

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

*Committee Name:*

*Joint Committee on  
Finance (JC-Fi)*

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR\_RCP\_pt01a
- 05hrAC-EdR\_RCP\_pt01b
- 05hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

➤ \*\*

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ 97hrJC-Fi\_Misc\_pt55\_LFB

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

# District Attorneys

(LFB Budget Summary Document: Page 205)

## LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
2	Sexual Predator Prosecutors (Paper #345)
3	Statutory Rape Prosecutor (Paper #346)
5	Special Prosecutors (Paper #347)
-	Additional Prosecutors (Paper #348)

To: Joint Committee on Finance
From: Bob Lang, Director Legislative Fiscal Bureau

## ISSUE

### **Sexual Predator Prosecutors (District Attorneys)**

[LFB Summary: Page 205, #2]

## CURRENT LAW

1993 Wisconsin Act 479 (the sexual predator law) created Chapter 980, which provides for involuntary civil commitment of sexually violent persons to secure mental health facilities prior to their release from the custody of the Department of Corrections (DOC) or the Department of Health and Family Services (DHFS). A "sexually violent person" is defined as someone who has been: (1) convicted of a sexually violent offense; (2) adjudicated delinquent for a sexually violent offense; or (3) found not guilty of or not responsible for, a sexually violent offense by reason of insanity or mental disease, defect or illness. Sexually violent offenses include first or second degree sexual assault, first or second degree sexual assault of a child, engaging in repeated acts of sexual assault of the same child, incest with a child or child enticement. Sexually violent offenses may also include certain other violent crimes in which it is determined that the crimes were sexually motivated. In addition, any solicitation, conspiracy or attempt to commit any such crimes could be determined a sexually violent offense. Chapter 980 became effective on June 2, 1994.

A potential Chapter 980 case is first referred by DOC or DHFS to the Department of Justice (DOJ) for initial review. DOJ has the discretion to file a commitment petition or refer the case to a District Attorney (the DA in the county where the person was convicted or the county where the person will be released). The DA also has the discretion of whether to file a commitment petition.

Each person committed as a sexually violent person may petition for supervised release every six months and for discharge every year. The agency that litigated the original petition, either DOJ or the DA, handles the subsequent petitions.

## **GOVERNOR**

Provide \$147,600 in 1997-98 and \$196,800 in 1998-99 and 4.0 project assistant district attorney (ADA) positions annually to prosecute cases under the sexual predator law. One ADA would be assigned to each of four counties (Brown, Dane, Marathon and Milwaukee) and would be allowed to prosecute proceedings under Chapter 980, statewide. The positions would expire on June 30, 1999. In addition, require any DA who files a petition under Chapter 980 to maintain records of the amount of time spent by the DA, ADA or deputy DA in prosecution of these cases and in handling any petitions for release or discharge. Require DAs to submit reports annually to the Department of Administration (DOA) summarizing time spent on these cases. The record keeping and reporting requirements would expire June 30, 1999.

## **DISCUSSION POINTS**

1. Each county in the state is its own prosecutorial unit, except that Shawano and Menominee Counties form a two-county unit and jointly elect a single district attorney. The state pays the salary and fringe benefit costs of district attorneys, deputy district attorneys and assistant district attorneys. In addition, the state is in the process of providing one computer and associated software for each prosecutorial unit to establish a DA network. All other support costs, including support staff, rent, office equipment and travel, are the responsibility of counties.

2. Under the bill, one additional ADA would be assigned, until June 30, 1999, to each of four counties (Brown, Madison, Marathon and Milwaukee) to handle sexual predator cases. These ADAs would be authorized to file and prosecute proceedings under chapter 980 in any prosecutorial unit in the state. DOJ would also continue to have authority to prosecute these cases. DOA officials indicate that the positions were recommended as project positions, because the constitutionality of a similar sexual predator law, in Kansas, is currently under consideration in the U.S. Supreme Court and, depending on the ruling, could affect the constitutionality of the Wisconsin law.

3. During deliberations on the original sexual predator legislation, it was estimated that eight to 10 sexual predator commitments would result annually. Since enactment of the legislation in June, 1994, 199 cases have been referred to DOJ. The status of these 199 cases is shown below. DAs have handled 163 of the 175 cases to date that have been litigated or are in the process of litigation; the remaining 12 have been handled by DOJ. The attachment to this paper shows the number of sexual predator cases referred to each county.

**Sexual Predator Case Status**  
**June 2, 1994, through April 25, 1997**

Total Referrals	199
Committed	77
Not yet filed	12
Pending	67
Dismissed	22
Prosecution denied	12
Status Unknown	7
Miscellaneous	2
(1 discharged and 1 federal sentence)	

4. DA and DOJ officials indicate that these cases are very time consuming, and involve reviewing extensive files, drafting petitions, locating and interviewing victims and witnesses, obtaining expert testimony regarding evidentiary issues and trying the cases before a jury. DOJ time records indicate that the time spent by attorneys on a sexual predator case has ranged from 83.6 hours to almost 500 hours, with an average of 245 hours for the ten DOJ cases which have been disposed. While DAs have not kept records, they estimate that cases average from 100 to 200 hours. [It should be noted that the bill would require DAs to record time spent on these cases so that additional information would be available in the future.]

5. Current law provides that each committed person is entitled to two petitions for supervisory release and one petition for discharge each year. There are currently 77 persons committed as sexually violent persons who are entitled to a total of 231 petitions annually. In addition, DOJ officials estimate that approximately 75 new cases could be referred each year. Based on cases disposed to date, approximately 64% of referrals are committed. Therefore, an additional 48 commitments could result each year, with the potential for 144 additional petitions. This represents a potential of 519 annual petitions for cases prosecuted through the 1997-99 biennium only.

6. DOJ officials indicate that because of the nature of commitment, which could be for life, persons have every incentive to take advantage of each opportunity to petition for release, and likely will. However, to date, there has only been one petition for supervisory release and no petitions for discharge. While not all of the persons committed have reached the six-month period for their first opportunity for petition, officials also feel that part of the reason for the low number of petitions is the uncertainty of the U.S. Supreme Court ruling on the Kansas law.

7. Nevertheless, it was expected that more than one subsequent petition would have been filed at this point. This may indicate that estimates of annual petitions may be overstated.

8. DAs have, however, continued to be involved with some cases following commitment. There have been a number of hearings under the statutory reexamination provisions which require DHFS to conduct an examination of the person's mental condition within six months after an initial commitment, and every 12 months thereafter. DHFS is required to prepare a written report for the court within 30 days of the examination. In a number of cases, the courts have held hearings to examine the findings of the report.

9. The Wisconsin District Attorneys Association (WDAA) originally requested an additional 8.0 regional ADA positions (two for Milwaukee County and one each for Dane, Waukesha, LaCrosse, Outagamie, Brown and Marathon) and an additional 2.0 attorneys for DOJ to handle sexual predator cases. (The WDAA is an association of state district attorneys which meets to discuss various issues that affect DAs.) Alternatively, the WDAA would support providing DOJ with 10.0 trial attorneys, and exclusive authority to handle sexual predator cases (DAs would no longer handle these cases).

