

CR 93-175

STATE OF WISCONSIN
OFFICE OF THE STATE PUBLIC DEFENDER

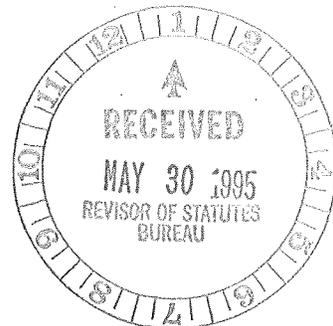
I, Daniel M. Berkos, Chair of the State Public Defender Board and custodian of the official records, certify that the annexed rules relating to certification of indigency evaluations were duly approved and adopted by this board on August 17, 1993.

I further certify that this copy has been compared by me with the original on file in this Office and that it is a true copy thereof, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 24th day of May, 1995.

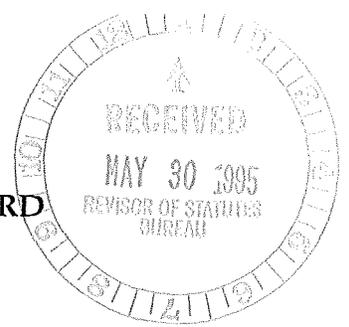
Daniel M. Berkos

DANIEL M. BERKOS
Chair, State Public Defender Board



8-1-95

**PROPOSED ORDER OF THE STATE PUBLIC DEFENDER BOARD
CREATING AND AMENDING A RULE**



An order to amend SPD 3.05 (title) and (1); to repeal and recreate SPD 3.05 (2); to create SPD 3.05 (3); to amend SPD 3.06 (title) and (1); and to repeal and recreate SPD 3.06 (2) (a) and (b), relating to the certification of indigency evaluations.

ANALYSIS

This rule codifies a change made to s. 977.07 (2) (c), Stats. in 1993 Wisconsin Act 16. Under the statutory change, the SPD is no longer required to notarize indigency evaluation forms. Instead, certification as to the truthfulness of the statements of assets, liabilities, and expenses on the indigency evaluation form is required. The penalty for making a false representation through certification is a fine of up to \$10,000 or imprisonment for not more than 5 years, or both.

This rule also codifies the SPD practice of acceptance of telephonic indigency evaluations and shortens the time period from 5 years to 3 for retention of indigency evaluations. The 3 year time period corresponds to the time that closed SPD files are kept in local offices.

Statutory authority: s. 977.02 (3), Stats.

Statutory interpretation: ss. 977.07, Stats.

SECTION 1.

SPD 3.05 (title) and (1) are amended to read:

SPD 3.05 CERTIFIED STATEMENT. (1) All persons provided with publicly compensated counsel shall be required to give a ~~sworn~~ truthful statement of their assets, liabilities, and expenses. All such persons shall sign the completed indigency evaluation form certifying that the financial information that they have provided is accurate to the best of their knowledge and belief.

NOTE: Revised indigency evaluation forms can be obtained at no charge from the Office of the State Public Defender, Administration. 315 N. Henry St., 2nd Floor, Madison, WI 53707.

SECTION 2.

SPD 3.05 (2) is repealed and recreated to read:

SPD 3.05 (2) The state public defender may appoint counsel pursuant to telephone eligibility interviews, in which cases the clients shall sign the indigency evaluation form as soon thereafter as practicable.

SECTION 3.

SPD 3.05 (3) is created to read:

SPD (3) The state public defender shall retain for 3 years all indigency evaluations. After such time they shall be maintained by state records custodians pursuant to s. 16.61 (4), Stats.

SECTION 4.

SPD 3.06 (title) and (1) are amended to read:

SPD 3.06 ACCESS TO INDIGENCY EVALUATIONS. (1) Access to ~~statements of assets, liabilities, and expenses~~ indigency evaluations of persons provided with publicly compensated counsel may not be granted to any person, except the client, staff of the state public defender or counsel appointed by the state public defender, during the pendency of the action for which they are prepared. ~~At the conclusion of the action, the statement of assets, liabilities, and expenses shall be placed in the court file upon the request of anyone, unless released is prohibited by court order under sub. (4) (b).~~

SECTION 5.

SPD 3.06 (2) is repealed and recreated to read:

SPD 3.06 (2) The state public defender shall inform the applicant of all of the following:

(a) The applicant shall provide complete and accurate information about income, assets, liabilities, and expenses, because the applicant will be required to certify, under s. SPD 3.05 (1), the truthfulness of the information.

(b) The financial information provided by the applicant is not protected by the attorney-client privilege and the applicant may be prosecuted for a felony offense if the applicant intentionally provides false financial information.

EFFECTIVE DATE

This rule shall take effect on the first day of the month commencing after the date of publication, pursuant to s. 227.22 (2) (intro.), Stats.

Dated:

Wisconsin State Public Defender Board



By: _____

Daniel M. Berkos, Chair
State Public Defender Board



Nicholas L. Chiarkas
State Public Defender

Eileen A. Hirsch
Deputy State Public Defender

The State of Wisconsin
STATE PUBLIC DEFENDER

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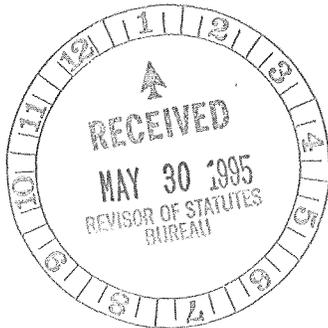
May 25, 1995

Mr. Gary Poulson
Revisor of Statutes
131 W. Wilson , Suite 800
Madison, WI 53703-3233

Dear Mr. Poulson:

Attached please find a certified copy of Clearinghouse rule 93-175. It has been promulgated by the legislature and I am filing it with you for final publication in the next Administrative Register.

Thank you.



Sincerely,

A handwritten signature in cursive script that reads "Evelyn J. Mazack".

EVELYN J. MAZACK
Legal Counsel