

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB78)

Received: 04/06/2009

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**

By/Representing: **Don Dyke**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - procedure**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gundrum@legis.wisconsin.gov**

Carbon copy (CC:) to: **don.dyke@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

John Doe provisions

Instructions:

See attached-- same as a0148 + LC stuff

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 04/07/2009	bkraft 04/07/2009 csicilia 04/08/2009		_____			
/1			jfrantze 04/08/2009	_____	sbasford 04/08/2009	sbasford 04/08/2009	

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/?	chanaman	/ 1 cjs 4/8	Jb 4/8	Jb/KM 4/8			

FE Sent For:

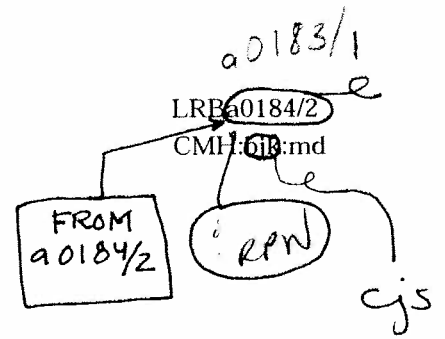
Cg

<END>



State of Wisconsin
2009 - 2010 LEGISLATURE

BY THURS
PLEASE



ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 78

Inserts

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

INS
1-2

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

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

INS
1-8
A

8 **3.** Page 5, line 1: after "(d)" insert "1."

9 **4.** Page 5, line 1: after "(b)," insert "if the judge does not appoint a prosecutor
10 under par. (c)."

11 **5.** Page 5, line 5: after that line insert: *④ #. Page 5, line 5: after "attorney" insert "Get other
prosecutor to whom the*

12 "2. In a proceeding convened under par. (b), if the judge appoints a prosecutor *judge*
13 under par. (c), the prosecutor may issue charges." *referred*

the
complaint
under par.
(a) so.

INS
1-8
B

6. Page 6, line 2: after that line insert:

INS
2
2-2

SECTION 7g. 978.045 (1r) (j) of the statutes is created to read:

978.045 (1r) (j) A district attorney forwards under s. 968.26 (2) (b) a referral
to the judge. ← stays
↑ ↑

(END)

A matter is forwarded under
s. 968.26 (2)(b) to the judge



ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 78

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

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At the locations indicated, amend the bill as follows:

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

"895.46 (9) (a) The state shall reimburse a state officer or state employee for reasonable attorney fees and costs incurred by the officer or employee in connection with a John Doe proceeding under s. 968.26 (2) arising from the officer's or employee's conduct in the performance of official duties if the officer or employee was acting within the scope of his or her employment.

(b) The state shall reimburse a state officer or state employee for reasonable attorney fees and costs incurred by the officer or employee in defending a criminal complaint issued under s. 968.26 (2) (d) arising from the officer's or employee's conduct in the performance of official duties if all of the following apply:

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

INS
1-2

all of the following apply:
(9) 1.



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

3 ~~2. Page 3, line 6: on lines 6 and 8, delete "(a)" and substitute "(am)".~~

4 3. Page 3, line 10: after "district attorney" insert "or, if the complaint may
5 relate to the conduct of the district attorney, to another prosecutor under s. 978.045".

6 ~~4. Page 4, line 13: after "(2)" insert "(a)."~~

7 5. Page 4, line 13: after that line insert:

8 "968.26 (2) (a) Except in par. (am), in this subsection, "district attorney"
9 includes a prosecutor to whom the judge has referred the complaint under par. (am).".

10 6. Page 4, line 14: delete "968.26 (2)".

11 7. Page 4, line 14: delete "par. (a)" and substitute "par. (am)".

12 8. Page 4, line 15: after "the referral," insert "unless the judge extends that
13 period for cause shown,".

14 9. Page 4, line 18: after "the matter" insert "that are in the custody of the
15 district attorney".

16 10. Page 4, line 20: after "charges." insert "The judge may require a law
17 enforcement agency to provide to him or her any investigative reports that the law
18 enforcement agency has on the matter.".

19 ~~11. Page 6, line 2: after that line insert.~~

20 "SECTION 7e. 978.045 (1r) (i) of the statutes is created to read:

END OF
INS
1-2

INS
1-9
B

INS
2-2



2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0183/lins
CMH:.....

1 Insert 1-8A

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

4 → ¶ "2."

text:
treat

(91) ¶. Page 4, line 14; before "If a"
insert :