

2015 DRAFTING REQUEST

Bill

Received: 12/9/2014 Received By: phurley
Wanted: As time permits Same as LRB:
For: Administration-Budget By/Representing: Bong
May Contact: Drafter: phurley
Subject: Criminal Law - victims Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: sbostatlanguage@webapps.wi.gov

Pre Topic:

DOA:.....Bong, BB0284 -

Topic:

Crime Victim Compensation Hearings

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mduchek 1/20/2015	kfollett 1/20/2015	jmurphy 1/21/2015	_____	srose 12/15/2014		State
/1				_____	srose 1/21/2015		State

FE Sent For:

<END>

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/P1	mduchek 12/11/2014	kfollett 12/13/2014	rschluet 12/15/2014	_____	srose 12/15/2014		State

FE Sent For: *1/15/14* *1/21* *1/21*
1/20 <END>

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/P1	mduchek 12/11/2014	1/11/14 12/13	1/11/14 12/13	 12/14			State

FE Sent For:

<END>

Hurley, Peggy

From: Hanaman, Cathlene
Sent: Tuesday, December 09, 2014 2:49 PM
To: Hurley, Peggy; Hanaman, Cathlene
Subject: FW: Statutory Language Drafting Request - BB0284
Attachments: Allowing for DOJ to pay DHA for Crime Victim Compensation Hearings.pdf

From: SashaE.Bong@wisconsin.gov [mailto:SashaE.Bong@wisconsin.gov]
Sent: Tuesday, December 09, 2014 2:01 PM
To: Hanaman, Cathlene
Cc: Kraus, Jennifer - DOA; Bong, Sasha E - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0284

Biennial Budget: 2015-17

Topic: Crime Victim Compensation Hearings

Tracking Code: BB0284

SBO Team: GGCF

SBO Analyst: Bong, Sasha - DOA
Phone: (608) 266-5468
E-mail: SashaE.Bong@wisconsin.gov

Agency Acronym: DOA

Agency Number: 505

Priority: High

Intent:

DOA's Division of Hearings and Appeals is seeking clarification of current law so that it would be able to charge the Department of Justice for Crime Victim Compensation hearings.

Section 949.11(2) requires the division to conduct Crime Victim Compensation hearings, however DOJ has interpreted this requirement to mean that the division is unable to charge DOJ for costs associated with the hearings.

An issue paper is attached for your reference.

Attachments: True

Please send completed drafts to SBOSatlanguage@webapps.wi.gov

227.43 Division of hearings and appeals.

(1) (intro.) The administrator of the division of hearings and appeals in the department of administration shall:

(a) Serve as the appointing authority of all hearing examiners under s. 230.06.

(b) Assign a hearing examiner to preside over any hearing of a contested case which is required to be conducted by the department of natural resources and which is not conducted by the secretary of natural resources.

(bd) Assign a hearing examiner to preside over any hearing of a contested case which is referred by the state superintendent under s. 118.134 (1).

(bg) Assign a hearing examiner to preside over any hearing or review under ss. 84.30 (18), 84.305, 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9) (b), 86.32 (1), 101.935 (2) (b), 101.951 (7) (a) and (b), 114.134 (4) (b), 114.135 (9), 114.20 (19), 175.05 (4) (b), 194.145 (1), 194.46, 218.0114 (7) (d) and (12) (b), 218.0116 (2), (4), (7) (a), (8) (a) and (10), 218.0131 (3), 218.11 (7) (a) and (b), 218.22 (4) (a) and (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09 (2m) (d), 342.26, 343.69 and 348.25 (9).

(br) Assign a hearing examiner to preside over any hearing of a contested case which is required to be conducted by the department of transportation and which is not conducted by the secretary of transportation.

(bu) Assign a hearing examiner to preside over any hearing of a contested case that is required to be conducted by the department of health services and that is not conducted by the secretary of health services.

(by) Assign a hearing examiner to preside over any hearing of a contested case that is required to be conducted by the department of children and families under ch. 48 or subch. III of ch. 49 and that is not conducted by the secretary of children and families.

(c) Supervise hearing examiners in the conduct of the hearing and the rendering of a decision, if a decision is required.

(d) Promulgate rules relating to the exercise of the administrator's and the division's powers and duties under this section.