10. It is projected that 75 new cases would be referred to DOJ each year. Assuming that in 70 of these cases a petition would be filed (6% of the referrals), with each case involving an average of 150 hours, 5.5 attorneys would be needed to handle these cases. It would appear, therefore, that the four positions, provided under the bill, would relieve a large portion of DA offices' sexual predator caseload statewide. However, local prosecutors would still have to do some of these cases, depending on the availability of regional prosecutors. In addition, the time required for these cases is likely to increase as more sexual predators reach their six-month and annual review periods.

11. The bill does not specify areas of the state for which these positions would be responsible. DOA officials indicate that regions were not defined so that the new ADAs would have the flexibility to prosecute cases statewide as caseload requires. In addition, the bill does not specify how costs related to these positions, such as support staff, rent, supplies and services and travel, would be handled. Therefore, it would be up to counties to determine who would be responsible for these payments.

12. DAs do occasionally assist other county DA offices and generally the counties receiving assistance reimburse costs incurred by the traveling DAs. These ad hoc arrangements are not, however, equivalent to regional positions.

13. Some DAs have voiced concern over the idea of regional prosecutors and the manner in which support costs of these positions would be handled. In particular, the Marathon County DA has indicated a reluctance in having a regional sexual predator prosecutor because of the uncertainty of the county costs that would be associated with that position.

14. Marathon County has only had four sexual predator cases to date. Therefore, a prosecutor performing sexual predator cases for Marathon County would provide little caseload relief to the county. In addition, as shown in the attachment, most of the cases are concentrated in southeastern Wisconsin, with the remaining cases scattered around the state. Therefore, the current case distribution is such that the prosecutor assigned to Marathon County would likely have extensive travel and lodging costs associated with handling cases scattered around the northwestern region of the state. This may be less efficient and more costly than having individual counties handle their own cases.

15. Given the distribution of cases in the northwest counties and the fact that any one county would not be expected to have a large number of cases in any one year, it could be argued that those DA offices could absorb the small number of sexual predator cases. If not, those counties could seek temporary prosecution assistance from another county, DOJ or, as a last resort, a special prosecutor. Therefore, the Committee could eliminate the Marathon County ADA provided under the bill (a savings of \$86,900 over the biennium).

16. The Committee could consider providing the project attorneys to DOJ, given the general concerns raised by DAs in regard to regional ADAs. DOJ has been the litigant in 12 of the 144 cases which have been filed to date. In addition, DOJ is currently responsible for: (a) the initial review of all referred cases; (b) providing legal counsel to DHFS and DOC regarding sex predator issues; (c) providing training and technical assistance to District Attorney offices; (d) representing the state in constitutional challenges of the law; and (e) representing the state in appeal actions filed after the completion of the commitment proceedings and appeals relating to the three annual petitions that are allowed for supervised release of discharge.

17. However, with the current statewide distribution of these cases, associated travel and lodging costs for DOJ attorneys could be high. An option to reduce those costs would be to amend Chapter 980, so that DOJ could litigate these cases in Dane County.

18. DOJ officials indicate that 4.0 additional attorneys would require 1.0 paralegal and total funding of \$267,900 in 1997-98 and \$319,000 in 1998-99, or additional costs to the bill of \$120,200 in 1997-98 and \$122,200 in 1998-99. This includes funding for supplies and services (\$70,300 in 1997-98 and \$40,000 in 1998-99) and legal expenses such as expert witnesses (\$32,200 in 1997-98 and \$43,000 in 1998-99). Under an alternative giving DOJ four attorneys, local prosecutors would still be required to handle a portion of the cases.

19. It should be noted that DAs in counties where the potential sexual predators would be released may be reluctant to have their cases decided by Dane County judges. However, counties would still be able to handle those cases, using existing resources.

20. Milwaukee County has the highest number of sexual predator cases (44 filed to date, or approximately 15 per year). In April, 1996, DOA, on behalf of the Milwaukee County DA, submitted a request, under s. 13.10 of the statutes, for an additional ADA to handle sexual

predator cases. The position was denied. At that time it was indicated that the request could be deferred until 1997-99 budget deliberations.

21. Given Milwaukee County's sexual predator caseload, a sexual predator prosecutor position for Milwaukee County would appear reasonable. However, it is likely that those cases in Milwaukee County would require a majority of the position's full-time efforts. Therefore, the Committee could consider a reduced number of attorneys and related costs for DOJ to handle sexual predator cases outside of the Milwaukee County area. If three project attorneys and 0.5 support project staff were provided, DOJ costs would be \$190,700 in 1997-98 and \$227,900 in 1998-99. Under this alternative, increased cost to the bill would be \$80,000 in 1997-98 and \$80,300 in 1998-99.

22. The WDAA has indicated that if their original proposal for 10 attorneys is not provided, they would support 1.0 prosecutor for Milwaukee County and 3.0 attorneys for DOJ, if: (a) the Milwaukee County prosecutor would be responsible for cases filed in Milwaukee, Ozaukee and Washington Counties; and (b) DOJ would handle a significant number of sexual predator cases throughout the state. WDAA officials indicate that the four regional positions provided under the bill would not be sufficient to cover cases statewide, would result in logistical problems among counties and would incur substantial travel costs. Therefore, they would prefer that the attorneys be provided to DOJ, with the state paying associated support costs.

23. Over the last three years, both DAs and DOJ have voiced concern over the workload associated with sexual predator cases and the need for additional positions to address that workload. However, additional positions have been denied or deferred, with the reasoning that the constitutionality of the law is in question and with the uncertainty of the actual workload associated with these cases. Given that the law is still in question and the associated workload is still uncertain, additional prosecutors could again be deferred. The Committee could approve the time reporting requirements and review the need for additional resources based on those reports.

24. However, DOJ attorneys are currently keeping records which attest to the fact that these are time-consuming cases. In addition, the positions under the bill would be project positions which, if the law is ruled unconstitutional, could be eliminated. Therefore, the Committee may want to consider approving some prosecutorial assistance.

25. Further, proposals for regional prosecutors have been raised in the past as a way to more evenly distribute prosecutorial resources around the state. Therefore, the Committee could approve 2.0 regional prosecutor positions to evaluate the potential use of them in the future. Based on the current distribution of sexual predator cases, Milwaukee and Dane Counties would be reasonable choices to attempt the regional prosecutor concept. Under this alternative, costs would be \$73,800 in 1997-98 and \$98,400 in 1998-99 for the 2.0 project ADA positions, a reduction to the bill of \$172,200.

## ALTERNATIVES TO BILL

### Prosecutors

1. Approve the Governor's recommendation to provide \$147,600 in 1997-98 and \$196,800 in 1998-99 and 4.0 project assistant district attorney positions annually to prosecute cases under the sexual predator law. One ADA would be assigned to each of four counties (Brown, Dane, Marathon and Milwaukee) and would be allowed to prosecute proceedings under Chapter 980, statewide.

2. Modify the Governor's recommendation by deleting \$36,900 in 1997-98 and \$49,200 in 1998-99 and eliminating 1.0 project position that would be assigned to Marathon County. This alternative would provide 3.0 additional project assistant district attorney positions, one each to Brown, Dane and Milwaukee Counties.

