

1983 Assembly Bill 927

Date of enactment: April 25, 1984

Date of publication: May 2, 1984

1983 Wisconsin Act 377

AN ACT to repeal 977.08 (5) (c) and (d); to amend 13.09 (4), 758.13 (1), 885.10, 967.06 and 977.08 (4); to repeal and recreate 977.08 (5) (b); and to create 785.03 (3), 973.155 (6), 977.05 (4) (am), 977.08 (3) (e) and 977.10 of the statutes, relating to the state public defender and making appropriations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 13.09 (4) of the statutes, as affected by 1983 Wisconsin Acts 3, 27 and 83, is amended to read:

13.09 (4) The joint committee on finance shall receive reports submitted under ss. 13.095, 13.105 (intro.), 13.106 (1) (intro.) and (2), 13.94 (1) (a) and (b), 16.004 (2) and (7) (b), 16.04 (1) (d), 16.40 (14) and (15), 16.50 (3), 16.513 (2) to (4), 16.531 (3), 16.54 (5) and (8), 16.544 (1) and (3), 16.82 (4) (c), 16.97 (3), 20.002 (10), 20.235 (1) (g), 20.505 (5) (a), 20.920 (2) (am), 23.31 (1), 35.03 (6), 36.25 (16) (c), 38.06 (3) (c), 39.16 (2) (im), 39.28 (3) (b), 44.20 (4) (b), 46.03 (18) (a), (24), (26) (intro.) and (31), 49.45 (2) (a) 8 and 16 and (b) 2, 51.42 (10) (f), 51.437 (14) (f), 56.018, 115.781, 230.08 (4) (c), 234.25 (1) and, 234.65 (4) and 977.10.

SECTION 1c. 758.13 (1) of the statutes is amended to read:

758.13 (1) MEMBERSHIP; APPOINTMENT; TERMS. There is created a judicial council of ~~19~~ 20 members as follows: a supreme court justice designated by the supreme court; a court of appeals judge designated by the court of appeals; the director of state courts or his or

her designee; 4 circuit judges designated by the judicial conference; the chairpersons of the senate and the assembly committees dealing with judicial affairs or a member of each such committee designated by the respective chairperson; the attorney general or his or her designee; the revisor of statutes or an assistant designated by the revisor; the deans of the law schools of the university of Wisconsin and Marquette university or a member of the respective law school faculties designated by the deans; the state public defender or his or her designee; the president-elect of the state bar of Wisconsin or a member of the board of governors of the state bar designated by the president-elect and 3 additional members thereof selected by the state bar to serve 3-year terms; and 2 citizens at large appointed by the governor to serve 3-year terms. The names of the members shall be certified to the secretary of state by the executive secretary. Members shall hold office until their successors have been selected. Members shall receive no compensation, but shall be reimbursed from the appropriation made by s. 20.645 (1) for expenses necessarily incurred by them in attending council meetings.

SECTION 2. 785.03 (3) of the statutes is created to read:

785.03 (3) APPEAL. A defendant aggrieved by a determination under this chapter may appeal in accordance with s. 809.30 if the proceeding was prosecuted by the state.

SECTION 3. 885.10 of the statutes is amended to read:

885.10 Witness for indigent defendant. Upon satisfactory proof of the financial inability of the defendant to procure the attendance of witnesses for his or her defense, the judge or court commissioner, in any criminal action or proceeding, or in any other case in which the defendant is represented by the state public defender or by assigned counsel under s. 977.08, to be tried or heard before him or her, may direct the witnesses to be subpoenaed as he or she determines is proper and necessary, upon the defendant's oath or affidavit or that of the defendant's attorney. Witnesses so subpoenaed shall be paid their fees in the manner that witnesses for the state therein are paid. Determination of indigency, in full or in part, under s. 977.07 is proof of the defendant's financial inability to procure the attendance of witnesses for his or her defense.

SECTION 4. 967.06 of the statutes is amended to read:

967.06 Determination of indigency; appointment of counsel; preparation of record. As soon as practicable after a person has been detained or arrested in connection with any offense which is punishable by incarceration, or in connection with any civil commitment proceeding, or in any other situation in which a person is entitled to counsel regardless of ability to pay under the constitution or laws of the United States or this state, the person shall be informed of his or her right to counsel. Persons who indicate at any time that they wish to be represented by a lawyer, and who claim that they are not able to pay in full for a lawyer's services, shall immediately be permitted to contact the authority for indigency determinations specified under s. 977.07 (1). The authority for indigency determination in each county shall have daily telephone access to the county jail in order to identify all persons who are being held in the jail. The jail personnel shall provide by phone information requested by the authority. In any case in which the state public defender provides representation to an indigent person, the public defender may request that the applicable court reporter or clerk of courts prepare and transmit any transcript or court record. The request shall be complied with. The county treasurer shall compensate the court reporter or clerk of courts for the preparation and transmittal of the documents, upon the written statement of the state public defender that the documents were required in order to provide representation to the indigent person.