(1g) The administrator of the division of hearings and appeals shall establish a system for assigning hearing examiners to preside over any hearing under this section. The system shall ensure, to the extent practicable, that hearing examiners are assigned to different subjects on a rotating basis. The system may include the establishment of pools of examiners responsible for certain subjects.

(1m) Upon the request of an agency that is not prohibited from contracting with a 3rd party for contested case hearing services, the administrator of the division of hearings and appeals in the department of administration may contract with the agency to provide the contested case hearing services and may assign a hearing examiner to preside over any hearing performed under such a contract.

(2)

(a) The department of natural resources shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (b) after the department of natural resources is notified that a hearing on the matter is required.

(b) The department of transportation shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (br) after the department of transportation is notified that a hearing on the matter is required.

(c) The department of health services shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (bu) after the department of health services is notified that a hearing on the matter is required.

(d) The department of children and families shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (by) after the department of children and families is notified that a hearing on the matter is required.

(3)

(a) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of natural resources by a hearing examiner under this section. The fee shall cover the total cost of the services less any costs covered by the appropriation under s. 20.505 (4) (f).

(b) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of transportation by a hearing examiner under this section. The fee shall cover the total cost of the services less any costs covered by the appropriation under s. 20.505 (4) (f).

(br) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of public instruction by a hearing examiner under this section. The fee shall cover the total cost of the services less any costs covered by the appropriation under s. 20.505 (4) (f).

(c) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of health services by a hearing examiner under this section in a manner consistent with a federally approved allocation methodology. The fees shall cover the total cost of the services.

(d) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of children and families by a hearing examiner under this section in a manner consistent with a federally approved allocation methodology. The fees shall cover the total cost of the services.

(e) The administrator of the division of hearings and appeals may set the fees to be charged for any services contracted for under sub. (1m).

(4)

- (a)** The department of natural resources shall pay all costs of the services of a hearing examiner assigned to the department under sub. (1) (b), according to the fees set under sub. (3) (a).
- (b)** The department of transportation shall pay all costs of the services of a hearing examiner assigned under sub. (1) (bg) or assigned to the department under sub. (1) (br), according to the fees set under sub. (3) (b).
- (br)** The department of public instruction shall pay all costs of the services of a hearing examiner, including support services, assigned under sub. (1) (bd), according to the fees set under sub. (3) (br).
- (c)** The department of health services shall pay all costs of the services of a hearing examiner, including support services, assigned under sub. (1) (bu), according to the fees set under sub. (3) (c).
- (d)** The department of children and families shall pay all costs of the services of a hearing examiner, including support services, assigned under sub. (1) (by), according to the fees set under sub. (3) (d).
- (e)** The agency contracting out for contested case hearing services under sub. (1m) shall pay all costs of the services of a hearing examiner, including support services, assigned under sub. (1m), according to the fees set under sub. (3) (e).

History: 1977 c. 418; 1981 c. 20 s. 2202 (1) (b); 1983 a. 27; 1985 a. 182 ss. 16 to 18, 29, 31; Stats. 1985 s. 227.43; 1993 a. 16; 1995 a. 370; 1997 a. 3, 27; 1999 a. 9, 31, 185, 186; 2003 a. 118; 2005 a. 465; 2007 a. 20 ss. 2998 to 3001, 9121 (6) (a); 2013 a. 115.

Cross-reference: See also HA, Wis. adm. code.

227.46 Hearing examiners; examination of evidence by agency.

(1) (intro.) Except as provided under s. 227.43 (1), an agency may designate an official of the agency or an employee on its staff or borrowed from another agency under s. 20.901 or 230.047 as a hearing examiner to preside over any contested case. Subject to rules of the agency, examiners presiding at hearings may:

- (a)** Administer oaths and affirmations.
- (b)** Issue subpoenas authorized by law and enforce subpoenas under s. 885.12.
- (c)** Rule on offers of proof and receive relevant evidence.
- (d)** Take depositions or have depositions taken when permitted by law.
- (e)** Regulate the course of the hearing.
- (f)** Hold conferences for the settlement or simplification of the issues by consent of the parties.
- (g)** Dispose of procedural requests or similar matters.
- (h)** Make or recommend findings of fact, conclusions of law and decisions to the extent permitted by

law.

