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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1373/1 2
MGD:kmg:rs

Johay

DOA:.....Mukasa - BB0328, State Prosecutors Office

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

D - NOTE

DON'T
Gen. Cat.

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

Analysis by the Legislative Reference Bureau
COURTS, COURT PROCEDURE, AND ATTORNEYS

DISTRICT ATTORNEYS

Generally, under current law, each county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. DOA, through its State Prosecutors Office, provides personnel, budget, and other types of management assistance to district attorney offices. With respect to individual cases, however, district attorneys have near-total discretion in deciding what cases to pursue and how to prosecute them. In working on those cases, a district attorney may request assistance from prosecutors in other counties, who may then serve in the same capacity as the district attorney who requested their assistance.

This bill creates a State Prosecutors Board, which is attached to DOJ. The board consists of the attorney general and eight district attorneys selected by the governor. Staffed by an executive director, the board has the following duties: 1) adopting advisory guidelines for district attorneys to use in determining when criminal cases should be prosecuted or diverted for nonprosecutorial programs; 2) issuing rules regarding the temporary reassignment of prosecutors to other counties; and 3) supervising the State Prosecutors Office.

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

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

1 **SECTION 1.** 15.255 (3) of the statutes is created to read:

2 15.255 (3) STATE PROSECUTORS BOARD. (a) There is created a state prosecutors
3 board which is attached to the department of justice under s. 15.03 and which shall
4 consist of the following members:

5 1. The attorney general, who shall be chairperson of the board.

6 2. Eight district attorneys appointed by the governor.

7 (b) 1. Subject to subd. 2., the district attorney members of the state prosecutors
8 board shall be appointed for 4-year terms.

9 2. A person may not serve as a member of the board if he or she ceases to hold
10 the office of attorney general or district attorney.

11 (c) Notwithstanding the provisions of any statute or ordinance, membership on
12 the state prosecutors board does not disqualify a member from holding any other
13 public office or employment.

14 **SECTION 2.** 16.003 (2) of the statutes is amended to read:

15 16.003 (2) STAFF. Except as provided in ss. 16.548, and 16.57, 978.03 (1), (1m)
16 and (2), 978.04 and 978.05 (8) (b), the secretary shall appoint the staff necessary for
17 performing the duties of the department. All staff shall be appointed under the
18 classified service except as otherwise provided by law.

19 **SECTION 3.** 16.004 (13) of the statutes is repealed.

20 **SECTION 4.** 17.11 (4) (intro.) of the statutes is amended to read:

1 17.11 (4) (intro.) If it is determined in the action or proceeding or is found upon
2 the investigation that a district attorney or sheriff suspended under this section is
3 not guilty of an offense, or has not willfully neglected or refused to perform his or her
4 duties, as charged, that fact shall be certified by the governor to the department of
5 ~~administration~~ justice if a district attorney is involved or to the county clerk of the
6 sheriff's county if a sheriff is involved. Upon the certification, the district attorney
7 or sheriff shall be:

8 **SECTION 5.** 19.01 (4) (bn) of the statutes is amended to read:

9 19.01 (4) (bn) Official oaths and bonds of all district attorneys shall be filed with
10 the ~~secretary of administration~~ attorney general.

11 **SECTION 6.** 19.42 (5) of the statutes is amended to read:

12 19.42 (5) "Department" means the legislature, the University of Wisconsin
13 System, any authority or public corporation created and regulated by an act of the
14 legislature and any office, department, independent agency or legislative service
15 agency created under ch. 13, 14 or 15, any technical college district or any
16 constitutional office other than a judicial office. In the case of a district attorney,
17 "department" means the department of ~~administration~~ justice unless the context
18 otherwise requires.

19 **SECTION 7.** 20.455 (1) (ab) of the statutes is created to read:

20 20.455 (1) (ab) *General program operations; state prosecutor.* The amounts in
21 the schedule for general program operations related to ch. 978.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

22 **SECTION 8.** 20.475 (intro.) of the statutes is amended to read:

1 **20.475 District attorneys.** (intro.) There is appropriated to the department
2 of ~~administration~~ justice for the following programs:

3 **SECTION 9.** 20.475 (1) (d) of the statutes is amended to read:

4 20.475 (1) (d) *Salaries and fringe benefits.* The amounts in the schedule for
5 salaries and fringe benefits of district attorneys and state employees of the office of
6 the district attorney, for payments under s. 978.045 (2) (b) and, ~~beginning in the~~
7 ~~1999–2000 fiscal year and ending in the 2003–04 fiscal year~~, for a payment of \$80,000
8 ~~in each fiscal year toward the department of administration's~~ department's
9 unfunded prior service liability under the Wisconsin retirement system that results
10 from granting the creditable service under s. 40.02 (17) (gm).

11 **SECTION 10.** 20.505 (1) (a) of the statutes is amended to read:

12 20.505 (1) (a) *General program operations.* The amounts in the schedule for
13 administrative supervision, and policy and fiscal planning and management ~~and~~
14 ~~prosecution~~ services and to defray the expenses incurred by the building commission
15 not otherwise appropriated.

16 **SECTION 11.** 20.923 (4) (a) 5. of the statutes is created to read:

17 20.923 (4) (a) 5. State prosecutors board: executive director.

18 **SECTION 12.** 20.923 (6) (ac) of the statutes is renumbered 20.923 (6) (dq) and
19 amended to read:

20 20.923 (6) (dq) ~~Administration~~ Justice, department of: deputy and assistant
21 district attorneys.

22 **SECTION 13.** 40.05 (2) (bz) of the statutes is amended to read:

23 40.05 (2) (bz) The employer contribution rate determined under par. (b) for the
24 ~~department~~ departments of administration and justice shall be adjusted to reflect
25 the cost of granting creditable service under s. 40.02 (17) (gm) and that rate shall be

1 sufficient to amortize the unfunded prior service liability of ~~the department of~~
2 ~~administration~~ those departments over the remainder of the 40-year amortization
3 period under par. (b).

4 **SECTION 14.** 48.09 (5) of the statutes is amended to read:

5 48.09 (5) By the district attorney or, if designated by the county board of
6 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133
7 or 48.977. If the county board transfers this authority to or from the district attorney
8 on or after May 11, 1990, the board may do so only if the action is effective on
9 September 1 of an odd-numbered year and the board notifies the department of
10 ~~administration~~ justice of that change by January 1 of that odd-numbered year.

11 **SECTION 15.** 111.815 (3) of the statutes is amended to read:

12 111.815 (3) With regard to collective bargaining activities involving employees
13 who are assistant district attorneys, the secretary of the department shall maintain
14 close liaison with the department of ~~administration~~ justice.

15 **SECTION 16.** 165.25 (2m) of the statutes is created to read:

16 165.25 (2m) PROSECUTION SERVICES. Provide general program operations
17 related to ch. 978.

18 **SECTION 17.** 230.08 (2) (sm) of the statutes is created to read:

19 230.08 (2) (sm) The executive director of the state prosecutors board.

20 **SECTION 18.** 938.09 (2) of the statutes is amended to read:

21 938.09 (2) By the district attorney or, if designated by the county board of
22 supervisors, by the corporation counsel, in any matter concerning a civil law
23 violation arising under s. 938.125. If the county board transfers this authority to or
24 from the district attorney on or after May 11, 1990, the board may do so only if the
25 action is effective on September 1 of an odd-numbered year and the board notifies

1 the department of ~~administration~~ justice of that change by January 1 of that
2 odd-numbered year.

3 **SECTION 19.** 938.09 (5) of the statutes is amended to read:

4 938.09 (5) By the district attorney or, if designated by the county board of
5 supervisors, by the corporation counsel, in any matter arising under s. 938.13. If the
6 county board transfers this authority to or from the district attorney on or after
7 May 11, 1990, the board may do so only if the action is effective on September 1 of
8 an odd-numbered year and the board notifies the department of ~~administration~~
9 justice of that change by January 1 of that odd-numbered year.

10 **SECTION 20.** 978.03 (1) of the statutes is amended to read:

11 978.03 (1) The district attorney of any prosecutorial unit having a population
12 of 500,000 or more may appoint 5 deputy district attorneys and such assistant
13 district attorneys as may be requested by the department of ~~administration~~ justice
14 and authorized in accordance with s. 16.505. The district attorney shall rank the
15 deputy district attorneys for purposes of carrying out duties under this section. The
16 deputies, according to rank, may perform any duty of the district attorney who
17 appointed him or her, under the district attorney's direction, or any duty of the
18 district attorney to whose prosecutorial unit he or she is assigned by the state
19 prosecutors board under s. 978.14 (1) (c). In the absence or disability of the district
20 attorney, the deputies, according to rank, may perform any act required by law to be
21 performed by the district attorney. Any such deputy must have practiced law in this
22 state for at least 2 years prior to appointment under this section.

23 **SECTION 21.** 978.03 (1m) of the statutes is amended to read:

24 978.03 (1m) The district attorney of any prosecutorial unit having a population
25 of 200,000 or more but not more than 499,999 may appoint 3 deputy district

1 attorneys and such assistant district attorneys as may be requested by the
2 department of ~~administration~~ justice and authorized in accordance with s. 16.505.
3 The district attorney shall rank the deputy district attorneys for purposes of carrying
4 out duties under this section. The deputies, according to rank, may perform any duty
5 of the district attorney who appointed him or her, under the district attorney's
6 direction, or any duty of the district attorney to whose prosecutorial unit he or she
7 is assigned by the state prosecutors board under s. 978.14 (1) (c). In the absence or
8 disability of the district attorney, the deputies, according to rank, may perform any
9 act required by law to be performed by the district attorney. Any such deputy must
10 have practiced law in this state for at least 2 years prior to appointment under this
11 section.

