

FORM SUMMARY

Name of Form: **Income Assignment Order for Unpaid Fines and Other Financial Penalties**

Form Number: **CR-226**

Statutory Reference: §973.05(4)(b), Wisconsin Statutes

Purpose of Form: Formal order of the court requiring any person owing income or money to the defendant to pay a portion of that amount to the clerk of court in order to pay unpaid fines, costs, assessments, surcharges, or DNR restitution.

Who Completes It: Completed in court by district attorney or corporation counsel and signed by judge.

Distribution of Form: Original to court, copies to district attorney, corporation counsel, and defendant.

Accompanying Forms: Generally none.

New Form/Modification: Modification; last update 10/96.

Modifications: Added a file/date stamp area to upper left corner. Added a statement on the bottom indicating that the form shall not be modified.

Comments: 1995 Wis. Act 438 provides that the court can order an assignment of income or money owed to a defendant to the clerk of court to pay an unpaid fine, including the associated costs, assessments, surcharges and (in DNR cases), DNR restitution.

The assignment covers commissions, earnings, salaries, wages, pension benefits, worker's compensation benefits, and other money due or to be due the defendant in the future.

Section 973.05(4)(b) also authorizes the withholding of lottery prizes that are payable in installments. A separate form is being created by the lottery division of the gaming commission to cover these withholding orders.

Other than for lottery prizes, the amount that can be withheld is limited to 25% of the amount due.

The statutes do not provide for a procedure by which the assignment is to be ordered. Some courts may believe that this can be done *sua sponte* and *ex parte* by the court when the defendant fails to make the necessary payments. Other courts may prefer a motion and hearing procedure prior to the granting of the assignment.

As currently drafted, the statute only applies to unpaid fines--*i.e.*, criminal cases; it does not include unpaid forfeitures. The issue of forfeitures may be addressed in remedial legislation, but until that is done this procedure is

limited to criminal matters.

About this form:

This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.