(i) Take other action authorized by agency rule consistent with this chapter.

(2) Except as provided in sub. (2m) and s. 227.47 (2), in any contested case which is a class 2 or class 3 proceeding, where a majority of the officials of the agency who are to render the final decision are not present for the hearing, the hearing examiner presiding at the hearing shall prepare a proposed decision, including findings of fact, conclusions of law, order and opinion, in a form that may be adopted as the final decision in the case. The proposed decision shall be a part of the record and shall be served by the agency on all parties. Each party adversely affected by the proposed decision shall be given an opportunity to file objections to the proposed decision, briefly stating the reasons and authorities for each objection, and to argue with respect to them before the officials who are to participate in the decision. The agency may direct whether such argument shall be written or oral. If an agency's decision varies in any respect from the decision of the hearing examiner, the agency's decision shall include an explanation of the basis for each variance.

(2m) In any hearing or review assigned to a hearing examiner under s. 227.43 (1) (bg), the hearing examiner presiding at the hearing shall prepare a proposed decision, including findings of fact, conclusions of law, order and opinion, in a form that may be adopted as the final decision in the case. The proposed decision shall be a part of the record and shall be served by the division of hearings and appeals in the department of administration on all parties. Each party adversely affected by the proposed decision shall be given an opportunity to file objections to the proposed decision within 15 days, briefly stating the reasons and authorities for each objection, and to argue with respect to them before the administrator of the division of hearings and appeals. The administrator of the division of hearings and appeals may direct whether such argument shall be written or oral. If the decision of the administrator of the division of hearings and appeals varies in any respect from the decision of the hearing examiner, the decision of the administrator of the division of hearings and appeals shall include an explanation of the basis for each variance. The decision of the administrator of the division of hearings and appeals is a final decision of the agency subject to judicial review under s. 227.52. The department of transportation may petition for judicial review.

(3) (intro.) With respect to contested cases except a hearing or review assigned to a hearing examiner under s. 227.43 (1) (bg), an agency may by rule or in a particular case may by order:

(a) Direct that the hearing examiner's decision be the final decision of the agency;

(b) Except as provided in sub. (2) or (4), direct that the record be certified to it without an intervening proposed decision; or

(c) Direct that the procedure in sub. (2) be followed, except that in a class 1 proceeding both written and oral argument may be limited.

(4) Notwithstanding any other provision of this section, in any contested case, if a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposed decision is served upon the parties and an opportunity is afforded to each party adversely affected to file objections and present briefs or oral argument to the officials who are to render the decision. Except as provided in s. 227.47 (2), the proposed decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the

hearing examiner or a person who has read the record. The parties by written stipulation may waive compliance with this subsection.

(5) In any class 2 proceeding, if the decision to file a complaint or otherwise commence a proceeding to impose a sanction or penalty is made by one or more of the officials of the agency, the hearing examiner shall not be an official of the agency and the procedure described in sub. (2) shall be followed.

(6) The functions of persons presiding at a hearing or participating in proposed or final decisions shall be performed in an impartial manner. A hearing examiner or agency official may at any time disqualify himself or herself. In class 2 and 3 proceedings, on the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a hearing examiner or official, the agency or hearing examiner shall determine the matter as part of the record and decision in the case.

(7)

(a) Notwithstanding any other provision of law, the hearing examiner presiding at a hearing may order such protective measures as are necessary to protect the trade secrets of parties to the hearing.

(b) In this subsection, "trade secret" has the meaning specified in s. 134.90 (1) (c).

(8) If the hearing examiner assigned under s. 227.43 (1) (b) renders the final decision in a contested case and the decision is subject to judicial review under s. 227.52, the department of natural resources may petition for judicial review. If the hearing examiner assigned under s. 227.43 (1) (br) renders the final decision in a contested case and the decision is subject to judicial review under s. 227.52, the department of transportation may petition for judicial review.

History: 1975 c. 94 s. 3; 1975 c. 414; 1977 c. 196 s. 131; 1977 c. 277, 418, 447; 1979 c. 208; 1983 a. 189 s. 329 (2); 1985 a. 29; 1985 a. 182 ss. 33g, 57; 1985 a. 236; Stats. 1985 s. 227.46; 1987 a. 365; 1993 a. 16; 2007 a. 1.

