

CR 91-67



**State Public Defender**  
Nicholas L. Chiarkas

**Deputy State Public Defender**  
Eileen A. Hirsch

**The State of Wisconsin**  
**STATE PUBLIC DEFENDER**

131 West Wilson Street, 7th Floor, P.O. Box 7923  
Madison, Wisconsin 53707 (608) 266-0087

**Chief, Trial Division**  
Ellen K. Berz

**Chief, Appellate Division**  
Kenneth P. Casey

**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 staff attorney representation of non-indigent clients were duly approved and adopted by this Board on May 5, 1991.

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 24th day of September, 1991.

*Daniel M. Berkos*

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DANIEL M. BERKOS

Chair, State Public Defender Board

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*10:15*  
Revisor of Statutes  
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12-1-91

PROPOSED ORDER OF THE STATE PUBLIC DEFENDER BOARD  
CREATING A RULE

An order to create s. SPD 2.13, relating to staff attorney representation of non-indigent clients.

Analysis:

This proposed rule codifies a recent Wisconsin Supreme Court decision, State of Wisconsin ex rel. Chiarkas v. Skow (No. 89-2399), which relates to the authority of the courts to appoint State Public Defender attorneys to represent non-indigent defendants. In the opinion the Supreme Court held that while courts do have the inherent authority to appoint counsel when a person is not indigent, that authority should be exercised to appoint State Public Defender attorneys only in "unique and unusual circumstances". In addition, the court held that the costs of appointing a State Public Defender attorney for non-indigent representation is to be paid by the county, not the State Public Defender.

Statutory authority: ss. 967.06, 977.02 and 977.05 (4) (h), Stats.

Statutes interpreted: ss. 967.06, 977.05 (4) (h) and 977.07 (3) and (3m), Stats.

SECTION 1. SPD 2.13 is created to read:

SPD 2.13 STAFF ATTORNEY REPRESENTATION OF NON-INDIGENT CLIENTS. If a court appoints a state public defender staff attorney to represent a non-indigent client, the state public defender shall receive reimbursement from the county for the cost of the state public defender staff attorney's representation as follows:

- (1) For legal services rendered, at a rate which is in accordance with Chapter 81, Wisconsin Supreme Court Rules.
- (2) For expenses incurred incident to representation such as, but not limited to, costs for travel, witnesses, discovery or experts, at a rate at which a private attorney would be reimbursed by the county.

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: 9/24/91

Wisconsin State Public Defender Board

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By: Daniel M. Berkos

DANIEL M. BERKOS, Chair

State Public Defender Board



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Tuesday, September 24, 1991

Gary Poulson  
Office of the Revisor of Statutes  
119 M. L. King Blvd, FLR 2  
Madison, Wisconsin 53703-3330

RE: Clearinghouse rule 91-67:

Dear Mr. Poulson:

Attached please find a certified copy of Clearinghouse rule 91-67 for promulgation. I have also attached an extra copy for printing of the rule. It is my understanding that this rule will be published on November 1, 1991 and will become effective on December 1, 1991.

Thank you.

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Sincerely,

A handwritten signature in cursive script that reads "Evelyn Mazack".

Evelyn Mazack  
Legal Counsel