

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 309.45.02	Page 1 of 9
	Original Effective Date: 12/01/95	New Effective Date: 10/15/17
	Supersedes: 309.45.02	Dated: 04/04/16
	Administrator's Approval: Jim Schwochert, Administrator	
Required Posting or Restricted:		
<input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 309 Resources for Inmates		
Subject: Inmate Trust System Deductions		

POLICY

The Division of Adult Institutions shall develop and maintain a consistent system for deductions from monies received and/or disbursed by the facility for the benefit of the inmate, this includes assessing and remitting funds to be applied to court imposed financial obligations.

REFERENCES

28 USC 1915 – Proceedings in Forma Pauperis [Federal Prison Litigation Reform Act (PLRA)]

38 USC 5301 – Nonassignability and Exempt Status of Benefits (As it Pertains to Deductions from Veterans Administration Benefits)

Wisconsin Statutes s. 301.30 – Inmate wages, allowances, and release payments

Wisconsin Statutes s. 301.31 – Wages to prisoners

Wisconsin Statutes s. 301.32 – Property of prisoners, residents, and probationers

Wisconsin Statutes s. 301.328 – Judgment for Litigation Loans to Prisoners

Wisconsin Statutes s. 302.13 – Preservation of property an inmate brings to prison

Wisconsin Statutes s. 303.065(5) – Work Release Deductions

Wisconsin Statutes s. 304.074 – Reimbursement fee for persons on probation, parole, and extended supervision

Wisconsin Statutes Ch. 767 – Actions Affecting the Family

Wisconsin Statutes Ch. 769 – Uniform Interstate Family Support Act

Wisconsin Statutes Ch. 814 – Court Costs, Fees, and Surcharges

Wisconsin Statutes s. 973.042 – Child Pornography Surcharge

Wisconsin Statutes s. 973.043 – Drug Offender Diversion Surcharge

Wisconsin Statutes s. 973.045 – Crime Victim Witness

Wisconsin Statutes s. 973.046 – Deoxyribonucleic Acid Analysis Surcharge

Wisconsin Statutes s. 973.05 – Fines

Wisconsin Statutes s. 973.055 – Domestic Abuse Assessments

Wisconsin Statutes s. 973.06 – Costs

Wisconsin Statutes s. 973.20 – Restitution

1997 Wisconsin Act 133 – State Prison Litigation Reform Act (PLRA)

Wisconsin Administrative Code Ch. DCF 150 – Child Support Percentage of Income Standard

Wisconsin Administrative Code Ch. DOC 303 – Discipline

Wisconsin Administrative Code Ch. DOC 309 – Resources for Inmates

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Wisconsin Administrative Code s. DOC 309.45 – Inmate funds and canteen purpose.

Wisconsin Administrative Code s. DOC 309.465 – Crime victim and witness assistance surcharge

Wisconsin Administrative Code s. DOC 309.466 – Release Account Funds

Wisconsin Administrative Code s. DOC 309.48- Procedure for inmate requests for disbursements of inmate account funds

Wisconsin Administrative Code Ch. DOC 310 – Inmate Complaints

Wisconsin Administrative Code Ch. DOC 316 – Medical, Dental, and Nursing Co-payment Charges

Wisconsin Administrative Code Ch. DOC 324 – Work and Study Release

Wisconsin Administrative Code s. DOC 328.047 – Collection of supervision fee or monitoring fee

Attachment A – Release Funds Allowable Uses

DEFINITIONS, ACRONYMS, AND FORMS

A&E – Assessment and Evaluation

Account Overdraft – When posting of an inmate’s expenditures exceeds the available balance in the inmate’s account.

CCAP – Wisconsin Circuit Court Access

Court Ordered Obligations – Any financial obligation ordered on a Judgment of Conviction.

DAI – Division of Adult Institutions

DCC – Division of Community Corrections

DCF – Department of Children and Families

Discharged Case –A criminal case in which the sentences on all counts have been completely served, including any period of extended supervision or parole.

DNA – Deoxyribonucleic Acid Analysis

DOC – Department of Corrections

DOC-184 – Disbursement Request

DOC-1163 – Authorization For Disclosure Of Non-Health Confidential Information

ES – Extended Supervision

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First In/First Out (FIFO) – When there are multiple obligations of the same type, orders will be honored one at a time with the oldest deducted first, some exceptions may apply.

ICRS – Inmate Complaint Review System

Inmate Monies – All money in any form, to include wages, received and/or disbursed by the facility for the benefit of an inmate.

Inmate Trust Account – Inmate monies and obligations managed by the DOC for the benefit of the inmate.

JOC – Judgment of Conviction

PLRA – Prison Litigation Reform Act- Fees which are required by State or Federal PLRA to be payable from release accounts.

VA – Veterans Administration

VWS – Victim Witness Surcharge

WICS – Wisconsin Integrated Corrections System

WI SCTF – Wisconsin State Child Support Trust Fund

Work Release Compensation – Includes work release wages, tips, paid leave, workers compensation, and unemployment compensation, bonus or cash gifts from the work release employer.

