



## Legislative Fiscal Bureau

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June 5, 2001

Joint Committee on Finance

Paper #192

### **Federal Byrne Anti-Drug Grant and Associated Penalty Assessment Match Funding (DOA -- Office of Justice Assistance, District Attorneys, Justice and Public Defender)**

[LFB 2001-03 Budget Summary: Page 87, #4, Page 88, #5 & #6, Page 239, #5, Page 437, #8 and Page 528, #3]

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#### **CURRENT LAW**

The Byrne grant program was established under the federal Anti-Drug Abuse Act of 1988. Byrne grant funds may be used to address drug control, violent and serious crimes. Federal law requires that Byrne grant funding be passed to local units of government proportionate to the local units of government's share of criminal justice expenditures. The Department of Administration's Office of Justice Assistance (OJA) administers the Byrne grant program. Approximately 62% of the state's total Byrne allocation, minus OJA administration, must be passed to local units of government. In addition, 5% of Byrne grant funds must be used for improvement of the state's criminal record history resources (until the state meets federal information technology standards for criminal records). Up to 10% may be used for state administrative expenses.

The federal Byrne funding includes a required 25% match. The state provides the 25% match for state programs and provides a 15% match for local programs, with penalty assessment revenues. The remaining 10% match for local programs must be provided by local governments (which may be in-kind in the form of local personnel or other locally-funded services). One exception is that the state currently provides no match for Byrne dollars earmarked for the local jail literacy program; the jail literacy subgrantees must individually provide the entire 25% match. There is one state program, the information technology effort of the Department of Administration's Bureau of Justice Information Systems (BJIS) that does not receive the full 25% penalty assessment match otherwise provided for state programs.

In 2000-01, the Office of Justice Assistance (OJA) was appropriated \$2,614,000 in penalty assessment revenues to match Byrne funds distributed among its anti-drug local (\$1,184,200), state (\$1,294,200) and administration (\$135,600) appropriations.

## **GOVERNOR**

Make the following changes concerning federal Byrne funding: (a) provide \$753,500 FED in 2001-02 and \$293,100 FED in 2002-03 to reflect a reestimate of available Byrne grant funding for local programs; and (b) delete \$966,500 FED in 2001-02 and provide \$533,500 FED in 2002-03 to reflect a reestimate of available Byrne grant funding for state programs. [A technical correction is needed to delete \$293,200 annually in Byrne money appropriated for state programs that was inadvertently provided.]

Make the following changes concerning penalty assessment revenues used to match Byrne funds: (a) delete \$288,200 PR in 2001-02 and provide \$121,800 PR in 2002-03 in state and local penalty assessment match money for the federal Byrne anti-drug enforcement program to reestimate Byrne match requirements; (b) rename the anti-drug enforcement program, penalty assessment--local appropriation as the anti-drug enforcement program, penalty assessment--state and local appropriation; and (c) delete the anti-drug enforcement program, penalty assessment--state appropriation and transfer its adjusted base of \$1,294,200 PR annually to the anti-drug enforcement program, penalty assessment--state and local appropriation.

A technical correction is needed to delete penalty assessment match money for Byrne and Juvenile Accountability Incentive Block Grant (JAIBG) administration, to delete penalty assessment youth diversion program funding and to eliminate certain full funding of salaries and fringe benefits and reclassification standard budget adjustments provided with penalty assessment funds, as these funds were properly provided to the law enforcement programs--administration and youth diversion appropriation, but also inadvertently provided a second time to the anti-drug enforcement program, penalty assessment-state appropriation. The technical correction would delete funding as follows: (a) the youth diversion program (\$738,400 PR annually); (b) match money for administration of the federal Byrne and JAIBG programs (\$139,500 PR annually); and (c) full funding of salaries and fringe benefits and reclassification standard budget adjustments (-\$8,300 PR in 2001-02 and -\$7,700 PR in 2002-03).

Provide \$2,800 PR in 2001-02 and \$23,400 PR in 2002-03 in federal Byrne anti-drug enforcement program grant money and matching penalty assessment funds to the Multijurisdictional Enforcement Groups (anti-drug task forces) in Dane and Milwaukee Counties in order to continue to fund four ADA positions which prosecute drug-related crimes. Direct OJA to provide the Dane County anti-drug task force a total of \$84,000 in 2001-02 and \$91,000 in 2002-03 to fund one ADA position, and the Milwaukee County anti-drug task force a total of \$277,900 in 2001-02 and \$291,400 in 2002-03 to fund three ADA positions.

