

## 2005 DRAFTING REQUEST

### Bill

Received: **04/20/2005**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Ryan Gruber**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Public Defender**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to: **michael.dsida@legis.state.wi.us**  
**cathlene.hanaman@legis.state.wi.us**

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Payment for representation by public defender

---

### 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>
/?				_____			State
/1	rryan 05/17/2005	kfollett 05/24/2005	jfrantze 05/24/2005	_____	lemery 05/24/2005		State
/2	rryan 07/18/2005	kfollett 07/26/2005	rschluet 07/26/2005	_____	sbasford 07/26/2005	Inorthro 07/27/2005	

FE Sent For: **07/27/2005.**

**<END>**

## 2005 DRAFTING REQUEST

### Bill

Received: 04/20/2005

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Sheryl Albers (608) 266-8531

By/Representing: Ryan Gruber

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Public Defender

Extra Copies:

Submit via email: YES

Requester's email: Rep.Albers@legis.state.wi.us

Carbon copy (CC:) to: michael.dsida@legis.state.wi.us  
cathlene.hanaman@legis.state.wi.us

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Payment for representation by public defender

---

### 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>
/?				_____			State
/1	rryan 05/17/2005	kfollett 05/24/2005	jfrantze 05/24/2005	_____	lemery 05/24/2005		State
/2	rryan 07/18/2005	kfollett 07/26/2005	rschluet 07/26/2005	_____	sbasford 07/26/2005		

FE Sent For:

<END>

07-27-2005  
(1/2")  
see attached

2005 DRAFTING REQUEST

Bill

Received: 04/20/2005

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Sheryl Albers (608) 266-8531

By/Representing: Ryan Gruber

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Public Defender

Extra Copies:

Submit via email: YES

Requester's email: Rep.Albers@legis.state.wi.us

Carbon copy (CC:) to: michael.dsida@legis.state.wi.us  
cathlene.hanaman@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Payment for representation by public defender

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>
/?							State
/1	rryan 05/17/2005	kfollett 05/24/2005	jfrantze 05/24/2005		lemery 05/24/2005		

FE Sent For:

12 kj  
7/26

7265  
<END>

**2005 DRAFTING REQUEST**

**Bill**

Received: **04/20/2005**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Ryan Gruber**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Public Defender**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to: **michael.dsida@legis.state.wi.us**  
**cathlene.hanaman@legis.state.wi.us**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Payment for representation by public defender

---

**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>
/?	rryan	1/kj 5/24	7/5/24	Sill 5/24			

FE Sent For:

<END>

MGD



# WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

To: LRB – Drafting  
From: Representative Sheryl K. Albers  
Date: April 18, 2005  
Subject: SPD – Payment for legal representation

---

Please draft a 2005 that makes the following changes to Section 977.075 of Wisconsin Statutes and also includes any other changes necessary to other sections to ensure consistency.

Section 977.075 (1) (b) – Delete in its entirety.

*in current law "may"*

Section 977.075 (4) – Change the first two lines to read as follows:

*may*  
The board shall establish by rule a procedure for collecting a nonrefundable partial payment within ~~60~~ 120 days after the commencement...

Please contact Ryan Gruber in my office with any questions. Thank you.

*may call Krista Ginger*

*beginning of representation is 60 days by rule (PD 6)*

5/12/05

Astene Banoul - SPD

want to extend beyond "beginning  
of representation" time for ~~app~~  
paying lower amount

- wants 100 days
- ok to let SPD established by rule
- doesn't think SPD can simply  
change time by rule under  
current law

975.075(4) - ~~collection~~ of "partial  
payment" perceived by many  
to be the lower fixed  
amount - so shift to 100  
days!





State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-2838/2

RLR.../...

In 5/17/05

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Ed.  
Per  
RLR

Gen. Cost

~~State Public Defender~~

1 AN ACT ...; relating to: payments to the State Public Defender for legal  
2 representation.

**Analysis by the Legislative Reference Bureau**

Under current law, the State Public Defender (SPD) provides legal representation to persons who are indigent for certain types of legal proceedings including criminal, commitment, protective placement, and paternity proceedings. A client must pay for the representation if he or she is able to make a financial contribution. The SPD is required to establish client payment rates based on the type of case. The SPD is also required to establish a lower fee for each type of case that a client may pay at the beginning of the representation. If the client pays the lower fee at the beginning of representation, he or she is not be required to pay any additional amount for the representation. Current law also authorizes the SPD to collect a partial payment from a client within the first 60 days of representation.

