

2009 DRAFTING REQUEST

Bill

Received: 10/06/2009

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Anthony Staskunas (608) 266-0620**

By/Representing:

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - costs and fees**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Staskunas@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Jail booking fee by sheriff

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>
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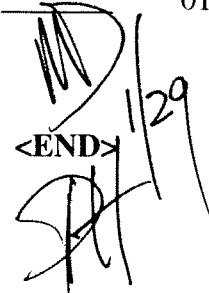
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Drafter: **chanaman**

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Subject: **Correctional System - jails**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Staskunas@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

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Topic:

Jail booking fee

Instructions:

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TwinCities.com

Ramsey County OKs \$25 jail booking fee

Pioneer Press

Updated: 09/22/2009 11:40:09 PM CDT

Spending the night at Ramsey County Jail? Cough up \$25.

Spending

Ramsey County commissioners Tuesday approved without debate a \$25 "booking fee" for people processed at the jail and not immediately released.

The request by Sheriff Bob Fletcher follows a new state law that allows jails to attempt to recoup their costs of booking a suspect — up to \$25. Fletcher estimates it costs \$36 in labor, including equipment overhead, to book each suspect.

If the suspect doesn't have the money, a judge can assess the fee later.

According to a county staff report, all other county jails in the metro area charge a booking fee — previously capped at \$10 — or bill other agencies. Until now, Ramsey County never had one.

— Dave Orrick

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3625

CMH:.....

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bjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
X-ref

1 AN ACT ^{gen.} ...; relating to: booking fees in county jails.

Analysis by the Legislative Reference Bureau

Under current law, a county may seek reimbursement from prisoners in the county jail for the daily cost of maintaining the person, for determining the financial ability of the person to reimburse the county, and for expenses incurred in collecting payments from the person. The county may collect the money from the person, from any institutional account the person has while in the jail, or, after the person is released, in a civil action in circuit court.

> This bill permits a county to collect a booking fee of up to \$25 from a person to cover the costs of conducting various administrative actions, including fingerprinting or photographing the person, filing information about the person, and gathering other identifying information from the person. The county may collect the money from the person, from any institutional account the person has while incarcerated, or, after the person is released, in a civil action in circuit court. The county must reimburse the person for any booking fee collected if the person is not charged with a crime or is acquitted or if the charges are dismissed.

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:

2 SECTION 1. 302.371 of the statutes is created to read:



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

J.B. VAN HOLLEN
ATTORNEY GENERAL

Raymond P. Taffora
Deputy Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

November 16, 2009

OAG—6—09

Ms. Jo-Ann Millhouse
Corporation Counsel
Grant County
130 West Maple Street
Lancaster, WI 53813

Dear Ms. Millhouse:

¶ 1. As a law enforcement agency, your sheriff's department has the ability to fingerprint individuals. You state that the sheriff would like to charge a fee for, or recover costs associated with, fingerprinting persons who are arrested or taken into custody and to charge a fee for or recover costs associated with fingerprinting persons who need to submit fingerprints to the Department of Justice in order to be eligible for certain occupations or certain kinds of employment.

QUESTIONS PRESENTED AND BRIEF ANSWERS

¶ 2. You request my legal opinion concerning two questions, which I have reworded as follows:

1. Are there circumstances in which a sheriff is statutorily authorized to charge a fee for, or to recover costs associated with, fingerprinting persons who are arrested or taken into custody?

¶ 3. In my opinion, the answer is no.

2. Are there circumstances in which a sheriff is statutorily authorized to charge a fee for, or to recover costs associated with, fingerprinting persons who need to submit fingerprints to the Department of Justice in order to be eligible for certain occupations or certain kinds of employment?

¶ 4. In my opinion, the answer is no. If the sheriff's department does fingerprinting that is mandated by a county agency, the county board may in its discretion remit a portion of any statutorily-authorized fee charged by the county agency to the sheriff's department in order to defray some or all of the costs that are incurred by the sheriff's department.

ANALYSIS

¶ 5. Your first question is whether there are circumstances in which a sheriff is statutorily authorized to charge a fee for, or recover costs associated with, fingerprinting persons who are arrested or taken into custody. Wisconsin Stat. § 165.84(1) requires fingerprinting of certain persons who have been arrested or have been taken into custody for felonies, misdemeanors, certain ordinance violations, and in various other circumstances. See Wis. Stat. § 165.83(2)(a).

