

1999 DRAFTING REQUEST

Bill

Received: 11/18/98

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Steven Foti (608) 266-2401

By/Representing:

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - costs and fees

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Reimbursement by prisoner for municipal costs incurred for incarceration related to municipal forfeitures

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	nelsorp1 12/10/98	jgeller 12/10/98	hhagen 12/11/98	_____	lrb_docadmin 12/11/98		Local
/1	nelsorp1 02/4/99	jgeller 02/4/99	lpaasch 02/5/99	_____	lrb_docadmin 02/5/99	lrb_docadminLocal 02/15/99	

FE Sent For:

3/5/99

<END>

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Subject: Courts - costs and fees

Extra Copies: JED

Topic:

Reimbursement by prisoner for municipal costs incurred for incarceration related to municipal forfeitures

Instructions:

2/4 refer to: See Attached add 302:372(6)(d) to * bill

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FE Sent For:

25LP 25LP JF <END>

10

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Received: **11/18/98**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Steven Foti (608) 266-2401**

By/Representing: *Michele Herzfeld*
DOC 4-8274

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Courts - costs and fees**

Extra Copies: *JED*

Topic:

Reimbursement by prisoner for municipal costs incurred for incarceration related to municipal forfeitures

Instructions:

See Attached

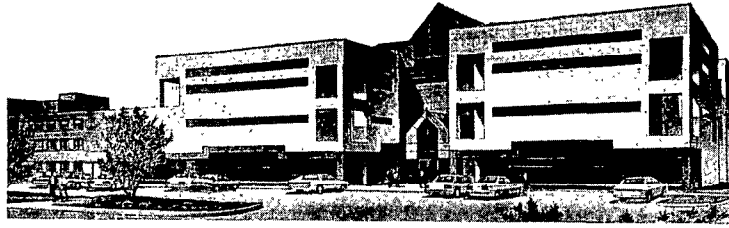
Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	nelsorp1	<i>1/11 12/10 JLG</i>	<i>12/11</i>	<i>12/11</i>			

FE Sent For:

<END>

OFFICE OF THE SHERIFF



515 W. Moreland Blvd.
Box 1488
Waukesha, WI 53187

Waukesha County Huber
1400 Northview Road
Waukesha, WI 53188

WILLIAM KRUZIKI, Sheriff

October 6, 1998

Chief Hugh Martin
Oconomowoc Police Dept.
174 E. Wisconsin Avenue
Oconomowoc, WI 53066

Dear Chief Martin:

Enclosed you will find a memo from my Business Manager, Tom Koth, regarding Per Diem Costs for municipal inmates placed in custody by your department. I recently received a call from Chief Jacobs indicating that there had been some concern among the chiefs in the county regarding the per diem costs. You will find the research data in this packet. It should clearly define and identify the reasoning behind the billing of municipal inmates within the county jails in the State of Wisconsin.

If you should have any questions regarding these statistics, please feel free to call Mr. Koth at 548-7164 prior to the Chiefs' Meeting. If I can be of any assistance to you, please feel free to contact me anytime.

Sincerely,

Bill

Sheriff Bill Kruziki

WK/ss

*Change the criminal
for jail costs.
Jesse Schmidt*

*DO IT AS PART
OF BALL*

*Jeffrey:
Here's the info-
Thanks for checking.*

*Mike H.
4-8274*

OFFICE OF THE SHERIFF



515 W. Moreland Blvd.
Box 1488
Waukesha, WI 53187

Waukesha County Huber
1400 Northview Road
Waukesha, WI 53188

WILLIAM KRUZIKI, Sheriff

301.325 & 302.392

MEMO

To: SHERIFF KRUZIKI *WK*
From: TOM KOTH *TK*
Subject: Per Diem Costs, Municipal Inmates
Date: October 6, 1998

You had requested information on the Sheriff's Department charge of \$7.50 per day to a municipality for inmates incarcerated on municipal charges.

This charge is provided for in Wisconsin State Statute 800.095 (6). The paragraph refers to municipal court procedures.

“(6) PLACE OF IMPRISONMENT. If the court orders imprisonment under sub (4) (b) 1., the defendant shall be committed to a jail or a house of correction in the county in which the cause of action arose, or, if the defendant has been committed to the Wisconsin state prisons, to the prison in which the defendant is an inmate. Except in cases where the defendant has been committed to the Wisconsin state prisons, **the municipality shall pay the expense incurred by the county to imprison the defendant.** The defendant is eligible for privileges under s. 303.08.” (Emphasis added).

