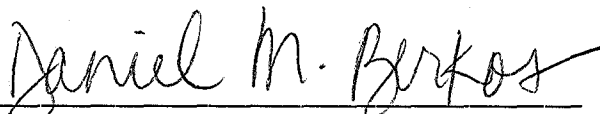


STATE OF WISCONSIN  
OFFICE OF THE STATE PUBLIC DEFENDER

I, Daniel M. Berkos, Chair of the State Public Defender Board and custodian of the official records, certify that the annexed rules relating to repayment of the cost of legal representation were duly approved and adopted by this board on August 11, 1995.

I certify that this copy has been compared by me with the original on file in this Office and that the same is a true copy thereof, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 17th day of November, 1995.



DANIEL M. BERKOS  
Chair, State Public Defender Board

*filed 11/11/96  
10:45 am*

3-1-96

## PROPOSED ORDER OF THE STATE PUBLIC DEFENDER CREATING A RULE

The Wisconsin state public defender board proposes an order to create PD 6.01, 6.02, 6.03, 6.04 and 6.05, relating to the repayment of cost of legal representation.

### **Analysis**

The proposed rules comply with ss. 977.06 (1) (d) and 977.075, Stats., created by 1995 Wisconsin Act 27, which require the state public defender to collect for the cost of representation from persons who are partially indigent or who have otherwise been determined to be able to reimburse the agency for the cost of representation and to establish fixed amounts for the cost of representation that a person who is responsible for payment may elect to pay (except a parent subject to s. 48.275 (2) (b), Stats).

The proposed rules also implement recommendations made by the Legislative Audit Bureau (LAB) in its recent audit of the agency. Specifically, the rules implement LAB's recommendations, found on pages 29 - 31 of the report, that the agency undertake more aggressive collection efforts to increase revenue from adult clients and that the agency improve collection efforts from parents of juveniles to increase revenue from juvenile representation.

The proposed rules establish: 1) a fee schedule indicating the cost of representation for persons responsible for payment; 2) a prepayment fee schedule that shows the amount a person may elect to prepay for the cost of representation; 3) how reimbursement fees will be determined in cases involving multiple related charges; and, 4) the procedure for collecting reimbursement of the cost of legal representation from the parents of juveniles.

Statutory authority: s. 977.02 (4m), Stats.

Statute interpreted: ss.977.06 (1) (d) and 977.075, Stats.

PD 6.01 is repealed and recreated to read:

### **PD 6.01 Repayment of attorney costs.**

Except as provided in ss. PD 6.02 to 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:

<u>Type of Case</u>	<u>Amount</u>	<u>Type of Case</u>	<u>Amount</u>
First Degree Intentional Homicide	\$7500	Misdemeanor	\$200
Other Class A or B Felony	\$1000	Parole/probation revocation	\$200
Sexual Predator (s. 980.02)	\$1000	Juvenile Felonies/TPRs	\$400
Other Felony	\$400	Other juveniles	\$200
Commitment	\$100	Special Proceeding	\$100
Chapter 55	\$400	Paternity	\$200
Appellate/Trial	\$1000	Appellate/Plea	\$400

PD 6.02 is created to read:

**PD 6.02 Prepayment option.**

- (1) A client may elect to prepay, within 30 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:

<u>Type of Case</u>	<u>Amount</u>	<u>Type of Case</u>	<u>Amount</u>
First Degree Intentional Homicide	\$500	Misdemeanor	\$50
Other Class A or B Felony	\$100	Parole/probation revocation	\$50
Sexual Predator (s. 980.02)	\$100	TPR	\$50
Other Felony	\$50	Special Proceeding	\$25
Commitment	\$25	Paternity	\$50
Chapter 55	\$50	Appellate/Plea	\$50
		Appellate/Trial	\$100

- (2) If a client pays the optional prepayment amount under sub. (1), the client is not liable for any additional payment for public defender legal counsel for that case.

PD 6.03 is created to read:

**PD 6.03 Multiple related charges.**

- (1) If multiple related charges for one client are issued on separate complaints, the state public defender or designee may waive the reimbursement fee for cases opened under any of the following circumstances:
- (a) The multiple complaints allege the issuance of forged or worthless checks on the same account and within a period of three months or less.
  - (b) The multiple complaints allege offenses arising out of a single incident.
- (2) The reimbursement fee for a case opened based on a reissuance of a criminal complaint previously dismissed is waived.
- (3) Waiver of reimbursement fees under this section applies both to the reimbursement fee under s. PD 6.01 and the optional prepayment amount under s. PD 6.02.

PD 6.04 is created to read:

**PD 6.04 Multiple appointments on the same case.**

When the same case results in multiple state public defender appointments of counsel for a client for any of the following reasons, the client shall be charged one reimbursement fee for the case:

- (1) The case was reassigned for administrative reasons or because of a conflict of interest.

- (2) The attorney withdrew because of the client's change of financial circumstances, and the client became indigent and eligible for state public defender representation again.
- (3) The client requested substitution of counsel under s. PD 2.04.
- (4) The client retained a private attorney who withdrew before completion of the case.

PD 6.05 is created to read:

**PD 6.05 Reimbursement from parents of juveniles.**

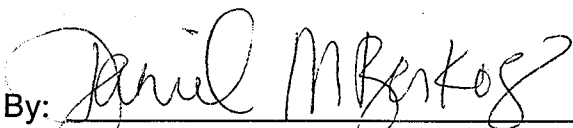
- (1) Pursuant to s. 48.275(2)(b), Stats., when the court orders reimbursement by the parent of a juvenile, the amount of the reimbursement fee shall be the amount specified in the fee schedule in s. PD 6.01, subject to the following:
  - (a) The parent may request, within 30 days of the reimbursement order, that the state public defender determine whether the parent is indigent. If the parent does not make this request or if the parent is determined not to be indigent, the reimbursement fee shall be the amount specified in the fee schedule in s. PD 6.01.
  - (b) If the parent is determined to be partially indigent, the reimbursement fee shall be the amount of partial payment specified in s. PD 3.04(1). If the parent is determined to be indigent, no reimbursement fee shall be assessed.
- (2) The state public defender shall report to the court that ordered reimbursement the result of the indigency determination and the amount of the reimbursement fee to be assessed.
- (3) If reimbursement by both parents is ordered, the parents are jointly and severally liable for the obligation. The maximum amount for which both parents are obligated is the amount of the reimbursement fee under s. PD 6.01.

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:

11/17/95

Wisconsin State Public Defender Board

By:   
DANIEL M. BERKOS, Chair  
State Public Defender Board