<u>Alternative 2</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$86,100
1998-99 POSITIONS (Change to Bill)	- 1.00

3. Modify the Governor's recommendation by eliminating the 4.0 project assistant district attorney positions (-\$147,600 in 1997-98 and -\$196,800 in 1998-99). Instead provide \$267,800 in 1997-98 and \$319,000 in 1998-99 and 4.0 project attorneys and 1.0 paralegal project position annually to DOJ to handle sex predator cases. In addition, modify Chapter 980 to allow DOJ attorneys to litigate the statewide cases in Dane County.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$242,400
1998-99 POSITIONS (Change to Bill)	1.00

4. Modify the Governor's recommendation by eliminating 3.0 project assistant district attorney positions assigned to Dane, Brown and Marathon Counties (-\$110,700 in 1997-98 and -\$147,600 in 1998-99). (The Milwaukee County position would be approved.) In addition, provide \$190,700 in 1997-98 and \$227,900 in 1998-99 and an additional 3.5 project positions annually (3.0 attorneys and 0.5 paralegal) under DOJ to assist counties with sexual predator caseload. Further, modify Chapter 980 to allow DOJ attorneys to litigate the statewide cases in Dane County.

<u>Alternative 4</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$160,300
1998-99 POSITIONS (Change to Bill)	0.50

5. Modify the Governor's recommendation by deleting \$73,800 in 1997-98 and \$98,400 in 1998-99 and 2.0 project assistant district attorney positions that would be assigned to Brown and Marathon Counties. (The positions for Milwaukee and Dane Counties would be approved.)

<u>Alternative 5</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$172,200
1998-99 POSITIONS (Change to Bill)	- 2.00

6. Delete \$110,700 in 1997-98 and \$147,600 in 1998-99 and 3.0 project positions to eliminate the regional sexual predator positions that would be assigned to Brown, Dane and Marathon Counties. (The Milwaukee County position would be approved.)

<u>Alternative 6</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$258,300
1998-99 POSITIONS (Change to Bill)	- 3.00

7. Maintain current law.

<u>Alternative 7</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$344,400
1998-99 POSITIONS (Change to Bill)	- 4.00

### Reporting Requirements

1. Approve the Governor's recommendation to require DAs to maintain records of time spent on sexual predator cases, and summarize and report this information annually to DOA.

2. Maintain current law.

MO# \_\_\_\_\_

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

Prepared by: Carri Jakel

AYE \_\_\_\_\_ NO \_\_\_\_\_ ABS \_\_\_\_\_

MO# AH#4

prosecutors

JENSEN	<del>Y</del>	N	A
OURADA	Y	<del>N</del>	A
HARSDORF	<del>Y</del>	N	A
ALBERS	Y	<del>N</del>	A
GARD	Y	<del>N</del>	A
KAUFERT	Y	<del>N</del>	A
LINTON	<del>Y</del>	N	A
COGGS	<del>Y</del>	N	A

1 BURKE	<del>Y</del>	N	A
2 DECKER	<del>Y</del>	N	A
GEORGE	Y	<del>N</del>	A
JAUCH	<del>Y</del>	N	A
WINEKE	<del>Y</del>	N	A
SHIBILSKI	<del>Y</del>	N	A
COWLES	Y	<del>N</del>	A
PANZER	Y	<del>N</del>	A

AYE 9 NO 7 ABS \_\_\_\_\_

DISTRICT ATTORNEYS

Sexual Predators

Motion:

Modify the Governor's recommendation to provide four project assistant district attorney positions to prosecute cases under the sexual predator law by providing that one of the positions would be assigned to Sauk County, rather than Marathon County. In addition, require counties to develop memoranda of understanding relating to payment of expenses associated with sexual predator cases.

Note:

This would provide an assistant district attorney position for Sauk County, rather than Marathon County, to serve as a regional prosecutor for sexual predator cases.

MO# 1532

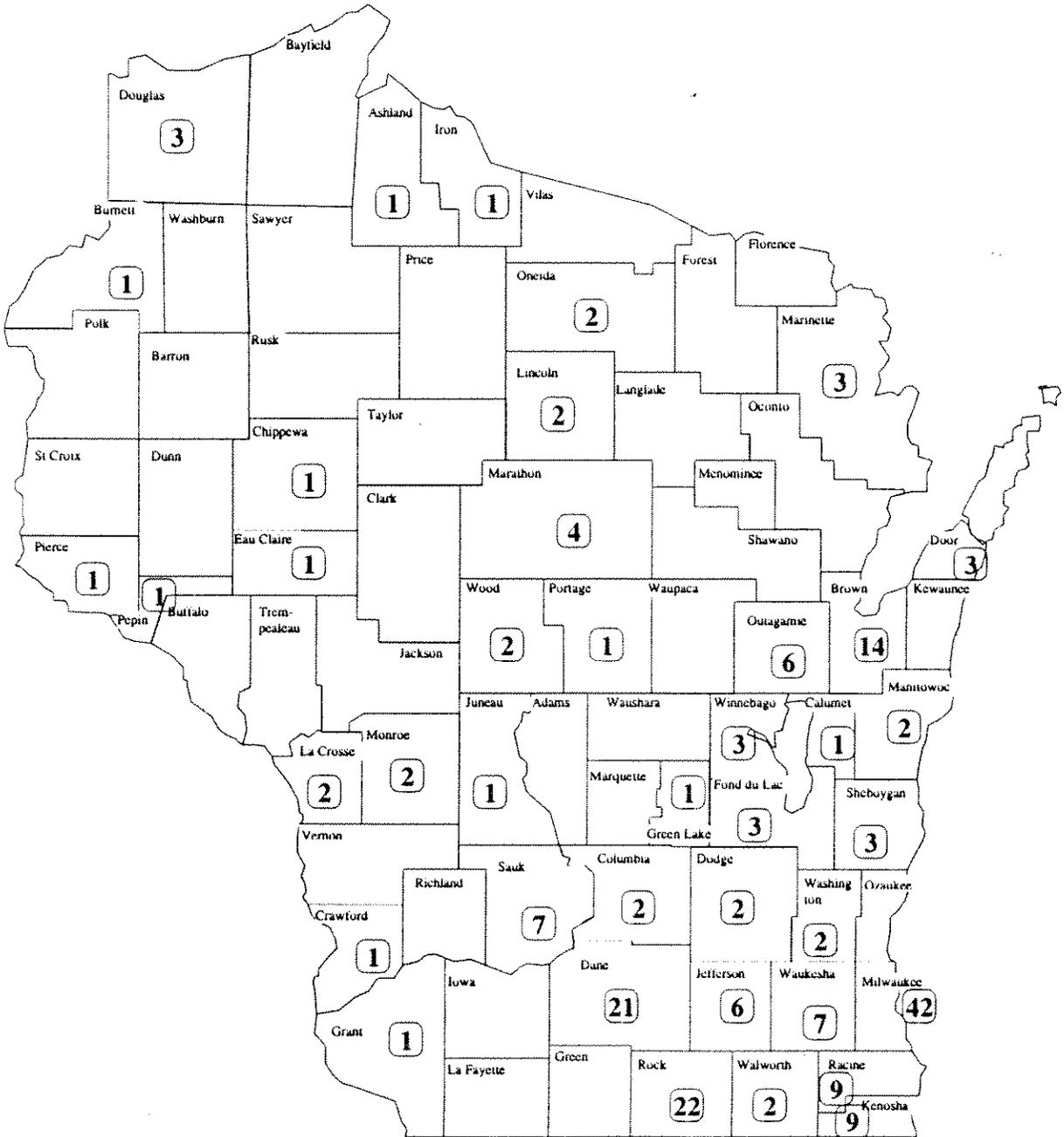
Motion #1532 =  
a modified  
version of Alt #1  
Prosecutors