12 **SECTION 22.** 978.03 (2) of the statutes is amended to read:

13 978.03 (2) The district attorney of any prosecutorial unit having a population
14 of 100,000 or more but not more than 199,999 may appoint one deputy district
15 attorney and such assistant district attorneys as may be requested by the
16 department of ~~administration~~ justice and authorized in accordance with s. 16.505.
17 The deputy may perform any duty of the district attorney who appointed him or her,
18 under the district attorney's direction, or any duty of the district attorney to whose
19 prosecutorial unit he or she is assigned by the state prosecutors board under s. 978.14
20 (1) (c). In the absence or disability of the district attorney, the deputy may perform
21 any act required by law to be performed by the district attorney. The deputy must
22 have practiced law in this state for at least 2 years prior to appointment under this
23 section.

24 **SECTION 23.** 978.03 (3) of the statutes is amended to read:

1 978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be
2 an attorney admitted to practice law in this state and, except as provided in ss.
3 978.043 and 978.044, may perform any duty required by law to be performed by the
4 district attorney appointing him or her or a district attorney to whose prosecutorial
5 unit he or she is assigned by the state prosecutors board under s. 978.14 (1) (c). The
6 district attorney of the prosecutorial unit under sub. (1), (1m), or (2) may appoint
7 such temporary counsel as may be authorized by the department of ~~administration~~
8 justice.

9 **SECTION 24.** 978.04 of the statutes is amended to read:

10 **978.04 Assistants in certain prosecutorial units.** The district attorney of
11 any prosecutorial unit having a population of less than 100,000 may appoint one or
12 more assistant district attorneys as necessary to carry out the duties of his or her
13 office and as may be requested by the department of ~~administration~~ justice
14 authorized in accordance with s. 16.505. Any such assistant district attorney must
15 be an attorney admitted to practice law in this state and, except as provided in s.
16 978.043, may perform any duty required by law to be performed by the district
17 attorney appointing him or her or a district attorney to whose prosecutorial unit he
18 or she is assigned by the state prosecutors board under s. 978.14 (1) (c).

19 **SECTION 25.** 978.043 of the statutes is amended to read:

20 **978.043 Assistants for prosecution of sexually violent person**
21 **commitment cases.** The district attorney of the prosecutorial unit that consists of
22 Brown County and the district attorney of the prosecutorial unit that consists of
23 Milwaukee County shall each assign one assistant district attorney in his or her
24 prosecutorial unit to be a sexually violent person commitment prosecutor. An
25 assistant district attorney assigned under this section to be a sexually violent person

1 commitment prosecutor may engage only in the prosecution of sexually violent
2 person commitment proceedings under ch. 980 and, ~~at the request of the district~~
3 ~~attorney of the prosecutorial unit~~ as directed by the state prosecutors board under
4 s. 978.14 (1) (c), may file and prosecute sexually violent person commitment
5 proceedings under ch. 980 in any prosecutorial unit in this state.

6 **SECTION 26.** 978.044 (2) (b) of the statutes is amended to read:

7 978.044 (2) (b) Provide assistance to the district attorney in other counties
8 relating to the establishment of restorative justice programs, ~~as described in par. (a)~~
9 as directed by the state prosecutors board under s. 978.14 (1) (c).

10 **SECTION 27.** 978.044 (3) of the statutes is amended to read:

11 978.044 (3) ~~REPORT TO DEPARTMENT OF ADMINISTRATION JUSTICE.~~ ADMINISTRATION JUSTICE. Annually, on a
12 date specified by the department of ~~administration justice~~, the district attorneys of
13 Milwaukee county and the county selected under sub. (4) shall each submit to the
14 department of ~~administration justice~~ administration justice a report summarizing the records under sub.
15 (2) (c) covering the preceding 12-month period. The department of ~~administration~~
16 justice shall maintain the information submitted under this subsection by the
17 district attorney.

18 **SECTION 28.** 978.045 (1g) of the statutes is amended to read:

19 978.045 (1g) A court on its own motion may appoint a special prosecutor under
20 sub. (1r) or a district attorney may request a court to appoint a special prosecutor
21 under that subsection. Before a court appoints a special prosecutor on its own motion
22 or at the request of a district attorney for an appointment that exceeds 6 hours per
23 case, the court or district attorney shall request assistance from a district attorney,
24 deputy district attorney or assistant district attorney from other prosecutorial units
25 or an assistant attorney general. A district attorney requesting the appointment of

1 a special prosecutor, or a court if the court is appointing a special prosecutor on its
2 own motion, shall notify the department of ~~administration~~ justice, on a form
3 provided by that department, of the district attorney's or the court's inability to
4 obtain assistance from another prosecutorial unit or from an assistant attorney
5 general.

6 **SECTION 29.** 978.045 (2) (b) of the statutes is amended to read:

7 978.045 (2) (b) The department of ~~administration~~ justice shall pay the
8 compensation ordered by the court from the appropriation under s. 20.475 (1) (d).

9 **SECTION 30.** 978.05 (1) of the statutes is amended to read:

10 978.05 (1) CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute
11 all criminal actions before any court within his or her prosecutorial unit. In
12 determining whether to prosecute a case, the district attorney shall consider the
13 guidelines adopted by the state prosecutors board under s. 978.14 (1) (b). The district
14 attorney, however, is not bound by those guidelines, and there is no right to appeal
15 based on a prosecutor's decision to depart in any way from any guideline.

16 **SECTION 31.** 978.05 (8) (b) of the statutes is amended to read:

17 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ss.
18 978.043 and 978.044, make appropriate assignments of the staff throughout the
19 prosecutorial unit. The district attorney may request the assistance of district
20 attorneys, deputy district attorneys, or assistant district attorneys from other
21 prosecutorial units, subject to any rules promulgated under s. 978.14 (1) (c), or
22 assistant attorneys general, who then may appear and assist in the investigation and
23 prosecution of any matter for which a district attorney is responsible under this
24 chapter in like manner as assistants in the prosecutorial unit and with the same
25 authority as the district attorney in the unit in which the action is brought. Nothing

1 in this paragraph limits the authority of counties to regulate the hiring, employment,
2 and supervision of county employees.

3 **SECTION 32.** 978.05 (9) of the statutes is amended to read:

4 978.05 (9) BUDGET. Prepare a biennial budget request for submission to the
5 department of justice under s. 978.11 by September 1 of each even-numbered year.

6 **SECTION 33.** 978.11 of the statutes is amended to read:

7 **978.11 Budget.** The department of ~~administration~~ justice shall prepare the
8 budget of the prosecution system and submit it in accordance with s. 16.42.

9 **SECTION 34.** 978.12 (5) (c) 1. of the statutes is amended to read:

10 978.12 (5) (c) 1. The salaries authorized under this section for the district
11 attorney and the state employees of the office of district attorney shall be paid by the
12 state treasurer to the county treasurer pursuant to a voucher submitted by the
13 district attorney to the department of ~~administration~~ justice. The county treasurer
14 shall pay the amounts directly to the district attorney and state employees of the
15 office of district attorney and the amounts paid shall be subject to the retirement
16 system established under chapter 201, laws of 1937.

17 **SECTION 35.** 978.13 (1) (b) of the statutes, as affected by 2001 Wisconsin Act
18 109, is amended to read:

19 978.13 (1) (b) In counties having a population of 500,000 or more, the salary
20 and fringe benefit costs of 2 clerk positions providing clerical services to the
21 prosecutors in the district attorney's office handling cases involving felony violations
22 under ch. 961. The state treasurer shall pay the amount authorized under this
23 subsection to the county treasurer pursuant to a voucher submitted by the district
24 attorney to the department of ~~administration~~ justice from the appropriation under
25 s. 20.475 (1) (i).

1 **SECTION 36.** 978.13 (1) (c) of the statutes, as affected by 2001 Wisconsin Act 109,
2 is amended to read:

3 978.13 (1) (c) In counties having a population of 500,000 or more, the salary and
4 fringe benefit costs of clerk positions in the district attorney's office necessary for the
5 prosecution of violent crime cases primarily involving felony violations under s.
6 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,
7 940.06, 940.225, 943.23 (1g), and 943.32 (2). The state treasurer shall pay the
8 amount authorized under this subsection to the county treasurer pursuant to a
9 voucher submitted by the district attorney to the ~~secretary of administration~~
10 department of justice from the appropriation under s. 20.475 (1) (i).

11 **SECTION 37.** 978.13 (1) (d) of the statutes, as affected by 2001 Wisconsin Act
12 109, is amended to read:

13 978.13 (1) (d) In counties having a population of 500,000 or more, the salary
14 and fringe benefit costs of 2 clerk positions providing clerical services to the
15 prosecutors in the district attorney's office handling cases involving the unlawful
16 possession or use of firearms. The state treasurer shall pay the amount authorized
17 under this subsection to the county treasurer from the appropriation under s. 20.475
18 (1) (f) pursuant to a voucher submitted by the district attorney to the department of
19 administration justice.

20 **SECTION 38.** 978.14 of the statutes is created to read:

21 **978.14 State prosecutors board.** (1) The state prosecutors board shall do
22 all of the following:

23 (a) Appoint an executive director.

1 (b) Adopt advisory guidelines or standards for district attorneys to use in
2 determining when criminal cases should be prosecuted or diverted to
3 nonprosecutorial programs.

