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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**2015 Senate Bill 389**

**Senate Substitute Amendment 1**

*Memo published:* February 9, 2016

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## **2015 SENATE BILL 522**

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

Under current law and administrative rules, 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 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**

Under current law, DOC must 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 parole, extended supervision, or probation revocation proceedings, 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. If the amount provided in the appropriation for reimbursing counties for probation, extended supervision, and parole holds, is insufficient to provide complete reimbursement at that rate, DOC must prorate the payments for that fiscal year. DOC may not reimburse a county or tribal governing body unless that county or tribal governing body informs DOC of the amount of reimbursement to which it is entitled no later than September 1 of the fiscal year following the fiscal year for which reimbursement is requested. [s. 302.33 (2) (a) 3. Stats.]

Senate Bill 389 creates a new fee that DOC must charge to each person on community supervision. Specifically, DOC must charge each person on community supervision a \$3 monthly fee to help reimburse each county for costs incurred when the person was placed in a county jail or other county facility pending the disposition of parole, extended supervision, or probation revocation proceedings.

Under Senate Bill 389, when DOC reimburses a county at the \$40 rate for the maintenance of a person placed in a county jail or other county facility pending the disposition of parole, extended supervision, or probation revocation proceedings as specified above, it must first use the proceeds from the \$3 fee collected from persons on community services and then use money from the appropriation for reimbursing counties for probation, parole, and extended supervision. If there are still insufficient funds to reimburse the county at the \$40 rate, then DOC must prorate the payments as described in the previous section.

#### **SENATE SUBSTITUTE AMENDMENT 1**

Senate Substitute Amendment 1 eliminates the creation of a \$3 monthly fee that DOC must charge to each person on community supervision. Instead, the substitute amendment requires DOC to use money it collects from supervision fees if the appropriation to reimburse counties for probation, parole, and extended supervision is insufficient for reimbursing a county for maintenance of a person placed in a county jail or other county facility pending the disposition of parole, extended supervision, or probation revocation proceedings.

#### **BILL HISTORY**

On January 21, 2016, Senator Marklein introduced Senate Substitute Amendment 1. On February 4, 2016, the Senate Committee on Judiciary and Public Safety voted to recommend adoption of Senate Substitute Amendment 1 by a vote of Ayes, 5; Noes, 0; and to recommend passage of the bill, as amended, by a vote of Ayes, 5; Noes, 0.

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