March 20, 2019 - Introduced by Senators JACQUE, BERNIER and WANGGAARD, cosponsored by Representatives TUSLER, OTT, BROOKS, JAMES, KURTZ, MURPHY, MURSAU, PETERSEN, PRONCHINSKE, QUINN, SHANKLAND, THIESFELDT, VANDERMEER and WICHGERS. Referred to Committee on Insurance, Financial Services, Government Oversight and Courts.

AN ACT to repeal 978.001 (1p) and 978.11; to renumber and amend 977.08 (3)
(b); to amend 13.093 (2) (a), 16.971 (9), 16.971 (10), 230.08 (2) (e) 7., 230.33 (1),
977.02 (5), 977.08 (3) (c), 977.08 (4m) (c), 978.03, 978.045 (1g), 978.045 (1r) (bm)
(intro.), 978.045 (2), 978.05 (9) and 978.12 (1) (c); and to create 13.0967, 15.77,
20.548, 20.923 (4) (f) 7x., 227.118, 227.19 (3) (em), 230.08 (2) (qp), 230.12 (13),
977.08 (3) (b) 2., 977.08 (4m) (d), 978.001 (1b), (1d) and (1n), 978.003, 978.004
and 978.005 of the statutes; relating to: creation of a prosecutor board and a
state prosecutors office; funding for the department of justice, assistant district
attorneys, the public defender, and the courts; Public Defender Board
regulation, and making an appropriation.

Analysis by the Legislative Reference Bureau
COURTS AND PROCEDURE
PUBLIC DEFENDER

Under current law, the Public Defender Board may promulgate rules to assure
that representation of indigent clients by the private bar is at the same level as the
representation provided by the state public defender. Under this bill, the board’s
authority to promulgate rules is expanded to include setting standards for and imposing conditions upon private bar attorney certification, decertification, or recertification to represent clients. The bill also adds the following list of reasons as grounds for which the office of the state public defender may exclude a private bar attorney from a public defender list: 1) the attorney has failed to meet minimum attorney performance standards adopted by the state public defender; 2) the attorney has failed to comply with the supreme court rules of professional conduct for attorneys; 3) the attorney has engaged in conduct that is contrary to the interests of clients, the interests of justice, or the interests of the state public defender; or 4) the state public defender learns of any information that raises a concern about the attorney’s character, performance, ability, or behavior.

The bill changes the rate at which the public defender must pay a private local attorney to whom a case is assigned from $40 per hour for time spent related to a case to $70 per hour for time spent related to a case. The bill provides $16,612,700 in each fiscal year of the 2019–21 biennium for the rate increase.

The bill provides $1,767,900 GPR in fiscal year 2019 and $3,535,800 in fiscal year 2020–21 to fund the assistant state public defender pay progression plan, which is a plan in current law that consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest hourly salary and the highest hourly salary for the salary range for the assistant state public defender positions.

The bill directs the Public Defender Board to conduct a student loan payment pilot program for private bar attorneys who accept public defender appointments. The program would provide a payment to private bar attorneys that they may use to repay student loans of up to $20,000 per year for attorneys in counties with a population of 25,000 or less who agree to accept at least 50 state public defender appointments per year. The bill provides $250,000 in each fiscal year of the 2019–21 biennium for the program.

**DISTRICT ATTORNEYS**

The bill creates an independent prosecutor board that oversees and sets policies for a state prosecutors office, also created in the bill. Under the bill, the executive director of the state prosecutors office manages the office; prepares personnel policies, fiscal estimates, and an annual report; and represents the board before the governor, the legislature, bar associations, and courts. The executive director may also identify methods and practices for district attorneys that promote professional competence and ethical practices. Under the bill, the state prosecutors office assumes duties relating to district attorneys that current law assigns to the Department of Administration, such as preparing a budget for all of the prosecutorial units, approving appointments of special prosecutors when needed, and making requests for assistant district attorneys in certain prosecutorial units. The bill requires any rule that directly affects the state prosecutors office to be reviewed by the office and for the office to submit a report on the proposed rule that includes information about the effect of the proposed rule on the state prosecutors office. The bill requires DOA to provide the state prosecutors office with general access to a case
management system currently used by the Department of Justice to manage case-related information and to share the information among prosecutors.