4 (c) Promulgate and administer rules regarding the temporary assignment of
5 district attorneys and deputy and assistant district attorneys from one prosecutorial
6 unit to another.

7 (d) Supervise the office within the department of justice that is responsible for
8 providing personnel, budget, and other types of management assistance to district
9 attorney offices.

10 (2) Subject to authorization under s. 16.505, the state prosecutors board may
11 hire staff to assist it in the performance of its duties.

12 **SECTION 39.** 1999 Wisconsin Act 9, section 9101 (4) (title) is renumbered 978.05
13 (10) (title) *of the statutes*

14 **SECTION 40.** 1999 Wisconsin Act 9, section 9101 (4) (a) (intro.) and 2. are
15 consolidated, renumbered 978.05 (10) (a) and amended to read:

16 978.05 (10) (a) ~~In any case in which the district attorney files a sexually violent~~
17 ~~person petition under section 980.02 (1) (b) of the statutes on or after the effective~~
18 ~~date of this paragraph but before July 1, 2001, the district attorney shall maintain~~
19 Maintain a record of the amount of time spent by the district attorney and by any
20 deputy district attorneys or assistant district attorneys ~~doing all of the following:~~ *AA 2.0*
21 ~~applicable, representing the state on petitions brought by the person who is the~~ *AA*
22 ~~subject of the a petition for supervised release under section s. 980.08 of the statutes,~~
23 ~~as affected by this act, or for discharge under section s. 980.09 or 980.10 of the~~
24 ~~statutes if the subject of the petition is the petitioner and if the case is one in which~~

1 the district attorney filed the petition under s. 980.02 (1) (b) on or after October 29,
2 1999, but before July 1, 2001.

3 SECTION 41. 1999 Wisconsin Act 9, section 9101 (4) (a) 1. is repealed.

4 SECTION 42. 1999 Wisconsin Act 9, section 9101 (4) (b) is renumbered 978.05

5 (10) (b) and amended to read: *of the statutes*

6 978.05 (10) (b) Annually, on a date specified by the department of
7 ~~administration, the district attorney shall~~ justice, submit to the department of
8 ~~administration~~ a report summarizing the records under ~~paragraph~~ par. (a) covering
9 the preceding 12-month period. The department of ~~administration~~ shall maintain
10 the information submitted under this paragraph by district attorneys.

11 SECTION 9101. **Nonstatutory provisions; administration.**

12 (1) TRANSFER OF OFFICE OF STATE PROSECUTOR.

13 (a) *Positions and employees.*

14 1. On the effective date of this subdivision, all full-time equivalent positions
15 in the department of administration having duties primarily related to the general
16 program operations of the prosecution system, as determined by the secretary of
17 administration, are transferred to the department of justice.

18 2. All incumbent employees holding positions specified in subdivision 1. are
19 transferred on the effective date of this subdivision to the department of justice.

20 3. Employees transferred under subdivision 2. have all the rights and the same
21 status under subchapter V of chapter 111 and chapter 230 of the statutes in the
22 department of justice that they enjoyed in the department of administration
23 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,
24 no employee so transferred who has attained permanent status in class is required
25 to serve a probationary period.

1 (b) *Assets and liabilities.* On the effective date of this paragraph, the assets and
2 liabilities of the department of administration primarily related to the general
3 program operations of the prosecution system, as determined by the secretary of
4 administration, shall become the assets and liabilities of the department of justice.

5 (c) *Tangible personal property.* On the effective date of this paragraph, all
6 tangible personal property, including records, of the department of administration
7 that is primarily related to the general program operations of the prosecution
8 system, as determined by the secretary of administration, is transferred to the
9 department of justice.

10 (d) *Contracts.* All contracts entered into by the department of administration
11 in effect on the effective date of this paragraph that are primarily related to the
12 general program operations of the prosecution system, as determined by the
13 secretary of administration, remain in effect and are transferred to the department
14 of justice. The department of justice shall carry out any obligations under such a
15 contract until the contract is modified or rescinded by the department of justice to
16 the extent allowed under the contract.

17 (e) *Rules and orders.* All rules promulgated by the department of
18 administration primarily related to the general program operations of the
19 prosecution system that are in effect on the effective date of this paragraph shall
20 become rules of the department of justice and shall remain in effect until their
21 specified expiration dates or until amended or repealed by the department of justice.
22 All orders issued by the department of administration primarily related to the
23 general program operations of the prosecution system that are in effect on the
24 effective date of this paragraph shall become orders of the department of justice and

1 shall remain in effect until their specified expiration dates or until modified or
2 rescinded by the department of justice.

3 (f) *Pending matters.* Any matter pending with the department of
4 administration on the effective date of this paragraph that is primarily related to the
5 general program operations of the prosecution system, as determined by the
6 secretary of administration, is transferred to the department of justice and all
7 materials submitted to or actions taken by the department of administration with
8 respect to the pending matter are considered as having been submitted to or taken
9 by the department of justice.

10 **SECTION 9132. Nonstatutory provisions; justice.**

11 (1) UNFUNDED PRIOR SERVICE FOR ASSISTANT DISTRICT ATTORNEYS. The department
12 of justice shall pay \$80,000 in the 2003–04 fiscal year from the appropriation account
13 under section 20.475 (1) (d) of the statutes toward the department’s unfunded prior
14 service liability under the Wisconsin Retirement System that results from granting
15 the creditable service under section 40.02 (17) (gm) of the statutes.

16 (2) STATE PROSECUTORS BOARD; INITIAL TERMS. Notwithstanding section 15.255
17 (3) (b) 1. of the statutes, as created by this act, the first 4 district attorney members
18 of the state prosecutors board shall be appointed for 2–year terms, subject to section
19 15.255 (3) (b) 2. of the statutes, as created by this act.

20 (END)

D-NOTE: This/2 draft makes technical corrections in the bill section headings of SECTIONS 39, 40, and 42. MGD

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1373/2dn
MGD:kmg:rs

January 17, 2003

This /2 draft makes technical corrections in the bill section headings of SECTIONS 39, 40, and 42.

Michael Dsida
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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1373/2-3

MGD:kmg:rs



D Note

DOA:.....Mukasa – BB0328, State Prosecutors Office

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

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6 2. Eight district attorneys appointed by the governor.

7 (b) 1. Subject to subd. 2., the district attorney members of the state prosecutors
8 board shall be appointed for 4-year terms.

9 2. A person may not serve as a member of the board if he or she ceases to hold
10 the office of attorney general or district attorney.

11 (c) Notwithstanding the provisions of any statute or ordinance, membership on
12 the state prosecutors board does not disqualify a member from holding any other
13 public office or employment.

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15 16.003 (2) STAFF. Except as provided in ss. 16.548, and 16.57, ~~978.03 (1), (1m)~~
16 ~~and (2), 978.04 and 978.05 (8) (b)~~, the secretary shall appoint the staff necessary for
17 performing the duties of the department. All staff shall be appointed under the
18 classified service except as otherwise provided by law.

19 **SECTION 3.** 16.004 (13) of the statutes is repealed.

20 **SECTION 4.** 17.11 (4) (intro.) of the statutes is amended to read:

1 17.11 (4) (intro.) If it is determined in the action or proceeding or is found upon
2 the investigation that a district attorney or sheriff suspended under this section is
3 not guilty of an offense, or has not willfully neglected or refused to perform his or her
4 duties, as charged, that fact shall be certified by the governor to the department of
5 ~~administration~~ justice if a district attorney is involved or to the county clerk of the
6 sheriff's county if a sheriff is involved. Upon the certification, the district attorney
7 or sheriff shall be:

8 **SECTION 5.** 19.01 (4) (bn) of the statutes is amended to read:

9 19.01 (4) (bn) Official oaths and bonds of all district attorneys shall be filed with
10 the ~~secretary of administration~~ attorney general.

11 **SECTION 6.** 19.42 (5) of the statutes is amended to read:

12 19.42 (5) "Department" means the legislature, the University of Wisconsin
13 System, any authority or public corporation created and regulated by an act of the
14 legislature and any office, department, independent agency or legislative service
15 agency created under ch. 13, 14 or 15, any technical college district or any
16 constitutional office other than a judicial office. In the case of a district attorney,
17 "department" means the department of ~~administration~~ justice unless the context
18 otherwise requires.

19 **SECTION 7.** 20.455 (1) (ab) of the statutes is created to read:

20 20.455 (1) (ab) *General program operations; state prosecutor.* The amounts in
21 the schedule for general program operations related to ch. 978.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

22 **SECTION 8.** 20.475 (intro.) of the statutes is amended to read:

1 **20.475 District attorneys.** (intro.) There is appropriated to the department
2 of ~~administration~~ justice for the following programs:

3 **SECTION 9.** 20.475 (1) (d) of the statutes is amended to read:

4 20.475 (1) (d) *Salaries and fringe benefits.* The amounts in the schedule for
5 salaries and fringe benefits of district attorneys and state employees of the office of
6 the district attorney, for payments under s. 978.045 (2) (b) and, ~~beginning in the~~
7 ~~1999–2000 fiscal year and ending in the 2003–04 fiscal year~~, for a payment of \$80,000
8 ~~in each fiscal year~~ toward the ~~department of administration's~~ department's
9 unfunded prior service liability under the Wisconsin retirement system that results
10 from granting the creditable service under s. 40.02 (17) (gm).

11 **SECTION 10.** 20.505 (1) (a) of the statutes is amended to read:

12 20.505 (1) (a) *General program operations.* The amounts in the schedule for
13 administrative supervision, and policy and fiscal planning and management ~~and~~
14 ~~prosecution~~ services and to defray the expenses incurred by the building commission
15 not otherwise appropriated.