An agency's decision not to accept a hearing examiner's order on grounds that altered sanctions were justified by the "seriousness of the facts" was insufficient. *Heine v. Chiropractic Examining Board*, 167 Wis. 2d 187, 481 N.W.2d 638 (Ct. App. 1992).

The agency, not the hearing examiner, is responsible for credibility determinations. When the agency reverses the examiner, the agency must state the basis for rejecting the findings and give the reason why it made its independent finding. It is a denial of due process if the agency makes a determination without benefit of the examiner's findings, conclusions, and impressions of the testimony. *Hakes v. LIRC*, 187 Wis. 2d 582, 523 N.W.2d 155 (Ct. App. 1994).

An agency's alteration of a hearing examiner's finding of facts without conferring with the hearing examiner violated sub. (2) and rendered the decision procedurally defective. The altered findings, implicitly addressing the issue of the subject's credibility on a critical issue, logically related to the ultimate determination and violated due process. *Epstein v. Benson*, 2000 WI 195, 238 Wis. 2d 717, 618 N.W.2d 224.

Under sub. (2), if the decision of the administrative agency varies in any respect from that of the ALJ, the agency is required to provide an explanation of the basis for each variance, but there is no requirement that the agency indulge in the elaborate opinion procedure of an appellate court. Sub. (2) provides for no opportunity to be heard before the agency when a hearing examiner conducts the original hearing. Each party has the opportunity to file objections to the proposed decision. The agency may direct whether such argument shall be written or oral. *Daniels v. Chiropractic Examining Board*, 2008 WI App 59, 309 Wis. 2d 485, 750 N.W.2d 951, 07-1072.

Sub. (5) requires the use of a hearing examiner if an examining board member participates in the decision to commence a proceeding against a licensee, but does not require such use if a board member is involved only in the investigation. 66 Atty. Gen. 52.

Discussion of circumstances under which hearing examiner has power to entertain motion to dismiss

proceedings. 68 Atty. Gen. 30.

A witness subpoenaed under sub. (1) must attend a continued or postponed hearing and remain in attendance until excused. 68 Atty. Gen. 251.

WISCONSIN DEPARTMENT OF ADMINISTRATION
2005-17 Biennial Budget Development
White Paper
Allowing for DOJ to pay DHA for Crime Victim Compensation Hearings

1. Issue

Per its statutory requirement under §949.11(2), Wis. Stats., Division of Hearings and Appeals (DHA) conducts Crime Victim Compensation hearings for the Department of Justice (DOJ). Due to the DOJ's interpretation of this statute, which states that DHA "shall" conduct these hearings, these are the only type of hearings that DHA conducts for thirteen state agencies for which it receives no reimbursement, either GPR or PR. DHA is requesting a statutory revision that will allow it to recover the costs associated with these hearings.

2. Costs in 2015-17

Based upon its MOU with other state agencies, DHA expects that it would recover approximately \$50,000 annually for the costs associated with these hearings. It is important to note that the Victim-Witness Fee collected by DOJ's Office of Crime Victim Compensation provides one potential revenue source to pay for the cost of these hearings. Although the volume of Crime Victim Compensation hearings can be erratic – varying from 10 to 30 cases per year – many of these hearings require interpreter services, travel is usually required and transcriptions must be produced in instances of appeals, each of which increases the costs for conducting these hearings.

DHA is currently incurring the costs associated with these hearings, which are eventually shifted through higher overhead charges to the other agencies that pay for their hearings. A corresponding change to DHA's budget to reflect the estimated revenues and expenditures associated with this MOU would also need to be approved. This revenue will offset cost increases that DHA anticipates for 2015-17. For example, in addition to increases in general operating costs, it is projected that rent costs will increase by an estimated \$30,000-\$40,000 annually when DHA's Milwaukee office moves to new space in FY15. The revenues associated with these hearings will help DHA to lessen the impact of these cost increases on other state agencies.

3. Reallocation Opportunities

DHA now assigns these hearings to administrative law judges that are being funded through MOUs with other state agencies. If DOJ pays for the Crime Victim Compensation hearings, other agencies would be charged a more proportional share of the overhead associated with their hearings. In addition to more proportional charges to other agencies, DHA could begin to invest in additional equipment and technology needed to implement its paperless initiative. DHA intends to invest a portion of the increased revenues and budget authority in technology enhancements which will expand the use of video hearings, which should reduce travel costs as well as the need for additional positions.