JENSEN	<del>Y</del>	N	A
OURADA	Y	<del>N</del>	A
HARSDORF	Y	<del>N</del>	A
1 ALBERS	<del>Y</del>	N	A
GARD	<del>Y</del>	N	A
KAUFERT	Y	<del>N</del>	A
LINTON	Y	<del>N</del>	A
COGGS	Y	<del>N</del>	A
BURKE	Y	<del>N</del>	A
DECKER	Y	<del>N</del>	A
GEORGE	Y	<del>N</del>	A
JAUCH	Y	<del>N</del>	A
WINEKE	Y	<del>N</del>	A
SHIBILSKI	Y	<del>N</del>	A
2 COWLES	<del>Y</del>	N	A
PANZER	<del>Y</del>	N	A

AYE 5 NO 11 ABS

ATTACHMENT

Sex Predator Case Referrals  
June, 1994 through April, 1997



To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Statutory Rape Prosecutor (District Attorneys and DHFS -- Children and Family Services and Supportive Living)**

[LFB Summary: Page 206, #3 and Page 326, #31]

## CURRENT LAW

No provision.

## GOVERNOR

Provide \$105,000 GPR annually under the Department of Health and Family Services (DHFS) to provide 1.0 assistant district attorney project position (\$51,500 annually) and reimbursement for a county investigator (\$53,500 annually) for a pilot program to strengthen statutory rape enforcement and prosecution. Program revenue funding and position authority would be authorized under the District Attorneys (DAs), and would expire on June 30, 1999.

## DISCUSSION POINTS

1. Statutory rape generally refers to sexual intercourse with a person who has not reached the statutory age of consent. However, there is no provision in the Wisconsin statutes which specifically refers to statutory rape. There are primarily three statutes under which cases involving statutory rape could be charged including: (1) sexual contact or intercourse with a person who has not attained the age of 13 (s.948.02(1)); (2) sexual contact or intercourse with a person who has not attained the age of 16 (s.948.02(2)); and (3) sexual intercourse with a child, who is not the defendant's spouse, who has attained the age of 16 (s.948.09). Statewide

information is not available concerning the number of "statutory rape" cases currently being prosecuted.

2. The need for resources dedicated to statutory rape is not clear. However, some recent national studies have indicated that a significant percentage of teenage pregnancies involve a young female with an adult man. Therefore, putting additional resources into tougher enforcement and prosecution of these types of cases is viewed as one possible way to decrease teen pregnancies.

3. In 1995, there were a total of 182 births in Wisconsin to mothers who were under 15 years of age, and 2,549 births to mothers between the ages of 15 and 17. The number of these births which involved adult fathers is not known.

4. The bill does not specify which county would receive the assistant district attorney (ADA) position or how that would be determined. According to DOA officials, counties would apply to DHFS for the position. In addition, the recipient county would receive funding to hire an investigator to assist the ADA.

5. DOA indicates that the pilot program would be used to strengthen statutory rape enforcement and gain convictions. Because there is no statutory definition of statutory rape, the particular cases which the additional prosecutor and investigator would engage in would largely be determined by DHFS and the recipient county. In addition, the methods that would be used to increase convictions is not clear. In a California program, welfare applications have been used to track down statutory rapists. According to DOA, counties would detail their proposed enforcement mechanisms in their proposal requests. Neither DOA nor DHFS could provide specific information concerning the identified need for the program, or detail the process or requirements for a county to apply for the funding.

6. Under the federal welfare reform legislation enacted in August, 1996, the five states that experience the greatest decline in out-of-wedlock births during the prior two-year period will be eligible for a bonus grant beginning in fiscal year 1999. The total amount available for these five states is \$20,000,000. States are eligible for this bonus funding only if the number of abortions performed in the state does not increase above the rate of abortions in federal fiscal year 1994-95. The statutory rape pilot could be viewed as a part of the strategy to reduce out-of-wedlock births.

7. Counties requested a total of 62.2 additional assistant district attorney positions for 1997-99, based on prosecutorial workload. The bill would provide a total of five new positions, including the statutory rape prosecutor and four regional prosecutors for sex predator cases (these were not part of the DA's request). The bill would also delete two Milwaukee County program revenue ADA positions for which funding terminates in the 1997-99 biennium (one related to DNA prosecutions and one related to anti-drug prosecutions). While the actual need for a statutory rape prosecutor is not known, it would seem likely that few counties would

have the type of caseload to support two full-time positions dedicated to those cases. In addition, given the requests by counties for additional prosecutorial staff, it may be better to address the overall workload and need for additional prosecutorial resources than to devote resources to an unspecified need.

8. Generally, new ADA positions are budgeted with a delayed starting date to allow for the recruitment and hiring process. Therefore, if the program is approved, a technical correction would be needed to reduce funding in 1997-98 by -\$26,300 GPR and -\$12,100 PR to reflect an October 1, 1997, starting date for the program.

**ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation, as technically corrected, to provide \$78,700 GPR in 1997-98 and \$105,000 GPR in 1998-99 under DHFS for a pilot statutory rape prosecution program. Of the funding provided, \$39,400 in 1997-98 and \$51,500 in 1998-99 would be transferred from DHFS to the DAs' program revenue appropriation for 1.0 project ADA position.

<u>Alternative 1</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Bill)	- \$26,300	- \$12,100	- \$38,400

2. Maintain current law. Delete \$105,000 GPR annually under DHFS to eliminate the statutory rape pilot program. Also delete the associated funding and position authority under the District Attorneys (-\$51,500 PR and -1.0 PR project assistant district attorney position annually).