The bill provides $1,600,000 in fiscal year 2019-20 and $3,200,000 in fiscal year 2020-21 to fund the deputy and assistant district attorney pay progression plan, which is a plan in current law that consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest hourly salary and the highest hourly salary for the salary range for the deputy and assistant district attorney positions. The bill also provides $3,320,000 in fiscal year 2019-20 and $4,427,000 in fiscal year 2020-21 to increase the authorized FTE for the assistant district attorneys by 60.85 FTE positions.

CIRCUIT COURTS

The bill provides $2,500,000 in fiscal year 2019-20 and $5,000,000 in fiscal year 2020-21 to fund court appointments made at county expense.

JUSTICE

The bill creates a pay scale for DOJ state crime laboratory analysts that consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest hourly salary and the highest hourly salary for the salary range for DOJ state crime laboratory analysts contained in the state compensation plan. The compensation plan goes into effect on July 1, 2019.

The bill creates within DOJ 25 FTE positions and provides $1,378,700 in fiscal year 2019-20 and $3,378,900 in fiscal year 2020-21 to fund ongoing law enforcement investigations, forensics activities, and operations.

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:

SECTION 1. 13.093 (2) (a) of the statutes is amended to read:

13.093 (2) (a) Any bill making an appropriation, any bill increasing or decreasing existing appropriations or state or general local government fiscal liability or revenues, and any bill that modifies an existing surcharge or creates a new surcharge that is imposed under ch. 814, shall, before any vote is taken thereon by either house of the legislature if the bill is not referred to a standing committee, or before any public hearing is held before any standing committee or, if no public hearing is held, before any vote is taken by the committee, incorporate a reliable
estimate of the anticipated change in appropriation authority or state or general local government fiscal liability or revenues under the bill, including to the extent possible a projection of such changes in future biennia. The estimate shall also indicate whether any increased costs incurred by the state under the bill can be mitigated through the use of contractual service contracts let in accordance with competitive procedures. For purposes of this paragraph, a bill increasing or decreasing the liability or revenues of the unemployment reserve fund is considered to increase or decrease state fiscal liability or revenues. Except as otherwise provided by joint rules of the legislature or this paragraph, such estimates shall be made by the department or agency administering the appropriation or fund or collecting the revenue. The legislative council staff shall prepare the fiscal estimate with respect to the provisions of any bill referred to the joint survey committee on retirement systems which create or modify any system for, or make any provision for, the retirement of or payment of pensions to public officers or employees. The director of state courts shall prepare the fiscal estimate with respect to the provisions of any bill that modifies an existing surcharge or creates a new surcharge that is imposed under ch. 814. The executive director of the state prosecutors office shall prepare the fiscal estimate with respect to the provisions of any bill that affects prosecutors or the state prosecutors office, including bills modifying or creating crimes or sentencing practices. When a fiscal estimate is prepared after the bill has been introduced, it shall be printed and distributed as are amendments.

SECTION 2. 13.0967 of the statutes is created to read:

13.0967 Review of bills affecting state prosecutors office. Any bill that is introduced in either house of the legislature that directly affects the state prosecutors office shall have a notation to that effect on its jacket when the jacket is
prepared. When a bill that has that notation on the jacket is introduced, the legislative reference bureau shall submit a copy of the bill to the state prosecutors office.

**SECTION 3.** 15.77 of the statutes is created to read:

15.77 **Prosecutor board.** There is created a prosecutor board consisting of 11 members, appointed for staggered 3-year terms, as follows:

1. From each district under s. 752.11 (1) (b), (c), and (d), 2 district attorneys appointed by a majority of district attorneys from the district.
2. From the district under s. 752.11 (1) (a), the district attorney and a deputy district attorney appointed by the district attorney.
3. Two nonelected prosecutors, each from a different county, appointed by a majority of nonelected prosecutors. Under this subsection, “prosecutor” does not include a special prosecutor appointed under s. 978.045 or 978.05 (8) (b).
4. The attorney general or his or her designee.