¶ 6. As public officials, sheriffs "take their offices *cum onere*, and services required of them by law for which they are not specifically paid must be considered compensated by the fees allowed for other services or by their official salaries." 68 Op. Att'y Gen. 223, 225 (1979). Wisconsin Stat. § 59.32(1) provides that "[t]he sheriff shall collect the fees prescribed in s. 814.70[.]" Wisconsin Stat. § 814.70 enumerates those items for which the sheriff can charge fees in connection with the performance of his official duties. The express mention of only certain items in a statute impliedly excludes all other items that are not mentioned in the statute. See, e.g., *State v. James P.*, 2005 WI 80, ¶ 26, 281 Wis. 2d 685, 698 N.W.2d 95. See 70 Op. Att'y Gen. 17, 18 (1981) (citing *Appleton v. ILHR Department*, 67 Wis. 2d 162, 172-73, 226 N.W.2d 497 (1975)). Because fingerprinting is not one of the items that is mentioned in Wis. Stat. § 814.70, fingerprinting persons that have been arrested or taken into custody is not an item for which the sheriff may charge a fee. X

¶ 7. In addition, Wis. Stat. § 59.32(4) provides:

EXCESSIVE FEES. No sheriff, undersheriff or deputy shall directly or indirectly ask, demand or receive for any services or acts to be performed by that officer in the discharge of any of that officer's official duties any greater fees than are allowed by law; and for the violation of any of the provisions of this subsection every such officer shall be liable in treble damages to the party aggrieved and shall forfeit not less than \$25 nor more than \$250.¹

Although the supreme court has not addressed whether the "greater fees than are allowed by law" language contained in Wis. Stat. § 59.32(4) refers to the kinds of items for which fees can be charged, Wis. Stat. § 59.32(4) is a further indication that the ability of the sheriff to charge fees is strictly limited by the provisions of Wis. Stat. § 814.70. Wisconsin Stat. § 814.70 does not authorize the sheriff to charge a fee for fingerprinting persons that have been arrested or taken into custody. The sheriff therefore may not charge any fee in such circumstances. Because the

¹A prior statute, Wis. Stat. ch. 129, sec. 2955 (1913), provided: "No judge, justice, sheriff or other officer whatever, or other person to whom any fees or other compensation shall be allowed by law for any service, shall take or receive any other or greater fee or reward for such service than such as shall be allowed by the laws of this state."

sheriff may not charge any fee for fingerprinting a person who has been arrested or taken into custody, costs associated with fingerprinting also are not recoverable as taxable disbursements in criminal proceedings or forfeiture actions. *See State v. Dismuke*, 2001 WI 75, ¶ 22, 244 Wis. 2d 457, 628 N.W.2d 791.

¶ 8. Your second question is whether there are circumstances in which a sheriff is statutorily authorized to charge a fee for, or recover costs associated with, fingerprinting persons who need to submit fingerprints to the Department of Justice in order to be eligible for certain occupations or certain kinds of employment. Fingerprinting is either mandatory or can be required in connection with various occupations or forms of employment, including but not limited to court-appointed special advocates, Wis. Stat. § 48.07(5)(b)2.; certain kinship care and long-term kinship care relatives, Wis. Stat. § 48.57(3p)(d); certain caregivers, non-client residents, or persons under eighteen years of age who are caregivers at day care centers, Wis. Stat. § 48.685(2)(bm); certain foster home licensees, Wis. Stat. § 48.685(2)(c)1.; certain adult caregivers, Wis. Stat. § 50.065(2)(bm); certain employees of the Department of Transportation who are involved in issuing operator's licenses or identification cards, Wis. Stat. § 110.09(1)(a) and (b); certain applicants for teacher's licenses, Wis. Stat. § 118.19(10)(c); certain persons engaged in providing pupil transportation services, Wis. Stat. § 121.555(3)(b); certain school bus operators, Wis. Stat. § 343.12(6)(b); all persons seeking private detective licenses or private security permits and certain persons seeking other forms of professional licensure, Wis. Stat. § 440.03(13)(c); designated representatives of wholesale distributors of prescription drugs, Wis. Stat. § 450.071(3)(c)9.; racetrack operators and certain persons connected with racetrack operators, Wis. Stat. § 562.05(7)(b) and (bg); lottery vendors, Wis. Stat. § 565.25(4); and Indian gaming employees and vendors, Wis. Stat. § 569.04(2). *See also* Wis. Admin. Code § Game 13.05(6) and (7).