<u>Alternative 2</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Bill)	- \$210,000	- \$103,000	- \$313,000
1998-99 POSITIONS (Change to Bill)	0.00	- 1.00	- 1.00

Prepared by: Carri Jakel

MO# Alt #2

JENSEN	<del>Y</del>	N	A
OURADA	<del>Y</del>	N	A
HARSDORF	<del>Y</del>	N	A
ALBERS	<del>Y</del>	N	A
GARD	<del>Y</del>	N	A
KAUFERT	<del>Y</del>	N	A
LINTON	Y	<del>N</del>	A
COGGS	Y	<del>N</del>	A

BURKE	<del>Y</del>	N	A
DECKER	<del>Y</del>	N	A
GEORGE	Y	<del>N</del>	A
JAUCH	<del>Y</del>	N	A
WINEKE	<del>Y</del>	N	A
SHIBILSKI	Y	<del>N</del>	A
COWLES	<del>Y</del>	N	A
PANZER	<del>Y</del>	N	A

AYE 12 NO 4 ABS \_\_\_\_\_

To: Joint Committee on Finance
From: Bob Lang, Director Legislative Fiscal Bureau

## ISSUE

### **Special Prosecutors (District Attorneys)**

[LFB Summary: Page 206, #5]

## CURRENT LAW

A court may appoint a special prosecutor on its own motion to perform the same duties as a district attorney. In addition, a district attorney may request that the court appoint a special prosecutor to assist the district attorney in a prosecution, grand jury or John Doe proceeding or investigation. Conditions under which a special prosecutor may be appointed include: (1) there is no district attorney; (2) the district attorney is absent; (3) the district attorney has a conflict of interest; (4) the district attorney is unable to attend to his or her duties; (5) the district attorney is serving in the armed forces; or (6) the district attorney is charged with a crime. Special prosecutors are funded under the supplies and services line of the DAs' salaries and fringe benefits appropriation. Base funding for supplies and services is \$167,800 GPR, which includes funding for special prosecutors in addition to other expenses, such as risk management costs, workers compensation and other miscellaneous expenses.

## GOVERNOR

Provide \$32,200 annually for additional funding for special prosecutors.

## DISCUSSION POINTS

1. Special prosecutors are intended to assist district attorney offices in durations of temporary need for prosecutorial staff resulting from special circumstances within the office (for example, the DA is ill or a conflict of interest exists). Appointments that are expected to exceed six hours per case require the DA to first request assistance from other prosecutorial units or an assistant attorney general, prior to appointment of a special prosecutor. If that assistance is unavailable, a special prosecutor may be appointed.

2. Special prosecutor expenses have been steadily increasing over the years. Historical expenses for special prosecutors over the last five years, and projected expenditures for this fiscal year, are shown below.

	<u>1991-92</u>	<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97(est)</u>
Expenditures	\$115,500	\$207,300	\$222,000	\$251,800	\$434,100	\$441,500
Percent Change		79.4%	7.1%	13.4%	72.4%	1.7%

2. The majority of prosecutorial units make only limited use of special prosecutors. (Each county is a prosecutorial unit, except Shawano and Menominee counties form one unit). In 1995-96, 11 counties accounted for almost 98% of total fiscal year expenditures.

<u>County</u>	<u>1995-96 Expenses</u>	<u>Total Expenses from 1990-91 thru April 9, 1997</u>
Brown	\$123,500	\$263,700
Marinette	13,600	247,900
Racine	46,500	180,700
Columbia	65,400	152,500
Forest	19,400	119,800
Lincoln	64,800	103,500
Monroe	32,500	76,000
Oconto	7,100	60,600
Rock	10,100	52,200
Pepin	27,400	47,200
Vilas	<u>13,900</u>	<u>40,600</u>
Total	\$424,200	\$1,344,700

3. These same counties have accounted for over 77% of special prosecutor expenses since 1990-91. It would appear that these offices are increasingly using special prosecutors on a more permanent basis to assist with caseload, rather than as a result of a special circumstance. In 1995-96, almost 73% of court orders for special prosecutors noted the reason for appointment as caseload, or related to caseload. This was the case for almost all of the appointments for the counties above, with the exception of Marinette County, for which reasons for appointment were not available.

4. It should be noted that special prosecutor appointments are court-ordered; therefore, the judge makes the ultimate determination on whether an appointment should be made. While it is important to maintain the judge's authority to appoint a prosecutor when he or she feels it is necessary, it is clear, at least for the above counties, that appointments are not being made on an individual, case-by-case basis.

5. As noted above, DA base funding for supplies and services, which funds special prosecutors, totals \$167,800. However, actual special prosecutor expenditures totalled \$434,100 in 1995-96. The DAs have been able to absorb these expenses by transferring funds from salary and fringe benefits. These salary and fringe benefit savings resulted from position vacancies.

6. Under Department of Administration budget guidelines, a reduction of 3% is taken on all adjusted base permanent salaries for appropriations funding more than 50 full-time equivalent (FTE) permanent positions to reflect turnover savings. DAs are not subject to the turnover savings required of other agencies with more than 50 FTE positions. This is because each DA office (with the exception of Milwaukee County) has less than 50 FTE positions and is counted separately for the purposes of the turnover requirement (including Milwaukee County).

7. While it is true that each of the 71 DA offices operates separately, the salaries are paid out of one appropriation. In addition, it is clear from the funding available for special prosecutor costs that turnover savings are being realized. If the 3% turnover requirement was applied to DAs, it would amount to \$658,000 annually. However, it may not be reasonable to apply turnover reductions to offices headed by elected officials that operate separately and have less than 50 FTE positions. Since Milwaukee County has 99 FTE positions, it could be argued that turnover savings of 3% should be applied to the Milwaukee County DA office. This would total \$163,200 annually. These savings could be generated from any of the 71 DA offices.

8. Therefore, the \$32,200 provided under the bill for special prosecutors could be offset by \$163,200 in savings from DA turnover. However, based on the current usage of special prosecutors, costs may exceed the \$200,000 annually for supplies and services under the bill.

9. The statutory provisions relating to special prosecutors were not intended to be used for general workload purposes. However, special prosecutors are currently being hired to supplement permanent staff under the statutory provision which allows appointment if the DA is unable to attend to his or her duties. Therefore, the Committee may want to consider

restricting this provision by specifying that the DA must be physically unable to attend to his or her duties, or has a mental incapacity. "Mental incapacity" could be defined as a condition which impairs the DA's ability to substantially perform his or her duties.

10. In 1995-96, total special prosecutor costs not related to caseload totalled \$117,600. Therefore, with the additional funding provided under the bill, funding should be sufficient to cover special prosecutor costs not related to caseload. However, there may continue to be appointments of special prosecutors under those circumstances in which unexpected workload, such as a lengthy homicide trial, would require additional office assistance which could not be anticipated. Turnover savings from DA offices, other than the Milwaukee County office, would still be available to offset these costs.

11. It should be noted that a few of the counties using special prosecutors on an on-going basis could reduce those costs if provided with additional assistant DA positions. The average hourly payment for special prosecutors is \$38 in 1996-97, compared to the starting hourly wage of an ADA of \$24. However, there are counties which, based on weighted caseload levels, have greater need for additional ADAs than some of the counties routinely using special prosecutors. Therefore, the provision of additional ADAs should be considered separately from the use of special prosecutors.

### ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide \$32,200 annually for special prosecutor costs.

2. Provide \$32,200 annually for additional funding for special prosecutors. In addition, delete \$163,200 annually from DAs' salaries to reflect turnover savings.

<u>Alternative 2</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$326,400

3. Maintain current law.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$64,400

4. In addition to any of the above, modify the statutory provision which allows appointment of a special prosecutor if the DA is unable to attend to his or her duties, to specify that appointment of a special prosecutor is allowed if the DA is physically or mentally unable

to attend to his or her duties, or has a mental incapacity. Define "mental incapacity" as a condition which impairs the DA's ability to substantially perform his or her duties.