**SECTION 4.** 16.971 (9) of the statutes is amended to read:

16.971 (9) In conjunction with the public defender board, the prosecutor board, the director of state courts, and the departments of corrections and justice and district attorneys, the department may maintain, promote and coordinate automated justice information systems that are compatible among counties and the officers and agencies specified in this subsection, using the moneys appropriated under s. 20.505 (1) (kh) and (kq). The department shall annually report to the legislature under s. 13.172 (2) concerning the department’s efforts to improve and increase the efficiency of integration of justice information systems.

**SECTION 5.** 16.971 (10) of the statutes is amended to read:
16.971 (10) The department shall maintain, and provide the department of justice and the state prosecutors office with general access to, a case management system that allows the state prosecutors office and district attorneys to manage all case-related information and share the information among prosecutors.

**SECTION 6.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

<table>
<thead>
<tr>
<th></th>
<th>2019-20</th>
<th>2020-21</th>
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<tbody>
<tr>
<td>Prosecutor board</td>
<td></td>
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</tr>
<tr>
<td>(1) COORDINATION AND ADMINISTRATION OF PROSECUTOR FUNCTIONS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Program administration</td>
<td>GPR A</td>
<td>252,000</td>
</tr>
</tbody>
</table>

**SECTION 7.** 20.548 of the statutes is created to read:

**20.548 Prosecutor board.** There is appropriated to the prosecutor board for the following program:

(1) COORDINATION AND ADMINISTRATION OF PROSECUTOR FUNCTIONS. (a) Program administration. The amounts in the schedule for program administration costs of the office of state prosecutors.

(g) Gifts, grants, and proceeds. All moneys received from gifts and grants and all proceeds from services, conferences, and sales of publications and promotional materials for the purposes for which made or received.

**SECTION 8.** 20.923 (4) (f) 7x. of the statutes is created to read:

20.923 (4) (f) 7x. State prosecutors office: executive director.

**SECTION 9.** 227.118 of the statutes is created to read:
227.118 Review of rules affecting state prosecutors office. (1) REPORT ON RULES AFFECTING STATE PROSECUTORS OFFICE. If a proposed rule directly affects the state prosecutors office, the agency proposing the rule shall, prior to submitting the proposed rule to the legislative council staff under s. 227.15, submit the proposed rule to the state prosecutors office. The state prosecutors office shall prepare a report on the proposed rule before it is submitted to the legislative council staff under s. 227.15. The state prosecutors office may request any information from other state agencies, local governments, individuals, or organizations that is reasonably necessary for the office to prepare the report. The state prosecutors office shall prepare the report within 30 days after the rule is submitted to the office.

(2) FINDINGS OF THE OFFICE TO BE CONTAINED IN THE REPORT. The report of the state prosecutors office shall contain information about the effect of the proposed rule on the state prosecutors office.

(3) APPLICABILITY. This section does not apply to emergency rules promulgated under s. 227.24.

SECTION 10. 227.19 (3) (em) of the statutes is created to read:

227.19 (3) (em) The report of the state prosecutors office, if the proposed rule directly affects the state prosecutors office.

SECTION 11. 230.08 (2) (e) 7. of the statutes is amended to read:

230.08 (2) (e) 7. Justice — 5. 6.

SECTION 12. 230.08 (2) (qp) of the statutes is created to read:

230.08 (2) (qp) The executive director in the office of state prosecutors.

SECTION 13. 230.12 (13) of the statutes is created to read:

230.12 (13) DEPARTMENT OF JUSTICE STATE CRIME LABORATORIES PAY PROGRESSION PLAN. (a) There is established a pay progression plan for department of justice state
crime laboratory analysts. The pay progression plan shall consist of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest hourly salary and the highest hourly salary for the salary range for the analysts contained in the compensation plan. The pay progression plan shall be based entirely on merit.