¶ 9. Wisconsin Stat. § 165.82(1)(ar) authorizes the Department of Justice to charge a \$15 fee “[f]or each fingerprint card record check requested by a governmental agency or nonprofit organization[.]” No other state or local agency is statutorily authorized to charge such a fee.

¶ 10. My understanding from the limited information provided is that the sheriff would like to charge a fee for providing fingerprint cards and placing fingerprints on those cards before the cards are submitted to the Department of Justice to perform a record check. It appears from the materials submitted that some private firms or agencies offer such services and charge for them.

¶ 11. “A county or a county officer has only such power as is conferred by statute, either expressly or by clear implication.” OAG 1-03 (October 2, 2003), at 2. For the reasons indicated in response to your first question, a sheriff cannot impose a charge for fingerprinting persons who

need to submit fingerprints to the Department of Justice in order to be eligible for certain occupations or certain kinds of employment.²

¶ 12. I will also address whether the county itself or certain county agencies may impose such a charge. A county has only those powers expressly granted or impliedly authorized by statute. *See St. ex rel. Teunas v. Kenosha County*, 142 Wis. 2d 498, 504, 418 N.W.2d 833 (1988). *See also County of Milwaukee v. Williams*, 2007 WI 69, ¶ 24, 301 Wis. 2d 134, 732 N.W.2d 770. Insofar as relevant to your inquiry, the substantive powers of counties are enumerated primarily in Wis. Stat. § 59.01 and Wis. Stat. ch. 59, subch. V. Those statutes do not expressly or impliedly authorize counties to charge fees for fingerprinting persons solely as the result of the fact that such persons need to submit fingerprints to the Department of Justice in order to be eligible for certain occupations or certain kinds of employment.

¶ 13. There are circumstances in which a county agency does mandate that a person be fingerprinted. Wisconsin Stat. § 48.57(3p)(j) provides that “[a] county department or, in a county having a population of 500,000 or more, the department may charge a fee for conducting a background investigation under this subsection. The fee may not exceed the reasonable cost of conducting the investigation.” Wisconsin Stat. § 48.685(8) similarly provides:

The department, the department of health services, a county department, a child welfare agency, or a school board may charge a fee for obtaining the information required under sub. (2)(am) or (3)(a) or for providing information to an entity to enable the entity to comply with sub. (2)(b)1. or (3)(b). The fee may not exceed the reasonable cost of obtaining the information.

The “county department” referred to in Wis. Stat. § 48.57(3p)(j) and in Wis. Stat. § 48.685(8) is the county department of social services or the county department of human services. *See* Wis. Stat. § 48.02(2d).³

¶ 14. As part of a background investigation under Wis. Stat. § 48.57(3p)(j), a county department that “determines that the person’s employment, licensing or state court records provide a reasonable basis for further investigation . . . shall require the person to be fingerprinted

²There is no statutory requirement that the sheriff provide fingerprint cards to such persons or that the sheriff fingerprint persons for submission to the Department of Justice for a record check for such purposes.

³In contrast, Wis. Stat. § 50.065(8) provides that “[t]he department may charge a fee for obtaining the information required under sub. (2)(am) or (3)(a) or for providing information to an entity to enable the entity to comply with sub. (2)(b) or (3)(b).” “Department” means the Department of Children and Families. *See* Wis. Stat. § 48.02(4). Wisconsin Stat. § 50.065(8) does not include a county department.

on 2 fingerprint cards, each bearing a complete set of the person's fingerprints."⁴ Wis. Stat. § 48.57(3p)(d). Similarly, in providing the kinds of information referred to in Wis. Stat. § 48.685(8), a county department "may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints." Wis. Stat. § 48.685(2)(bm).⁵

¶ 15. A background investigation under Wis. Stat. § 48.57(3p)(j) may require the submission of fingerprint cards. The items of information referred to in Wis. Stat. § 48.685(8) may also include the submission of fingerprint cards. In cases where a county agency requires fingerprint cards to be submitted, the sheriff's department may do the actual fingerprinting. Wisconsin Stat. § 48.57(3p)(j) authorizes a county department to charge a reasonable fee for the cost of the entire investigation. Wisconsin Stat. § 48.685(8) authorizes a county department to charge a reasonable fee for the cost of submitting all statutorily-required information. No fee may exceed the reasonable cost of obtaining the information. A component of the fee that is charged by the county agency under these statutes may include the reasonable costs of fingerprinting. If the sheriff's department does the fingerprinting that is mandated by a county agency, the county board may in its discretion remit a portion of the fee to the sheriff's department to defray some or all of the costs involved.