Prepared by: Carri Jakel

MO# Alt #2 #4

JENSEN	<input checked="" type="checkbox"/>	N	A
OURADA	<input checked="" type="checkbox"/>	N	A
HARSDORF	<input checked="" type="checkbox"/>	N	A
ALBERS	<input checked="" type="checkbox"/>	N	A
GARD	<input checked="" type="checkbox"/>	N	A
KAUFERT	<input checked="" type="checkbox"/>	N	A
LINTON	<input checked="" type="checkbox"/>	N	A
COGGS	<input checked="" type="checkbox"/>	N	A

BURKE	<input checked="" type="checkbox"/>	N	A
DECKER	<input checked="" type="checkbox"/>	N	A
GEORGE	<input checked="" type="checkbox"/>	N	A
JAUCH	<input checked="" type="checkbox"/>	N	A
WINEKE	<input checked="" type="checkbox"/>	N	A
SHIBILSKI	<input checked="" type="checkbox"/>	N	A
COWLES	<input checked="" type="checkbox"/>	N	A
PANZER	<input checked="" type="checkbox"/>	N	A

AYE 16 NO 0 ABS

To: Joint Committee on Finance  
From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Additional Prosecutors (District Attorneys)**

## CURRENT LAW

Under current law, District Attorneys are authorized 369.0 full-time equivalent (FTE) positions, as of July 1, 1997.

## GOVERNOR

No provision.

## DISCUSSION POINTS

1. Counties requested a total of 62.2 additional prosecutor positions for the 1997-99 biennium. The Governor did not address any caseload-related requests in the budget bill. Instead, the Governor would provide 4.0 additional project assistant district attorney (ADA) positions for sex predator workload, and 1.0 additional project ADA position for statutory rape prosecutions. In addition, the bill would eliminate 2.0 program revenue-funded ADA positions in Milwaukee County, for which funding expires in 1997-99 (one related to DNA prosecutions and one related to anti-drug abuse prosecutions). [The Governor's recommendations on the 5.0 additional positions are addressed separately.]

2. Department of Administration officials indicate that part of the reason that requests for additional prosecutors were not addressed is that the bill would provide for additional automation of DA offices. This is expected to make prosecutors more productive and reduce the need for additional positions.

3. In response to the substantial requests by counties in the past and questions regarding the existing prosecutorial caseload management, the Legislative Audit Bureau (LAB) reviewed the methodology used to measure prosecutorial caseload and recommended changes to improve the methodology (released December, 1995). The LAB recommended that once a more accurate case measurement system was developed, a productivity standard should be created for DAs to determine the time that a prosecutor has available to prosecute cases (similar to the method used to determine judicial resources).

4. In response to the LAB report, the State Prosecutors Office, in conjunction with the Wisconsin District Attorneys Association (WDAA), reviewed available data and surveyed district attorneys to estimate the average time needed to prosecute different types of cases. (The WDAA is an association of state district attorneys which meets to discuss various issues that affect DAs.) The revised prosecutor need analysis assigns the following times to case types:

<u>Type of Case</u>	<u>Average Hours Required</u>
Class A Homicide	100.00
Class B Homicide	100.00
Other Felony	8.49
Misdemeanor	2.17
Delinquency	3.32
Children in Need of Protection or Services	2.61
Criminal Traffic	1.68
Termination of Parental Rights	7.00
Writ of Habeas Corpus	2.00
Inquest	64.00

5. As shown above, the weighted caseload measurement does not include sexual predator cases. Therefore, sexual predator cases are not addressed as part of a county's overall need for additional prosecutors. (The issue of sexual predator prosecutors is addressed in paper #345.)

6. A "time available" standard for prosecutors was also estimated through a district attorney survey. The analysis assumes that, on average, each prosecutor has 1,227 hours per year to prosecute cases. This is based on 2,088 total hours per position less: (a) an average of 300 hours annually for holiday, personal, sick and vacation time; and (b) an average of 561 hours annually for other prosecutorial duties such as administration, John Doe proceedings, post-conviction hearings, training, review of referrals not charged, search warrants, wage claims, public records, probation revocations and community services.

7. The analysis using the revised methodology was completed in September, 1996, after counties had submitted their budget requests. The attachment to this paper indicates the results of this analysis using average case filings for 1993-95. The attachment shows, by county,

the currently authorized number of prosecutors, the estimated number of positions needed to prosecute the county's average 1993-95 caseload, and the current workload for each prosecutor.

8. Based on this analysis, there is a net need for approximately 25 additional assistant district attorney positions. This includes 34 prosecutorial units with a total need of 51.57 FTE, and 37 prosecutorial units with a combined need of -26.26 FTE (each county is its own prosecutorial unit, except for Shawano and Menominee).

9. It should be noted that this analysis makes a number of assumptions which may not apply to all offices. For instance, single DA offices have unique challenges. Larger offices may have more staff to perform administrative and investigative duties, so that DAs in those counties have more time to prosecute cases. Further, there may be different practices among counties which would not be reflected in this type of analysis. However, despite such problems, the analysis takes into account a number of the improvements suggested by the LAB and can be used as a general measurement for ADA need.

10. Members of the WDAA have publicly supported the addition of 47.0 prosecutors over the biennium. It should be noted that the WDAA analysis is based on 1995 case filings (rather than the average of 1993-95 case filings, as recommended by the LAB), and that only counties which requested positions were considered for additional positions. The WDAA analysis and requested positions are shown in the first four columns of the table below. The cost of this proposal would total \$1,291,500 GPR in 1997-98 and \$2,312,400 GPR in 1998-99.

County	Current FTE	Additional Positions Needed Using 1995 Data	WDAA Recommendations		Additional Positions Needed Using 1993-95 Data	Adjusted WDAA Recommendations	
			1997-98	1998-99		1997-98	1998-99
Milwaukee	99.0	24.20	12.0	12.0	13.33	12.0	12.0
Dane	29.0	4.96	4.0	7.0	3.55	4.0	4.0
Racine	15.5	5.10	2.0	4.0	6.21	2.0	4.0
Rock	12.5	4.81	2.0	4.0	3.70	2.0	4.0
Brown	9.0	3.00	2.0	3.0	1.97	2.0	2.0
Eau Claire	6.0	3.74	2.0	3.0	3.05	2.0	3.0
Marathon	6.0	2.61	2.0	2.5	1.75	2.0	2.0
La Crosse	6.0	2.37	1.0	2.0	2.49	1.0	2.0
Sawyer	1.0	1.66	1.0	1.5	1.18	1.0	1.0
Outagamie	8.0	1.17	1.0	2.0	0.96	1.0	1.0
Monroe	2.0	.82	1.0	1.0	1.07	1.0	1.0
Grant	2.0	.87	0.5	0.5	0.53	0.5	0.5
Sauk	4.0	.76	0.5	0.5	0.46	0.5	0.5
Chippewa	2.5	.65	0.5	0.5	0.74	0.5	0.5
Sheboygan	7.0	.60	0.5	0.5	0.34	0.0	0.0
Marinette	2.0	.45	0.5	0.5	0.67	0.5	0.5
Adams	1.0	.44	0.5	0.5	0.23	0.0	0.0
Jefferson	4.8	.40	0.5	0.5	0.86	0.5	0.5
Washburn	1.0	.27	0.5	0.5	0.15	0.0	0.0
Green Lake	1.0	.12	0.5	0.5	0.13	0.0	0.0
Taylor	1.0	.12	0.5	0.5	-0.06	0.0	0.0
Total	220.3	59.12	35.0	47.0	43.38	32.5	38.5