16 **SECTION 11.** 20.923 (4) (a) 5. of the statutes is created to read:

17 20.923 (4) (a) 5. State prosecutors board: executive director.

18 **SECTION 12.** 20.923 (6) (ac) of the statutes is renumbered 20.923 (6) (dq) and
19 amended to read:

20 20.923 (6) (dq) ~~Administration~~ Justice, department of: deputy and assistant
21 district attorneys.

22 **SECTION 13.** 40.05 (2) (bz) of the statutes is amended to read:

23 40.05 (2) (bz) The employer contribution rate determined under par. (b) for the
24 ~~department~~ departments of administration and justice shall be adjusted to reflect
25 the cost of granting creditable service under s. 40.02 (17) (gm) and that rate shall be

1 sufficient to amortize the unfunded prior service liability of ~~the department of~~
2 ~~administration~~ those departments over the remainder of the 40-year amortization
3 period under par. (b).

4 **SECTION 14.** 48.09 (5) of the statutes is amended to read:

5 48.09 (5) By the district attorney or, if designated by the county board of
6 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133
7 or 48.977. If the county board transfers this authority to or from the district attorney
8 on or after May 11, 1990, the board may do so only if the action is effective on
9 September 1 of an odd-numbered year and the board notifies the department of
10 ~~administration~~ justice of that change by January 1 of that odd-numbered year.

11 **SECTION 15.** 111.815 (3) of the statutes is amended to read:

12 111.815 (3) With regard to collective bargaining activities involving employees
13 who are assistant district attorneys, the secretary of the department shall maintain
14 close liaison with the department of ~~administration~~ justice.

15 **SECTION 16.** 165.25 (2m) of the statutes is created to read:

16 165.25 (2m) PROSECUTION SERVICES. Provide general program operations
17 related to ch. 978.

18 **SECTION 17.** 230.08 (2) (sm) of the statutes is created to read:

19 230.08 (2) (sm) The executive director of the state prosecutors board.

20 **SECTION 18.** 938.09 (2) of the statutes is amended to read:

21 938.09 (2) By the district attorney or, if designated by the county board of
22 supervisors, by the corporation counsel, in any matter concerning a civil law
23 violation arising under s. 938.125. If the county board transfers this authority to or
24 from the district attorney on or after May 11, 1990, the board may do so only if the
25 action is effective on September 1 of an odd-numbered year and the board notifies

1 the department of ~~administration~~ justice of that change by January 1 of that
2 odd-numbered year.

3 **SECTION 19.** 938.09 (5) of the statutes is amended to read:

4 938.09 (5) By the district attorney or, if designated by the county board of
5 supervisors, by the corporation counsel, in any matter arising under s. 938.13. If the
6 county board transfers this authority to or from the district attorney on or after
7 May 11, 1990, the board may do so only if the action is effective on September 1 of
8 an odd-numbered year and the board notifies the department of ~~administration~~
9 justice of that change by January 1 of that odd-numbered year.

10 **SECTION 20.** 978.03 (1) of the statutes is amended to read:

11 978.03 (1) The district attorney of any prosecutorial unit having a population
12 of 500,000 or more may appoint 5 deputy district attorneys and such assistant
13 district attorneys as may be requested by the department of ~~administration~~ justice
14 and authorized in accordance with s. 16.505. The district attorney shall rank the
15 deputy district attorneys for purposes of carrying out duties under this section. The
16 deputies, according to rank, may perform any duty of the district attorney who
17 appointed him or her, under the district attorney's direction, or any duty of the
18 district attorney to whose prosecutorial unit he or she is assigned by the state
19 prosecutors board under s. 978.14 (1) (c). In the absence or disability of the district
20 attorney, the deputies, according to rank, may perform any act required by law to be
21 performed by the district attorney. Any such deputy must have practiced law in this
22 state for at least 2 years prior to appointment under this section.

23 **SECTION 21.** 978.03 (1m) of the statutes is amended to read:

24 978.03 (1m) The district attorney of any prosecutorial unit having a population
25 of 200,000 or more but not more than 499,999 may appoint 3 deputy district

1 attorneys and such assistant district attorneys as may be requested by the
2 department of ~~administration~~ justice and authorized in accordance with s. 16.505.
3 The district attorney shall rank the deputy district attorneys for purposes of carrying
4 out duties under this section. The deputies, according to rank, may perform any duty
5 of the district attorney who appointed him or her, under the district attorney's
6 direction, or any duty of the district attorney to whose prosecutorial unit he or she
7 is assigned by the state prosecutors board under s. 978.14 (1) (c). In the absence or
8 disability of the district attorney, the deputies, according to rank, may perform any
9 act required by law to be performed by the district attorney. Any such deputy must
10 have practiced law in this state for at least 2 years prior to appointment under this
11 section.

12 **SECTION 22.** 978.03 (2) of the statutes is amended to read:

13 978.03 (2) The district attorney of any prosecutorial unit having a population
14 of 100,000 or more but not more than 199,999 may appoint one deputy district
15 attorney and such assistant district attorneys as may be requested by the
16 department of ~~administration~~ justice and authorized in accordance with s. 16.505.
17 The deputy may perform any duty of the district attorney who appointed him or her,
18 under the district attorney's direction, or any duty of the district attorney to whose
19 prosecutorial unit he or she is assigned by the state prosecutors board under s. 978.14
20 (1) (c). In the absence or disability of the district attorney, the deputy may perform
21 any act required by law to be performed by the district attorney. The deputy must
22 have practiced law in this state for at least 2 years prior to appointment under this
23 section.

24 **SECTION 23.** 978.03 (3) of the statutes is amended to read:

1 978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be
2 an attorney admitted to practice law in this state and, except as provided in ss.
3 978.043 and 978.044, may perform any duty required by law to be performed by the
4 district attorney appointing him or her or a district attorney to whose prosecutorial
5 unit he or she is assigned by the state prosecutors board under s. 978.14 (1) (c). The
6 district attorney of the prosecutorial unit under sub. (1), (1m), or (2) may appoint
7 such temporary counsel as may be authorized by the department of ~~administration~~
8 justice.

9 **SECTION 24.** 978.04 of the statutes is amended to read:

10 **978.04 Assistants in certain prosecutorial units.** The district attorney of
11 any prosecutorial unit having a population of less than 100,000 may appoint one or
12 more assistant district attorneys as necessary to carry out the duties of his or her
13 office and as may be requested by the department of ~~administration~~ justice
14 authorized in accordance with s. 16.505. Any such assistant district attorney must
15 be an attorney admitted to practice law in this state and, except as provided in s.
16 978.043, may perform any duty required by law to be performed by the district
17 attorney appointing him or her or a district attorney to whose prosecutorial unit he
18 or she is assigned by the state prosecutors board under s. 978.14 (1) (c).

19 **SECTION 25.** 978.043 of the statutes is amended to read:

20 **978.043 Assistants for prosecution of sexually violent person**
21 **commitment cases.** The district attorney of the prosecutorial unit that consists of
22 Brown County and the district attorney of the prosecutorial unit that consists of
23 Milwaukee County shall each assign one assistant district attorney in his or her
24 prosecutorial unit to be a sexually violent person commitment prosecutor. An
25 assistant district attorney assigned under this section to be a sexually violent person

1 commitment prosecutor may engage only in the prosecution of sexually violent
2 person commitment proceedings under ch. 980 and, ~~at the request of the district~~
3 ~~attorney of the prosecutorial unit~~ as directed by the state prosecutors board under
4 s. 978.14 (1) (c), may file and prosecute sexually violent person commitment
5 proceedings under ch. 980 in any prosecutorial unit in this state.

6 **SECTION 26.** 978.044 (2) (b) of the statutes is amended to read:

7 978.044 (2) (b) Provide assistance to the district attorney in other counties
8 relating to the establishment of restorative justice programs, ~~as~~ described in par. (a)
9 as directed by the state prosecutors board under s. 978.14 (1) (c).

10 **SECTION 27.** 978.044 (3) of the statutes is amended to read:

11 978.044 (3) **REPORT TO DEPARTMENT OF ADMINISTRATION JUSTICE.** Annually, on a
12 date specified by the department of ~~administration justice~~, the district attorneys of
13 Milwaukee county and the county selected under sub. (4) shall each submit to the
14 department of ~~administration justice~~ a report summarizing the records under sub.
15 (2) (c) covering the preceding 12-month period. The department of ~~administration~~
16 justice shall maintain the information submitted under this subsection by the
17 district attorney.

18 **SECTION 28.** 978.045 (1g) of the statutes is amended to read:

19 978.045 (1g) A court on its own motion may appoint a special prosecutor under
20 sub. (1r) or a district attorney may request a court to appoint a special prosecutor
21 under that subsection. Before a court appoints a special prosecutor on its own motion
22 or at the request of a district attorney for an appointment that exceeds 6 hours per
23 case, the court or district attorney shall request assistance from a district attorney,
24 deputy district attorney or assistant district attorney from other prosecutorial units
25 or an assistant attorney general. A district attorney requesting the appointment of

1 a special prosecutor, or a court if the court is appointing a special prosecutor on its
2 own motion, shall notify the department of ~~administration~~ justice, on a form
3 provided by that department, of the district attorney's or the court's inability to
4 obtain assistance from another prosecutorial unit or from an assistant attorney
5 general.