This bill provides that the SPD shall establish by rule the time period in which an indigent client may pay the lower fixed amount for representation. The bill further provides that the SPD may collect a partial payment from a client within the first 120 days of representation.

For further information see the *state* 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.** 977.075 (1) (b) of the statutes is amended to read:

2           977.075 (1) (b) The person may pay the fixed amount only at the beginning of  
3           ~~the representation~~ during a time period established by rule.

4           History: 1995 a. 27, 77.  
5           **SECTION 2.** 977.075 (4) of the statutes is amended to read:

6           977.075 (4) The board may establish by rule a procedure for collecting a  
7           nonrefundable partial payment within ~~60~~ 120 days after the commencement of  
8           representation for legal services from persons who are responsible for payment for  
9           legal representation. This subsection does not apply to a parent who is subject to s.  
10          48.275 (2) (b) or 938.275 (2) (b).

11          History: 1995 a. 27, 77.  
12          **SECTION 3. Initial applicability.**

13          (1) This act first applies to cases in which counsel is appointed on the effective  
14          date of this subsection.

(END)

## Ryan, Robin

---

**From:** LRB.Legal  
**Sent:** Wednesday, June 29, 2005 4:58 PM  
**To:** Ryan, Robin  
**Subject:** FW: Message for Robin Ryan

-----Original Message-----

**From:** Waldrop, Joyce  
**Sent:** Wednesday, June 29, 2005 4:49 PM  
**To:** LRB.Legal  
**Subject:** Message for Robin Ryan

Robin,

Representative has asked that I request a couple of changes to LRB 2838/1.

- In the **Legislative Analysis** page 1, paragraph 2, line 2 change the phrase "lower fixed amount" to **discounted amount**.
- On page 2 line 6 change the phrase "nonrefundable partial payment" to **discounted amount**.

If you have any questions please contact me.

Sincerely,

Joyce Waldrop  
Research Assistant  
Representative Sheryl Albers  
50th Assembly District  
Rm. 15N State Capitol  
e-mail [jwaldrop@legis.state.wi.us](mailto:jwaldrop@legis.state.wi.us)  
Ph. 608/266-8531

*Joyce will send communication from SP15*

*Sheryl,  
These are comments Krista  
sent me RE 2838/1*

**Waldrop, Joyce**

**From:** Ginger, Krista [GingerK@mail.opd.state.wi.us]  
**Sent:** Tuesday, June 21, 2005 2:02 PM  
**To:** Waldrop, Joyce  
**Subject:** LRB Draft 2838/1

*She indicated this is  
the first time she saw the  
language. DRH  
attached  
drafting request attached*

Hi Joyce: I have attached comments from the Trial Division Director and our Collections staff. Please call me back if you need further information. 264-8572. Thanks--Krista

**From Trial Division Director:**

The first proposed amendment might be helpful because the Board would have flexibility regarding the time for the discounted amount ("fixed fee," as it is called in the statute). If we wanted to allow clients to wait until they were out of jail or prison, for example, we could suggest a rule to that effect for the Board. It might be a challenge to administer, but could result in higher collections if more clients paid within, for example, 60 days after getting released.

The language on partial payment is confusing and not in conformity with our current collections process. It would be better to delete it than to change the number of days. We do collect partial/monthly payments in a few cases, for clients who miss the time for the discounted amount. But these "partial payments" are rare and occur after 180 days. A better way of amending the collections statutes, might be to use the process in the information that we prepared for Rep. Albers as part of the tax intercept proposal. *attached*

**From Collections Staff:**

I agree with Mike that the terms "fixed fee" and "partial payment" are confusing. However, my interpretation is that the fixed amount (fixed fee) is not the discounted amount (also known as the prepayment), it is the full attorney fee (flat rate) assessed at the time an attorney is appointed which is at the beginning of the case. The "nonrefundable partial payment" refers to the discounted amount which the client can pay within 60 days (currently) to pay the attorney fee in full to avoid owing the full "fixed fee."

*Maybe best to "define"  
include definitions  
in  
the  
LRB*

I believe that 977.075(1)(b) has always addressed that the "fixed amount" be paid at the beginning of the representation instead of after the representation is completed or case is disposed. Therefore, we assess the fee and expect payment at the beginning of representation or within 120 days as currently established. I don't see the suggested change in 977.075(1)(b) as making a substantial change, it's just changing the wording.