11. The LAB recommended using a three-year average of case filings to even out fluctuations in caseloads which occur from year to year. The WDAA argues that using only 1995 data better reflects workload demands. However, the WDAA analysis does not take into account yearly fluctuations. Therefore, the last three columns of the table above show positions needed using 1993-95 data and adjust the WDAA recommendations based on that analysis. As shown above, 8.5 positions recommended by the WDAA cannot be justified using the 1993-95 caseload data. The cost of an adjusted WDAA proposal would be \$1,199,300 GPR and 32.5 positions in 1997-98 and \$1,894,200 GPR and 38.5 positions in 1998-99.

12. The weighted caseload measurement is based on attorneys working full-time less vacation, sick leave and holidays. This assumes that each prosecutor handles 100% of a caseload. Column three of the attachment shows the average caseload per prosecutor in each county. According to this analysis, caseloads in a number of counties require prosecutors to handle more cases than they have "time" to handle based on the "time available" analysis. For example, in Milwaukee County, each prosecutor, on average, handles 113% of the caseload they have "time" to handle, based on the LAB methodology and the average number of cases filed in 1993-95. In Eau Claire County, prosecutors handle 151% of caseload levels and in Sawyer County, the prosecutor handles more than twice the caseload a full-time position would have "time" to do.

13. Given the limited GPR funding available, the Committee may wish to consider adding fewer positions than what the 100% standard would indicate. The Committee could use this analysis to provide additional positions to counties which have the highest caseloads per prosecutor. For example, the table below indicates, for counties for which the WDAA requested positions, the number of additional ADAs that would be required so that no county requesting positions would average more than 110% of caseload per prosecutor. This would require 14.5 additional prosecutors in 1997-98 and 19.5 positions in 1998-99, at a cost of \$535,100 in 1997-98 and \$959,400 in 1998-99.

	Need Based on 110%	Additional Positions Using 110% of Caseload	
		1997-98	1998-99
Sawyer	0.98	1.0	1.0
Eau Claire	2.64	1.0	2.5
Monroe	0.79	1.0	1.0
La Crosse	1.72	1.0	1.5
Racine	4.24	2.0	4.0
Marinette	0.43	0.5	0.5
Chippewa	0.45	0.5	0.5
Marathon	1.05	1.0	1.0
Grant	0.30	0.5	0.5
Rock	2.02	1.0	2.0
Brown	0.97	1.0	1.0
Jefferson	0.35	0.5	0.5
Milwaukee	3.12	3.0	3.0
Dane	0.59	<u>0.5</u>	<u>0.5</u>
Total		14.5	19.5

14. If the Committee were to approve additional positions based on 115% of caseload, the number of positions provided would be 7.5 positions in 1997-98 and 10.5 in 1998-99, as shown below. The cost of this proposal would total \$276,800 in 1997-98 and \$516,600 in 1998-99.

	Need Based on 115%	Additional Positions Using 115% of Caseload	
		1997-98	1998-99
Sawyer	0.90	1.0	1.0
Eau Claire	2.26	1.0	2.0
Monroe	0.67	0.5	0.5
LaCrosse	1.38	1.0	1.0
Racine	3.38	1.0	3.0
Marinette	0.32	0.5	0.5
Chippewa	0.32	0.5	0.5
Marathon	0.74	0.5	0.5
Rock	1.26	1.0	1.0
Brown	0.54	<u>0.5</u>	<u>0.5</u>
Total		7.5	10.5

15. The above proposals do not take into account counties which, using the revised weighted caseload methodology, appear to be overstaffed. Given the large variability in need among counties, as shown in the attachment, it could be argued that the current assignment of resources is not efficient and some reassignment should occur.

16. Therefore, the Committee could consider requiring DOA to transfer position authority from a county which has a negative need for positions to a county with a positive need for positions, if: (a) a vacancy in an assistant DA position occurs in a county that has a negative need; (b) following the transfer, the county losing the position does not indicate a need for positions based on the weighted caseload measurement; and (c) the recipient county requested additional resources for 1997-99. This approach would allow for a more efficient and equitable distribution of existing prosecution resources statewide.

17. It should be noted that the Office of Justice Assistance recently released figures indicating a reduction in the number of violent crimes in Wisconsin (including murder, forcible rape, robbery, aggravated assault, burglary, theft, motor vehicle theft and arson). Based on these statistics, violent crime has decreased annually since 1991 (from a total of 222,909 in 1991 to 198,640 in 1996). Therefore, it could be argued that if serious crimes are decreasing, so should the need for additional prosecutors.

**ALTERNATIVES TO BILL**

1. Provide \$1,291,500 GPR and 35.0 assistant district attorney positions in 1997-98 and \$2,312,400 GPR and 47.0 assistant district attorney positions in 1998-99. Under this alternative, the following counties would receive positions (annually, unless noted): Milwaukee (12.0), Dane (4.0 in 1997-98 and 7.0 in 1998-99), Racine (2.0 in 1997-98 and 4.0 in 1998-99), Rock (2.0 in 1997-98 and 4.0 in 1998-99), Brown (2.0 in 1997-98 and 3.0 in 1998-99), Eau Claire (2.0 in 1997-98 and 3.0 in 1998-99), Marathon (2.0 in 1997-98 and 2.5 in 1998-99), La Crosse (1.0 in 1997-98 and 2.0 in 1998-99), Sawyer (1.0 in 1997-98 and 1.5 in 1998-99), Outagamie (1.0 in 1997-98 and 2.0 in 1998-99), Monroe (1.0), Grant (0.5), Sauk (0.5), Chippewa (0.5), Sheboygan (0.5), Marinette (0.5), Adams (0.5), Jefferson (0.5), Washburn (0.5), Green Lake (0.5) and Taylor (0.5).

<u>Alternative 1</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$3,603,900
1998-99 POSITIONS (Change to Bill)	47.00

2. Provide \$1,199,300 GPR and 32.5 assistant district attorney positions in 1997-98 and \$1,894,200 GPR and 38.5 assistant district attorney positions in 1998-99 to adjust the WDAA recommendation for average 1993-95 caseload. Under this alternative, the following counties would receive positions (annually, unless noted): Milwaukee (12.0), Dane (4.0), Racine (2.0 in 1997-98 and 4.0 in 1998-99), Rock (2.0 in 1997-98 and 4.0 in 1998-99), Brown (2.0), Eau Claire (2.0 in 1997-98 and 3.0 in 1998-99), Marathon (2.0), La Crosse (1.0 in 1997-98 and 2.0 in 1998-99), Sawyer (1.0), Outagamie (1.0), Monroe (1.0), Grant (0.5), Sauk (0.5), Chippewa (0.5), Marinette (0.5) and Jefferson (0.5).

