

ORDER OF THE DEPARTMENT OF CORRECTIONS

CR 06-066

INTRODUCTORY CLAUSE

The Wisconsin Department of Corrections proposes an order to create DOC 332.19, relating to the establishment of an annual sex offender fee to partially offset the costs of monitoring persons who are on probation, parole, or extended supervision.

ANALYSIS PREPARED BY THE DEPARTMENT OF CORRECTIONS

RULE SUMMARY

- A. Statute interpreted: s. 301.45(10), Stats.
- B. Statutory Authority to Promulgate the Rule: s. 227.11(2) and 301.45 (10), Stats.
- C. Explanation of agency authority:

The Department of Corrections is responsible for maintaining a registry of all persons subject to the registration requirements under s. 301.45 (1d), Stats. Recently under s. 301.45 (10), Stats., the Legislature authorized the Department to establish by administrative rule a sex offender registration fee to partially offset its costs in monitoring person on probation, parole, or extended supervision.

- D. Related statute or rule: s. 301.45 (8), Stats., and ch. DOC 332, Sex Offender Registration and Community Notification Requirements, Wis. Adm. Code
- E. Plain Language Analysis:

The rule establishes an annual fee to partially offset the costs of monitoring persons who are on probation, parole, or extended supervision. Generally, the department has interpreted that all individuals who are subject to its supervision whether incarcerated or on probation, parole, or extended supervision, are under its custody. Because of the statutory language which seems to distinguish between those “in custody” and those on probation, parole, or extended supervision, the department has defined the term “custody” and used the terms “offender” and “inmate” to describe the individuals who are subject to this fee. The department has set the annual fee at \$50.00. The department also has established procedures for the collection and recording of the registration fee, as well as procedures for the failure of payment by an inmate or offender.

F. Summary of and Comparison with Existing or Proposed Federal Regulations that are intended to address the activities to be regulated by the proposed rule:

The District of Columbia has a sex offender registration program but does not require a registration fee. (28 CFR Part 811) There is an entry in the Federal Register regarding the application of Megan’s Law, in which states are encouraged to charge a registration fee to mitigate costs. 62 Fed. Reg. 39009 (03/08/2002).

G. Comparison of similar rules in adjacent states (Michigan, Minnesota, Illinois, Iowa, Indiana)

1. Illinois has established a \$20.00 initial registration fee and a \$10.00 annual renewal fee. The fees are to be used by the registering agency “for official purposes.” (730 ILCS 150/3(c)(6))
2. Iowa has established a \$10.00 initial sex offender registration fee and a \$10.00 fee for each change of registration. Fees are paid to the sheriff to defray the costs of duties related to the registration of persons. (Iowa Code s. 692A.6 (2005))
3. Michigan has established a \$35.00 initial registration fee. (MCLS s. 28.725a (2006))
4. Neither Indiana nor Minnesota has established a sex offender registration fee.

H. Summary of the factual data and analytical methodologies that DOC used in support of its determination of the rule’s fiscal effect on small businesses under s. 227.114, Stats.

This rule does not affect small businesses. The rule imposes a registration fee on inmates and persons who are probation, parole and extended supervision and who are required to register as sex offenders.

I. Any analysis and supporting documents that DOC used in support of DOC’s determination of the proposed rule’s effect on small businesses or that was used when the DOC prepared an economic impact report.

No economic impact report was required.

J. Effect on small businesses: There is no expected effect on small businesses under s. 227.114, Stats.

K. Agency contact person (including email and telephone):

Kathryn R. Anderson, Assistant Legal Counsel, Department of Corrections, 3099 E. Washington Avenue, P.O. Box 7925, Madison, WI 53707-7925, (608) 240-5049, kathryn.anderson@doc.state.wi.us.

TEXT OF RULE

SECTION 1. Section DOC 332.19 is created to read:

DOC 332.19 Sex offender registration fee.

(1) **APPLICABILITY.** A person who is required to register as a sex offender under s. 301.45, Stats., and who is in the department's custody or who is on probation, parole, or extended supervision shall be charged a registration fee to partially offset the costs of monitoring offenders.

(2) **DEFINITIONS.** In this section:

(a) "Custody" means being under the authority of the department as an inmate, a probationer, parolee, or person subject to extended supervision under s. 302.113, Stats.

(b) "Offender" means a person on probation, parole, or extended supervision under s. 302.113, Stats.

(3) **FEE.** The sex offender registration fee shall be \$50.00 on an annual basis.

(4) **RECORDING OF REGISTRATION FEE.** With reference to the sex offender registration fee under sub. (3), the department shall do the following:

(a) Record all registration fees paid by an inmate or offender.

(b) Provide the inmate or offender access to a copy of the record of payments to verify receipt of payments.

(c) Advise the inmate or offender of nonpayment of registration fees.

(d) Audit the record of payment of registration fees.

(5) **COLLECTION OF REGISTRATION FEE.** In collecting the sex offender registration fee, all of the following shall occur:

(a) The department shall do the following:

1. Establish a registration fee payment schedule including all of the following:
 - a. A grace period for the initial registration fee payment.
 - b. A deadline for payment for each subsequent year of registration.
 2. Approve procedures for the collection of registration fees.
 3. Provide the inmate or offender with a copy of the sex offender registration fee payment procedures.
 4. Credit those moneys collected to the appropriation account under s. 20.410 (1) (gd), Stats.
- (b) The inmate or offender shall pay the sex offender registration fee to the department according to the procedures established by the department.

(6) DEPARTMENT ACTION WHEN AN INMATE OR OFFENDER FAILS TO PAY REGISTRATION FEE. The department may use any of the following actions in any order when an inmate or offender fails to pay the sex offender registration fee:

- (a) Counseling.
- (b) Wage assignment.
- (c) Review of supervision or custody level to determine if more restrictive sanctions are needed, including an increase in the level of supervision, increase in the security level of custody, or electronic monitoring or detention in a jail, correctional facility or house of corrections for those on probation, parole or extended supervision.
- (d) Issue a recommendation for revocation of parole, probation or extended supervision for an offender's willful failure to pay the sex offender registration fee.
- (e) Any other appropriate means of obtaining the sex offender registration fee.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Dated: _____

Agency: _____

Matthew J. Frank
Secretary