



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 164
[2015 Assembly Bill 522]

**DOC Reimbursement to Counties
for Probation, Extended
Supervision, and Parole Holds**

BACKGROUND

Reimbursement Fee Charged to Persons on Probation, Parole, or Extended Supervision

The Department of Corrections (DOC) is required to charge a fee to each probationer, parolee, and person who is on extended supervision (person on community supervision) to partially reimburse the department for the costs of providing supervision and services (supervision fee). DOC must set the fee at varying rates with the goal of receiving at least \$1 per day, if appropriate, from each person on community supervision. However, DOC may decide not to charge a supervision fee to a person if he or she meets any of the following conditions:

- Is unemployed.
- Is pursuing a full-time course of instruction approved by DOC.
- Is undergoing treatment approved by DOC and is unable to work.
- Has a statement from a physician certifying to DOC that the person on community supervision should be excused from working for medical reasons.

[s. 304.074 (2) and (3), Stats. See also s. DOC 328.07 (5), Wis. Adm. Code.]

DOC must promulgate rules setting the rate, as well as providing the procedure and timing for collecting supervision fees. [s. 304.074 (5), Stats.] Specifically, s. DOC 328.07, Wis. Adm. Code, sets forth various rules related to these fees, including the monthly supervision fees for a person on community supervision and when a person is exempt from paying the fee.

If a person on community supervision owes unpaid supervision fees to DOC, and is discharged from probation or from his or her sentence before DOC collects the unpaid fees, DOC must, at the time of discharge, issue a notice to the person that states the following: (1) that he

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

or she owes unpaid supervision fees; and (2) that he or she is responsible for the unpaid supervision fees. This notice must be issued along with the certificate of the person's discharge. Current law also allows DOC to request the Attorney General to bring a civil action to recover unpaid supervision fees owed to DOC. Before making this request, DOC must deduct any supervision fees that were inaccurately assessed against the person. [s. 304.074 (4m), Stats.]

Reimbursement for Prisoners in a County Jail or Other County Facility

The statutes require DOC to pay for the maintenance of any person in its custody while the person is placed in a county jail or other county facility, or in a tribal jail, pending the disposition of probation, extended supervision, or parole revocation proceedings (commonly referred to as a "probation, extended supervision, or parole hold"), subject to the following conditions:

- DOC must make payments beginning when the person is detained in a county jail or other county facility, or in a tribal jail, pursuant only to a DOC hold, ending when the revocation process is completed and a final order of DOC or the Department of Administration's Division of Hearings and Appeals has been entered.
- DOC is prohibited from paying for persons who have pending criminal charges, whether or not a DOC hold has been placed on the person. Payment for maintenance by DOC is limited to confinements where a person is held solely because of conduct which violates the person's supervision and which would not otherwise constitute a criminal charge.

[s. 302.33 (2) (a) 1. and 2. Stats.]

After verification by DOC, DOC must reimburse the county or tribal governing body at a current rate of \$40 per day, subject to the two conditions listed above. **Under prior law**, the reimbursement was paid through one specific appropriation for reimbursing counties for probation, extended supervision, and parole holds. If the amount provided in the appropriation was insufficient to provide complete reimbursement at that rate, DOC was required to prorate the payments for that fiscal year. DOC could not reimburse a county or tribal governing body unless that county or tribal governing body informed DOC of the amount of reimbursement to which it was entitled no later than September 1 of the fiscal year following the fiscal year for which reimbursement was requested. [s. 302.33 (2) (a) 3. Stats.]

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Wisconsin Act 164 requires DOC to use supervision fees that it collects to reimburse any amount not paid by the appropriation specifically for DOC to use for reimbursing counties for the cost of maintaining a person on a probation, extended supervision, or parole hold. Specifically, the Act provides that DOC must reimburse counties or tribal governing bodies at the rate of \$40 per person per day from the appropriation for reimbursing counties for the cost of maintaining any person who is placed in a county jail or other county facility on a probation, extended supervision, or parole hold. DOC must pay any amount not paid under this appropriation from money it collects from supervision fees. Similar to prior law, if the amount

from the appropriation and the supervision fees is insufficient to provide complete reimbursement at the \$40 rate, DOC must prorate the payments for that fiscal year.

Effective date: This Act went into effect on March 2, 2016.

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