<u>Alternative 2</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$3,093,500
1998-99 POSITIONS (Change to Bill)	38.50

3. Provide \$535,100 and 14.5 assistant district attorney positions in 1997-98 and \$959,400 and 19.5 assistant district attorney positions in 1998-99. Under this alternative, the following counties would receive positions (annually, unless noted): Sawyer (1.0), Eau Claire (1.0 in 1997-98 and 2.5 in 1998-99), Monroe (1.0), La Crosse (1.0 in 1997-98 and 1.5 in 1998-99), Racine (2.0 in 1997-98 and 4.0 in 1998-99), Marinette (0.5), Chippewa (0.5), Marathon (1.0), Grant (0.5), Rock (1.0 in 1997-98 and 2.0 in 1998-99), Brown (1.0), Jefferson (0.5), Milwaukee (3.0) and Dane (0.5).

<u>Alternative 3</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$1,494,500
1998-99 POSITIONS (Change to Bill)	19.50

4. Provide \$276,800 and 7.5 assistant district attorney positions in 1997-98 and \$516,600 and 10.5 assistant district attorney positions in 1998-99. Under this alternative, the following counties would receive positions (annually, unless noted): Sawyer (1.0), Eau Claire (1.0 in 1997-98 and 2.0 in 1998-99), Monroe (0.5), La Crosse (1.0), Racine (1.0 in 1997-98 and 3.0 in 1998-99), Marinette (0.5), Chippewa (0.5), Marathon (0.5), Rock (0.5) and Brown (0.5).

<u>Alternative 4</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$793,400
1998-99 POSITIONS (Change to Bill)	10.50

5. Take no action.

6. In addition to any of the above alternatives, require DOA to transfer position authority from a county that is overstaffed to a county that is understaffed, as defined by the revised weighted caseload methodology, under the following conditions: (a) a vacancy in an assistant DA position occurs in the county that is overstaffed; (b) following the transfer, the county losing the position does not show a need for additional ADAs based on the weighted caseload measurement; and (c) the county receiving the positions requested additional position authority for 1997-99.

Prepared by: Carri Jakel

MO# Alt #3

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

1 BURKE	Y	N	A
2 DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 8 NO 8 ABS     

FAIL

MO# Alt #4

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
2 COWLES	Y	N	A
PANZER	Y	N	A

AYE 10 NO 6 ABS

DISTRICT ATTORNEYS

Motion:

Move that one of the Attorney positions provided under Alternative 4 of LFB Paper #345 be assigned to Brown County rather than the Office of the Attorney General.

MO# 1064

JENSEN	<del>Y</del>	N	A
OURADA	<del>Y</del>	N	A
HARSDORF	<del>Y</del>	N	A
ALBERS	<del>Y</del>	N	A
GARD	<del>Y</del>	N	A
KAUFERT	<del>Y</del>	N	A
LINTON	Y	<del>N</del>	A
COGGS	Y	<del>N</del>	A
BURKE	<del>Y</del>	N	A
DECKER	<del>Y</del>	N	A
GEORGE	<del>Y</del>	N	A
JAUCH	<del>Y</del>	N	A
WINEKE	<del>Y</del>	N	A
SHIBILSKI	<del>Y</del>	N	A
COWLES	<del>Y</del>	N	A
PANZER	<del>Y</del>	N	A
AYE	<u>14</u>	NO <u>2</u>	ABS _____

## ATTACHMENT

### District Attorney Weighted Caseload Using 1993-95 Average Cases Filed

	<u>Current Positions</u>	<u>Additional Positions Needed</u>	<u>Current Prosecutor Workload</u>		<u>Current Positions</u>	<u>Additional Positions Needed</u>	<u>Current Prosecutor Workload</u>
Sawyer	1.00	1.18	218%	Clark	2.00	-0.10	95%
Monroe	2.00	1.07	154	Juneau	2.00	-0.11	94
Manitowoc	4.00	2.10	153	Taylor	1.00	-0.06	94
Eau Claire	6.00	3.05	151	Douglas	3.50	-0.22	94
La Crosse	6.00	2.49	142	Walworth	5.00	-0.38	92
Racine	15.50	6.21	140	Lincoln	2.00	-0.20	90
Forest	0.60	0.23	139	Door	2.00	-0.21	89
Winnebago	8.00	3.00	137	Kenosha	13.00	-1.48	89
Marinette	2.00	0.67	133	Bayfield	1.00	-0.12	88
Rock	12.50	3.77	130	Waupaca	4.00	-0.56	86
Chippewa	2.50	0.74	130	Calumet	2.00	-0.30	85
Marathon	6.00	1.75	129	Dodge	4.00	-0.68	83
Grant	2.00	0.53	127	Waushara	1.50	-0.26	82
Burnett	1.00	0.24	124	Portage	4.00	-0.77	81
Adams	1.00	0.23	123	Green	2.00	-0.40	80
Fond du Lac	5.00	1.11	122	Buffalo	1.00	-0.21	79
Brown	9.00	1.97	122	Trempealeau	1.60	-0.34	79
Jefferson	4.80	0.86	118	Dunn	3.50	-0.76	78
Ashland	1.50	0.25	117	Barron	3.00	-0.68	77
Washburn	1.00	0.15	115	Price	1.00	-0.24	76
Milwaukee	99.00	13.33	113	Vilas	2.00	-0.52	74
Oneida	2.00	0.26	113	Florence	0.50	-0.15	70
Green Lake	1.00	0.13	113	Crawford	1.00	-0.33	67
Dane	29.00	3.55	112	Waukesha	18.50	-6.12	67
Outagamie	8.00	0.96	112	Richland	1.75	-0.60	65
Sauk	4.00	0.46	111	Rusk	1.50	-0.58	62
Shawano/				Kewaunee	1.50	-0.65	57
Menominee	3.00	0.33	111	Iowa	1.75	-0.76	56
Langlade	1.50	0.15	110	St. Croix	6.00	-2.81	53
Columbia	3.00	0.28	109	Jackson	2.00	-0.95	53
Sheboygan	7.00	0.34	105	Pierce	3.00	-1.57	48
Ozaukee	3.00	0.06	102	Pepin	0.60	-0.32	47
Oconto	1.50	0.03	102	Vernon	2.40	-1.28	47
Wood	4.00	0.05	101	Iron	1.00	-0.63	37
Polk	2.00	0.02	101	Lafayette	1.00	-0.66	34
Washington	5.00	-0.18	96				
Marquette	1.00	-0.04	96	Net Total Positions Needed		25.31	

## DISTRICT ATTORNEYS

### LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
4	Continued Funding for Anti-Drug Prosecutors
6	Milwaukee County Drug and Violent Crimes Court Clerks

### LFB Summary Item to be Addressed in a Subsequent Paper

<u>Item #</u>	<u>Title</u>
7	Information Technology