(b) Beginning with the first pay period that occurs on or after July 1, 2020, all department of justice state crime laboratory analysts who have served with the state as analysts for a continuous period of 12 months or more, and who are not paid the maximum hourly rate, shall be paid an hourly salary at the step that is immediately above their hourly salary on June 30, 2020. All other analysts, who are not paid the maximum hourly rate, shall be paid an hourly salary at the step that is immediately above their hourly salary on June 30, 2020, when they have served with the state as analysts for a continuous period of 12 months.

(c) Beginning with the first pay period that occurs on or after July 1, 2021, and with the first pay period that occurs on or after each succeeding July 1, all department of justice state crime laboratory analysts who have served with the state as analysts for a continuous period of 12 months or more, and who are not paid the maximum hourly rate, may, at the discretion of the attorney general, be paid an hourly salary at any step, or part thereof, above their hourly salary on the immediately preceding June 30. All other analysts who are not paid the maximum hourly rate may, at the discretion of the attorney general, be paid an hourly salary at any step, or part thereof, above their hourly salary on the immediately preceding June 30, when they have served with the state as agents for a continuous period of 12 months. No salary adjustment for an analyst under this paragraph may exceed 10 percent of his or her base pay during a fiscal year.
SECTION 14. 230.33 (1) of the statutes is amended to read:

230.33 (1) A person appointed to an unclassified position by the governor, elected officer, judicial body, or prosecutor board, or by a legislative body or committee shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter, during which time the person has restoration rights to the former position or equivalent position in the department in which last employed in a classified position without loss of seniority. The person shall also have reinstatement privileges for 5 years following appointment to the unclassified service or for one year after termination of the unclassified appointment whichever is longer. Restoration rights and reinstatement privileges shall be forfeited if the reason for termination of the unclassified appointment would also be reason for discharge from the former position in the classified service.

SECTION 15. 977.02 (5) of the statutes is amended to read:

977.02 (5) Promulgate rules establishing procedures to assure that representation of indigent clients by the private bar at the initial stages of cases assigned under this chapter is at the same level as the representation provided by the state public defender, including setting standards for and imposing conditions upon private bar attorney certification, decertification, or recertification to represent clients under this chapter.

SECTION 16. 977.08 (3) (b) of the statutes is renumbered 977.08 (3) (b) 1. and amended to read:

977.08 (3) (b) 1. A final set of lists for each county shall be prepared, certified, and annually updated by the state public defender. Persons may not be excluded from any a list unless only if the state public defender states in writing the reasons for such action in the context of accordance with subd. 2. and existing rules adopted
by the state public defender board. Any attorney thus excluded shall then have the opportunity to appeal the state public defender’s decision to the board, which shall issue a final decision in writing.

**SECTION 17.** 977.08 (3) (b) 2. of the statutes is created to read:

977.08 (3) (b) 2. An attorney may be excluded from a list under subd. 1. if any of the following applies:

a. The attorney fails or has failed to meet minimum attorney performance standards adopted by the state public defender.

b. The attorney fails or has failed to comply with SCR chapter 20.

c. The attorney engages in conduct that is contrary to the interests of clients, the interests of justice, or the interests of the state public defender.

d. The state public defender learns of any information that raises a concern about the attorney’s character, performance, ability, or behavior.

**SECTION 18.** 977.08 (3) (c) of the statutes is amended to read:

977.08 (3) (c) A person appointed from the set of lists prepared under par. (b) shall be appointed in order from the top of each list; if any attorney thus appointed states in writing that he or she cannot accept the appointment, he or she shall be placed on the bottom of the list, and the attorney thus elevated to the top of the list shall be appointed.

**SECTION 19.** 977.08 (4m) (c) of the statutes is amended to read:

977.08 (4m) (c) Unless otherwise provided by a rule promulgated under s. 977.02 (7r) or by a contract authorized under sub. (3) (f), for cases assigned on or after July 29, 1995, and before July 1, 2019, private local attorneys shall be paid $40 per hour for time spent related to a case, excluding travel, and $25 per hour for time spent in travel related to a case if any portion of the trip is outside the county in which the
attorney’s principal office is located or if the trip requires traveling a distance of more than 30 miles, one way, from the attorney’s principal office.

