

2001 DRAFTING REQUEST

Bill

Received: **09/05/2000**

Received By: **mdsida**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Coomber**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Public Defender**

Extra Copies: **RLR**

Pre Topic:

DOA:.....Coomber -

Topic:

Pre-custody/pre-charging representation of persons by 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>
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/P1	mdsida 09/18/2000	gilfokm 09/18/2000	jfrantze 09/11/2000	_____	lrb_docadmin 09/11/2000		State
/P2	mdsida 10/02/2000	gilfokm 10/02/2000	jfrantze 09/19/2000	_____	lrb_docadmin 09/19/2000		State
/1			jfrantze 10/02/2000	_____	gretskl 10/02/2000		

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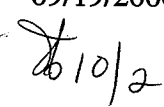
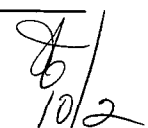
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For: **Public Defender 6-6782**

By/Representing: **Gina Pruski**

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May Contact:

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FE Sent For:

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OFFICE OF THE STATE PUBLIC DEFENDER – Agency #550

Summary of Statutory Language Changes Requested
In 2002-03 Biennial Budget Request

1. Subject: Alternative Charging and Sentencing –

Intent: Change the procedure for charging misdemeanor violations of specified criminal statutes (below) when the alleged offender has never been convicted of a felony offense and has not been convicted of any similar offense in the previous three years. Before issuing a criminal charge under these misdemeanor statutes, the DA would be required to offer the alleged offender the opportunity to complete a diversion program or to pay a forfeiture under a stipulated finding of guilt under a non-criminal county ordinance.

Related Stat. Citations: Modify s.968.02 relating to issuance and filing of criminal complaints to require the DA, before issuing a criminal charge under misdemeanor statutes specified below, to offer the alleged offender the opportunity to complete a diversion program or to pay a forfeiture under a stipulated finding of guilt under a non-criminal county ordinance.

1. Criminal damage to property [sec. 943.01(1)]
2. Graffiti [sec. 943.017(1)]
3. Entry to locked vehicle [sec. 943.11]
4. Entry to locked coin box [sec. 943.125]
5. Trespass to dwelling [sec. 943.14]
6. Trespass to medical facility [sec. 943.145]
7. Entry to locked construction site, building, room [sec. 943.15]
8. Theft [sec. 943.20(3)(a)]
9. Transfer of recorded sounds [sec. 943.20793m)(a)]
10. Recording performance without consent of performance owner [sec. 943.208(2)(a)]
11. Failure to disclose manufacturer of recording [sec. 943.209(2)(a)]
12. Unlawful use of recording device in motion picture theater [sec. 943.49(2)(b)1.]
13. Fraud on hotel, restaurant or taxi driver [sec. 943.21(3)(a)]
14. Rent absconding [sec. 943.215]
15. Issuance of worthless checks [sec. 943.24(1)]
16. Removing or damaging encumbered property [sec. 943.26(1)]
17. Receiving stolen property [sec. 943.34(1)(a)]
18. Alter identity marks [sec. 943.37]
19. Fraudulent data alteration [sec. 943.392]
20. Fraudulent insurance claim [sec. 943.395(2)(a)]
21. Credit card crimes [sec. 943.41(8)(a)]
22. Theft of telecommunications service [sec. 943.45(3)(b)]

5. Subject: Indigency Evaluations, Ch. 51/55 Clients

Intent: To eliminate the indigency evaluation for persons applying for services under Chapter 51 (Mental Health Act) and Chapter 55 (Protective Service System) of the Wisconsin Statutes, effective with cases appointed on or after July 1, 2002.

Related Stat. Citations: Modify s.977.06(1m), 977.06(2)(a) and (am), and 977.07(1)(a) and (c), and (possibly?) 977.02(2m) and (3) to exempt, in addition to children under s.48.23 or 938.23, Ch. 51 and 55 clients from providing information to the SPD relating to indigency evaluations. *Changes might also be needed in chapters 51 and 55.*

55.06(11)(a)
880.33(2)(a)

Watts v. Combined
Community Socy.

6. Subject: Statutory Case Weight Adjustments

Intent: To specify, in addition to current statutory caseloads, annual Trial division attorney caseloads for certain serious offenses for budgeting purposes:

- felony cases, other than first degree homicide, in which the maximum term of incarceration for a single count is equal to or greater than 25 years: 61.5 cases;
- representation of parents in involuntary termination of parental rights (TPR) cases: 61.5 cases;
- extended supervision revocation cases: 184.5 cases.

Related Stat. Citations: Modify s.977.08(5)(bn) as noted above. Also modify 977.08(5)(bn)1 to reference felonies in the first dotpoint.

7. Subject: Early Representation

Intent: To restore SPD jurisdiction for early representation

Related Stat. Citations: Repeal s.977.05(6)(c) and (cm).

8. Subject: Fraud Recoupment

Intent: To permit SPD to deposit prior year overpayments recovered from private bar attorneys in the collections appropriation

Related Stat. Citations: Modify s.20.550(1)(L), the statutory description of the SPD's program revenue collections appropriation used to make private bar payments as follows: *Private bar and investigator reimbursement; payments for*



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-005212

MGD: f...

Kmgf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

By
9/14

Do Not
Men. Act.

state public defender

1 AN ACT relating to representation of persons who have not been charged and
2 who are not in custody by the state public defender.

head Courts and procedure
sub Public defender

Analysis by the Legislative Reference Bureau

Under current law, the state public defender may not provide legal services or assign an attorney to an adult in a criminal case if the adult is not in custody and has not been charged with a crime. Likewise, the state public defender may not provide legal services or assign an attorney to a child in a juvenile case if the child is not in custody and is not yet subject to a proceeding under the children's code or the juvenile justice code in which an attorney must or may be appointed. This bill eliminates both of those prohibitions.

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

3 SECTION 1. 977.05 (6) (c) of the statutes is repealed.

4 SECTION 2. 977.05 (6) (cm) of the statutes is repealed.

5 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0052/P1

MGD:kmg:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

P2

soon

DO NOT
Gen. Cat.

1 AN ACT **relating to:** state public defender representation of persons who have
2 not been charged and who are not in custody.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

PUBLIC DEFENDER

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Soon

1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

DOA - BUD

relax
from

don't go

the budget

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0052/1
MGD:kmg:jf

DOA:.....Coomber – Pre-custody/pre-charging representation of persons by
state public defender

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

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