CONCLUSION

¶ 16. I therefore conclude that there are no circumstances in which a sheriff is statutorily authorized to charge a fee for or to recover costs associated with fingerprinting persons that are arrested or taken into custody or for fingerprinting persons who need to submit fingerprints to the Department of Justice in order to be eligible for certain occupations or certain kinds of employment. If the sheriff's department does fingerprinting that is mandated by a county agency, the county board may in its discretion remit a portion of any statutorily-authorized fee charged by

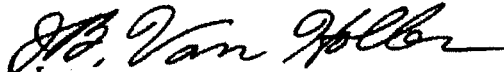
⁴The introductory clause of Wis. Stat. § 48.57(3p)(d) cross references Wis. Stat. § 48.57(3p)(b) and (c), under which a county department may be required to conduct a background investigation. A determination to require the submission of fingerprints is a part of the investigation.

⁵The introductory clause in Wis. Stat. § 48.685(2)(bm) cross references Wis. Stat. § 48.685(2)(am) and (b)1. Wisconsin Stat. § 48.685(2)(c)1. cross references 42 U.S.C. § 16962(b) (2006). 42 U.S.C. § 16962(d) (2006) provides that "the States may charge any applicable fee for the [fingerprint] checks."

Ms. Jo-Ann Millhouse
Page 6

the county agency to the sheriff's department in order to defray some or all of the costs that are incurred by the sheriff's department.

Sincerely,



J.B. Van Hollen
Attorney General

JBVH:FTC:cla



RPN

stays

2009 BILL

NO
CH
sheriff collects various fees, including a fee for the service of process, a fee for the seizure of property, a fee for an eviction, and a fee for the sale of foreclosed real property. Collects various fees, including a fee for the service of process, a fee for the seizure of property, a fee for an eviction, and a fee for the sale of foreclosed real property. the collection of a

- 1 AN ACT ^{regen} to create 302.371 of the statutes; relating to: booking fees in county jails by the county sheriff
- 2

Analysis by the Legislative Reference Bureau

Under current law, a county may seek reimbursement from prisoners in the county jail for the daily cost of maintaining the person, for determining the financial ability of the person to reimburse the county, and for expenses incurred in collecting payments from the person. The county may collect the money from the person, from any institutional account the person has while in the jail, or, after the person is released, in a civil action in circuit court.

This bill permits a county to collect a booking fee of up to \$25 from a person to cover the costs of conducting various administrative actions, including fingerprinting or photographing the person, filing information about the person, and gathering other identifying information from the person. The county may collect the money from the person, from any institutional account the person has while incarcerated, or, after the person is released, in a civil action in circuit court. The county must reimburse the person for any booking fee collected if the person is not charged with a crime or is acquitted or if the charges are dismissed.

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

sheriff x2

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

BILL

814070 (13)

814070 (13)

SECTION 1

A fee of up to \$25 to cover the costs of

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SECTION 1. 302.371 of the statutes is created to read:

302.371 Booking fee. In this section, "booking" means conducting administrative actions after a person is arrested or otherwise detained, including fingerprinting and photographing the person, entering data on the person, gathering identifying information from the person, and filing information about the person.

~~(2) A county may require that each person who is arrested or otherwise detained at a county jail pay a fee of up to \$25 to the sheriff of the county in which the county jail is located to cover all costs that the county incurred when booking that person.~~

~~(3) The fee under sub. (2) is payable immediately by the person who is arrested or otherwise detained or is payable from any institutional account the person has while incarcerated for payment for items from canteen, vending, or similar services.~~

~~If the fee is not collected immediately or while the person is incarcerated, the county may commence a civil action in circuit court to obtain a judgment for the fee within 12 months after the person is released.~~

~~(4) If the person who is charged the fee under sub. (2) is not charged with a crime or is acquitted or if the charges against the person are dismissed, the sheriff shall return the fee or any part of the fee that was collected to the person at his or her last-known address.~~

~~(5) Any money collected under this section shall be deposited into the county treasury.~~

SECTION 2. Initial applicability.

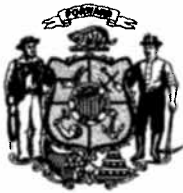
(1) This act first applies to arrests or detentions that occur on the effective date of this subsection.

(END)

Nelson, Robert P.

From: Hanaman, Cathlene
Sent: Wednesday, January 13, 2010 11:21 AM
To: Nelson, Robert P.
Subject: -3625

They want to include charging for fingerprinting for job purposes and get rid of the reimbursement if charges are dismissed.



1/13
State of Wisconsin
2009 - 2010 LEGISLATURE

stays / 3
LRB-3625/3 RMR
RPN:bjk:rs
stays

Today

2009 BILL

Inserts

SA
x-ref

regen

- 1 AN ACT ~~to create~~ 814.70 (13) of the statutes; relating to: the collection of a
 - 2 booking fee by the county sheriff.
- an administrative*

Analysis by the Legislative Reference Bureau

Under current law, a county sheriff collects various fees, including a fee for the service of process, a fee for the seizure of property, a fee for an eviction, and a fee for the sale of foreclosed real property.

This bill permits a sheriff to collect a booking fee of up to \$25 from a person to cover the costs of conducting various administrative actions, including fingerprinting or photographing the person, filing information about the person, and gathering other identifying information from the person. The sheriff may collect the money from the person, from any institutional account the person has while incarcerated, or, after the person is released, in a civil action in circuit court. The county must reimburse the person for any booking fee collected if the person is not charged with a crime or is acquitted or if the charges are dismissed.

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

stays

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

3

SECTION 1. 814.70 (13) of the statutes is created to read:

BILL

1 814.70 (13) BOOKING FEE. A fee of up to \$25 to cover the costs of conducting
 2 administrative actions after a person is arrested or otherwise detained, including
 3 fingerprinting and photographing the person, entering data on the person, gathering
 4 identifying information from the person, and filing information about the person.
 5 The fee is payable immediately by the person who is arrested or otherwise detained
 6 or is payable from any institutional account the person has while incarcerated for
 7 payment for items from canteen, vending, or similar services. If the person who paid
 8 the fee is not charged with a crime or is acquitted or if the charges against the person
 9 are dismissed, the county shall return the fee that was collected to the person at his
 10 or her last-known address.

SECTION 2. Initial applicability.

11 (1) This act first applies to arrests or detentions that occur on the effective date
 12 of this subsection.
 13

(END)

14

Insert
2-14

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3625/3ins
RPN:bjk:rs

1 insert anl:

Under current law, a county sheriff collects various court-related fees, including a fee for the service of process, a fee for the seizure of property, a fee for an eviction, and a fee for the sale of foreclosed real property.

This bill permits a sheriff to collect an administrative fee of up to \$25 from a person to cover the costs of fingerprinting the person or of conducting various administrative actions related to a person who is arrested, including fingerprinting or photographing the person, filing information about the person, and gathering other identifying information from the person. The sheriff may collect the ~~money~~ from the person or from any institutional account the person has while incarcerated.

fee

2

3 insert 2-14:

4 **SECTION 1.** 59.32 (1) of the statutes is renumbered 59.32 (1) (a) and amended
5 to read:

6 **59.32 (1) (a) Court fees.** The sheriff shall collect the court fees prescribed in s.
7 814.70, unless a higher fee is applicable under s. 814.705 (1) (a) or (2), and remit them
8 to the treasurer as provided in s. 59.22 (1) (b).

History: 1991 a. 316; 1995 a. 201 ss. 288, 291 to 294; 1995 a. 225; 1997 a. 27.

9 **SECTION 2.** 59.32 (1) (b) of the statutes is created to read:

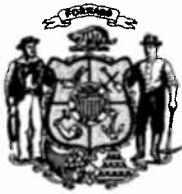
10 **59.32 (1) (b) Administrative fees.** The sheriff may collect a fee of up to \$25 to
11 cover the costs of fingerprinting a person at the person's request, such as for
12 employment purposes, or to cover the costs of conducting administrative actions
13 after a person is arrested or otherwise detained, including fingerprinting and
14 photographing the person, entering data on the person, gathering identifying
15 information from the person, and filing information about the person. The fee is
16 payable immediately or is payable from any institutional account the person has
17 while incarcerated for payment for items from canteen, vending, or similar services.

