



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 02-031

AN ORDER to amend PD 6.02 (1), relating to the repayment of cost of legal representation.

Submitted by **STATE PUBLIC DEFENDER**

02-28-02 RECEIVED BY LEGISLATIVE COUNCIL.

03-22-02 REPORT SENT TO AGENCY.

RS:DLS:tlu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

**Proposed Order of the State Public Defender Board
Amending a Rule**

The Wisconsin State Public Defender Board proposes an order to amend PD 6.02 (1) relating to the repayment of cost of legal representation

Analysis

Sec. 977.075 requires that the state public defender board establish by rule a program for repayment of the cost of legal representation. Sec. 977.075 (1) requires that the state public defender board establish by rule fixed amounts as flat payments for the cost of representation that a person may elect to pay. PD 6.02 (1) is the original rule that was promulgated as required by sec. 977.075 (1). The rule provides a flat payment schedule for persons electing to pay within 30 days of the appointment of counsel.

The state public defender board authorized a pilot project beginning in April 1998 in the 14 counties listed below. This project provided 60 days, instead of 30, to pay the lower prepayment amount as satisfaction of the payment obligation.

Adams	Forest	Langlade	Oneida	Price	Waupaca
Vilas	Florence	Kenosha	Marathon	Portage	Taylor
Wood	Lincoln				

The board authorized the expansion of the project to include Milwaukee in January 2000. Based on 24 months of data, the number of prepayments increased about 2.6% annually in Milwaukee. The 14 counties in the project outside of Milwaukee experienced a 3.3% increase in prepayments.

The proposed rule would amend PD 6.02 (1) to provide a 60-day flat payment option for all counties. It is anticipated that such a rule would result in similar increases in payments in the additional counties.

It is anticipated that expanding the 60 day prepayment option statewide will increase revenues annually approximately \$110,000.

Statutory authority for rule: sec. 977.02(4m) Stats.

Statutes interpreted: sec. 977.075 (1) Stats.

PD 6.02 (1) is amended to read:

PD 6.02 Prepayment option

(1) A client may elect to prepay, within 30 60 days of appointment of counsel by the state public defender, the optional prepayment amount for the cost of representation specified in the following prepayment fee schedule:

Type of Case	Amount	Type of Case	Amount
First Degree Intentional Homicide	\$500	Misdemeanor	\$50
		Parole/Probation	\$50
Other Class A or B Felony	\$100	Revocation	\$50
Sexual Predator (s.980.02)	\$100	TPR	\$50
Other Felony	\$50	Special Proceeding	\$25
Commitment	\$25	Paternity	\$50
Chapter 55	\$50	Appellate/Plea	\$50
		Appellate/Trial	\$100

This rule shall take effect on the first day of the month commencing after the date of publication, pursuant to s. 227.22 (2) (intro.), Stats.

Dated: 2/27/02

Wisconsin State Public Defender Board

By:



Daniel M Berkos, Chair
State Public Defender Board

Copy to: Sen. Robson
15 South



Wisconsin State Public Defender

To: Senate and Assembly Chief Clerks
Date: April 2, 2002
From: Deborah Smith, Legal Counsel
Re: Notice of Rule in Final Draft Form

Pursuant to s. 227.19(2), Stats., please provide notice to the presiding officers of the Senate and the Assembly that the attached proposed rule relating to the repayment of cost of legal representation is in final draft form and is hereby accompanied by a report, as specified in s. 227.19(3), Stats.

Thank you.



Wisconsin State Public Defender

To: Legislative Committees
Date: April 2, 2002
From: Deborah Smith, Legal Counsel
Re: Report on Clearinghouse Rule 02-031

Analysis and Need

Sec. 977.075 requires that the state public defender board establish by rule a program for repayment of the cost of legal representation. Sec. 977.075 (1) requires that the state public defender board establish by rule fixed amounts as flat payments for the cost of representation that a person may elect to pay. PD 6.02 (1) is the original rule that was promulgated as required by sec. 977.075 (1). The rule provides a flat payment schedule for persons electing to pay within 30 days of the appointment of counsel.

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The proposed rule would amend PD 6.02 (1) to provide a 60-day flat payment option for all counties. It is anticipated that such a rule would result in similar increases in payments in the additional counties.

Statutory authority for rule: sec. 977.02(4m) Stats.

Statutes interpreted: sec. 977.075 (1) Stats.

Public Hearing

A public hearing was held on April 1, 2002. Mark Wadium, Lobbyist for Outagamie County appeared and requested a copy of the rule. There were no registrations for or against the proposed rule. The agency did not receive any testimony or written comments on the proposed rule.

Legislative Council Staff Recommendations

The Legislative Council staff made no recommendations.

Flexibility Analysis

The proposed amendment would not have a regulatory effect on small businesses.

Thank you for your attention to this matter. If you have any questions about the proposed rule, please feel free to call me at 261-8856.

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Other Felony	\$50	Special Proceeding	\$25
Commitment	\$25	Paternity	\$50
Chapter 55	\$50	Appellate/Plea Appellate/Trial	\$50 \$100

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Dated: 4/2/02

Wisconsin State Public Defender Board

By: _____

Daniel M Berkos, Chair
State Public Defender Board