6 **SECTION 29.** 978.045 (2) (b) of the statutes is amended to read:

7 978.045 (2) (b) The department of ~~administration~~ justice shall pay the
8 compensation ordered by the court from the appropriation under s. 20.475 (1) (d).

9 **SECTION 30.** 978.05 (1) of the statutes is amended to read:

10 978.05 (1) CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute
11 all criminal actions before any court within his or her prosecutorial unit. In
12 determining whether to prosecute a case, the district attorney shall consider the
13 guidelines adopted by the state prosecutors board under s. 978.14 (1) (b). The district
14 attorney, however, is not bound by those guidelines, and there is no right to appeal
15 based on a prosecutor's decision to depart in any way from any guideline.

16 **SECTION 31.** 978.05 (8) (b) of the statutes is amended to read:

17 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ss.
18 978.043 and 978.044, make appropriate assignments of the staff throughout the
19 prosecutorial unit. The district attorney may request the assistance of district
20 attorneys, deputy district attorneys, or assistant district attorneys from other
21 prosecutorial units, subject to any rules promulgated under s. 978.14 (1) (c), or
22 assistant attorneys general, who then may appear and assist in the investigation and
23 prosecution of any matter for which a district attorney is responsible under this
24 chapter in like manner as assistants in the prosecutorial unit and with the same
25 authority as the district attorney in the unit in which the action is brought. Nothing

1 in this paragraph limits the authority of counties to regulate the hiring, employment,
2 and supervision of county employees.

3 **SECTION 32.** 978.05 (9) of the statutes is amended to read:

4 978.05 (9) BUDGET. Prepare a biennial budget request for submission to the
5 department of justice under s. 978.11 by September 1 of each even-numbered year.

6 **SECTION 33.** 978.11 of the statutes is amended to read:

7 **978.11 Budget.** The department of ~~administration~~ justice shall prepare the
8 budget of the prosecution system and submit it in accordance with s. 16.42.

9 **SECTION 34.** 978.12 (5) (c) 1. of the statutes is amended to read:

10 978.12 (5) (c) 1. The salaries authorized under this section for the district
11 attorney and the state employees of the office of district attorney shall be paid by the
12 state treasurer to the county treasurer pursuant to a voucher submitted by the
13 district attorney to the department of ~~administration~~ justice. The county treasurer
14 shall pay the amounts directly to the district attorney and state employees of the
15 office of district attorney and the amounts paid shall be subject to the retirement
16 system established under chapter 201, laws of 1937.

17 **SECTION 35.** 978.13 (1) (b) of the statutes, as affected by 2001 Wisconsin Act
18 109, is amended to read:

19 978.13 (1) (b) In counties having a population of 500,000 or more, the salary
20 and fringe benefit costs of 2 clerk positions providing clerical services to the
21 prosecutors in the district attorney's office handling cases involving felony violations
22 under ch. 961. The state treasurer shall pay the amount authorized under this
23 subsection to the county treasurer pursuant to a voucher submitted by the district
24 attorney to the department of ~~administration~~ justice from the appropriation under
25 s. 20.475 (1) (i).

1 **SECTION 36.** 978.13 (1) (c) of the statutes, as affected by 2001 Wisconsin Act 109,
2 is amended to read:

3 978.13 (1) (c) In counties having a population of 500,000 or more, the salary and
4 fringe benefit costs of clerk positions in the district attorney's office necessary for the
5 prosecution of violent crime cases primarily involving felony violations under s.
6 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,
7 940.06, 940.225, 943.23 (1g), and 943.32 (2). The state treasurer shall pay the
8 amount authorized under this subsection to the county treasurer pursuant to a
9 voucher submitted by the district attorney to the ~~secretary of administration~~
10 department of justice from the appropriation under s. 20.475 (1) (i).

11 **SECTION 37.** 978.13 (1) (d) of the statutes, as affected by 2001 Wisconsin Act
12 109, is amended to read:

13 978.13 (1) (d) In counties having a population of 500,000 or more, the salary
14 and fringe benefit costs of 2 clerk positions providing clerical services to the
15 prosecutors in the district attorney's office handling cases involving the unlawful
16 possession or use of firearms. The state treasurer shall pay the amount authorized
17 under this subsection to the county treasurer from the appropriation under s. 20.475
18 (1) (f) pursuant to a voucher submitted by the district attorney to the department of
19 ~~administration~~ justice.

20 **SECTION 38.** 978.14 of the statutes is created to read:

21 **978.14 State prosecutors board.** (1) The state prosecutors board shall do
22 all of the following:

23 (a) Appoint an executive director.

1 (b) Adopt advisory guidelines or standards for district attorneys to use in
2 determining when criminal cases should be prosecuted or diverted to
3 nonprosecutorial programs.

4 (c) Promulgate and administer rules regarding the temporary assignment of
5 district attorneys and deputy and assistant district attorneys from one prosecutorial
6 unit to another.

7 (d) Supervise the office within the department of justice that is responsible for
8 providing personnel, budget, and other types of management assistance to district
9 attorney offices.

10 (2) Subject to authorization under s. 16.505, the state prosecutors board may
11 hire staff to assist it in the performance of its duties.

12 SECTION 39. 1999 Wisconsin Act 9, section 9101 (4) (title) is renumbered 978.05
13 (10) (title) of the statutes.

14 SECTION 40. 1999 Wisconsin Act 9, section 9101 (4) (a) ~~intro and 2 are~~ is
15 ~~consolidated~~ renumbered 978.05 (10) (a) of the statutes and amended to read:

16 978.05 (10) (a) ~~In any case in which the district attorney files a sexually violent~~
17 ~~person petition under section 980.02 (1) (b) of the statutes on or after the effective~~
18 ~~date of this paragraph but before July 1, 2001, the district attorney shall maintain~~

19 ~~Maintain~~ a record of the amount of time spent by the district attorney and by any
20 deputy district attorneys or assistant district attorneys doing all of the following:

21 ~~If applicable, representing the state on petitions brought by the person who is the~~
22 ~~subject of the a petition for supervised release under section s. 980.08 of the statutes,~~
23 ~~as affected by this act, or for discharge under section s. 980.09 or 980.10 of the~~
24 ~~statutes if the subject of the petition is the petitioner and if the case is one in which~~

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1 ~~the district attorney filed the petition under s. 980.02 (1) (b) on or after October 29,~~
2 ~~1999, but before July 1, 2001.~~

3 **SECTION 41. 1999 Wisconsin Act 9, section 9101 (4) (a) 1. is repealed.**

4 **SECTION 42. 1999 Wisconsin Act 9, section 9101 (4) (b) is renumbered 978.05**
5 (10) (b) of the statutes and amended to read:

6 978.05 (10) (b) Annually, on a date specified by the department of
7 administration, ~~the district attorney shall justice,~~ submit to the department of
8 ~~administration~~ a report summarizing the records under ~~paragraph par.~~ (a) covering
9 the preceding 12-month period. The department of ~~administration~~ shall maintain
10 the information submitted under this paragraph by district attorneys.

11 **SECTION 9101. Nonstatutory provisions; administration.**

12 (1) TRANSFER OF OFFICE OF STATE PROSECUTOR.

13 (a) *Positions and employees.*

14 1. On the effective date of this subdivision, all full-time equivalent positions
15 in the department of administration having duties primarily related to the general
16 program operations of the prosecution system, as determined by the secretary of
17 administration, are transferred to the department of justice.

18 2. All incumbent employees holding positions specified in subdivision 1. are
19 transferred on the effective date of this subdivision to the department of justice.

20 3. Employees transferred under subdivision 2. have all the rights and the same
21 status under subchapter V of chapter 111 and chapter 230 of the statutes in the
22 department of justice that they enjoyed in the department of administration
23 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,
24 no employee so transferred who has attained permanent status in class is required
25 to serve a probationary period.

1 (b) *Assets and liabilities.* On the effective date of this paragraph, the assets and
2 liabilities of the department of administration primarily related to the general
3 program operations of the prosecution system, as determined by the secretary of
4 administration, shall become the assets and liabilities of the department of justice.

5 (c) *Tangible personal property.* On the effective date of this paragraph, all
6 tangible personal property, including records, of the department of administration
7 that is primarily related to the general program operations of the prosecution
8 system, as determined by the secretary of administration, is transferred to the
9 department of justice.

10 (d) *Contracts.* All contracts entered into by the department of administration
11 in effect on the effective date of this paragraph that are primarily related to the
12 general program operations of the prosecution system, as determined by the
13 secretary of administration, remain in effect and are transferred to the department
14 of justice. The department of justice shall carry out any obligations under such a
15 contract until the contract is modified or rescinded by the department of justice to
16 the extent allowed under the contract.

17 (e) *Rules and orders.* All rules promulgated by the department of
18 administration primarily related to the general program operations of the
19 prosecution system that are in effect on the effective date of this paragraph shall
20 become rules of the department of justice and shall remain in effect until their
21 specified expiration dates or until amended or repealed by the department of justice.
22 All orders issued by the department of administration primarily related to the
23 general program operations of the prosecution system that are in effect on the
24 effective date of this paragraph shall become orders of the department of justice and

1 shall remain in effect until their specified expiration dates or until modified or
2 rescinded by the department of justice.

3 (f) *Pending matters.* Any matter pending with the department of
4 administration on the effective date of this paragraph that is primarily related to the
5 general program operations of the prosecution system, as determined by the
6 secretary of administration, is transferred to the department of justice and all
7 materials submitted to or actions taken by the department of administration with
8 respect to the pending matter are considered as having been submitted to or taken
9 by the department of justice.