**SECTION 20.** 977.08 (4m) (d) of the statutes is created to read:

977.08 (4m) (d) Unless otherwise provided by a rule promulgated under s. 977.02 (7r) or by a contract authorized under sub. (3) (f), for cases assigned on or after July 1, 2019, private local attorneys shall be paid $70 per hour for time spent related to a case, excluding travel, and $25 per hour for time spent in travel related to a case if any portion of the trip is outside the county in which the attorney’s principal office is located or if the trip requires traveling a distance of more than 30 miles, one way, from the attorney’s principal office.

**SECTION 21.** 978.001 (1b), (1d) and (1n) of the statutes are created to read:

978.001 (1b) “Board” means the prosecutor board.

(1d) “Executive director” means the executive director appointed under s. 978.003 (3).

(1n) “Office” means the state prosecutors office.

**SECTION 22.** 978.001 (1p) of the statutes is repealed.

**SECTION 23.** 978.003 of the statutes is created to read:

**978.003 Board; duties.** The board shall do all of the following:

(1) Submit the budget in accordance with s. 16.42 after the executive director submits the budget to the board and the board approves it.

(2) At least annually submit to the joint committee on finance recommendations on the allocation of prosecutor resources.

(3) Appoint an attorney with experience in criminal prosecution as the executive director of the office.

(4) Oversee, and set policy initiatives for, the executive director.
(5) Review existing law or proposed legislation and make recommendations to the legislature.

SECTION 24. 978.004 of the statutes is created to read:

978.004 State prosecutors office executive director. (1) The executive director shall do all of the following:

(a) Manage and direct the office subject to the policy initiatives set under s. 978.003 (4).

(b) Prepare and submit to the board for its approval a budget and any personnel and employment policies that the board requires.

(c) Prepare and submit to the board and other appropriate persons an annual report of the activities of the office in the form that the board directs.

(d) Represent the board before the governor, the legislature, bar associations, courts, and other appropriate entities.

(e) Appoint in the classified service an executive assistant and all other employees of the office. Before making an appointment under this paragraph, the executive director shall notify the board of any prospective appointment. If the board does not object to the prospective appointment within 7 working days after notification, the executive director may make the appointment. If the board objects to a prospective appointment, the executive director may not make the appointment until the board approves it.

(f) Prepare fiscal estimates on bills affecting prosecutors or the office, including bills modifying or creating crimes or sentencing practices. To prepare a fiscal estimate, the executive director shall consult with and obtain data from district attorneys. The executive director shall transmit a draft fiscal estimate to the board. If the board does not object to the draft fiscal estimate within 7 working days after
receiving it, the executive director may submit the fiscal estimate. If the board objects to a draft fiscal estimate, the executive director may not submit the fiscal estimate until the board approves it.

(2) The executive director may identify methods and practices for district attorneys that promote professional competence, ethical practices, and evidence–based practices.

SECTION 25. 978.005 of the statutes is created to read:

978.005 Limits on board and executive director. Neither the board nor the executive director may make any decision regarding the handling of any case nor interfere with any district attorney in carrying out professional duties. Neither the board nor the office may interfere with or infringe upon the autonomy of a district attorney or upon the authority of a district attorney to manage his or her own prosecutorial unit.

SECTION 26. 978.03 of the statutes is amended to read:

978.03 Deputies and assistants in certain prosecutorial units. (1) The district attorney of any prosecutorial unit having a population of 750,000 or more may appoint 7 deputy district attorneys and such assistant district attorneys as may be requested by the department of administration, or by the board, and authorized in accordance with s. 16.505. The district attorney shall rank the deputy district attorneys for purposes of carrying out duties under this section. The deputies, according to rank, may perform any duty of the district attorney, under the district attorney's direction. In the absence or disability of the district attorney, the deputies, according to rank, may perform any act required by law to be performed by the district attorney. Any such deputy must have practiced law in this state for at least 2 years prior to appointment under this section.
(1m) The district attorney of any prosecutorial unit having a population of 200,000 or more but less than 750,000 may appoint 3 deputy district attorneys and such assistant district attorneys as may be requested by the department of administration, or by the board, and authorized in accordance with s. 16.505. The district attorney shall rank the deputy district attorneys for purposes of carrying out duties under this section. The deputies, according to rank, may perform any duty of the district attorney, under the district attorney’s direction. In the absence or disability of the district attorney, the deputies, according to rank, may perform any act required by law to be performed by the district attorney. Any such deputy must have practiced law in this state for at least 2 years prior to appointment under this section.