4. Long-Term Costs

DHA is seeking compensation for conducting hearings for the DOJ for a program that is funded by the Crime Victim Witness Fee. The fee is intended to cover the cost of the Crime Victim Compensation program, and presumably, to fund the costs of the hearings. If an MOU could be negotiated, longer term arrangements can be made, and adjustments can be made to charges assessed to other state agencies. The additional revenues realized will help to mitigate the impact of increases in rent as DHA moves to new space in Milwaukee, invests in new technology and experiences additional increases in risk assessments, utilities, and other ongoing operational charges.

5. Positions

No increase in staff is anticipated, as DHA is currently managing the Crime Victim Compensation Hearings with existing staff. DHA currently contracts for some services, such as hearing transcription and interpreter services.

6. Statutory Language

The Crime Victim Compensation statute, Wis.Stat.949.11(2) states that DHA "shall" conduct these hearings. DOJ believes that because DHA is directed under Chapter 949 to do them, DHA's authority to negotiate MOUs with state agencies to conduct hearings under Wis. Stat. 227.43(4)(e) is precluded. A statutory revision is recommended that will allow for the reimbursement of DHA's hearing costs through an MOU with DOJ.

7. Impact of Denial

Given DHA's resource limitations and the statutory responsibility to conduct Crime Victim Compensation Hearings, DHA may at some point need to reduce the number of hearings that it conducts for other agencies. In these instances, agencies must contract with private parties for independent hearing services, which are often less efficient and more costly than hearings conducted by DHA. In addition, DHA's investment in technology enhancements, which will reduce travel costs by allowing many hearings to be conducted remotely via Internet conferencing, will be delayed or deferred, thereby preventing any expecting efficiencies.

949.11 Hearings.

(1) The procedure of ch. 227 for contested cases applies to hearings under this subchapter except as otherwise provided in this section and ss. 949.12 and 949.14.

(2) The division of hearings and appeals in the department of administration shall appoint hearing examiners to make findings and orders under s. 227.46 and this subchapter.

(3) All hearings shall be open to the public unless in a particular case the examiner determines that the hearing, or a portion thereof, shall be held in private having regard to the fact that the offender has not been convicted or to the interest of the victim of an alleged sexual offense.

History: 1975 c. 344; 1977 c. 239; 1979 c. 189; 1985 a. 182 s. 57; 1985 a. 242, 332; 2007 a. 20.

Duchek, Michael

From: Hayes, Brian - DOA <Brian.Hayes@wisconsin.gov>
Sent: Thursday, December 11, 2014 12:36 PM
To: Duchek, Michael; Bong, Sasha E - DOA
Cc: Kraus, Jennifer - DOA; Hurley, Peggy
Subject: RE: BB0284

I didn't mean to distinguish between them. Practically speaking, without researching, no one can remember doing a sex assault forensic exam hearing. They are always bar fights or drug deals. Unintentionally, I omitted s. 949.31(2). Both should be included.

From: Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]
Sent: Thursday, December 11, 2014 12:05 PM
To: Hayes, Brian - DOA; Bong, Sasha E - DOA
Cc: Kraus, Jennifer - DOA; Hurley, Peggy - LEGIS
Subject: BB0284

Brian,

Just when I thought I was done with this one, I noticed s. 949.31 (2), which appears to read identically to s. 949.11 (2). Was 949.31 (2) also within the scope of your request? I just thought I would ask.

-Mike



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0846/P1
MED&PJH:...

in 12/11/14

bf

DOA:.....Bong, BB0284 - Crime Victim Compensation Hearings

FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION

12/11

Don't Gen

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

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE ✓

OTHER COURTS AND PROCEDURE

Current law requires the Division of Hearings and Appeals (DHA) to appoint hearing examiners to make findings and orders in crime victim compensation contested cases. In addition, current law requires DHA to appoint hearing examiners to make findings and orders in contested cases in which a health care provider that conducted an examination to gather evidence regarding a sex offense is seeking compensation. For both of these types of contested cases, initial decisions are issued by DOJ.