1 ^Y The sheriff shall remit the fees collected to the treasurer as provided in s. 59.22 (1)

2 (b).

3 **SECTION 3. Initial applicability.**

4 (1) This act first applies to fingerprinting and other administrative actions
5 conducted by the sheriff on the effective date of this subsection.



1/14
State of Wisconsin
2009 - 2010 LEGISLATURE

→ Today

LRB-3625/8

RPN:bjk:jf

④
Lstays

2009 BILL

SA-

regen.

1 AN ACT to renumber and amend 59.32 (1); and to create 59.32 (1) (b) of the
2 statutes; relating to: the collection of an administrative fee by the county
3 sheriff.

Analysis by the Legislative Reference Bureau

Under current law, a county sheriff collects various court-related fees, including a fee for the service of process, a fee for the seizure of property, a fee for an eviction, and a fee for the sale of foreclosed real property.

This bill permits a sheriff to collect an administrative fee of up to \$25 from a person to cover the costs of fingerprinting the person or of conducting various administrative actions related to a person who is arrested, including fingerprinting or photographing the person, filing information about the person, and gathering other identifying information from the person. The sheriff may collect the fee from the person or from any institutional account the person has while incarcerated.

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:

4 SECTION 1. 59.32 (1) of the statutes is renumbered 59.32 (1) (a) and amended
5 to read:

NO IF a person who paid a fee was arrested or detained, the [has and]



2009 BILL

1 AN ACT *to create* 814.70 (13) of the statutes; **relating to:** the collection of a
2 booking fee by the county sheriff.

Analysis by the Legislative Reference Bureau

Under current law, a county sheriff collects various fees, including a fee for the service of process, a fee for the seizure of property, a fee for an eviction, and a fee for the sale of foreclosed real property.

This bill permits a sheriff to collect a booking fee of up to \$25 from a person to cover the costs of conducting various administrative actions, including fingerprinting or photographing the person, filing information about the person, and gathering other identifying information from the person. The sheriff may collect the money from the person, from any institutional account the person has while incarcerated, or, after the person is released, in a civil action in circuit court. The county must reimburse the person for any booking fee collected if the person is not charged with a crime or is acquitted or if the charges are dismissed.

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

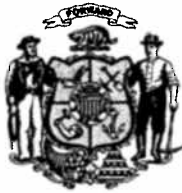
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 814.70 (13) of the statutes is created to read:

Duerst, Christina

From: Ramirez, Adrienne
Sent: Friday, January 15, 2010 2:57 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-3625/4 Topic: Jail booking fee by sheriff

Please Jacket LRB 09-3625/4 for the ASSEMBLY.



1/28
State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3625/5
RPN:bjk:rs

9004

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ke
L stays

2009 BILL

Insert

1 AN ACT *to renumber and amend* 59.32 (1); and *to create* 59.32 (1) (b) of the
2 statutes; **relating to:** the collection of an administrative fee by the county
3 sheriff.

regen.

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From a

Analysis by the Legislative Reference Bureau

Under current law, a county sheriff collects various court-related fees, including a fee for the service of process, a fee for the seizure of property, a fee for an eviction, and a fee for the sale of foreclosed real property.

This bill permits a sheriff to collect an administrative fee of up to \$25 from a person to cover the costs of fingerprinting the person, ~~or of~~ conducting various administrative actions related to a person who is arrested, including fingerprinting or photographing the person, filing information about the person, and gathering other identifying information from the person. The sheriff may collect the fee from the person or from any institutional account the person has while incarcerated. If a person who paid a fee was arrested or detained, the county must reimburse the person for any fee collected if the person is not charged with a crime or is acquitted or if the charges are dismissed.

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:

an arrested

the

BILL

1 **SECTION 1.** 59.32 (1) of the statutes is renumbered 59.32 (1) (a) and amended
2 to read:

3 59.32 (1) (a) Court fees. The sheriff shall collect the court fees prescribed in s.
4 814.70, unless a higher fee is applicable under s. 814.705 (1) (a) or (2), and remit them
5 to the treasurer as provided in s. 59.22 (1) (b).