10 **SECTION 9132. Nonstatutory provisions; justice.**

11 (1) UNFUNDED PRIOR SERVICE FOR ASSISTANT DISTRICT ATTORNEYS. The department
12 of justice shall pay \$80,000 in the 2003–04 fiscal year from the appropriation account
13 under section 20.475 (1) (d) of the statutes toward the department’s unfunded prior
14 service liability under the Wisconsin Retirement System that results from granting
15 the creditable service under section 40.02 (17) (gm) of the statutes.

16 (2) STATE PROSECUTORS BOARD; INITIAL TERMS. Notwithstanding section 15.255
17 (3) (b) 1. of the statutes, as created by this act, the first 4 district attorney members
18 of the state prosecutors board shall be appointed for 2–year terms, subject to section
19 15.255 (3) (b) 2. of the statutes, as created by this act.

20

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1373/3ins
MGD:.....

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INSERT 13/20

1. Prosecuting the petition through trial under ~~section s.~~ 980.05 of the statutes
and, if applicable, commitment of the person subject to the petition under ~~section s.~~
980.06 of the statutes, ~~as affected by this act.~~

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1373/3dn

MGD: j.i....

mg

Roger:

I redrafted this to revise the bill's treatment of 1999 Wisconsin Act 9, section 9101 (4) (a), because I just learned that the assumption that I made in item 4 of my first drafter's note was incorrect. There are still ch. 980 commitment cases pending that began before July 1, 2001.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1373/3dn
MGD:kmg:cph

January 17, 2003

Roger:

I redrafted this to revise the bill's treatment of 1999 Wisconsin Act 9, section 9101 (4) (a), because I just learned that the assumption that I made in item 4 of my first drafter's note was incorrect. There are still ch. 980 commitment cases pending that began before July 1, 2001.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

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P/c From Rogy 7-0370

Attach ~~to~~ State Prosecutor's ~~Council~~ to DOA, not to DOJ
Board



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1373/3-4
MGD:kmg:cph

DOA:.....Mukasa – BB0328, State Prosecutors Office

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget. *DONT
GREEN. CAT.*

Analysis by the Legislative Reference Bureau

COURTS, COURT PROCEDURE, AND ATTORNEYS

DISTRICT ATTORNEYS

Generally, under current law, each county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. DOA, through its State Prosecutors Office, provides personnel, budget, and other types of management assistance to district attorney offices. With respect to individual cases, however, district attorneys have near-total discretion in deciding what cases to pursue and how to prosecute them. In working on those cases, a district attorney may request assistance from prosecutors in other counties, who may then serve in the same capacity as the district attorney who requested their assistance.

This bill creates a State Prosecutors Board, which is attached to ~~DOA~~ *DOA*. The board consists of the attorney general and eight district attorneys selected by the governor. Staffed by an executive director, the board has the following duties: 1) adopting advisory guidelines for district attorneys to use in determining when criminal cases should be prosecuted or diverted for nonprosecutorial programs; 2) issuing rules regarding the temporary reassignment of prosecutors to other counties; and 3) supervising the State Prosecutors Office.

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

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

1 SECTION 1. 15.211¹⁰⁵ (3) of the statutes is created to read:

2 15.211¹⁰⁵ (3) STATE PROSECUTORS BOARD. (a) There is created a state prosecutors
3 board which is attached to the department of ~~justice~~^{administration} under s. 15.03 and which shall
4 consist of the following members:

5 1. The attorney general, who shall be chairperson of the board.

6 2. Eight district attorneys appointed by the governor.

7 (b) 1. Subject to subd. 2., the district attorney members of the state prosecutors
8 board shall be appointed for 4-year terms.

9 2. A person may not serve as a member of the board if he or she ceases to hold
10 the office of attorney general or district attorney.

11 (c) Notwithstanding the provisions of any statute or ordinance, membership on
12 the state prosecutors board does not disqualify a member from holding any other
13 public office or employment.

14 ~~SECTION 2. 16.003 (2) of the statutes is amended to read:~~

15 16.003 (2) STAFF. Except as provided in ss. 16.548, and 16.57, ~~978.03 (1), (1m)~~
16 and (2), ~~978.04 and 978.05 (8) (b)~~, the secretary shall appoint the staff necessary for
17 performing the duties of the department. All staff shall be appointed under the
18 classified service except as otherwise provided by law.

19 SECTION 3. 16.004 (13) of the statutes is repealed.

20 SECTION 4. 17.11 (4) (intro.) of the statutes is amended to read:

1 17.11 (4) (intro.) If it is determined in the action or proceeding or is found upon
2 the investigation that a district attorney or sheriff suspended under this section is
3 not guilty of an offense, or has not willfully neglected or refused to perform his or her
4 duties, as charged, that fact shall be certified by the governor to the department of
5 ~~administration~~ justice if a district attorney is involved or to the county clerk of the
6 sheriff's county if a sheriff is involved. Upon the certification, the district attorney
7 or sheriff shall be:

8 **SECTION 5.** 19.01 (4) (bn) of the statutes is amended to read:

9 19.01 (4) (bn) Official oaths and bonds of all district attorneys shall be filed with
10 the ~~secretary of administration~~ attorney general.

11 **SECTION 6.** 19.42 (5) of the statutes is amended to read:

12 19.42 (5) "Department" means the legislature, the University of Wisconsin
13 System, any authority or public corporation created and regulated by an act of the
14 legislature and any office, department, independent agency or legislative service
15 agency created under ch. 13, 14 or 15, any technical college district or any
16 constitutional office other than a judicial office. In the case of a district attorney,
17 "department" means the department of ~~administration~~ justice unless the context
18 otherwise requires.

19 **SECTION 7.** 20.455 (1) (ab) of the statutes is created to read:

20 20.455 (1) (ab) *General program operations; state prosecutor.* The amounts in
21 the schedule for general program operations related to ch. 978.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

22 **SECTION 8.** 20.475 (intro.) of the statutes is amended to read:

1 **20.475 District attorneys.** (intro.) There is appropriated to the department
2 of ~~administration~~ justice for the following programs:

3 **SECTION 9.** 20.475 (1) (d) of the statutes is amended to read:

4 20.475 (1) (d) *Salaries and fringe benefits.* The amounts in the schedule for
5 salaries and fringe benefits of district attorneys and state employees of the office of
6 the district attorney, for payments under s. 978.045 (2) (b) and, ~~beginning in the~~
7 ~~1999–2000 fiscal year and ending in the 2003–04 fiscal year~~, for a payment of \$80,000
8 ~~in each fiscal year toward the department of administration's~~ department's
9 unfunded prior service liability under the Wisconsin retirement system that results
10 from granting the creditable service under s. 40.02 (17) (gm).

11 **SECTION 10.** 20.505 (1) (a) of the statutes is amended to read:

12 20.505 (1) (a) *General program operations.* The amounts in the schedule for
13 administrative supervision, and policy and fiscal planning and management and
14 ~~prosecution~~ services and to defray the expenses incurred by the building commission
15 ~~not otherwise appropriated.~~

16 **SECTION 11.** 20.923 (4) (a) 5. of the statutes is created to read:

17 20.923 (4) (a) 5. State prosecutors board: executive director.

18 ~~**SECTION 12.** 20.923 (6) (ac) of the statutes is renumbered 20.923 (6) (dq) and~~
19 amended to read:

20 20.923 (6) (dq) Administration Justice, department of: deputy and assistant
21 district attorneys.

22 **SECTION 13.** 40.05 (2) (bz) of the statutes is amended to read:

23 40.05 (2) (bz) The employer contribution rate determined under par. (b) for the
24 ~~department~~ departments of administration and justice shall be adjusted to reflect
25 the cost of granting creditable service under s. 40.02 (17) (gm) and that rate shall be

1 sufficient to amortize the unfunded prior service liability of the department of
2 ~~administration~~ those departments over the remainder of the 40-year amortization
3 period under par. (b).

4 **SECTION 14.** 48.09 (5) of the statutes is amended to read:

5 48.09 (5) By the district attorney or, if designated by the county board of
6 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133
7 or 48.977. If the county board transfers this authority to or from the district attorney
8 on or after May 11, 1990, the board may do so only if the action is effective on
9 September 1 of an odd-numbered year and the board notifies the department of
10 ~~administration~~ justice of that change by January 1 of that odd-numbered year.

11 **SECTION 15.** 111.815 (3) of the statutes is amended to read:

12 111.815 (3) With regard to collective bargaining activities involving employees
13 who are assistant district attorneys, the secretary of the department shall maintain
14 close liaison with the department of ~~administration~~ justice.

15 **SECTION 16.** 165.25 (2m) of the statutes is created to read:

16 165.25 (2m) PROSECUTION SERVICES. Provide general program operations
17 related to ch. 978

18 **SECTION 17.** 230.08 (2) (sm) of the statutes is created to read:

19 230.08 (2) (sm) The executive director of the state prosecutors board.

20 ~~**SECTION 18.** 938.09 (2) of the statutes is amended to read:~~

21 ~~938.09 (2) By the district attorney or, if designated by the county board of~~
22 ~~supervisors, by the corporation counsel, in any matter concerning a civil law~~
23 ~~violation arising under s. 938.125. If the county board transfers this authority to or~~
24 ~~from the district attorney on or after May 11, 1990, the board may do so only if the~~
25 ~~action is effective on September 1 of an odd-numbered year and the board notifies~~

1 the department of ~~administration~~ justice of that change by January 1 of that
2 odd-numbered year.