(2) The district attorney of any prosecutorial unit having a population of 100,000 or more but not more than 199,999 may appoint one deputy district attorney and such assistant district attorneys as may be requested by the department of administration, or by the board, and authorized in accordance with s. 16.505. The deputy may perform any duty of the district attorney, under the district attorney’s direction. In the absence or disability of the district attorney, the deputy may perform any act required by law to be performed by the district attorney. The deputy must have practiced law in this state for at least 2 years prior to appointment under this section.

(3) Any assistant district attorney under sub. (1), (1m), or (2) must be an attorney admitted to practice law in this state and, except as provided in s. 978.043 (1), may perform any duty required by law to be performed by the district attorney. The district attorney of the prosecutorial unit under sub. (1), (1m), or (2) may appoint
such temporary counsel as may be authorized by the department of administration board.

**SECTION 27.** 978.045 (1g) of the statutes is amended to read:

978.045 (1g) A court on its own motion may appoint a special prosecutor under sub. (1r) or a district attorney may request a court to appoint a special prosecutor under that subsection. Before a court appoints a special prosecutor on its own motion or at the request of a district attorney for an appointment that exceeds 6 hours per case, the court or district attorney shall request assistance from a district attorney, deputy district attorney or assistant district attorney from other prosecutorial units or an assistant attorney general. A district attorney requesting the appointment of a special prosecutor, or a court if the court is appointing a special prosecutor on its own motion, shall notify the department of administration, on a form provided by that department, of office that the district attorney’s attorney or the court’s inability court, whichever is appropriate, is unable to obtain assistance from another prosecutorial unit or from an assistant attorney general.

**SECTION 28.** 978.045 (1r) (bm) (intro.) of the statutes is amended to read:

978.045 (1r) (bm) (intro.) The judge may appoint an attorney as a special prosecutor at the request of a district attorney to assist the district attorney in the prosecution of persons charged with a crime, in grand jury proceedings, in proceedings under ch. 980, or in investigations. Except as provided under par. (bp), the judge may appoint an attorney as a special prosecutor only if the judge or the requesting district attorney submits an affidavit to the department of administration office attesting that any of the following conditions exists:

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

978.045 (2) If the department of administration office approves the appointment of a special prosecutor under sub. (1r), the court shall fix the amount of compensation for the attorney appointed according to the rates specified in s. 977.08 (4m) (b). The department of administration shall pay the compensation ordered by the court from the appropriation under s. 20.475 (1) (d). The court, district attorney, and the special prosecutor shall provide any information regarding a payment of compensation that the department requests. Any payment under this subsection earns interest on the balance due from the 121st day after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, at the rate specified in s. 71.82 (1) (a) compounded monthly.

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

978.05 (9) BUDGET. Prepare a biennial budget request for submission to the department executive director under s. 978.11 978.004 (1) (b) by September 1 of each even-numbered year.

SECTION 31. 978.11 of the statutes is repealed.

SECTION 32. 978.12 (1) (c) of the statutes is amended to read:

978.12 (1) (c) Assistant district attorneys. Assistant district attorneys shall be employed outside the classified service. For purposes of salary administration, the administrator of the division of personnel management in the department of administration, in consultation with the office, shall establish one or more classifications for assistant district attorneys in accordance with the classification or classifications allocated to assistant attorneys general. Except as provided in ss. 111.93 (3) (b) and 230.12 (10), the salaries of assistant district attorneys shall be established and adjusted in accordance with the state compensation plan for
assistant attorneys general whose positions are allocated to the classification or
classifications established by the administrator of the division of personnel
management in the department of administration under this paragraph.

SECTION 33. Nonstatutory provisions.

(1) STUDENT LOAN PAYMENT PILOT PROGRAM.

