

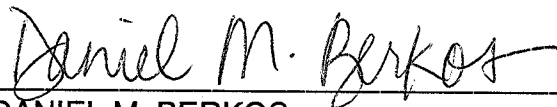
STATE OF WISCONSIN

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 redetermination of indigency during the course of representation were duly approved and adopted by this board on July 14, 1995.

I certify that this copy has been compared by me with the original on file in this Office and that the same 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 17th day of November, 1995.



DANIEL M. BERKOS
Chair, State Public Defender Board

Filed 1/11/96
10:45 am

3-1-96

PROPOSED ORDER OF THE STATE PUBLIC DEFENDER CREATING A RULE

The Wisconsin state public defender board proposes an order to create PD 3.039, relating to the redetermination of indigency during the course of representation.

Analysis

The proposed rule implements s. 977.06 (1) (b), Stats., created by 1995 Wisconsin Act 27 (the 1995-97 Biennial Budget), which requires the state public defender to redetermine indigency during the course of representation of persons receiving representation. Specifically, the proposed rule: 1) provides for redetermination of indigency if a person has a change in income or liquid assets during the course of representation; 2) specifies the financial guidelines that shall be followed in redetermining indigency during the course of representation; and, 3) provides that agency staff attorneys and appointed private bar attorneys shall withdraw from representation if a person is determined non-indigent and ineligible for services during the course of representation.

Statutory authority: ss. 977.02 (2m) and (3), Stats.

Statute interpreted: ss. 977.06 (1) (b), Stats.

SECTION 1. PD 3.039 is created to read:

3.039 Change of circumstances and redetermination of indigency; withdraw from representation.

If a client has originally qualified for appointment of counsel by a determination of indigency, the state public defender shall apply the following financial guidelines when a client or client's spouse obtains a higher level of income or receives liquid assets:

(1) When a change in income from employment occurs within 30 days from the date that counsel was appointed, the same eligibility standards shall apply as applied to the original determination of indigency. When a change resulting in increased income other than from employment or a change resulting in increased liquid assets occurs, the same eligibility standards shall apply as applied to the original determination of indigency.

(2) If the change in income from employment occurs more than 30 days from the date that counsel was appointed, the client remains eligible for representation by the state public defender if the income does not exceed the gross monthly amount stated in the table included in sub. (3) of this rule. If the gross monthly income exceeds that amount, the client is considered not indigent.

(3) The gross income eligibility table in this subsection applies to those individuals

who originally qualified for public defender representation under this chapter, but who obtained employment that increased their income. Continuing eligibility is based on client income remaining below gross monthly amounts in the following table:

Gross Income Eligibility Table

\$7.50	Hourly
\$300.00	Weekly
\$1,300.00	Monthly
(\$99.45)	Less Social Security (7.65%)
(\$131.00)	Federal Tax
(\$56.50)	State Tax
\$1,013.05	Monthly take home
(\$622.50)	Cost of Living at the Federal Poverty Level
\$390.55	"Disposable" Income

Per agency cost of counsel table, one can retain a lawyer for a non-felony case for between \$300 and \$700.

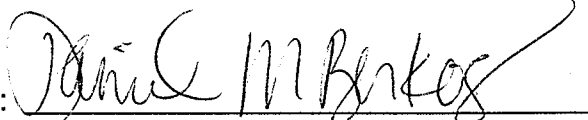
<u>Family Size</u>	<u>Hourly Amount</u>	<u>Gross Monthly</u>
1	\$7.50	\$1,200.00
2	\$8.70	\$1,392.00
3	\$9.18	\$1,469.00
4	\$9.81	\$1,569.00
5	\$10.38	\$1,660.00
6	\$10.74	\$1,718.00
7	\$11.13	\$1,781.00
8	\$11.44	\$1,831.00
9	\$11.70	\$1,872.00
10	\$11.84	\$1,895.00

(4) When the state public defender determines that a client is not indigent, the state public defender shall move the court to withdraw from representation. The state public defender shall develop procedures for seeking to withdraw from cases in which clients have been determined not to be indigent, including procedures to notify and instruct private attorneys assigned to cases by the state public defender.

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: 11/17/95

Wisconsin State Public Defender Board

By: 

DANIEL M. BERKOS, Chair
State Public Defender Board



**WISCONSIN
PUBLIC
DEFENDER**

Nicholas L. Chiarkas
STATE PUBLIC DEFENDER

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DEPUTY STATE PUBLIC DEFENDER

Sally Mayne Pederson
LEGAL COUNSEL

DIVISION DIRECTORS:

Arlene F. Banoul
ADMINISTRATIVE

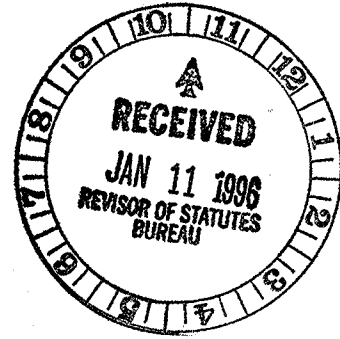
Virginia A. Pomeroy
APPELLATE

Marcus T. Johnson
ASSIGNED COUNSEL

Michael Tobin
TRIAL

January 11, 1996

HAND-DELIVERED



Gary Poulson
Revisor of Statutes Bureau
131 W. Wilson, Suite 800
Madison, WI 53707-3233

Dear Mr. *Gary* Poulson:

Enclosed please find certified copies of rules which the State Public Defender Board has promulgated. Please publish them in the next Administrative Register. Extra copies of the rules are enclosed for printing purposes.

Thank you.

Sincerely,

Sally Mayne Pederson
Legal Counsel

encl.