Provide that the Secretary of Administration may allocate up to \$2,000,000 in federal Byrne anti-drug enforcement program grant money and matching penalty assessment funds in

2002-03 for distribution to the SPD, the Director of State Courts and the Wisconsin District Attorneys Association (WDAA) to fund activities to divert misdemeanor offenders from imprisonment. Provide that the SPD, in consultation with the Director of State Courts and the WDAA, would be required to: (a) develop alternative charging and sentencing options for misdemeanor crimes in order to divert misdemeanor offenders from imprisonment; and (b) submit a proposal describing the recommended options to DOA by July 1, 2002. The proposal would be required to address, among other topics, alternative charging and sentencing options for nonviolent crimes against property. Provide that no expenditure of Byrne grant money or matching penalty assessment funds for a diversion program could be made without the approval of the proposal by DOA.

Provide \$940,100 PR in 2001-02 and \$2,200,100 PR in 2002-03 to the Department of Justice (DOJ) to upgrade its automated fingerprint identification system (AFIS) with funding provided as follows: (a) \$940,100 annually from the criminal justice records improvement set-aside of the federal Byrne program and matching penalty assessment monies; (b) \$760,000 in 2002-03 from the National Criminal History Improvement Project; and (c) \$500,000 in proceeds in 2002-03 from the sale of the old AFIS system. In addition, \$200,000 annually in base maintenance funds would be applied to the purchase.

In addition, in the executive budget book the Governor proposes that the state provide a full 25% match for a local Byrne ecstasy awareness grant program, but statutory authorization to permit this was not included in the budget bill.

## **DISCUSSION POINTS**

1. In 1999 Act 9 (the 1999-01 biennial budget act) Byrne grant funding was provided for the following local programs: (a) local anti-drug law enforcement task forces; (b) victim/witness services reimbursements to counties; (c) Milwaukee and Dane County assistant district attorney positions (three in Milwaukee and one in Dane) to prosecute drug offenses; and (d) jail literacy programs. The Governor's 2001-03 budget bill would: (a) increase funding in 2001-02 and decrease funding in 2002-03 for the anti-drug task forces; (b) continue base level funding for victim/witness services reimbursements to counties; (c) increase jail literacy funding from \$150,000 in 2000-01 (Byrne funds only) to \$300,000 annually (Byrne and matching penalty assessment dollars); and (d) continue to fund the four ADA positions. In addition, funding for a Milwaukee day report center, which serves as an alternative to detention and jail for pre-trial and sentenced offenders convicted of, or charged with, non-violent crimes, would continue to be provided at base funding levels in 2001-03.

2. The state portion of the Byrne grant funding is appropriated for various state agency programs. In 1999 Act 9 Byrne grant funding was provided in 2000-01 for the following programs: (a) crime laboratory equipment for the Department of Justice (DOJ); (b) information technology systems in the Department of Corrections (DOC); (c) alcohol and other drug abuse (AODA) purchase of service funding (1999-00 only) and an inmate AODA program targeted at offenders convicted of five or more Operating While Intoxicated (OWI) offenses in DOC; and (d) information

technology funding for the Department of Administration's Bureau of Justice Information Systems (BJIS).

3. Under the bill, state project funding would be provided for: (a) an upgrade for DOJ's automated fingerprint information system (AFIS) (the required Byrne set-aside for criminal record history projects); (b) DOC's OWI program; (c) BJIS; and (d) a misdemeanor incarceration diversion program, to be developed by the State Public Defender in conjunction with the Director of State Courts and district attorneys. Byrne funding for crime laboratory equipment in DOJ and DOC's information technology systems would not be provided in 2001-03.

4. Byrne funds that are not legislatively directed are distributed by the Governor's Commission on Law Enforcement and Crime (GLECC), an advisory board that currently consists of 14 members appointed under executive order. Most of these funds are dedicated to the anti-drug task forces. These funds are distributed by formula based on the violent crime rates, drug sales arrests and population. Task forces must document that the funds are used to reimburse forces for actual expenditures related to their operations (personnel, travel, equipment, contracts and confidential funds).

5. Any funds not appropriated by the Legislature or distributed by GLECC are used for demonstration projects, as determined by the Commission, or by the Governor for special projects. Examples of past demonstration projects include AODA programs for jail and Huber law inmates and methamphetamine enforcement programs. It should be noted that project grants (excluding anti-drug task forces, victim/witness services and the criminal history records set-aside) are limited to four years of funding.

6. The attachment identifies the state and local programs that the Governor would fund with federal Byrne and matching penalty assessment dollars under the 2001-03 budget, identifying: (a) programs continued with base level funding (adjusted base plus standard budget adjustments, if applicable); (b) currently funded programs with proposed increases or decreases to base level funding; and (c) new program initiatives. It should be noted that while BJIS shows an increase above base level Byrne funding, the bill would also decrease by a larger amount BJIS' penalty assessment funding (discussed in Paper #191, Penalty Assessment and Law Enforcement Training Fund Assessment), resulting in a net decrease in agency funding.

