



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-1264/3  
CMH&MLJ:emw&amn

## 2017 ASSEMBLY BILL 21

January 12, 2017 - Introduced by Representative OTT, by request of State Public Defender. Referred to Committee on Judiciary.

1     **AN ACT to amend** 885.10, 977.05 (4) (g), 977.06 (1) (d) and 977.07 (2m) of the  
2           statutes; **relating to:** description of defendant indigency for public defender  
3           fees (suggested as remedial legislation by the State Public Defender).

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***Analysis by the Legislative Reference Bureau***

This bill amends the the statutes that describe the procedure for collecting attorney's fees for defendants who have been determined to be indigent. It removes the words "in part" from the description of indigency because defendants can be found to be only indigent or not indigent, they cannot be found to be indigent "in part."

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4           **SECTION 1.** 885.10 of the statutes is amended to read:  
5           **885.10 Witness for indigent respondent or defendant.** Upon satisfactory  
6           proof of the financial inability of the respondent or defendant to procure the  
7           attendance of witnesses for his or her defense, the judge or supplemental court  
8           commissioner, in any paternity proceeding or criminal action or proceeding, or in any

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1 other case in which the respondent or defendant is represented by the state public  
2 defender or by assigned counsel under s. 977.08, to be tried or heard before him or  
3 her, may direct the witnesses to be subpoenaed as he or she determines is proper and  
4 necessary, upon the respondent's or defendant's oath or affidavit or that of the  
5 respondent's or defendant's attorney. Witnesses so subpoenaed shall be paid their  
6 fees in the manner that witnesses for the state therein are paid. Determination of  
7 indigency, ~~in full or in part~~, under s. 977.07 is proof of the respondent's or defendant's  
8 financial inability to procure the attendance of witnesses for his or her defense.

9 **SECTION 2.** 977.05 (4) (g) of the statutes is amended to read:

10 977.05 (4) (g) In accordance with the standards under pars. (h) and (j), accept  
11 referrals from judges, courts or appropriate state agencies for the determination of  
12 indigency of persons who claim or appear to be indigent. If a referral is accepted and  
13 if the person is determined to be indigent ~~in full or in part~~, the state public defender  
14 shall appoint counsel in accordance with contracts and policies of the board, and  
15 inform the referring judge, court or agency of the name and address of the specific  
16 attorney who has been assigned to the case.

17 **SECTION 3.** 977.06 (1) (d) of the statutes is amended to read:

18 977.06 (1) (d) Collect for the cost of representation from persons who are  
19 indigent ~~in part~~ or who have been otherwise determined to be able to reimburse the  
20 state public defender for the cost of providing counsel.

21 **SECTION 4.** 977.07 (2m) of the statutes is amended to read:

22 977.07 (2m) If the person is found to be indigent ~~in full or in part~~, the person  
23 shall be promptly informed of the state's right to payment or recoupment under s.  
24 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), or 977.076 (1), and the possibility that  
25 the payment of attorney fees may be made a condition of probation, should the person

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1 be placed on probation. Furthermore, if found to be indigent ~~in part~~, the person shall  
2 be promptly informed of the extent to which he or she will be expected to pay for  
3 counsel, and whether the payment shall be in the form of a lump sum payment or  
4 periodic payments. The person shall be informed that the payment amount may be  
5 adjusted if his or her financial circumstances change by the time of sentencing. The  
6 payment and payment schedule shall be set forth in writing. This subsection does  
7 not apply to persons who have paid under s. 977.075 (3m).

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(END)