

2001 DRAFTING REQUEST**Assembly Amendment (AA-ASA1-SB55)**Received: **06/29/2001**Received By: **mdsida**Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**By/Representing: **Susan McMurray**This file may be shown to any legislator: **NO**Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Public Defender
Criminal Law - miscellaneous**Extra Copies: **rlr**Submit via email: **YES**Requester's email: **Rep.Black@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Payment rates for private counsel assigned by the state public defender

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mdsida 06/29/2001	wjackson 06/29/2001	pgreensl 06/29/2001	_____	lrb_docadmin 06/29/2001	lrb_docadmin 06/29/2001	

FE Sent For:

<END>

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

Received: 06/29/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Spencer Black (608) 266-7521

By/Representing: Susan McMurray

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Public Defender
Criminal Law - miscellaneous

Extra Copies: rlr

Submit via email: YES

Requester's email: Rep.Black@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Payment rates for private counsel assigned by the state public defender

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mdsida	1 wly 6/29	by PS	6/29 PS/BT			
FE Sent For:				<END>			



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb1922/1
MGD:/:....
Wlj

9 [History: 1977 c. 29, 354; 1979 c. 352, 356; 1981 c. 20; 1983 a. 377; 1985 a. 29 ss. 2473 to 2476u, 3202 (42); 1985 a. 120; 1987 a. 27, 399; 1989 a. 12; 1991 a. 39, 263; 1993 a. 16, 318, 423, 451, 491; 1995 a. 27, 77; 1997 a. 27; 1999 a. 9.

ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

Insert 111

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 1271, line 13: after that line insert:

3 "SECTION 4032c. 977.08 (4m) (a) of the statutes is amended to read:

4 977.08 (4m) (a) Unless otherwise provided by a rule promulgated under s.
5 977.02 (7r), for cases assigned before December 1, 1992, private local attorneys shall
6 be paid \$45 \$70 per hour for time spent in court; ~~\$35 per hour for time spent out of~~
7 ~~court related to a case, excluding travel, related to a case;~~ and \$25 per hour for time
8 spent in travel related to a case if any portion of the trip is outside the county in which
9 the attorney's principal office is located or if the trip requires traveling a distance of
10 more than 30 miles, one way, from the attorney's principal office.

11 SECTION 4032d. 977.08 (4m) (b) of the statutes is repealed.

12 SECTION 4032e. 977.08 (4m) (c) of the statutes is amended to read:

1 977.08 (4m) (c) Unless otherwise provided by a rule promulgated under s.
2 977.02 (7r) or by a contract authorized under sub. (3) (f), for cases assigned on or after
3 ~~July 29, 1995~~ December 1, 1992, private local attorneys shall be paid \$40 \$70 per
4 hour for time spent related to a case, excluding travel, and \$25 per hour for time spent
5 in travel related to a case if any portion of the trip is outside the county in which the
6 attorney's principal office is located or if the trip requires traveling a distance of more
7 than 30 miles, one way, from the attorney's principal office. ~~W~~

History: 1977 s. 29, 354; 1979 c. 352, 356; 1981 c. 20; 1983 a. 377; 1985 a. 29 ss. 2473 to 2476a, 3202 (42); 1985 a. 120; 1987 a. 27, 399; 1989 a. 12; 1991 a. 39, 263; 1993
a. 16, 318, 423, 451, 491; 1995 a. 27, 77; 1997 a. 27; 1999 a. 9.

8 **2.** Page 1401, line 18: after that line insert:

9 “(1m) PAYMENTS TO ASSIGNED COUNSEL. The treatment of section 977.08 (4m) (a),
10 (b), and (c) of the statutes first applies to work performed on a case on the effective
11 date of this subsection and to case-related travel occurring on the effective date of
12 this subsection.”.

13

(END)

insert 2/87

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1922/lins
MGD:.....

1 INSERT 1/1

2 * ~~1~~. Page ⁵⁶⁵ ~~2~~, line ⁴ ~~2~~: after that line insert:

3 " SECTION ~~22~~. 48.235 (8) (a) of the statutes is amended to read:

4 48.235 (8) (a) A guardian ad litem appointed under this chapter shall be
5 compensated at a rate that the court determines is reasonable, except that, if the
6 court orders a county to pay the compensation of the guardian ad litem under par.
7 (b) or (c) 2., the amount ordered may not exceed the compensation payable to a
8 private attorney under s. 977.08 (4m) (b), 1999 stats. "

History: Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1991 a. 189, 263; 1993 a. 16, 318, 395; 1995 a. 27, 275; 1997 a. 237, 292, 334; 1999 a. 149.

9 * ~~2~~. Page ¹¹⁸⁴ ~~3~~, line ³ ~~3~~: after that line insert:

10 " SECTION ~~22~~. 757.48 (1) (b) of the statutes is amended to read:

11 757.48 (1) (b) The guardian ad litem shall be allowed reasonable compensation
12 for his or her services such as is customarily charged by attorneys in this state for
13 comparable services. If the court orders a county to pay the compensation of the
14 guardian ad litem, the amount ordered may not exceed the compensation paid to
15 private attorneys under s. 977.08 (4m) (b), 1999 stats. If the attorney of record is also
16 the guardian ad litem, the attorney shall be entitled only to attorney fees and shall
17 receive no compensation for services as guardian ad litem. "

History: Sup. Ct. Order, 50 Wis. 2d vii (1971) 1971 c. 211; 1977 c. 187 s. 96; 1977 c. 299, 447; Stats. 1977 s. 757.48; 1987 a. 355; 1993 a. 16; 1995 a. 27.

18 * ~~3~~. Page ¹¹⁸⁴ ~~4~~, line ¹⁸ ~~4~~: after that line insert:

19 " SECTION ~~22~~. 758.19 (6) (a) of the statutes is amended to read:

20 758.19 (6) (a) In this subsection, "guardian ad litem costs" means the costs of
21 guardian ad litem compensation that a county incurs under ch. 48, 55, 767, 880 or
22 938, that the county has final legal responsibility to pay or that the county is unable

1 to recover from another person and that does not exceed the per hour rate established
2 for time spent in court by private attorneys under s. 977.08 (4m) (b), 1999 stats.

History: 1971 c. 254 ss. 1, 2, 4 to 16; Stats. 1971 s. 257.19; 1975 c. 37, 189, 199; 1977 c. 29; 1977 c. 187 ss. 97, 135; 1977 c. 305 s. 64; 1977 c. 449; Stats. 1977 s. 758.19; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1981 c. 96; 1983 a. 27; 1985 a. 29, 340; 1989 a. 31; 1991 a. 32, 39; 1993 a. 16, 206, 437, 491; 1995 a. 27, 77, 201, 225, 417; 1997 a. 27, 237; 1999 a. 9, 29.

3 4. Page ~~2~~¹¹⁸⁶, line ~~2~~²⁵: after that line insert:

4 SECTION ~~22~~^{3785 p}. 767.045 (6) of the statutes is amended to read:

5 767.045 (6) COMPENSATION. The guardian ad litem shall be compensated at a
6 rate that the court determines is reasonable. The court shall order either or both
7 parties to pay all or any part of the compensation of the guardian ad litem. In
8 addition, upon motion by the guardian ad litem, the court shall order either or both
9 parties to pay the fee for an expert witness used by the guardian ad litem, if the
10 guardian ad litem shows that the use of the expert is necessary to assist the guardian
11 ad litem in performing his or her functions or duties under this chapter. If both
12 parties are indigent, the court may direct that the county of venue pay the
13 compensation and fees. If the court orders a county to pay the compensation of the
14 guardian ad litem, the amount ordered may not exceed the compensation paid to
15 private attorneys under s. 977.08 (4m) (b), 1999 stats. The court may order a
16 separate judgment for the amount of the reimbursement in favor of the county and
17 against the party or parties responsible for the reimbursement. The court may
18 enforce its orders under this subsection by means of its contempt power.

History: Sup. Ct. Order, 50Wis. 2d vii (1971); 1977 c. 105, 299; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.045; 1987 a. 355; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1993 a. 16, 481; 1995 a. 27, 201, 289, 404; 1997 a. 105, 191; 1999 a. 9.

19 5. Page ~~2~~¹²¹¹, line ~~2~~⁸: after that line insert:

20 SECTION ~~22~~^{3851 d}. 880.331 (8) of the statutes is amended to read:

21 880.331 (8) COMPENSATION. On order of the court, the guardian ad litem
22 appointed under this chapter shall be allowed reasonable compensation to be paid
23 by the county of venue, unless the court otherwise directs or unless the guardian ad

1 litem is appointed for a minor, in which case the compensation of the guardian ad
 2 litem shall be paid by the minor's parents or the county of venue as provided in s.
 3 48.235 (8). If the court orders a county to pay the compensation of the guardian ad
 4 litem, the amount ordered may not exceed the compensation paid to private
 5 attorneys under s. 977.08 (4m) (b), 1999 stats. "

History: Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1993 a. 16; 1995 a. 27; 1997 a. 237.

6 **6.** Page ¹²¹⁴ 2, line ¹⁵ 2: after that line insert:

7 " SECTION ^{3862b} 22. 891.39 (1) (b) of the statutes is amended to read:

8 891.39 (1) (b) In actions affecting the family, in which the question of paternity
 9 is raised, and in paternity proceedings, the court, upon being satisfied that the
 10 parties to the action are unable to adequately compensate any such guardian ad
 11 litem for the guardian ad litem's services and expenses, shall then make an order
 12 specifying the guardian ad litem's compensation and expenses, which compensation
 13 and expenses shall be paid as provided in s. 967.06. If the court orders a county to
 14 pay the compensation of the guardian ad litem, the amount ordered may not exceed
 15 the compensation paid to private attorneys under s. 977.08 (4m) (b), 1999 stats. "

History: 1971 c. 298; 1979 c. 196; 1979 c. 352 s. 39; 1983 a. 447; 1985 a. 315; 1989 a. 122; 1993 a. 16, 486; 1995 a. 27, 225; 1997 a. 191.

16 **7.** Page ¹²²³ 2, line ⁴ 2: after that line insert:

17 " SECTION ^{3888p} 22. 938.235 (8) (a) of the statutes is amended to read:

18 938.235 (8) (a) A guardian ad litem appointed under this chapter shall be
 19 compensated at a rate that the court determines is reasonable, except that, if the
 20 court orders a county to pay the compensation of the guardian ad litem, the amount
 21 ordered may not exceed the compensation payable to a private attorney under s.
 22 977.08 (4m) (b), 1999 stats. "

History: 1995 a. 77, 275; 1997 a. 237.

23 **8.** Page ¹²³¹ 2, line ¹¹ 2: after that line insert:

⑥
3929d

①

SECTION 2. 938.996 of the statutes is amended to read:

2

938.996 Compensation. Any judge of this state who appoints counsel or a

3

guardian ad litem pursuant to the provisions of the interstate compact on juveniles

4

may, in the judge's discretion, allow reasonable compensation in an amount not to

5

exceed the compensation paid to private attorneys under s. 977.08 (4m) (b), 1999

⑥

stats., to be paid by the county on order of the court. "

7

History: 1991 a. 316; 1993 a. 16; 1995 a. 27; 1995 a. 71 s. 398; Stats. 1995 s. 938.996.

INSERT 2/8

⑧
⑨

9. Page 2, line 3: after that line insert:
4034F

SECTION 2. 978.045 (2) (a) of the statutes is amended to read:

10

978.045 (2) (a) The court shall fix the amount of compensation for any attorney

11

appointed as a special prosecutor under sub. (1r) according to the rates specified in

⑫

s. 977.08 (4m) (b), 1999 stats. "

History: 1989 a. 117; 1991 a. 39, 188; 1993 a. 16; 1995 a. 27; 1997 a. 27.

Assembly Democrat Budget Amendment Requests

Request number: 184

Agency: Public Defender

Contact: Susan McMurray, Rep. Black's office 266-7521 or at home at 249-1167

Please prepare an amendment to increase the private bar attorney per hour pay to \$70.

MGD

Richard -g

D/c from Dan via ADC

change all casetime to \$70