3 **SECTION 19.** 938.09 (5) of the statutes is amended to read:

4 938.09 (5) By the district attorney or, if designated by the county board of
5 supervisors, by the corporation counsel, in any matter arising under s. 938.13. If the
6 county board transfers this authority to or from the district attorney on or after
7 May 11, 1990, the board may do so only if the action is effective on September 1 of
8 an odd-numbered year and the board notifies the department of ~~administration~~
9 justice of that change by January 1 of that odd-numbered year.

10 **SECTION 20.** 978.03 (1) of the statutes is amended to read:

11 978.03 (1) The district attorney of any prosecutorial unit having a population
12 of 500,000 or more may appoint 5 deputy district attorneys and such assistant
13 district attorneys as may be requested by the department of ^{PLAIN}~~administration~~ ~~justice~~
14 and authorized in accordance with s. 16.505. The district attorney shall rank the
15 deputy district attorneys for purposes of carrying out duties under this section. The
16 deputies, according to rank, may perform any duty of the district attorney who
17 appointed him or her, under the district attorney's direction, or any duty of the
18 district attorney to whose prosecutorial unit he or she is assigned by the state
19 prosecutors board under s. 978.14 (1) (c). In the absence or disability of the district
20 attorney, the deputies, according to rank, may perform any act required by law to be
21 performed by the district attorney. Any such deputy must have practiced law in this
22 state for at least 2 years prior to appointment under this section.

23 **SECTION 21.** 978.03 (1m) of the statutes is amended to read:

24 978.03 (1m) The district attorney of any prosecutorial unit having a population
25 of 200,000 or more but not more than 499,999 may appoint 3 deputy district

1 attorneys and such assistant district attorneys as may be requested by the
2 department of ^{PLAIN} ~~administration~~ ~~justice~~ and authorized in accordance with s. 16.505.
3 The district attorney shall rank the deputy district attorneys for purposes of carrying
4 out duties under this section. The deputies, according to rank, may perform any duty
5 of the district attorney who appointed him or her, under the district attorney's
6 direction, or any duty of the district attorney to whose prosecutorial unit he or she
7 is assigned by the state prosecutors board under s. 978.14 (1) (c). In the absence or
8 disability of the district attorney, the deputies, according to rank, may perform any
9 act required by law to be performed by the district attorney. Any such deputy must
10 have practiced law in this state for at least 2 years prior to appointment under this
11 section.

12 SECTION 22. 978.03 (2) of the statutes is amended to read:

13 978.03 (2) The district attorney of any prosecutorial unit having a population
14 of 100,000 or more but not more than 199,999 may appoint one deputy district
15 attorney and such assistant district attorneys as may be requested by the
16 department of ^{PLAIN} ~~administration~~ ~~justice~~ and authorized in accordance with s. 16.505.
17 The deputy may perform any duty of the district attorney who appointed him or her,
18 under the district attorney's direction, or any duty of the district attorney to whose
19 prosecutorial unit he or she is assigned by the state prosecutors board under s. 978.14
20 (1) (c). In the absence or disability of the district attorney, the deputy may perform
21 any act required by law to be performed by the district attorney. The deputy must
22 have practiced law in this state for at least 2 years prior to appointment under this
23 section.

24 SECTION 23. 978.03 (3) of the statutes is amended to read:

1 978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be
 2 an attorney admitted to practice law in this state and, except as provided in ss.
 3 978.043 and 978.044, may perform any duty required by law to be performed by the
 4 district attorney appointing him or her or a district attorney to whose prosecutorial
 5 unit he or she is assigned by the state prosecutors board under s. 978.14 (1) (c). The
 6 district attorney of the prosecutorial unit under sub. (1), (1m), or (2) may appoint
 7 such temporary counsel as may be authorized by the department of ^{PLAIN} ~~administration~~
 8 ~~justice~~.

9 **SECTION 24.** 978.04 of the statutes is amended to read:

10 **978.04 Assistants in certain prosecutorial units.** The district attorney of
 11 any prosecutorial unit having a population of less than 100,000 may appoint one or
 12 more assistant district attorneys as necessary to carry out the duties of his or her
 13 office and as may be requested by the department of ^{PLAIN} ~~administration~~ ~~justice~~
 14 authorized in accordance with s. 16.505. Any such assistant district attorney must
 15 be an attorney admitted to practice law in this state and, except as provided in s.
 16 978.043, may perform any duty required by law to be performed by the district
 17 attorney appointing him or her or a district attorney to whose prosecutorial unit he
 18 or she is assigned by the state prosecutors board under s. 978.14 (1) (c).

19 **SECTION 25.** 978.043 of the statutes is amended to read:

20 **978.043 Assistants for prosecution of sexually violent person**
 21 **commitment cases.** The district attorney of the prosecutorial unit that consists of
 22 Brown County and the district attorney of the prosecutorial unit that consists of
 23 Milwaukee County shall each assign one assistant district attorney in his or her
 24 prosecutorial unit to be a sexually violent person commitment prosecutor. An
 25 assistant district attorney assigned under this section to be a sexually violent person

1 commitment prosecutor may engage only in the prosecution of sexually violent
2 person commitment proceedings under ch. 980 and, at the request of the district
3 attorney of the prosecutorial unit as directed by the state prosecutors board under
4 s. 978.14 (1) (c), may file and prosecute sexually violent person commitment
5 proceedings under ch. 980 in any prosecutorial unit in this state.

6 SECTION 26. 978.044 (2) (b) of the statutes is amended to read:

7 978.044 (2) (b) Provide assistance to the district attorney in other counties
8 relating to the establishment of restorative justice programs, as described in par. (a)
9 as directed by the state prosecutors board under s. 978.14 (1) (c).

10 ~~SECTION 27. 978.044 (3) of the statutes is amended to read:~~

11 978.044 (3) REPORT TO DEPARTMENT OF ADMINISTRATION ^{PLAIN} JUSTICE. Annually, on a
12 date specified by the department of ~~administration~~ justice, the district attorneys of
13 Milwaukee county and the county selected under sub. (4) shall each submit to the
14 department of ~~administration~~ justice a report summarizing the records under sub.
15 (2) (c) covering the preceding 12-month period. The department of ~~administration~~
16 justice shall maintain the information submitted under this subsection by the
17 district attorney.

18 SECTION 28. 978.045 (1g) of the statutes is amended to read:

19 978.045 (1g) A court on its own motion may appoint a special prosecutor under
20 sub. (1r) or a district attorney may request a court to appoint a special prosecutor
21 under that subsection. Before a court appoints a special prosecutor on its own motion
22 or at the request of a district attorney for an appointment that exceeds 6 hours per
23 case, the court or district attorney shall request assistance from a district attorney,
24 deputy district attorney or assistant district attorney from other prosecutorial units
25 or an assistant attorney general. A district attorney requesting the appointment of

1 a special prosecutor, or a court if the court is appointing a special prosecutor on its
2 own motion, shall notify the department of ~~administration~~ justice, on a form
3 provided by that department, of the district attorney's or the court's inability to
4 obtain assistance from another prosecutorial unit or from an assistant attorney
5 general.

6 **SECTION 29.** 978.045 (2) (b) of the statutes is amended to read:

7 978.045 (2) (b) The department of ~~administration~~ justice shall pay the
8 ~~compensation ordered by the court from the appropriation under s. 20.475 (1) (d).~~

9 **SECTION 30.** 978.05 (1) of the statutes is amended to read:

10 978.05 (1) CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute
11 all criminal actions before any court within his or her prosecutorial unit. In
12 determining whether to prosecute a case, the district attorney shall consider the
13 guidelines adopted by the state prosecutors board under s. 978.14 (1) (b). The district
14 attorney, however, is not bound by those guidelines, and there is no right to appeal
15 based on a prosecutor's decision to depart in any way from any guideline.

16 **SECTION 31.** 978.05 (8) (b) of the statutes is amended to read:

17 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ss.
18 978.043 and 978.044, make appropriate assignments of the staff throughout the
19 prosecutorial unit. The district attorney may request the assistance of district
20 attorneys, deputy district attorneys, or assistant district attorneys from other
21 prosecutorial units, subject to any rules promulgated under s. 978.14 (1) (c), or
22 assistant attorneys general, who then may appear and assist in the investigation and
23 prosecution of any matter for which a district attorney is responsible under this
24 chapter in like manner as assistants in the prosecutorial unit and with the same
25 authority as the district attorney in the unit in which the action is brought. Nothing

1 in this paragraph limits the authority of counties to regulate the hiring, employment,
2 and supervision of county employees.