While it is clear that the municipality is responsible for paying for municipal commitments, the meaning of “expense” is not. In 1965, the City of Milwaukee sued Milwaukee County over the amount of “expense” the County could recover. The resulting State Supreme Court decision (City of Milwaukee v. Milwaukee County, 27 Wis. (2d) 53.) defined those costs. The pertinent section:

“These items generally include medical expense, care and service for prisoners, drugs, food and provisions, medical-dental-surgical supplies, laundry and dry cleaning of bed linens, towels, uniforms and prisoner wearing apparel, tobacco, cigarettes, clothing and wearing apparel furnished inmates, physical training and recreational equipment for prisoners, including its maintenance.”

SHERIFF KRUZIKI

Page 2

October 6, 1998

Costs that could not be recovered were

“... charges based on a cost-accounting share of salaries, heating, lighting, gas, water, insurance, supplies, capital construction, maintenance and other items. ... such items for the county jail as boiler insurance, general insurance, printing, stationery, charges made by other county departments for trucking, preparing and packaging supplies furnished the jail, maintenance of a car assigned to the jail, household supplies, office supplies, athletic equipment used in the gymnasium by the sheriff's deputies assigned to the jail, machinery and equipment, such as typewriters, adding machines and jurors' meals.”

The Court also addressed the method of determining how the per diem rate was to be charged.

“We think it is fair and reasonable that a formula based upon the items allowed be used for each institution to determine the *per diem* cost of maintaining prisoners. Since this is an average per-day cost per prisoner, the county may apply this cost unit in full to the day of commitment and to the day of discharge. **Any method of splitting a day is impractical and the result *de minimis*.**” (Emphasis added).

Based on the statute, we are entitled to charge a *per diem* rate for out of pocket expenses. I have attached summary of those expenses to this memo; as you will see, the costs come to \$7.59 per day. (Note: I am unable to compute laundry costs, and they are therefore excluded from the daily rate.)

Based on the Supreme Court ruling, we may charge the full daily rate for each day the inmate is in the facility, regardless of the length of stay. This is our current practice.

Please let me know if you need any additional information on this matter.

Note: I have also attached the billings for the first two quarters for municipal inmates.

Municipal Inmate Pe Diem Costs

1998

	Per Meal	# Meals	Per Day
Food Costs	0.908	3	\$2.724

Other Costs	Budget	Inmate Days	Per day
Medical Expense/Care	438950	97800	\$4.488
Uniforms	28200	97800	\$0.288
Linens	7500	97800	\$0.077
Recreational Equipment	2000	97800	\$0.020
Sub Total Other Costs			\$4.874
Total			\$7.598

**1998 Municipal Inmate Billings
1st and 2nc Quarters**

Agency	1st	2nd	Total	Days
Village Big Bend	\$15.00	\$37.50	\$52.50	7
City Brookfield	\$172.50	\$105.00	\$277.50	37
Town Brookfield	\$862.50	\$1,035.00	\$1,897.50	253
Village Butler	\$495.00	\$2,272.50	\$2,767.50	369
Village Chenequa	\$7.50	\$0.00	\$7.50	1
Village Dousman	\$45.00	\$30.00	\$75.00	10
Village Elm Grove	\$667.50	\$15.00	\$682.50	91
Village Hartland	\$157.50	\$120.00	\$277.50	37
Village Menomonee Falls	\$1,387.50	\$1,650.00	\$3,037.50	405
Town Merton	\$15.00	\$52.50	\$67.50	9
Village Mukwonago	\$52.50	\$60.00	\$112.50	15
Village Muskego	\$270.00	\$225.00	\$495.00	66
City New Berlin	\$75.00	\$157.50	\$232.50	31
Village North Prairie	\$15.00	\$15.00	\$30.00	4
City Oconomowoc	\$277.50	\$795.00	\$1,072.50	143
Village Oconomowoc Lake	\$22.50	\$0.00	\$22.50	3
Town Oconomowoc	\$112.50	\$105.00	\$217.50	29
Village Pewaukee	\$142.50	\$180.00	\$322.50	43
Town Pewaukee	\$622.50	\$135.00	\$757.50	101
Town Summit	\$30.00	\$105.00	\$135.00	18
City Waukesha	\$1,492.50	\$705.00	\$2,197.50	293
Town Lisbon	\$0.00	\$7.50	\$7.50	1
Town Mukwonago	\$0.00	\$30.00	\$30.00	4
Village Nashotah	\$0.00	\$7.50	\$7.50	1
Village Sussex	\$0.00	\$15.00	\$15.00	2
Total	\$6,937.50	\$7,860.00	\$14,797.50	1973



D- Note

Jlg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

AN ACT ...; relating to: prisoner reimbursement to ^a municipality. ✓

gen cat

Analysis by the Legislative Reference Bureau

Under current law, the department of corrections (DOC) ✓ may charge a prisoner for the some or all of the costs to DOC for the prisoner's incarceration. The law allows the attorney general to bring a civil action to recover any costs DOC has not recovered. Current law also allows the county to seek reimbursement from a prisoner for any expenses incurred by the county for incarcerating a prisoner in a county jail who was sentenced for a crime. The county may commence an action in circuit court to obtain a judgment for the expenses, and must do so within 12 months after the release of the prisoner or be barred from bringing the action.

in a state facility

Under current law, a city/village or town is required to pay expenses incurred by a county to imprison persons that a court orders imprisoned for failing to pay a forfeiture ^{and} assessments and costs related to a municipal ordinance violation. Under this bill, the city, village or town may seek reimbursement from the prisoner for the amount paid to a county for the expenses incurred by the county to incarcerate the prisoner. The city, village or town may commence an action in circuit court to obtain a judgment for the expenses, and must do so within 12 ✓ months after the release of the prisoner or be barred from bringing the action.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 302.373^X of the statutes is created to read:

2 302.373 Prisoner reimbursement to municipality. (1) In this section:

3 (a) "Jail" means ~~means~~^e a county jail, ^a rehabilitation facility established by s.
4 59.53 (8) or a county house of correction under s. 303.16.

5 (b) "Prisoner" means a person who is incarcerated in a jail by court order under
6 s. 800.095 (4) (b) 1.

7 (2) (a) Except as provided in par. (b),[✓] a city, village or town may seek
8 reimbursement from the prisoner for the amount paid to a county under s. 800.095
9 (6)[✓] for the expenses incurred by the county to incarcerate the prisoner.

10 (b) This section[✓] applies to expenses incurred after the effective date of this
11 paragraph ...[✓] ~~reviser inserts date~~⁷.

12 (3) Within 12 months after the release of a prisoner from jail, the city, village
13 or town shall commence a civil action in circuit court to obtain a judgment for the
14 amount paid to the county under sub. (2)[✓] or be barred.

15 (END)[✓]

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0934/P1dn

RPN.....

JG

I used parts of s. 302.372[✓] to prepare this draft. You may want to look at that section to see if I should add additional language to this draft, for example s. 302.372 (6) (d).

Robert P. Nelson
Senior Legislative Attorney
267-7511

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0934/P1dn
RPN;jlg:hmh

Friday, December 11, 1998

I used parts of s. 302.372 to prepare this draft. You may want to look at that section to see if I should add additional language to this draft, for example s. 302.372 (6) (d).

Robert P. Nelson
Senior Legislative Attorney
267-7511



1999 Bill

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

- 1 AN ACT *to create* 302.373 of the statutes; **relating to:** prisoner reimbursement
2 to a municipality.

Analysis by the Legislative Reference Bureau

Under current law, the department of corrections (DOC) may charge a prisoner for the some or all of the costs to DOC for the prisoner's incarceration in a state facility. The law allows the attorney general to bring a civil action to recover any costs DOC has not recovered. Current law also allows the county to seek reimbursement from a prisoner for any expenses incurred by the county for incarcerating a prisoner in a county jail who was sentenced for a crime. The county may commence an action in circuit court to obtain a judgment for the expenses, and must do so within 12 months after the release of the prisoner or be barred from bringing the action.

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9 (6) for the expenses incurred by the county to incarcerate the prisoner.

10 (b) This section applies to expenses incurred after the effective date of this
11 paragraph [revisor inserts date].

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13 or town shall commence a civil action in circuit court to obtain a judgment for the
14 amount paid to the county under sub. (2) or be barred.

15 (END)

insert 2-14 ✓

in an action under sub. (3) ✓

Insert 2-14

a city, village or town

ⓑ
ⓓ
ⓔ
ⓕ
ⓖ
ⓗ
ⓓ

102872(4)

Before entering a judgment for the ~~county~~, the court shall consider any legal obligations of the defendant for support or maintenance under ch. 767[✓] and any moral obligation of the defendant to support dependants and may reduce the amount of the judgment entered for the ~~county~~ based on those obligations.

city, village or town ✓

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 2/5/99

To: Representative Foti

Relating to LRB drafting number: LRB-0934

Topic

Reimbursement by prisoner for municipal costs incurred for incarceration related to municipal forfeitures

Subject(s)

Courts - costs and fees

1. **JACKET** the draft for introduction _____

in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW** prior to introduction _____.

If the analysis indicates that _____ is required because the proposal makes an appropriation or increases or decreases _____ or state or general local government fiscal liability or revenues. _____ estimate prior to introduction. If you choose to _____ fiscal estimate will be requested automatically upon _____ mate. Requesting the fiscal estimate prior to _____ f the proposal.

If you have a _____ use call 266-3561. If you have any questions

relating to the at _____

*Please Jacket for introduction.
Thanks - Mike Heffetz
6-2701
Foti's office*

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-7511