Statute 977.075(4) then addresses the "nonrefundable partial payment" also known internally as the "discounted amount" or "prepayment." Currently the statute states the "nonrefundable partial payment" can be collected within 60 days. I interpret this to mean that the client can pay the discounted amount within 60 days after legal representation has been appointed. The suggested change in the bill is only changing the timeframe from 60 days to 120 days. I would suggest the term "nonrefundable partial payment" be changed to "discounted amount" because it clarifies that the client is paying a discounted amount and not just a partial payment on the fixed amount.

To recap the collection process based on the suggested changes, the client may pay the fixed amount (full attorney fee) during a time period established by rule, which is currently 120 days. If payment is not received the fixed amount is referred to private collections after 120 days. As an incentive to pay the fee, the client is given an opportunity to pay a "discounted amount" as payment in full if received within 120 days.

*need definition  
also  
define*

Also, currently the client also has the option of paying monthly payments of \$25.00 on the fixed amount (full attorney fee) within 120 days if they are not able to pay the full fixed amount or the discounted amount, in order to keep the account from referral to the private collection agency.

Please let me know if you have any questions or need clarification. Thank you.

*Ask drafts - do we need to  
specify that partial payments  
regularly made preclude referral  
to a private collection agency  
attached  
Send to drafts  
drafting request change*

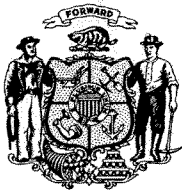
*Communication from Arlene*

*Changes needed to draft including definitions & different wording*

Phone conversation w/ Krista Bringer  
& Mike Tobin at SPD

7/14/05

- ① I agree with Mike's reading of 977.075
- ② Clarify 977.075 so clear that SPD sets  
    Ⓐ regular fees  
    Ⓑ discount fees
- ③ Require SPD to set time frame for paying discount fee by rule
- ④ Dispense with sub (4) on "partial payments" - it's not used.



State of Wisconsin  
2005 - 2006 LEGISLATURE

2  
LRB-28384  
RLR:kjff

In 7/18/05

2005 BILL

RMK

Regen

D-Note

for each type of case

1 AN ACT to amend 977.075 (1) (b) and 977.075 (4) of the statutes; relating to:  
2 payments to the State Public Defender for legal representation.

**Analysis by the Legislative Reference Bureau**

Under current law, the State Public Defender (SPD) provides legal representation to persons who are indigent for certain types of legal proceedings including criminal, commitment, protective placement, and paternity proceedings. A client must pay for the representation if he or she is able to make a financial contribution. The SPD is required to establish client payment rates based on the type of case. The SPD is also required to establish a lower fee for each type of case that a client may pay at the beginning of the representation. If the client pays the lower fee at the beginning of representation, he or she is not be required to pay any additional amount for the representation. Current law also authorizes the SPD to collect a partial payment from a client within the first 60 days of representation.

discount lower

discount discount

may

This bill provides that the SPD shall establish by rule the time period in which an indigent client may pay the lower fixed amount for representation. The bill further provides that the SPD may collect a partial payment from a client within the first 120 days of representation.

For further information see the *state* 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:**

No FF

Discount fee

The bill also eliminates the authorization for the SPD to collect a partial payment from a client within the first 60 days of representation.

**BILL**

*INSERT* →

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

**SECTION 1.** 977.075 (1) (b) of the statutes is amended to read:

~~977.075 (1) (b) The person may pay the fixed amount only at the beginning of the representation during a time period established by rule.~~

**SECTION 2.** 977.075 (4) of the statutes is amended to read:

~~977.075 (4) The board may establish by rule a procedure for collecting a nonrefundable partial payment within ~~60~~ 120 days after the commencement of representation for legal services from persons who are responsible for payment for legal representation. This subsection does not apply to a parent who is subject to s. 48.275 (2) (b) or 938.275 (2) (b).~~

**SECTION 3. Initial applicability.**

(1) This act first applies to cases in which counsel is appointed on the effective date of this subsection.

(END)

*D-Note*

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2838/2ins  
RLR:.....

1 SECTION 1. 977.075 (1) (intro.) and (a) of the statutes are consolidated,  
2 renumbered 977.075 (3m) and amended to read:

3 977.075 (3m) (intro.) The board shall establish by rule ~~fixed amounts as flat~~  
4 payments for the cost of representation a fee schedule that sets the discount amount  
5 that a person, other than a parent subject to s. 48.275 (2) (b) or 938.275 (2) (b), who  
6 is responsible for payment for legal representation, may elect to pay. ~~The rule shall~~  
7 require all of the following:

History: 1995 a. 27, 77.

