

ORDER OF THE
DEPARTMENT OF CORRECTIONS

FINDING OF EMERGENCY

The department of corrections finds that an emergency exists and that rules included in this order are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of the facts constituting the emergency is: 2007 WI Act 20, section 3132, amended s. 301.45 (10), Stats., in three ways which requires an immediate amendment of s. DOC 332.19.

First, the newly amended s. 301.45 (10), Stats., expands the persons whom the department of corrections may require to pay an annual sex offender registration fee. Previously, the department was limited to assessing the fee only against those persons who were required to register and who were in its custody or under its supervision as a person on probation, parole, or extended supervision. The new law permits the department to require all persons who are required to register as a sex offender to pay an annual fee.

Second, the new law limits the use of the collected sex offender fees to partially offset the costs of monitoring sex offenders. Previously, the department was authorized to use the collected fees to partially offset the costs of monitoring those persons on probation, parole, or extended supervision, regardless of whether they were required to register as sex offenders.

Third, the legislature increased the maximum annual rate from \$50 to \$100. If the rule is not amended promptly and immediately, the department will not be able to collect the fees which are to be used to offset the costs of monitoring persons who are required to register as sex offenders. This could result in a lessening of supervision due to budget limitations.

The purpose of the emergency rule is to amend the current rule to require all persons who are required to register as sex offenders under s. 301.45 to pay the annual fee which is used to partially offset the costs of monitoring registrants. The emergency rule also increases the annual rate to \$100. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the collection of fees while permanent rules are being developed.

ORDER

Under the authority vested in the Department of Corrections by ss. 227.11(2) and 301.45(10), Stats., the Department of Corrections hereby amends the rule relating to the establishment of a sex offender registration fee to partially offset the costs of monitoring persons who are required to register as sex offenders, as follows:

PLAIN LANGUAGE ANALYSIS:

Statutory authority: s. 227.11(2) and 301.45(10), Stats.

Statutes interpreted: s. 301.45(10), Stats.

The purpose of the rule is to amend s. DOC 332.19 to be consistent with s. 301.45 (10), Stats., as amended by 2007 Wisconsin Act 20, section 3132. Specifically, the emergency rule expands the requirement to pay the sex offender registration fee to all persons who are required to register, not just those who are required to register and are under the custody or supervision of the Department of Corrections. In addition, the emergency rule applies the collected sex offender registration fees to partially offset the costs of monitoring those persons required to register as sex offenders under 301.45, Stats., instead of partially offsetting the cost of supervising persons on probation, parole, or extended supervision. Finally, the emergency rule increases the annual fee from \$50 to \$100.

SECTION 1. Section DOC 332.19 (1) is amended to read:

DOC 332.19 (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~~ registrants.

SECTION 2. Section DOC 332.19 (2) (c) is created to read:

DOC 332.19 (2) (c) "Registrant" means a person required to register as a sex offender under s. 301.45, Stats.

SECTION 3. Section DOC 332.19 (3), DOC 332.19 (4) (a), (b), and (c), DOC 332.19 (5) (a) 3 and (b), and DOC 332.19 (6) (intro) are amended to read:

DOC 332.19 (3) FEE. The sex offender registration fee shall be ~~\$50.00~~ \$100.00 on an annual basis.

DOC 332.19 (4) RECORDING OF REGISTRATION FEE. (a) Record all registration fees paid by ~~an inmate or offender~~ a registrant.

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

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

DOC 332.19 (5) COLLECTION OF REGISTRATION FEE. (a) 3. Provide the ~~inmate or offender~~ registrant with a copy of the sex offender registration fee payment procedures.

DOC 332.19 (5) (b) The ~~inmate or offender~~ registrant shall pay the sex offender registration fee to the department according to the procedures established by the department.

DOC 332.19 (6) (intro) DEPARTMENT ACTION WHEN ~~AN INMATE OR OFFENDER~~ A REGISTRANT FAILS TO PAY REGISTRATION FEE. The department may use any of the following actions in any order when ~~an inmate or offender~~ a registrant fails to pay the sex offender registration fee:

FINAL REGULATORY FLEXIBILITY ANALYSIS. The Department of Corrections has determined that the rule will not have a significant economic impact on a substantial number of small businesses since the rule does not regulate small businesses as that term is defined in s. 227.114, Stats.