(a) The public defender board shall conduct a student loan payment pilot
program for private bar attorneys who accept public defender appointments. The
program shall provide up to $20,000 per year, or the outstanding balance on the
attorney’s student loans, whichever is less, to eligible attorneys to use to repay
student loans. To be eligible to receive a payment under this paragraph in any
calendar year, an attorney must meet all of the following criteria:

1. The attorney is licensed to practice law in Wisconsin.
2. The attorney is certified to accept state public defender appointments.
3. The attorney agrees to accept a minimum of 50 state public defender
   appointments per year.
4. The attorney maintains a law practice that either is headquartered or
   performs a demonstrated majority of its legal work in a county with a population of
   25,000 or fewer residents.
5. The attorney has outstanding student loans that were incurred to obtain a
   juris doctor degree from an accredited university.

(b) An attorney who will meet all of the criteria under par. (a) may apply for the
student loan payment pilot program beginning on January 1 of each year to qualify
to receive a payment at the end of that year. Applications will be accepted on a rolling
basis and all payments will be disbursed in the order that applications are received.
At the end of the year, the attorney must certify that he or she has met all of the
criteria for that year and must provide proof of his or her outstanding student loan
balance on January 1 of that year to determine the payment amount that he or she
is eligible to receive under the program.

(c) The public defender board may promulgate emergency rules under s. 227.24
to implement the program under par. (a) for the period before the effective date of
permanent rules but not to exceed the period authorized under s. 227.24 (1) (c),
subject to extension under s. 227.24 (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and
(3), the board is not required to provide evidence that promulgating a rule under this
paragraph as an emergency rule is necessary for the preservation of the public peace,
health, safety, or welfare and is not required to provide a finding of emergency for a
rule promulgated under this paragraph.

(2) PROSECUTOR BOARD AND STATE PROSECUTORS OFFICE.

(a) Initial terms for prosecutor board members. Notwithstanding s. 15.77, of
the members of the prosecutor board who are appointed as initial members, one
member representing each district under s. 752.11 (1) (b) and (d) and one member
under s. 15.77 (3) shall serve for a one-year term and one member representing the
district under s. 752.11 (1) (c), one member under s. 15.77 (2), and one member under
s. 15.77 (3) shall serve for a 2-year term.

(b) Transfer of state prosecutors office.

1. ‘Assets and liabilities.’ On the effective date of this subdivision, the assets
and liabilities of the department of administration that are primarily related to the
state prosecutors office, as determined by the secretary of administration, become
the assets and liabilities of the prosecutor board.

2. ‘Tangible personal property.’ On the effective date of this subdivision, all
tangible personal property, including records, of the department of administration
that is primarily related to the state prosecutors office, as determined by the
secretary of administration, is transferred to the prosecutor board.

3. ‘Contracts.’ All contracts entered into by the department of administration
that are primarily related to the state prosecutors office, as determined by the
secretary of administration, in effect on the effective date of this subdivision, remain
in effect and are transferred to the prosecutor board. The prosecutor board shall
carry out any such contractual obligations unless modified or rescinded by the
prosecutor board to the extent allowed under the contract.

4. ‘Pending matters.’ Any matter pending with the department of
administration that is primarily related to the state prosecutors office, as
determined by the secretary of administration, on the effective date of this
subdivision, is transferred to the prosecutor board, and all materials submitted to or
actions taken by the department of administration, with respect to the pending
matter are considered as having been submitted to or taken by the prosecutor board.

5. ‘Rules and orders.’ All rules promulgated for the department of
administration that are primarily related to the state prosecutors office, as
determined by the secretary of administration, that are in effect on the effective date
of this subdivision remain in effect until their specified expiration dates or until
amended or repealed by the prosecutor board.

SECTION 34. Fiscal changes.

(1) DISTRICT ATTORNEY PAY PROGRESSION. In the schedule under s. 20.005 (3) for
the appropriation to the district attorneys under s. 20.475 (1) (em), the dollar amount
for fiscal year 2019-20 is increased by $1,600,000 to fund the assistant district
attorney pay progression system. In the schedule under s. 20.005 (3) for the
appropriation to the district attorneys under s. 20.475 (1) (em), the dollar amount for
fiscal year 2020–21 is increased by $3,200,000 to fund the assistant district attorney pay progression system.