8 ~~not~~ (a) during a time period established by rule instead of paying the applicable fee  
9 under sub. (3). The fee schedule shall establish a discount fee for each type of case  
10 included in the schedule under sub. (3). If a person elects to pay pay the applicable  
11 fixed amount discount fee within the time period established under this section, the  
12 person ~~cannot~~ may not be held liable for any additional payment for counsel.

History: 1995 a. 27, 77.

13 SECTION 2. 977.075 (1) (b) of the statutes is repealed.

14 SECTION 3. 977.075 (3) of the statutes is amended to read:

15 977.075 (3) The board shall establish by rule a fee schedule that sets the  
16 amount that a person, other than a parent subject to s. 48.275 (2) (b) or 938.275 (2)  
17 (b), who is responsible for payment for legal representation shall pay for the cost of  
18 the legal representation if the person does not pay the applicable discount fee under  
19 sub. (3m). The schedule shall establish a fee for a given type of case, and the fee for  
20 a given type of case shall be based on the average cost, as determined by the board,  
21 for representation for that type of case.

History: 1995 a. 27, 77.

22 SECTION 4. 977.075 (4) of the statutes is repealed.



1

~~X~~  
**SECTION 5. 977.075 (5) of the statutes is repealed.**

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

LRB-2838/2dn  
RLR: [initials]

*Date*

Representative Albers:

The e-mail message from Krista Ginger to Joyce Waldrop dated June 21, 2005, indicates that the director of the SPD trial division and the SPD collections staff interpret the current SPD fee statute (s. 977.075) differently. I asked Krista to clarify the directions in the e-mail. Krista stated that the redraft should do the following:

1. Make clear that s. 977.075 directs the SPD to establish two different fee schedules: one schedule for regular payments, and a separate schedule for discount amounts that a client may pay at the beginning of representation.
2. Direct SPD to establish by rule the time period in which a client may pay the discount amount.
3. Eliminate the language regarding partial payments, because it is not utilized and is confused with the discount fee for paying at the beginning of representation.

Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: robin.ryan@legis.state.wi.us

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

LRB-2838/2dn

RLR:kjf:rs

July 26, 2005

Representative Albers:

The e-mail message from Krista Ginger to Joyce Waldrop dated June 21, 2005, indicates that the director of the SPD trial division and the SPD collections staff interpret the current SPD fee statute (s. 977.075) differently. I asked Krista to clarify the directions in the e-mail. Krista stated that the redraft should do the following:

1. Make clear that s. 977.075 directs the SPD to establish two different fee schedules: one schedule for regular payments, and a separate schedule for discount amounts that a client may pay at the beginning of representation.
2. Direct SPD to establish by rule the time period in which a client may pay the discount amount.
3. Eliminate the language regarding partial payments, because it is not utilized and is confused with the discount fee for paying at the beginning of representation.

Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: robin.ryan@legis.state.wi.us

**Barman, Mike**

---

**From:** Waldrop, Joyce  
**Sent:** Wednesday, July 27, 2005 1:01 PM  
**To:** LRB.Legal  
**Subject:** Submitted: LRB 05-2838/2 Topic: Payment for representation by public defender?  
body=

Please prepare a Fiscal note.

Joyce Waldrop  
Research Assistant  
Representative Sheryl Albers  
50th Assembly District  
Rm. 15N State Capitol  
e-mail [jwaldrop@legis.state.wi.us](mailto:jwaldrop@legis.state.wi.us)  
Ph. 608/266-8531

**Barman, Mike**

---

**From:** Waldrop, Joyce  
**Sent:** Wednesday, July 27, 2005 1:00 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-2838/2 Topic: Payment for representation by public defender

It has been requested by <Waldrop, Joyce> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2838/2 Topic: Payment for representation by public defender

# Memo

To: Senator

Representative

Albers

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2005 draft.

LRB Number: LRB

-2838

Version:

"12"

Fiscal Estimate Prepared By: (agency abbr.)

SPD

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail:

8 / 15 / 2005

\* \* \* \* \*

To: LRB - Legal Section PA's

Subject:

*Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2005

AB 624

## Emery, Lynn

---

**From:** Emery, Lynn  
**Sent:** Monday, August 15, 2005 2:03 PM  
**To:** Rep.Albers  
**Subject:** LRB 05-2838/2 (FE by SPD - attached - for your review)

**Attachments:** 05-2838feSPD.PDF



05-2838feSPD.PDF  
(709 KB)

Lynn Emery  
Program Assistant  
Legislative Reference Bureau  
(608) 266-3561