

Proposed Order of the State Public Defender Board Amending Rules

The Wisconsin State Public Defender Board proposes an order to amend PD 6.01, 6.02(1) and 6.025(2)(a) relating to the repayment of cost of legal representation.

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Analysis:

Wis. Stat. sec. 977.075 requires that the state public defender board establish by rule a program for repayment of the cost of legal representation, including reimbursement and prepayment options. Promulgated in 1995, PD 6.01 and PD 6.02(1) establish a payment schedule based on the type of case. The proposed rule changes will increase the repayment amounts by 20%. In January 2002, the state public defender board authorized a statewide pilot program increasing reimbursement and prepayment amounts by 20% to remain in effect until sufficient results were available to determine the fiscal effect. Fiscal analysis of data gathered from the pilot project estimates an increase in our collection revenues of approximately \$302,000 biennially.

When promulgated in 1995, the payment schedule did not list petitions for supervised release (s. 980.08) and petitions for discharge from commitment (s. 980.09) under the sexual predator law as specific case types for purposes of determining repayment of the cost of legal representation, although these types of cases have been included under “commitment” since the law was enacted. The proposed rule change clarifies the classification of these cases for repayment purposes and reflects current practice.

Partial indigency determination had been used as a criterion for determination of ability to pay has been replaced by the collection statute. The proposed rule change reflects current practice.

Statutory authority:

sec. 977.02(4m), Stats.

Statute(s) interpreted:

secs. 977.075(1),(3), Stats.

Section 1. PD 6.01 is amended to read:

Except as provided in http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=45681289&hitsperheading=on&infobase=code.nfo&jump=PD%206.02&softpage=Document - JUMPDEST_PD 6.02 ss. PD 6.02 to http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=45681289&hitsperheading=on&infobase=code.nfo&jump=PD%206.05&softpage=Document - JUMPDEST_PD 6.05 6.05, a person who is responsible for payment for legal representation provided by the state public defender shall reimburse the state public defender for the cost of the legal representation according to the following schedule:

Type of Case	Amount	Type of Case	Amount
First Degree Intentional Homicide	\$7500	Misdemeanor	\$ 200 <u>\$ 240</u>
Other Class A or B Felony	\$1000 <u>\$1200</u>	Parole/Probation Revocation	\$ 200 <u>\$ 240</u>
Sexual Predator (s. 980.02)	\$1000 <u>\$1200</u>	Juvenile Felonies/TPRs	\$ 400 <u>\$ 480</u>
Other Felony	\$ 400 <u>\$ 480</u>	Other Juveniles	\$ 200 <u>\$ 240</u>
Commitment (including ss. 980.08.,09)	\$100 <u>\$120</u>	Special Proceeding	\$ 100 <u>\$ 120</u>
Chapter 55	\$ 400 <u>\$ 480</u>	Paternity	\$ 200 <u>\$ 240</u>
Appellate/Trial	\$1000 <u>\$1200</u>	Appellate/Plea	\$ 400 <u>\$ 480</u>

Section 2. PD 6.02 (1) is amended to read:

(1) A client may elect to prepay, within 60 days of appointment of counsel by the state public defender, the optional prepayment amount for the cost of representation specified in the following prepayment fee schedule:

Type of Case	Amount	Type of Case	Amount
First Degree Intentional Homicide	\$ 500 <u>\$ 600</u>	Misdemeanor	\$ 50 <u>\$ 60</u>
Other Class A or B Felony	\$ 100 <u>\$ 120</u>	Parole/Probation Revocation	\$ 50 <u>\$ 60</u>
Sexual Predator (s. 980.02)	\$ 100 <u>\$ 120</u>	TPR	\$ 50 <u>\$ 60</u>
Other Felony	\$ 50 <u>\$ 60</u>	Special Proceeding	\$ 25 <u>\$ 30</u>
Commitment (including ss. 980.08.,09)	\$ 25 <u>\$ 30</u>	Paternity	\$ 50 <u>\$ 60</u>
Chapter 55	\$ 50 <u>\$ 60</u>	Appellate/Plea	\$ 50 <u>\$ 60</u>
		Appellate/Trial	\$ 100 <u>\$ 120</u>

Section 3. PD 6.025 (2) is amended to read:

(2) The state public defender may determine that a person has the ability to pay under any of the following circumstances:

~~(a) The person is determined to be indigent in part.~~

~~(b)~~(a) The person is determined to have family income and assets in excess of the payment amount specified in s. [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=45681346&hitsperheading=on&infobase=stats.nfo&jump=49.19%2811%29%28a%291.&softpage=Document - JUMPDEST 49.19\(11\)\(a\)1](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=45681346&hitsperheading=on&infobase=stats.nfo&jump=49.19%2811%29%28a%291.&softpage=Document - JUMPDEST 49.19(11)(a)1).49.19 (11) (a) 1., Stats.

~~(e)~~(b) The person does not notify the state public defender by the date specified in the notice sent to them under http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=45681346&hitsperheading=on&infobase=code.nfo&jump=PD%206.015&softpage=Document - JUMPDEST PD 6.015 s. PD 6.015 that they are unable to pay the specified periodic payments.

~~(d)~~(c) The person does not comply with a request of the state public defender for information necessary to verify their financial circumstances.

This rule shall take effect on the first day of the month commencing after the date of publication, pursuant to s. 227.22(2) (intro.), Stats.

Dated: June 17, 2005

Wisconsin State Public Defender Board

By: _____
Daniel M. Berkos, Chair
State Public Defender Board