(2) Additional Assistant District Attorney Positions. In the schedule under s. 20.005 (3) for the appropriation to the district attorneys under s. 20.475 (1) (d), the dollar amount for fiscal year 2019–20 is increased by $3,320,000 to increase the authorized FTE assistant district attorney positions by 60.85 positions. In the schedule under s. 20.005 (3) for the appropriation to the district attorneys under s. 20.475 (1) (d), the dollar amount for fiscal year 2020–21 is increased by $4,427,000 to provide funding for the positions authorized under this subsection. The state prosecutors office shall determine the districts in which such assistant district attorneys shall be placed.

(3) Assigned Counsel Rate. In the schedule under s. 20.005 (3) for the appropriation to the public defender board under s. 20.550 (1) (a), the dollar amount for fiscal year 2019–20 is increased by $16,612,700 to pay private attorneys appointed under s. 977.08 (4m) (c) on or after July 1, 2019. In the schedule under s. 20.005 (3) for the appropriation to the public defender board under s. 20.550 (1) (a), the dollar amount for fiscal year 2020–21 is increased by $16,612,700 to pay private attorneys appointed under s. 977.08 (4m) (c) on or after July 1, 2019.

(4) Public Defender Pay Progression. In the schedule under s. 20.005 (3) for the appropriation to the public defender board under s. 20.550 (1) (a), the dollar amount for fiscal year 2019–20 is increased by $1,767,900 to fund the assistant state public defender pay progression system. In the schedule under s. 20.005 (3) for the appropriation to the public defender board under s. 20.550 (1) (a), the dollar amount for fiscal year 2020–21 is increased by $3,535,800 to fund the assistant state public defender pay progression system.
(5) **Student Loan Payment Pilot Program.** In the schedule under s. 20.005 (3) for the appropriation to the public defender board under s. 20.550 (1) (a), the dollar amount for fiscal year 2019–20 is increased by $250,000 to conduct a student loan payment pilot program under SECTION 33 (1) of this act for private bar attorneys who accept public defender appointments and who meet certain additional criteria. In the schedule under s. 20.005 (3) for the appropriation to the public defender board under s. 20.550 (1) (a), the dollar amount for fiscal year 2020–21 is increased by $250,000 to conduct a student loan payment pilot program under SECTION 33 (1) of this act for private bar attorneys who accept public defender appointments and who meet certain additional criteria.

(6) **Investigations and Forensics.** In the schedule under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455 (2) (a), the dollar amount for fiscal year 2019–20 is increased by $593,300 to increase the authorized FTE positions for the department by 10.0 positions. In the schedule under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455 (2) (a), the dollar amount for fiscal year 2020–21 is increased by $742,600 to provide funding for the positions authorized under this subsection.

(7) **State Crime Laboratory Analysts.** In the schedule under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455 (2) (a), the dollar amount for fiscal year 2019–20 is increased by $785,400 to increase the authorized FTE positions for the department by 15.0 analyst positions on July 1, 2019, to improve the efficiency of operations at the state crime laboratories. In the schedule under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455 (2) (a), the dollar amount for fiscal year 2020–21 is increased by $1,307,600, and for the appropriation to the department of justice under s. 20.455 (2) (kd), the dollar
amount is increased by $1,328,700, to provide funding for the positions authorized
under this subsection and to provide pay increases to state crime laboratory analysts
under s. 230.12 (13).

(8) **INCREASE IN COURT APPOINTMENT RATE.** In the schedule under s. 20.005 (3) for
the appropriation to the circuit courts under s. 20.625 (1) (cg), the dollar amount for
fiscal year 2019–20 is increased by $2,500,000 to fund court appointments made at
county expense. In the schedule under s. 20.005 (3) for the appropriation to the
circuit courts under s. 20.625 (1) (cg), the dollar amount for fiscal year 2020–21 is
increased by $5,000,000 to fund court appointments made at county expense.

(END)