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## State of Misconsin 2017 - 2018 LEGISLATURE



LRB-4921/1 MLJ:emw&amn

## 2017 BILL

AN ACT to amend 885.10, 977.05 (4) (g), 977.06 (1) (d) and 977.07 (2m) of the statutes; relating to: description of defendant indigency for public defender fees (suggested as remedial legislation by the State Public Defender).

## Analysis by the Legislative Reference Bureau

This bill amends the the statutes that describe the procedure for collecting attorney's fees for defendants who have been determined to be indigent. It removes the words "in part" from the description of indigency because defendants can be found to be only indigent or not indigent, they cannot be found to be indigent "in part."

For further information, see the Notes provided by the Law Revision Committee of the Joint Legislative Council.

## The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Law Revision Committee Prefatory Note: This bill is a remedial legislation proposal, requested by the State Public Defender and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 885.10 of the statutes is amended to read:

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885.10 Witness for indigent respondent or defendant. Upon satisfactory proof of the financial inability of the respondent or defendant to procure the attendance of witnesses for his or her defense, the judge or supplemental court commissioner, in any paternity proceeding or criminal action or proceeding, or in any other case in which the respondent or defendant is represented by the state public defender or by assigned counsel under s. 977.08, to be tried or heard before him or her, may direct the witnesses to be subpoenaed as he or she determines is proper and necessary, upon the respondent's or defendant's oath or affidavit or that of the respondent's or defendant's attorney. Witnesses so subpoenaed shall be paid their fees in the manner that witnesses for the state therein are paid. Determination of indigency, in full or in part, under s. 977.07 is proof of the respondent's or defendant's financial inability to procure the attendance of witnesses for his or her defense.

Note: Sections 1 to 4 delete references to a determination that a person is indigent "in part," as a person can only be found indigent or not indigent.

**Section 2.** 977.05 (4) (g) of the statutes is amended to read:

977.05 (4) (g) In accordance with the standards under pars. (h) and (j), accept referrals from judges, courts or appropriate state agencies for the determination of indigency of persons who claim or appear to be indigent. If a referral is accepted and if the person is determined to be indigent in full or in part, the state public defender shall appoint counsel in accordance with contracts and policies of the board, and inform the referring judge, court or agency of the name and address of the specific attorney who has been assigned to the case.

**SECTION 3.** 977.06 (1) (d) of the statutes is amended to read:

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977.06 **(1)** (d) Collect for the cost of representation from persons who are indigent in part or who have been otherwise determined to be able to reimburse the state public defender for the cost of providing counsel.

**Section 4.** 977.07 (2m) of the statutes is amended to read:

977.07 **(2m)** If the person is found to be indigent in full or in part, the person shall be promptly informed of the state's right to payment or recoupment under s. 48.275 (2), 757.66, 938.275 (2), 973.06 (1) (e), or 977.076 (1), and the possibility that the payment of attorney fees may be made a condition of probation, should the person be placed on probation. Furthermore, if found to be indigent in part, the person shall be promptly informed of the extent to which he or she will be expected to pay for counsel, and whether the payment shall be in the form of a lump sum payment or periodic payments. The person shall be informed that the payment amount may be adjusted if his or her financial circumstances change by the time of sentencing. The payment and payment schedule shall be set forth in writing. This subsection does not apply to persons who have paid under s. 977.075 (3m).

16 (END)