



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2013 Senate Bill 24**

**Senate Substitute Amendment  
1, as Amended**

*Memo published:* March 13, 2014

*Contact:* Anne Sappenfield, Principal Attorney (267-9485)

Senate Bill 24 relates to reimbursement of prisoner expenses to a county.

### **Current Law**

Current law allows a county to seek reimbursement from a prisoner for certain expenses related to the crime for which the prisoner was sentenced and confined in jail. Specifically, a county may seek reimbursement for the following expenses: (a) actual per-day cost of maintaining the prisoner during the time the prisoner was confined in jail; (b) investigation of the individual's financial status; and (c) any other expenses incurred by the county to collect reimbursement payments. [s. 302.372 (2) (a), Stats.]

Section 302.372, Stats., *Prisoner reimbursement to a county*, provides two methods by which a county may seek reimbursement from a prisoner. First, a prisoner may be charged while in jail through deductions to the prisoner's institutional account. Second, a prisoner may be charged after he or she is released from jail through commencement of a civil action in circuit court. The county must file such a court action within 12 months after the prisoner's release from jail. [s. 302.372 (5) and (6), Stats.]

Current law provides that "the jailer," which includes a sheriff or superintendent of a jail, chooses whether to seek reimbursement from a prisoner under s. 302.372, Stats., or whether to seek reimbursement as otherwise provided in state corrections and prison labor statutes. Current law also provides that "the jailer" may select the particular method under s. 302.372, Stats., for seeking reimbursement from prisoners by choosing to deduct from the prisoner's institutional account, commencing a civil action in circuit court, or using a combination of the two methods. [s. 302.372 (2) (d), Stats.]

### **2013 Senate Bill 24**

The bill extends the time period during which a county may seek reimbursement from a prisoner by commencing a civil action in circuit court from 12 months to 24 months after the prisoner's release from jail.

### **Senate Substitute Amendment 1**

The substitute amendment changes current law in the same manner as the bill. The amendment extends the time for commencing a civil action from 12 months to 24 months after a prisoner is released from jail. The substitute amendment also provides two additional provisions that are not contained in the bill.

First, the substitute amendment specifies that a county may seek reimbursement from a prisoner through the tax intercept program under s. 71.935, Stats. Section 71.935, *Setoffs for municipalities and counties*, allows a county to certify an individual's debt to the Department of Revenue (DOR) and requires the agency to set off the debt against any state tax refund the individual is owed. The substitute amendment provides that a county may seek reimbursement through tax intercept if the county certifies the prisoner's debt to DOR within 24 months after the prisoner is released from jail.

Second, the substitute amendment grants "the county" authority to determine the method for seeking reimbursement, in addition to "the jailer." The substitute amendment provides that the jailer or the county may choose whether to seek reimbursement by deducting from the prisoner's institutional account, by commencing a civil action, by certifying the expenses to DOR as a debt, or by using a combination of methods. The substitute amendment also provides that the jailer or the county may choose whether to seek reimbursement under s. 302.372, Stats., or whether to seek reimbursement as otherwise provided in chs. 301 to 303.

### **Senate Amendment 1 to the Substitute Amendment**

Senate Amendment 1 to Senate Substitute Amendment 1 permits a county to seek reimbursement from a prisoner by commencing a civil action in circuit court or by certifying the debt to DOR within 12 months after the prisoner's release, except that for medical expenses, the county may commence an action or certify the debt to DOR within 24 months of the prisoner's release.

### **Bill History**

Senate Substitute Amendment 1 and Senate Amendment 1 to Senate Substitute Amendment 1 were offered by Senator Leibham. On March 13, 2014, the Senate Committee on Judiciary and Labor unanimously adopted the amendments and recommended passage of the bill, as amended.

AS:ksm