a dependent of the debtor, not to exceed \$12,000 in aggregate value.

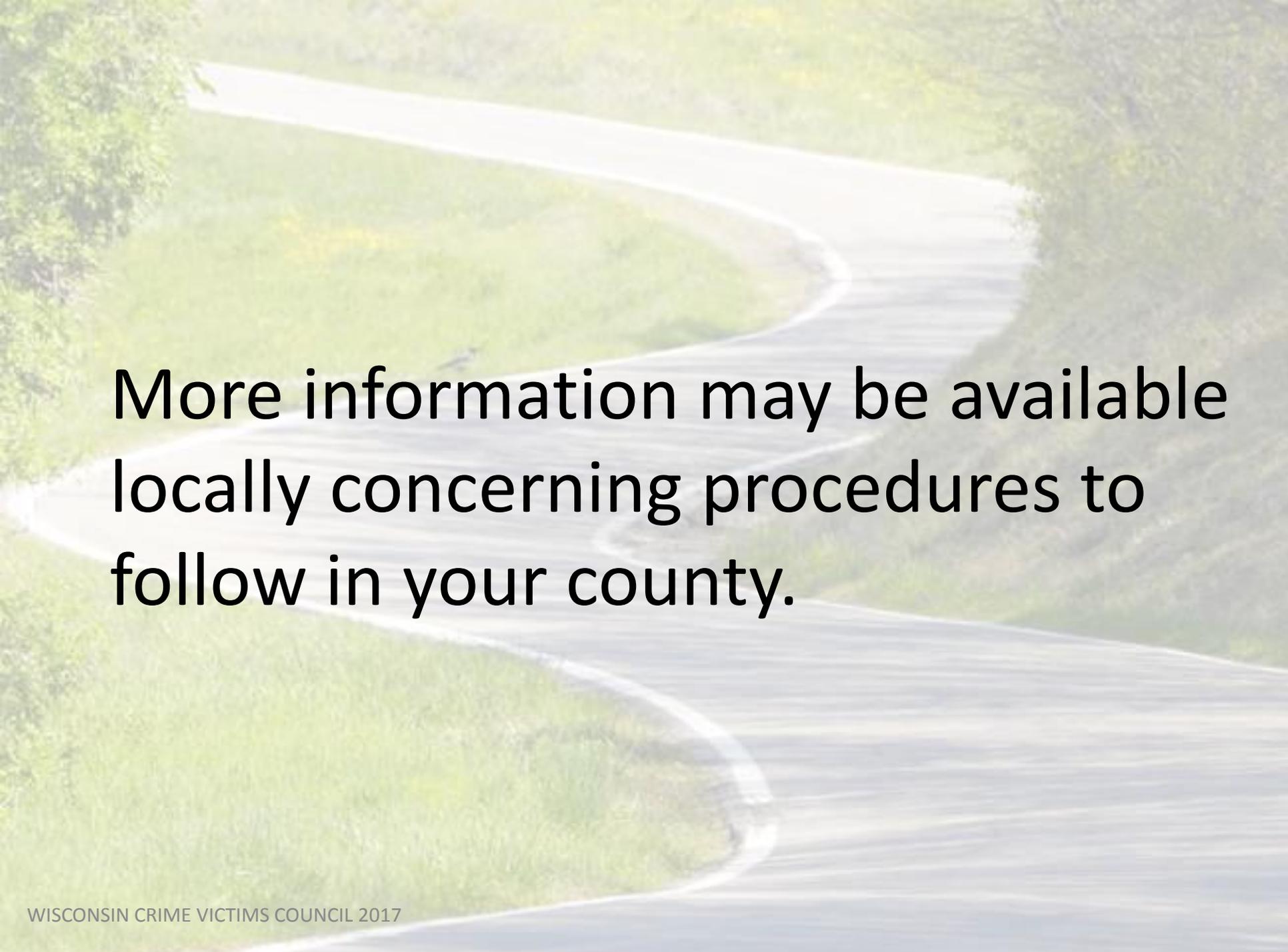
*Motor vehicles worth less than \$4,000 in aggregate value*

*Life insurance claims, personal injury or wrongful death claims*

*Retirement benefits*

*College savings accounts*

See Wis. Stat. § 815.18 for full list

A photograph of a winding asphalt road that curves through a lush, green, hilly landscape. The road is dark grey and has white painted edges. The surrounding area is covered in vibrant green grass and some trees, with a soft, slightly hazy atmosphere. The text is overlaid in the center of the image.

**More information may be available locally concerning procedures to follow in your county.**

# For more information...

*Victims should contact the clerk in the county in which they wish to initiate a small claims action to best understand the procedures in that county.*

To find a county contact:

See the Wisconsin Government Accountability Board's online directory of Wisconsin's county clerks:

<http://gab.wi.gov/clerks/directory>

# Crime Victim Restitution

*More than a matter of money*

“Restitution serves important purposes for the victim, the offender, and society...It is only by requiring defendants to bear, up front, the full cost of the victims’ losses resulting from their criminal conduct that the compensatory, deterrent, and rehabilitative aims of restitution can be met.”

*Ensuring Full Restitution for Crime Victims* (NCVLI Victim Law Bulletin, Portland, OR, July 2013)



# Crime Victim Restitution Collection in Wisconsin

A Guide To Help Victims of Crime Understand How Restitution is Collected

WISCONSIN CRIME VICTIMS COUNCIL 2017

This document can be accessed online at: [www.doj.state.wi.us/cvs](http://www.doj.state.wi.us/cvs)