



**ASSEMBLY AMENDMENT 3,
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 of 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 10: after "district attorney" insert "or, if the complaint may
7 relate to the conduct of the district attorney, to another prosecutor under s. 978.045".

8 **3.** Page 3, line 11: after "the judge" insert "may appoint a prosecutor under s.
9 978.045 to attend or participate in the proceeding. The extent to which the
10 prosecutor may attend or participate is within the judge's discretion. The judge".

11 **4.** Page 3, line 20: after "secret." insert "The judge may allow the district
12 attorney who requested the proceeding under sub. (1) or any prosecutor appointed
13 under sub. (2) (c) to examine witnesses.".

14 **5.** Page 4, line 14: after "(b)" insert "1. In this paragraph, "district attorney"
15 includes a prosecutor to whom the judge has referred the complaint under par. (a).".

16 **6.** Page 4, line 14: before "If a" insert:

17 "2."

18 **7.** Page 4, line 15: after "the referral," insert "unless the judge extends that
19 period for cause shown,".

20 **8.** Page 4, line 18: after "the matter" insert "that are in the custody of the
21 district attorney".