SECTION 5. 973.155 (6) of the statutes is created to read:

973.155 (6) A defendant aggrieved by a determination by a court under this section may appeal in accordance with s. 809.30 (1) (c) or (d).

SECTION 5m. 977.05 (4) (am) of the statutes is created to read:

977.05 (4) (am) Establish a case management system for use by the trial and appellate staff attorneys of the office of the state public defender. The system shall require the attorneys to record time spent on each case and to classify or describe the type of work done. The public defender shall comply with this paragraph by September 1, 1984.

SECTION 6. 977.08 (3) (e) of the statutes is created to read:

977.08 (3) (e) An attorney may be appointed without regard to pars. (c) and (d) if the attorney is currently or has previously represented the defendant. Any appointment out of order shall serve in lieu of an appointment in the regular order.

SECTION 6m. 977.08 (4) of the statutes is amended to read:

977.08 (4) At the conclusion of each case, any private local attorney who has been appointed shall submit ~~duplicate copies~~ a copy of his or her bill to the circuit court and to the state public defender. ~~If the bill exceeds \$1,000 in a case involving a person with a crime against life under ss. 940.01 to 940.12 or exceeds \$750 in any other case, the circuit court shall, and for any other bill the circuit court may, submit comments to the state public defender within 30 days after the bill is submitted. After the 30-day period, the~~ The state public defender shall review the bill and reject it or approve it in whole or in part. The state public defender shall then pay the bill according to the rate under sub. (4m). Any attorney dissatisfied with the decision of the state public defender regarding the bill may have the decision reviewed by the board. This subsection does not apply if the attorney is working under an agreement authorized under s. 977.02 (7m).

SECTION 6ng. 977.08 (5) (b) of the statutes is repealed and recreated to read:

977.08 (5) (b) For the counties not specified in par. (a), not less than 75% of the total cases shall be handled by the office of the state public defender and the balance shall be handled by private counsel.

SECTION 6nr. 977.08 (5) (c) and (d) of the statutes are repealed.

SECTION 6p. 977.10 of the statutes is created to read:

977.10 Reports on recoupment and repayment. On or before each January 15, the state public defender shall report to the joint committee on finance on the status of reimbursement for or recoupment of payments under ss. 48.275, 757.66 and 977.07 (2). The department of justice, district attorneys, circuit courts and applicable county agencies shall cooperate by providing any necessary information to the state public defender.

SECTION 7. Nonstatutory provisions; public defender board. (1) From the moneys in unallotted reserve for the appropriation under section 20.550 (1) (a), the public defender board may expend \$40,000 in fiscal year 1983-84 and \$40,000 in fiscal year 1984-85 for supplies and services.

(2) In hiring personnel to fill positions authorized under SECTION 8 of this act, the public defender shall give strong consideration to the need for the staff to reflect the racial and ethnic composition of the clients served by the public defender program and to any applicants who are bilingual or multilingual.

SECTION 8. Appropriation changes; public defender board. (1) **APPELLATE REPRESENTATION.** The appropriation to the public defender board under section 20.550 (1) (b) of the statutes, as affected by the acts of 1983, is increased by \$120,500 for fiscal year 1983-84 and by \$291,300 for fiscal year 1984-85 to provide additional funding for appellate representation of indigent defendants, including funding for 6.5 GPR positions.

(2) **TRIAL REPRESENTATION.** The appropriation to the public defender board under section 20.550 (1) (c) of the statutes, as affected by the acts of 1983, is increased by \$189,400 for fiscal year 1983-84 and by \$627,800 for fiscal year 1984-85 to provide additional funding for trial representation of indigent defendants, including funding for 18.5 GPR positions.

(3) PRIVATE BAR REIMBURSEMENT. The appropriation to the public defender board under section 20.550 (1) (d) of the statutes, as affected by the acts of 1983, is increased by \$580,000 for fiscal year 1983-84 to reduce the delay in reimbursing private local attorneys for their representation of indigent defendants.

SECTION 8x. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.251 (intro.)	none	977.10