PROCEDURE

I. General

- A. Wisconsin Statutes s. 301.32(1) expressly authorizes a warden or superintendent of a correctional institution to use a prisoner's money to be paid towards applicable surcharges, victim restitution, for the benefit of the prisoner. See Wisconsin Statutes s. 301.32(1).
- B. DOC has a mandatory obligation to remit payment for court ordered surcharges. Specifically, the DOC is the state agency charged with collecting statutory surcharges in criminal actions. See Wisconsin Stat. ss. 938.34(8d)(c) (delinquency victim and witness assistance surcharge), 973.042(6) (child pornography surcharge), 973.043(4) (drug offender diversion surcharge), 973.045(4) (crime victim and witness assistance surcharge), and 973.046(4) (deoxyribonucleic acid [DNA] analysis surcharge).
- C. If an inmate in a state prison, or a person sentenced to state prison, has not paid the surcharge, DOC "shall assess and collect the amount owed from the inmate's wages or other moneys." Id.

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II. Inmate Monies Deduction Schedule

- A. Upon release, trust account balances less than \$5.00 shall be applied to an obligation rather than disbursed to the inmate with the exception of inmates in the status of DCC hold.
- B. Deductions are withheld on a declining balance. Priorities 7-14 will not exceed 50% of the declining balance. Depending on the debt and obligations established, 100% of the deposit may be withheld.
- C. An inmate may submit a disbursement from his/her regular account funds for additional payments of unmet imposed financial obligations; however the deduction priority must be followed.
- D. All facilities shall set up obligations to collect while in prison following the deduction schedule below:

Priorities	Withholding Type	Percentage
1.	Account Overdrafts	100%
2.	Federal Filing Fees (PLRA)	20%
3.	State Filing Fees (PLRA)	100%
4.	Child Support	Varies *
5.	Board (\$110 monthly maximum)	8%**
6.	Transportation (\$265 monthly maximum)	21%**
7.	Court Ordered Restitution – open cases paid in full first according to intercept rule	50%
8.	DCC Supervision Fees- DCC collect only	***
9.	VWS A – FIFO (Pending payment in full of restitution)	50%
10.	VWS B - FIFO	50%
11.	DNA Surcharge- FIFO	50%
12.	Child Pornography – FIFO	50%
13.	Other Imposed Surcharges (973.05) -FIFO	50%
14.	973.20 (11)(a) Surcharge - FIFO	***
15.	Income Assignment –not applied if collecting 25% or more for child support	25%*
16.	Room (\$365 monthly maximum)	37%**
17.	Release Account	10%
18.	Medical Copay	50%
19.	Institution Legal Loans- FIFO	50%
20.	Institution Miscellaneous/General Loans-FIFO	50%
21.	Institution Canteen Loans -FIFO	50%
22.	Work Release Loans - FIFO	50%
23.	Institution Restitution	50%
24.	Fines- FIFO	50%
25.	Court Costs -FIFO	50%
26.	Other Imposed Surcharges (Statue 814)-FIFO	50%
27.	Attorney Fees- FIFO	50%

Max 50% of 7-14

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Priorities	Withholding Type	Percentage
28.	State Identification Card	50%
29.	Remaining DCC Obligations	50%

* As ordered by the court. If a specific dollar amount per month is owed, deductions shall be taken at the maximum percentage of inmate monies allowed in the court order.

** Deductions for board (sales tax included), transportation and room charges will only be withheld from work release compensation.

*** Obligations are still owed but not currently collected during incarceration.

III. **A&E / DCC Hold Status**

Deductions for court ordered obligations shall not be taken from inmates in A&E or DCC hold status; however, child support, income assignments and any facility financial liens/debts shall be deducted.

IV. **Refunds and Reimbursements (only section E. applies to previously collected court ordered obligations)**

A. Refunds for items initially purchased by an external party are subject to full deductions as it is considered new money.

B. Refunds or ICRS reimbursements for items originally purchased from the inmate's account are subject to the deductions listed below in IV.D.

C. Reimbursements for loss or damage of property by staff will not be subject to deductions unless inmate's behavior caused or contributed to the damage. Facilities shall develop a procedure to process reimbursements.

D. Deductions from refunds and ICRS reimbursements shall be taken for:

1. Account overdrafts.
2. Federal filing fees.
3. State filing fees.
4. Medical copay loans.

E. If an inmate receives an amended JOC, DAI is not responsible to seek reimbursement from the entity who received the funds. DAI may assist the inmate in facilitating the reimbursement of Victim Witness Surcharges, DNA, Child Pornography and other imposed surcharges if the inmate requests such assistance. Returned funds will be applied to unpaid obligations in priority order.

V. **Child Support**

A. When the Order/Notice to Withhold Income form is received from a county child support agency, facilities shall establish a child support deduction to be taken from all inmate monies, except VA benefits, unless the Order/Notice to Withhold Income specifically states that deductions will be taken only from inmate wages.

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- B. The DCF establishes the process used by courts to determine what amount of child support should be ordered.
1. In making that determination, the courts look closely at what the non-custodial parent is earning as gross income.
 2. Wisconsin Statutes s. 767.75 controls how or from what sources the DOC collects child support.
 3. This statute states that each order for child support or spousal support “constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under Ch. 102 or 108, lottery prizes that are payable in installments, and other money due or to be due in the future to the department or its designee.”
- C. The DCF, which collects the child support on behalf of the child or custodial parent, interprets the above language to mean that any money from any source, including gifts that are paid or payable to the non-custodial parent would constitute money due to DCF if that non-custodial parent owes child support. Therefore, if the non-custodial parent owes child support, the DOC can deduct money from any source (other than refunds and ICRS reimbursements) for purposes of collecting the amount ordered, unless the order specifically states that support only be withheld from inmate wages.
- D. Receipt and Disbursement Fees
1. Facilities receive an Order/Notice to Withhold Income for Child Support Receipt and Disbursement Fees notices from WI SCTF.
 2. Payment shall be processed from the inmate’s facility wages only paid to an inmate on the pay cycle immediately following the facility’s receipt of the notice.
 3. Deduction for child support and Receipt and Disbursement Fees combined cannot exceed 50% of the inmate’s wages for the pay period.

VI. VA Benefits

Deductions shall not be taken from VA benefits received by inmates, unless ordered by the court.

VII. Discharged Cases

- A. When a case has been discharged, the DOC may elect to stop the collection of some outstanding obligations; however, it is the inmate’s responsibility to inform the Business Office of the termination date of the case.
1. If a request is received from the inmate, the Business Office shall:
 - a. Confirm the discharge with the Records Office prior to any changes.
 - b. Verify and close appropriate obligations.
 2. Any withholdings collected and applied towards discharged cases owed obligations will not be refunded.

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VIII. Surcharges, Including DNA, Crime Victim and Witness Assistance, Child Pornography Surcharges and Other Imposed Surcharges

- A. Court imposed surcharges can be ordered for each felony conviction and/or each misdemeanor conviction and may not be waived, reduced or forgiven.
1. Crime Victim and Witness Assistance – Pursuant to Wisconsin Statutes s. 973.045(1) (a) (b)
 2. DNA – Pursuant to Wisconsin Statutes s. 973.046 1(r) (a) (b)
 3. Child Pornography – Pursuant to Wisconsin Statutes s. 973.042(2)
 4. Other Imposed Surcharges Wisconsin Statutes s. 973.05(2m)
- B. The surcharge is the total amount calculated by adding up the amount for each misdemeanor and/or felony count as follows:
1. For each misdemeanor count on which a conviction occurred, \$67 for VW and \$200 for DNA.*
 2. For each felony count on which a conviction occurred, \$92 for VW and \$250 for DNA.*
- * Pursuant to Wisconsin Statutes ss. 973.045(1) (a) (b) & 973.046 1(r)(a)(b), respectively.

IX. Release Account

- A. DAI facilities shall establish a release account for each inmate.
1. Deductions shall be taken up to the maximum per Wisconsin Administrative Code s. DOC 309.466.
 2. Inmates may be permitted to transfer regular account funds into their release account.
- B. Release account funds may be used for items listed in Attachment A when timeline and criteria is met.
- C. An inmate is not required to use his/her regular account funds for any of the items listed on Attachment A, except for PLRA fees.
- D. A burial trust may be set up by an inmate for his/her burial only.
1. Inmate must negotiate an irrevocable trust with a verifiable party.
 2. Contract for irrevocable trust must accompany DOC-184.
 3. Checks for irrevocable trust shall be sent directly to the verifiable party.
- E. Prior to release, the department may authorize the disbursement of release account funds for purposes that will aid the inmate's reintegration into the community or that will reimburse the department for incarceration costs, including legal loans and restitution. Following the inmate's release, these funds shall be disbursed in accordance with s. DOC 309.49 (5).
- F. Before releasing an inmate to field supervision, the releasing institution shall inform the parole agent of the balances in the inmate's general account, release account under s. DOC 309.466. The agent shall instruct the institution

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business manager as to where these balances shall be transferred. Following release, the former inmate may use funds formerly held in his or her institution accounts only with the approval of the agent.

X. Confidentiality

Inmate trust account information is confidential; therefore, Business Office staff shall not discuss inmate trust accounts with third parties without appropriate verification of identity and disclosure via DOC-1163, signed by the inmate.

Administrator's Approval: _____ **Date Signed:** _____
Jim Schwochert, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 309.45.02	Page 9 of 9
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Will Implement <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
Warden's/Center Superintendent's Approval:		

REFERENCES

DEFINITIONS, ACRONYMS, AND FORMS

FACILITY PROCEDURE

I.

A.

B.

1.

2.

a.

b.

c.

3.

C.

II.

III.

RESPONSIBILITY

I. Staff

II. Inmate

III. Other