3 ~~SECTION 32. 978.05 (9) of the statutes is amended to read:~~

4 ~~978.05 (9) BUDGET. Prepare a biennial budget request for submission to the~~
5 ~~department of justice under s. 978.11 by September 1 of each even-numbered year.~~

6 ~~SECTION 33. 978.11 of the statutes is amended to read:~~

7 ~~978.11 Budget. The department of administration justice shall prepare the~~
8 ~~budget of the prosecution system and submit it in accordance with s. 16.42.~~

9 ~~SECTION 34. 978.12 (5) (c) 1. of the statutes is amended to read:~~

10 ~~978.12 (5) (c) 1. The salaries authorized under this section for the district~~
11 ~~attorney and the state employees of the office of district attorney shall be paid by the~~
12 ~~state treasurer to the county treasurer pursuant to a voucher submitted by the~~
13 ~~district attorney to the department of administration justice. The county treasurer~~
14 ~~shall pay the amounts directly to the district attorney and state employees of the~~
15 ~~office of district attorney and the amounts paid shall be subject to the retirement~~
16 ~~system established under chapter 201, laws of 1937.~~

17 ~~SECTION 35. 978.13 (1) (b) of the statutes, as affected by 2001 Wisconsin Act~~
18 ~~109, is amended to read:~~

19 ~~978.13 (1) (b) In counties having a population of 500,000 or more, the salary~~
20 ~~and fringe benefit costs of 2 clerk positions providing clerical services to the~~
21 ~~prosecutors in the district attorney's office handling cases involving felony violations~~
22 ~~under ch. 961. The state treasurer shall pay the amount authorized under this~~
23 ~~subsection to the county treasurer pursuant to a voucher submitted by the district~~
24 ~~attorney to the department of administration justice from the appropriation under~~
25 ~~s. 20.475 (1) (i).~~

1 **SECTION 36.** 978.13 (1) (c) of the statutes, as affected by 2001 Wisconsin Act 109,
2 is amended to read:

3 978.13 (1) (c) In counties having a population of 500,000 or more, the salary and
4 fringe benefit costs of clerk positions in the district attorney's office necessary for the
5 prosecution of violent crime cases primarily involving felony violations under s.
6 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,
7 940.06, 940.225, 943.23 (1g), and 943.32 (2). The state treasurer shall pay the
8 amount authorized under this subsection to the county treasurer pursuant to a
9 voucher submitted by the district attorney to the ~~secretary of administration~~
10 department of justice from the appropriation under s. 20.475 (1) (i).

11 **SECTION 37.** 978.13 (1) (d) of the statutes, as affected by 2001 Wisconsin Act
12 109, is amended to read:

13 978.13 (1) (d) In counties having a population of 500,000 or more, the salary
14 and fringe benefit costs of 2 clerk positions providing clerical services to the
15 prosecutors in the district attorney's office handling cases involving the unlawful
16 possession or use of firearms. The state treasurer shall pay the amount authorized
17 under this subsection to the county treasurer from the appropriation under s. 20.475
18 (1) (f) pursuant to a voucher submitted by the district attorney to the department of
19 ~~administration~~ justice.

20 **SECTION 38.** 978.14 of the statutes is created to read:

21 **978.14 State prosecutors board.** (1) The state prosecutors board shall do
22 all of the following:

23 (a) Appoint an executive director.

1 (b) Adopt advisory guidelines or standards for district attorneys to use in
2 determining when criminal cases should be prosecuted or diverted to
3 nonprosecutorial programs.

4 (c) Promulgate and administer rules regarding the temporary assignment of
5 district attorneys and deputy and assistant district attorneys from one prosecutorial
6 unit to another. *administration*

7 (d) Supervise the office within the department of ~~justice~~ that is responsible for
8 providing personnel, budget, and other types of management assistance to district
9 attorney offices.

10 (2) Subject to authorization under s. 16.505, the state prosecutors board may
11 hire staff to assist it in the performance of its duties.

12 ~~SECTION 39. 1999 Wisconsin Act 9, section 9101 (4) (title) is renumbered 978.05~~
13 (10) (title) of the statutes.

14 SECTION 40. 1999 Wisconsin Act 9, section 9101 (4) (a) are consolidated,
15 renumbered 978.05 (10) (a) of the statutes and amended to read:

16 978.05 (10) (a) In any case in which the district attorney files filed a sexually
17 violent person petition under section s. 980.02 (1) (b) of the statutes on or after the
18 effective date of this paragraph October 29, 1999, but before July 1, 2001, the district
19 attorney shall maintain a record of the amount of time spent by the district attorney
20 and by any deputy district attorneys or assistant district attorneys doing all of the
21 following:

22 1. Prosecuting the petition through trial under section s. 980.05 of the statutes
23 and, if applicable, commitment of the person subject to the petition under section s.
24 980.06 of the statutes, as affected by this act.

1 2. If applicable, representing the state on petitions brought by the person who
2 is the subject of the a petition for supervised release under section s. 980.08 of the
3 statutes, as affected by this act, or for discharge under section s. 980.09 or 980.10 of
4 the statutes if the subject of the petition is the petitioner.

5 **SECTION 41.** 1999 Wisconsin Act 9, section 9101 (4) (b) is renumbered 978.05
6 (10) (b) of the statutes and amended to read:

7 978.05 (10) (b) Annually, on a date specified by the department of
8 administration, ~~the district attorney shall~~ justice, submit to the department of
9 administration a report summarizing the records under ~~paragraph~~ par. (a) covering
10 the preceding 12-month period. The department of ~~administration~~ shall maintain
11 the information submitted under this paragraph by district attorneys.

12 **SECTION 9101. Nonstatutory provisions; administration.**

13 (1) TRANSFER OF OFFICE OF STATE PROSECUTOR.

14 (a) *Positions and employees.*

15 1. On the effective date of this subdivision, all full-time equivalent positions
16 in the department of administration having duties primarily related to the general
17 program operations of the prosecution system, as determined by the secretary of
18 administration, are transferred to the department of justice.

19 2. All incumbent employees holding positions specified in subdivision 1. are
20 transferred on the effective date of this subdivision to the department of justice.

21 3. Employees transferred under subdivision 2. have all the rights and the same
22 status under subchapter V of chapter 111 and chapter 230 of the statutes in the
23 department of justice that they enjoyed in the department of administration
24 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,

1 no employee so transferred who has attained permanent status in class is required
2 to serve a probationary period.

3 (b) *Assets and liabilities.* On the effective date of this paragraph, the assets and
4 liabilities of the department of administration primarily related to the general
5 program operations of the prosecution system, as determined by the secretary of
6 administration, shall become the assets and liabilities of the department of justice.

7 (c) *Tangible personal property.* On the effective date of this paragraph, all
8 tangible personal property, including records, of the department of administration
9 that is primarily related to the general program operations of the prosecution
10 system, as determined by the secretary of administration, is transferred to the
11 department of justice.

12 (d) *Contracts.* All contracts entered into by the department of administration
13 in effect on the effective date of this paragraph that are primarily related to the
14 general program operations of the prosecution system, as determined by the
15 secretary of administration, remain in effect and are transferred to the department
16 of justice. The department of justice shall carry out any obligations under such a
17 contract until the contract is modified or rescinded by the department of justice to
18 the extent allowed under the contract.

19 (e) *Rules and orders.* All rules promulgated by the department of
20 administration primarily related to the general program operations of the
21 prosecution system that are in effect on the effective date of this paragraph shall
22 become rules of the department of justice and shall remain in effect until their
23 specified expiration dates or until amended or repealed by the department of justice.
24 All orders issued by the department of administration primarily related to the
25 general program operations of the prosecution system that are in effect on the

1 effective date of this paragraph shall become orders of the department of justice and
2 shall remain in effect until their specified expiration dates or until modified or
3 rescinded by the department of justice.

4 (f) *Pending matters.* Any matter pending with the department of
5 administration on the effective date of this paragraph that is primarily related to the
6 general program operations of the prosecution system, as determined by the
7 secretary of administration, is transferred to the department of justice and all
8 materials submitted to or actions taken by the department of administration with
9 respect to the pending matter are considered as having been submitted to or taken
10 by the department of justice.

01

administration

11 **SECTION 9102. Nonstatutory provisions; *justice*.**

12 ~~(1) UNFUNDED PRIOR SERVICE FOR ASSISTANT DISTRICT ATTORNEYS. The department~~
13 ~~of justice shall pay \$80,000 in the 2003-04 fiscal year from the appropriation account~~
14 ~~under section 20.475 (1) (d) of the statutes toward the department's unfunded prior~~
15 ~~service liability under the Wisconsin Retirement System that results from granting~~
16 ~~the creditable service under section 40.02 (17) (gm) of the statutes.~~

✓
105(6)

17 (2) STATE PROSECUTORS BOARD; INITIAL TERMS. Notwithstanding section 15.235

18 ~~(b) 1.~~ (b) 1. of the statutes, as created by this act, the first 4 district attorney members
19 of the state prosecutors board shall be appointed for 2-year terms, subject to section

15.105 (6)

20 ~~15.235 (2)~~ (b) 2. of the statutes, as created by this act.

21 (END)

Dsida, Michael

From: Mukasa, Roger
Sent: Friday, January 31, 2003 4:14 PM
To: Dsida, Michael
Cc: Johnston, James
Subject: RE: Prosecutor board

Board of eight, including the chair.

-----Original Message-----

From: Dsida, Michael
Sent: Friday, January 31, 2003 4:06 PM
To: Mukasa, Roger
Subject: RE: Prosecutor board

Should it then be 9 DAs?

-----Original Message-----

From: Mukasa, Roger
Sent: Friday, January 31, 2003 4:05 PM
To: Dsida, Michael
Cc: Johnston, James
Subject: Prosecutor board

Mike

Please amend the board draft to include the following:

1. The Attorney General will not be involved in the board. The Governor will appoint the chair.
2. The board will have a pool of 15 attorneys to address workload problems in the counties.

Thanks.

Roger

Dsida, Michael

From: Mukasa, Roger
Sent: Saturday, February 01, 2003 2:12 PM
To: Dsida, Michael
Subject: RE: State prosecutors office

Please keep the authority in, if it does not contradict assignment. A possible scenario is that all assigned ADAs are out on jobs and additional reassignment is necessary....

-----Original Message-----

From: Dsida, Michael
Sent: Saturday, February 01, 2003 10:30 AM
To: Mukasa, Roger
Subject: State prosecutors office

I assume that, with the creation of the pool of 15 attorneys, the Board will no longer need the authority to issue rules relating to assigning ADAs to other counties. Is my assumption correct?