6 **SECTION 2.** 59.32 (1) (b) of the statutes is created to read:

7 59.32 (1) (b) Administrative fees. 1. The sheriff may collect a fee of up to \$25
8 ~~to cover the costs of fingerprinting a person at the person's request,~~ who has requested that he or she be fingerprinted, such as for
9 employment purposes.

10 2. The sheriff may collect a fee of up to \$25 to cover the costs of conducting
11 administrative actions after a person is arrested or otherwise detained, including
12 fingerprinting and photographing the person, entering data on the person, gathering
13 identifying information from the person, and filing information about the person. If
14 the person who paid the fee is not charged with a crime or is acquitted or if the
15 charges against the person are dismissed, the county shall return the fee that was
16 collected to the person at his or her last-known address.

17 3. The fee is payable immediately or is payable from any institutional account
18 the person has while incarcerated for payment for items from canteen, vending, or
19 similar services.

20 4. The sheriff shall remit the fees collected to the treasurer as provided in s.
21 59.22 (1) (b).

22 **SECTION 3. Initial applicability.**

23 (1) This act first applies to fingerprinting and other administrative actions
24 conducted by the sheriff on the effective date of this subsection.

25

(END)

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3625/5ins
RPN:bjk:rs

ins. anl:

^{No} who has requested that he or she be fingerprinted, such as a person who requires fingerprints as part of his or her employment. The bill also allows the sheriff to charge the same fee for

Nelson, Robert P.

From: Rep. Garthwaite
Sent: Wednesday, January 27, 2010 2:24 PM
To: Nelson, Robert P.
Subject: LRB 3625/4 analysis

Mr. Nelson,

I'm writing as a follow up to the recent phone call you received from the Garthwaite office. I would like to have the analysis for LRB 3625/4 rewritten. I believe that the main thrust of the legislation is to allow County Sheriffs to charge administrative fees for activities such as fingerprinting of individuals who have not been accused of a crime, but who are instead seeking services at their own request. Often individuals within my district require fingerprinting services as part of a normal job application process. Recently the AG informed Grant County, and subsequently the Grant County Sherriff that they were statutorily prohibited from charging fees for these services. Due to funding cuts they no longer offer this service to my constituents. My intent with this bill was, first and foremost, to allow the Grant County Sherriff to charge those voluntarily seeking services a fee of up to 25.00. The ability to charge persons who are accused, and later convicted of a crime a fee was done at the request of several lawmakers and sheriff departments. Although I do not seek to remove the analysis concerning the ability to charge criminals fees I would like to see the explanation of how the bill authorizes sheriffs to charge individuals seeking services voluntarily stated explicitly, and ideally before the explanation of the process concerning individual who are being processed due to suspected criminal activity.

If you have any questions please feel free to call my office,

Thank you,
Rep. Phil Garthwaite

Please respond to:

Jonathan M Wolkomir
Legislative Assistant
Rep. Phil Garthwaite
49th Assembly District
(608) 266-1170
(888) 872-0049

LRB

Fiscal Estimate - 2009 Session

Original Updated Corrected Supplemental

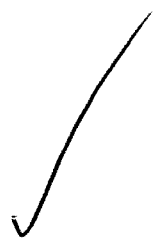
LRB Number 09-3625/5		Introduction Number AB-0830	
Description The collection of an administrative fee by the county sheriff			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs			
Local:			
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input checked="" type="checkbox"/> Increase Costs 3. <input checked="" type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory			
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts			
Fund Sources Affected		Affected Ch. 20 Appropriations	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Agency/Prepared By		Authorized Signature	Date
CTS/ Nancy Rottier (608) 267-9733		Nancy Rottier (608) 267-9733	3/31/2010

*04-01-2010
Returned
for correction*

*Oked by
Garthwaite's office*

*new FE by
CTS will be
dated 04-01-2010*

correct



Fiscal Estimate Narratives
CTS 3/31/2010

LRB Number 09-3625/5	Introduction Number AB-0830	Estimate Type Original
Description The collection of an administrative fee by the county sheriff		

Assumptions Used in Arriving at Fiscal Estimate

This bill allows a county sheriff to collect an administrative fee of up to \$25 to cover various costs related to fingerprinting, booking and photographing persons.

The bill does not appear to involve the court system in this process, therefore, it will have no fiscal impact on the courts. It may have an impact on the county government that is required to impose, collect and refund (under certain circumstances) the fees.

Long-Range Fiscal Implications