

CR 83-53

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CERTIFICATE

SEP 12 1983
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Revisor of Statutes
Bureau

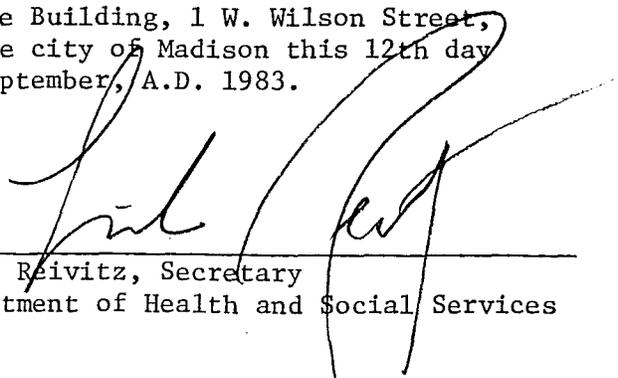
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Linda Reivitz, Secretary of the Department of Health and Social Services and custodian of the official records of said Department, do hereby certify that the annexed rules relating to financial obligations of probationers were duly approved and adopted by this Department on September 12, 1983.

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison this 12th day of September, A.D. 1983.



Linda Reivitz, Secretary
Department of Health and Social Services

SEAL:

11-1-83

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPEALING AND RECREATING RULES

To repeal and recreate HSS 328.07, relating to financial obligations of probationers.

Analysis Prepared by the Department of Health and Social Services

Section 973.09, Stats., relates to the placement on probation of persons convicted of crimes. Probationers are supervised by staff of the Department's Bureau of Community Corrections. That statute imposes certain requirements on the Department of Health and Social Services in connection with financial obligations that a court imposes as conditions of probation. The court must require that restitution be paid by the probationer to compensate the crime victim's pecuniary loss, unless the court has good reasons not to require restitution. The Department may be asked by the court to document the nature and extent of the crime victim's loss; restitution and certain other financial obligations of a probationer are paid to and disbursed by the Department unless the county board decides that the clerk of court should handle this function; and the Department or clerk, as appropriate, notifies the court when the probationer is not making payments and, before expiration of the term of probation, concerning the status of the ordered payments.

The Department's rules to implement relevant parts of s. 973.09, Stats., are in s. HSS 328.07, Wis. Adm. Code. These are being revised to reflect changes made in the statute by ch. 352 of the Laws of 1981, as well as to clarify the existing rules. The most significant change in the rules is in the order of payment of a probationer's financial obligations. Reflecting the recent amendment of the statutes, the Division of Corrections' cashier, who receives the ordered payments from the probationer, is directed to first pay in full the restitution owed the victim of the crime, and thereafter, as additional payments are received, to pay the other financial obligations of the probationer in the priority order set out in s. HSS 328.07 (6).

Pursuant to authority vested in the Department of Health and Social Services by s. 227.014 (2), Stats., the Department of Health and Social Services hereby repeals and recreates rules interpreting s. 973.09, Stats., as follows:

SECTION 1. HSS 328.07 of the Wisconsin Administrative Code is repealed and recreated to read:

HSS 328.07 FINANCIAL OBLIGATIONS. (1) If in determining restitution to be paid by a probationer, a court orders the department under s. 973.09 (1m)(b), Stats., to document the nature and amount of the crime victim's pecuniary loss, the agent shall ascertain that loss and may recommend an appropriate payment schedule to the court. As used in this subsection, "pecuniary loss" has the meaning prescribed in s. 973.09 (1r) and (8), Stats.

(2) The agent may at any time accept money paid by a probationer pursuant to a court order under s. 973.09 (1m)(a), Stats., and shall transmit that money to the division cashier for deposit in the probationer's account.

(3) The procedures specified under s. HSS 328.05 (5) to (8) and (10) apply to payments under this section.

(4) The division cashier shall disburse money paid by a probationer as soon as possible after it is received, but need not make a disbursement of less than \$10 unless it is for a final payment.

(5) Before disbursing money paid by a probationer, the division cashier shall deduct the surcharge required under s. 973.09 (1)(b) and (1m)(d), Stats., from each payment.

(6) The division cashier shall disburse payments made by the probationer in the following order:

(a) Payment of restitution, and interest on restitution if applicable.

(b) Payment of fines and related payments in the order specified under s. 973.05 (2), Stats.

(c) Payment of court costs.

(d) Payment of attorney fees.

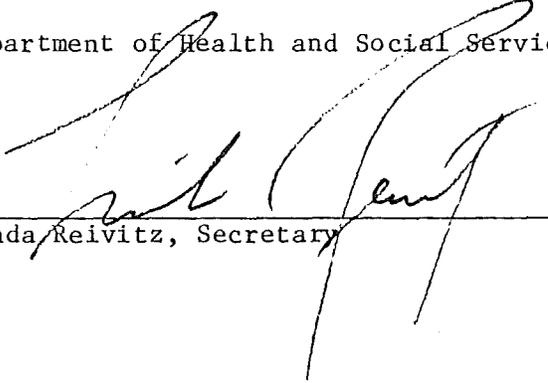
(7) Notwithstanding the disbursement of payments schedule provided for in sub. (6), if a probationer is subject to more than one order under s. 973.09, Stats., and if the financial obligations under any order total \$50 or less, the department may pay the obligations under that order first.

(8) When the department notifies the sentencing court under s. 973.09 (1m) (e) or (3) (b), Stats., that a probationer has not made the payments ordered, the agent may recommend that the court extend the commitment term of the probationer or modify any condition of probation. That recommendation shall be accompanied by a statement of the facts upon which it is based.

The amendment contained in this order shall take effect on the first day of the month following its publication in the Wisconsin Administrative Register, as provided in s. 227.026 (1), Stats.

Department of Health and Social Services

Dated *9-12-83*



Linda Reivitz, Secretary

Seal:

1-6-20/36k



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE SECRETARY
1 WEST WILSON STREET
P.O. BOX 7850
MADISON, WISCONSIN 53707

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Bureau

September 12, 1983

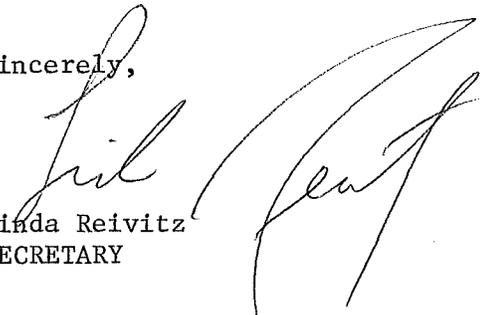
Mr. Orlan Prestegard
Revisor of Statutes
411 West, State Capitol
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in s. 227.023, Stats., there is hereby submitted a certified copy of HSS 328.07, administrative rules relating to financial obligations of probationers.

These rules are being submitted to the Secretary of State as required by s. 227.023, Stats.

Sincerely,


Linda Reivitz
SECRETARY

Enclosure