This bill repeals the requirement that DHA conduct these hearings. However, DOJ would retain the option to contract with DHA to provide hearing services for those cases, as is permitted under current law upon the request of any agency that is not prohibited from contracting with a ^{third} party for contested case hearing services.

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:

Duchek, Michael

From: Bong, Sasha E - DOA <SashaE.Bong@wisconsin.gov>
Sent: Monday, January 19, 2015 8:22 PM
To: Duchek, Michael
Subject: DHA Draft changes (LRB-0846 and 1045)

Hi Mike,

I have a few changes for two of the DHA drafts:

- 1) For crime victim compensation hearings (0846), I was ok with your first two notes, but it is not the intent for there to be a delayed effective date for the changes in the draft.
- 2) For eliminating GPR funding for DHA (1045), I appreciate your verification that DHA can charge for services provided, but wonder if it is necessary to include s. 227.43(4) as well. It seems that revenue under that subsection would also be credited to 20.505(4)(kp), but there isn't an explicit reference. Is this revenue captured in another cross-reference? If not, could the draft reflect inclusion of that revenue?

Thanks!



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0846/14
MED&PJH:kjf:rs

DOA:.....Bong, BB0284 – Crime Victim Compensation Hearings

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

1/23

Don + Gen

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

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

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This bill repeals the requirement that DHA conduct these hearings. However, DOJ would retain the option to contract with DHA to provide hearing services for those cases, as is permitted under current law upon the request of any agency that is not prohibited from contracting with a third party for contested case hearing services.

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. 227.03 (2) of the statutes is amended to read:

2 227.03 (2) Except as provided in s. ss. 108.105, 949.11, and 949.31, only the
3 provisions of this chapter relating to rules are applicable to matters arising out of s.
4 66.191, 1981 stats., s. 40.65 (2), 289.33, 303.07 (7) or 303.21 or subch. II of ch. 107
5 or ch. 102, 108, or 949.

****NOTE: Because both ss. 949.11 and 949.31 say that the ch. 227 contested case procedure applies, I added cross-references to them here, which otherwise provides that ch. 227 does not apply to matters arising out of ch. 949. Is this change OK?

6 SECTION 2. 949.11 (2) of the statutes is repealed.

7 SECTION 3. 949.31 (2) of the statutes is repealed.

****NOTE: I discussed this request with Brian Hayes at DHA. He thought the best way to approach this request would be to simply repeal these provisions. DOJ could still enter into an MOU with DHA to conduct the hearings under s. 227.43 (1m), but would have to reimburse DHA for its services under s. 227.43 (4) (e), as do other agencies that enter into MOUs with DHA.

8 SECTION 9326. Initial applicability; Justice.

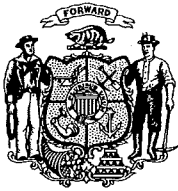
9 (1) CRIME VICTIM AND SEXUAL ASSAULT FORENSIC EXAMINATION COMPENSATION
10 HEARINGS. The treatment of sections 949.11 (2) and 949.31 (2) of the statutes first
11 applies to hearings commenced on the effective date of this subsection.

12 SECTION 9426. Effective dates; Justice.

13 (1) CRIME VICTIM AND SEXUAL ASSAULT FORENSIC EXAMINATION COMPENSATION
14 HEARINGS. The treatment of sections ~~949.11 (2) and 949.31 (2)~~ of the statutes takes
15 effect on the first day of the 3rd month beginning after publication.

****NOTE: I thought a delayed effective date might be helpful so this change didn't take place right away. If it is not needed or should be adjusted, just let me know.

16 (END)



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0846/1
MED&PJH:kjf:jm

DOA:.....Bong, BB0284 – Crime Victim Compensation Hearings

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

Current law requires the Division of Hearings and Appeals (DHA) to appoint hearing examiners to make findings and orders in crime victim compensation contested cases. In addition, current law requires DHA to appoint hearing examiners to make findings and orders in contested cases in which a health care provider that conducted an examination to gather evidence regarding a sex offense is seeking compensation. For both of these types of contested cases, initial decisions are issued by DOJ.

This bill repeals the requirement that DHA conduct these hearings. However, DOJ would retain the option to contract with DHA to provide hearing services for those cases, as is permitted under current law upon the request of any agency that is not prohibited from contracting with a third party for contested case hearing services.

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:

