

1999 SENATE BILL 280

November 9, 1999 – Introduced by Senators WELCH, ROESSLER, DARLING, ELLIS and COWLES, cosponsored by Representatives KLUSMAN, OTT, HAHN, LADWIG, BRANDEMUEHL, SPILLNER, ALBERS, MILLER, MUSSER, LASSA, LA FAVE and KREUSER. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT to amend** 20.625 (1) (a); and **to create** 758.19 (8) of the statutes; **relating**
2 **to:** reimbursement of counties for payments made to court-appointed counsel
3 and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a circuit court has the authority to appoint an attorney to represent an individual if the court determines that the individual is unable to pay for representation even if the state public defender has denied that individual's request for the appointment of counsel. If a circuit court determines, even after the state public defender has denied representation, that a person needs the assistance of counsel to secure a fair trial and that the person does not have sufficient assets to retain private counsel at the market rate prevailing in the community, then the court appoints counsel for the person. Under current law, the county in which the circuit court is located is required to pay the costs of the attorney appointed by the court. The court bases its right to appoint counsel to provide representation in these situations on common law and article I, section 7, of the Wisconsin Constitution (see *State v. Dean*, 163 Wis. 2d 503 (1991)).

Under this bill, the state, through the director of state courts, would be required to pay those costs. The bill requires a county seeking payment for the court-appointed attorney costs to submit a request for payment within 30 days after a calendar quarter. The director of state courts is required under the bill to create a form to be used to request payment and to make a payment to a county within 30 days after receipt of a proper request for payment.

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For further information see the *state and 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.** 20.625 (1) (a) of the statutes is amended to read:

2 20.625 (1) (a) *Circuit courts.* A sum sufficient for salaries and expenses of the
3 judges, reporters and assistant reporters of the circuit courts and for the payment
4 to counties for court-appointed counsel under s. 758.19 (8).

5 **SECTION 2.** 758.19 (8) of the statutes is created to read:

6 758.19 (8) From the appropriation under s. 20.625 (1) (a), the director of state
7 courts shall pay each county the amount that a circuit court has ordered the county
8 to pay to an attorney appointed by the court to represent an individual if that
9 individual has been denied his or her request for the appointment of counsel under
10 s. 977.08. A county seeking payment of the costs under this subsection shall submit
11 a request for payment to the director of state courts within 30 days after a calendar
12 quarter for the amount paid by that county in that quarter. The director of state
13 courts shall establish a form that a county shall use to request payment under this
14 subsection. The director of state courts shall pay the county within 30 days after
15 receipt of a proper request for payment.

16 **SECTION 3. Initial applicability.**

17 (1) This act first applies to attorneys appointed by a circuit court on the effective
18 date of this subsection.

19 **SECTION 4. Effective date.**

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1 (1) This act takes effect on the first day of the 3rd month beginning after
2 publication.

3 (END)