AN ACT to amend 885.10, 977.05 (4) (g), 977.06 (1) (d) and 977.07 (2m) of the statutes; relating to: description of defendant indigency for public defender fees (suggested as remedial legislation by the State Public Defender).

Analysis by the Legislative Reference Bureau

This bill amends the statutes that describe the procedure for collecting attorney’s fees for defendants who have been determined to be indigent. It removes the words “in part” from the description of indigency because defendants can be found to be only indigent or not indigent, they cannot be found to be indigent “in part.”

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

SECTION 1. 885.10 of the statutes is amended to read:

885.10 Witness for indigent respondent or defendant. Upon satisfactory proof of the financial inability of the respondent or defendant to procure the attendance of witnesses for his or her defense, the judge or supplemental court commissioner, in any paternity proceeding or criminal action or proceeding, or in any
other case in which the respondent or defendant is represented by the state public
defender or by assigned counsel under s. 977.08, to be tried or heard before him or
her, may direct the witnesses to be subpoenaed as he or she determines is proper and
necessary, upon the respondent’s or defendant’s oath or affidavit or that of the
respondent’s or defendant’s attorney. Witnesses so subpoenaed shall be paid their
fees in the manner that witnesses for the state therein are paid. Determination of
indigency, in full or in part, under s. 977.07 is proof of the respondent’s or defendant’s
financial inability to procure the attendance of witnesses for his or her defense.

SECTION 2. 977.05 (4) (g) of the statutes is amended to read:

977.05 (4) (g) In accordance with the standards under pars. (h) and (j), accept
referrals from judges, courts or appropriate state agencies for the determination of
indigency of persons who claim or appear to be indigent. If a referral is accepted and
if the person is determined to be indigent in full or in part, the state public defender
shall appoint counsel in accordance with contracts and policies of the board, and
inform the referring judge, court or agency of the name and address of the specific
attorney who has been assigned to the case.

SECTION 3. 977.06 (1) (d) of the statutes is amended to read:

977.06 (1) (d) Collect for the cost of representation from persons who are
indigent in part or who have been otherwise determined to be able to reimburse the
state public defender for the cost of providing counsel.

SECTION 4. 977.07 (2m) of the statutes is amended to read:

977.07 (2m) If the person is found to be indigent in full or in part, the person
shall be promptly informed of the state’s right to payment or recoupment under s.
48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), or 977.076 (1), and the possibility that
the payment of attorney fees may be made a condition of probation, should the person
be placed on probation. Furthermore, if found to be indigent in part, the person shall
be promptly informed of the extent to which he or she will be expected to pay for
counsel, and whether the payment shall be in the form of a lump sum payment or
periodic payments. The person shall be informed that the payment amount may be
adjusted if his or her financial circumstances change by the time of sentencing. The
payment and payment schedule shall be set forth in writing. This subsection does
not apply to persons who have paid under s. 977.075 (3m).

(END)