



**ASSEMBLY AMENDMENT 2,  
TO 2009 ASSEMBLY BILL 78**

April 17, 2009 – Offered by Representative GUNDRUM.

1           At the locations indicated, amend the bill as follows:

2           **1.** Page 2, line 2: delete the material beginning with that line and ending with  
3 page 3, line 2, and substitute:

4           “895.46 **(9)** (a) The state shall reimburse a state officer or state employee for  
5 reasonable attorney fees and costs incurred by the officer or employee in connection  
6 with a John Doe proceeding under s. 968.26 (2) arising from the officer’s or employee’s  
7 conduct in the performance of official duties if all the following apply:

8           1. The officer or employee was acting within the scope of his or her employment.  
9           2. The officer or employee is not convicted of a crime arising from the conduct  
10 that is the subject of any criminal complaint issued under s. 968.26 (2) (d).

11           (b) The state shall reimburse a state officer or state employee for reasonable  
12 attorney fees and costs incurred by the officer or employee in defending a criminal

1 complaint issued under s. 968.26 (2) (d) arising from the officer’s or employee’s  
2 conduct in the performance of official duties if all of the following apply:

3 1. The officer or employee was acting within the scope of his or her employment.

4 2. The officer or employee is not convicted of a crime arising from the conduct  
5 that is the subject of the criminal complaint issued under s. 968.26 (2) (d).”.

6 **2.** Page 3, line 6: on lines 6 and 8, delete “(a)” and substitute “(am)”.

7 **3.** Page 3, line 10: after “district attorney” insert “or, if the complaint may  
8 relate to the conduct of the district attorney, to another prosecutor under s. 978.045”.

9 **4.** Page 4, line 13: after “(2)” insert “(a),”.

10 **5.** Page 4, line 13: after that line insert:

11 “968.26 (2) (a) Except in par. (am), in this subsection, “district attorney”  
12 includes a prosecutor to whom the judge has referred the complaint under par. (am).”.

13 **6.** Page 4, line 14: delete “968.26 (2)”.

14 **7.** Page 4, line 14: delete “par. (a)” and substitute “par. (am)”.

15 **8.** Page 4, line 15: after “the referral,” insert “unless the judge extends that  
16 period for cause shown,”.

17 **9.** Page 4, line 18: after “the matter” insert “that are in the custody of the  
18 district attorney”.

19 **10.** Page 4, line 20: after “charges.” insert “The judge may require a law  
20 enforcement agency to provide to him or her any investigative reports that the law  
21 enforcement agency has on the matter.”.

22 **11.** Page 6, line 2: after that line insert:

23 “**SECTION 7e.** 978.045 (1r) (i) of the statutes is created to read:

