

1999 DRAFTING REQUEST

Bill

Received: **08/31/1999**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Welch (608) 266-0751**

By/Representing: **Les Wakefield**

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:

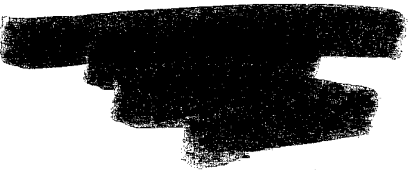
Reimbursement of county court costs related to indigents

Instructions:

When circuit court remands person to PD for indigency determination, PD says person is not indigent under PD standard, but court says the person is, so orders the county to pay the court costs, have state reimburse the county those costs.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>		<u>Required</u>
/1	nelsorp1 10/01/1999	wjackson 10/01/1999	martykr 10/01/1999	_____	lrb_docadmin 10/01/1999		S&L
/2	nelsorp1 10/07/1999	wjackson 10/08/1999	jfrantze 10/08/1999	_____	lrb docadmin 10/11/1999	lrb docadminS&L 10/12/1999	



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/2 10/8 WLj

*/2 cjs 10/8
mrc 99*

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Subject: Courts - costs and fees

Extra Copies:

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Topic:

Reimbursement of county court costs related to indigents

Referrals have been denied representation by public defender under s. 977.07 based on determination of indigency

Instructions:

When circuit court remands person to PD for indigency determination, PD says person is not indigent under PD standard, but court says the person is, so orders the county to pay the court costs, have state reimburse the county those costs.

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/?	nelsorp1	1 wlj 10/1	<i>[Signature]</i> 10/1	CGS 10/1			

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3532/1

RPN...f:...

WJ

D-Note

1999 BILL

Gen Cat

1 AN ACT ...; relating to: reimbursement of counties for payments made to
2 court-appointed counsel 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. The court bases its right to provide representation on common law and ~~was a part of the constitution~~ (See *State v. Dean*, 163 Wis. 2d 503 (1991)). 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, the court appoints counsel for the person. In those situations, 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.

Article I, section 7
of the
Wisconsin

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.

BILL

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:

SECTION #. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		1999-00		2000-01
--	--	---------	--	---------

20.625 Circuit courts

(1) COURT OPERATIONS

	(f) Court-appointed counsel	GPR	A	-0-	-0-
--	-----------------------------	-----	---	-----	-----

SECTION #. 20.625 (1) (f) of the statutes is created to read:

20.625 (1) (f) *Court-appointed counsel*. The amounts in the schedule to pay the counties for their payment to court-appointed counsel under s. 758.19 (8).

SECTION #. 758.19 (8) of the statutes is created to read:

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

SECTION #. **Initial applicability.**

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

LRB-3532/1dn

RPN.../.....

wlj

For this draft, I have included an appropriation but have specified "\$-0⁰⁰" for expenditure in fiscal years 1999-2000 and 2000-01. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate. If you do not want to create a new appropriation, I could redraft this bill to have the payments made from ~~section~~ 20.625 (1) (a), which is a sum-sufficient appropriation for the circuit courts.

Stats.)

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

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

LRB-3532/1dn
RPN:wlj:km

October 1, 1999

For this draft, I have included an appropriation but have specified "\$-0-" for expenditure in fiscal years 1999-2000 and 2000-01. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate. If you do not want to create a new appropriation, I could redraft this bill to have the payments made from s. 20.625 (1) (a), stats., which is a sum-sufficient appropriation for the circuit courts.

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

**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: 10/01/1999

To: Senator Welch

Relating to LRB drafting number: LRB-3532

Topic

Reimbursement of county court costs related to indigents

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 a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

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

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

LRB-3532/1dn
RPN:wjl:km

October 1, 1999

3439

For this draft, I have included an appropriation but have specified "\$-0-" for expenditure in fiscal years 1999-2000 and 2000-01. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate. If you do not want to create a new appropriation, I could redraft this bill to have the payments made from s. 20.625 (1) (a), stats., which is a sum-sufficient appropriation for the circuit courts.

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

Why
not this?
(To) - yes

Senator Welch would like this
suggested. Use the s. 20.625(1)(a) sum-sufficient
suggestion. Any questions - call - 60751



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3532/1
RPN:wlj:km

1999 BILL

1 **AN ACT to create** 20.625 (1) (f) and 758.19 (8) of the statutes; **relating to:**
2 reimbursement of counties for payments made to court-appointed counsel and
3 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. The court bases its right to provide representation on common law and article I, section 7, of the Wisconsin Constitution (see *State v. Dean*, 163 Wis. 2d 503 (1991)). 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. In those situations, 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.

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.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-35324

RPN:wlj:km

2

1999 BILL

Regen

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

in these situations

Analysis by the Legislative Reference Bureau

appoint
counsel
to

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. The court bases its right to provide representation on common law and article I, section 7, of the Wisconsin Constitution (see *State v. Dean*, 163 Wis. 2d 503 (1991)). 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. In these situations, 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.

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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:

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			1999-00	2000-01
20.625	Circuit courts			
(1)	COURT OPERATIONS			
(f)	Court-appointed counsel	GPR A	-0-	-0-

SECTION 2. 20.625 (1) (f) of the statutes is created to read:
20.625 (1) (f) *Court-appointed counsel.* The amounts in the schedule to pay counties for their payment to court-appointed counsel under s. 758.19 (8).

SECTION 3. 758.19 (8) of the statutes is created to read:

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

insert
2-9

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1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3532/2ins
RPN:wlj:km

1 insert 2-9:

2 SECTION ~~4~~[#]. 20.625 (1) (a) of the statutes is amended to read:

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

History: 1971 c. 125; 1975 c. 39, 283; 1977 c. 187 s. 135; 1977 c. 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 34; 1983 a. 27; 1987 a. 399; 1989 a. 122; 1991 a. 39; 1993 a. 16, 206; 1995 a. 27; 1997 a. 27.

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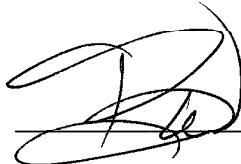
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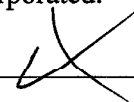


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