7. The bill would provide an additional \$753,500 FED in 2001-02 and \$293,100 FED in 2002-03 in Byrne funding for local programs and -\$966,500 FED in 2001-02 and \$533,500 FED in 2002-03 in additional Byrne grant funding for state programs. A technical correction is needed to delete \$293,200 FED annually of Byrne funding for state programs that was inadvertently provided. An additional technical correction is needed to delete \$869,600 PR in 2001-02 and \$870,200 PR in 2002-03 in penalty assessment funding that was inadvertently provided twice for youth diversion program funding, for full funding of certain salaries and fringe benefits and reclassification standard budget adjustments, as well as penalty assessment match money for Byrne and JAIBG administration. Byrne revenues available for state and local programs in 2001-02 and 2002-03 were reestimated, along with reestimates of the opening balance of Byrne funds and program reserves. Based on the reestimates, and technical corrections, the following table shows the revised condition

of federal Byrne grant funding under the bill.

**Federal Byrne Anti-Drug law Enforcement Program  
Revised Governor's 2001-03 Budget Recommendations**

	2001-02 Federal Byrne Grant	2001-02 Penalty Assessment Match	2002-03 Federal Byrne Grant	2002-03 Penalty Assessment Match
<b>Revenues</b>				
Opening balance - local	\$0		-\$642,100	
Federal revenue - local	<u>5,852,800</u>		<u>5,650,100</u>	
Local subtotal	\$5,852,800		\$5,008,000	
Opening balance - state	\$786,000*		\$1,046,200	
Federal revenue - state	<u>3,316,200</u>		<u>3,818,600</u>	
State subtotal	\$4,102,200		\$4,864,800	
Total estimated federal revenues	\$9,955,000		\$9,872,800	
<b>Appropriations and Reserves</b>				
Local and 15% match	\$6,494,900	\$1,360,200	\$6,034,500	\$1,270,200
State and 25% match	3,041,600	830,000	4,541,600	1,330,000
Administration match	<u>0</u>	<u>134,200</u>	<u>0</u>	<u>134,800</u>
Total appropriations	\$9,536,500	\$2,324,400	\$10,576,100	\$2,735,000
Program Reserves	\$14,400	\$4,800	\$21,600	\$7,200
Total Appropriations Plus Reserves	\$9,550,900	\$2,329,900	\$10,597,700	\$2,742,200
Closing federal balance - local	-\$642,100		-\$1,026,500	
Closing federal balance - state	\$1,046,200		\$301,600*	

\*CJRI set-aside

8. As shown above, there is projected to be a shortfall of -\$1,026,500 FED in Byrne funds for local programs at the end of the biennium under the bill. There appears to be sufficient Byrne funds to support the planned state programs for the 2001-03 biennium, with a projected balance of \$301,600 FED in Byrne funds for state programs at the end of the biennium. The entire \$301,600 balance would be criminal justice records improvements (CJRI) resources set-aside money which must be used for improvement of the state's criminal records history resources. None of the specifically identified local Byrne projects qualify for CJRI set-aside money. As a result, this balance could not be used to reduce the deficit in local program Byrne funding. In order to

eliminate the \$1,026,500 estimated deficit in the local Byrne program, funding adjustments are necessary. Accordingly, this paper discusses the modified (expanded or decreased) initiatives and the new initiatives proposed by the Governor.

### **Local Anti-Drug Task Forces**

9. Over half of the local Byrne monies are awarded to multi-jurisdictional anti-drug enforcement task forces, which are local programs that integrate the services of various law enforcement agencies and prosecutors to enhance the interagency coordination, intelligence and facilitation of multi-jurisdictional investigations. The major function of the task forces is to investigate high-level drug offenders using a multi-agency approach in combining equipment, intelligence and manpower resources. Grants are awarded on an annual basis and are to be used to reimburse task forces for operational costs. Currently, there are 32 task forces in the state, which include all counties except Dodge County. Task forces can use their grants to fund positions including anti-drug prosecutors. Certain task forces use a portion of their funds to fund eight permanent assistant district attorney PR positions (five in Milwaukee County and one each in Dane, Outagamie and Waukesha Counties).

10. Task forces are not subject to the four-year project funding limitation. The fluctuation in task force funding under the Governor's proposal (increased funding of \$152,000 in 2001-02 and decreased funding of \$419,000 in 2002-03), according to DOA, reflects the amount of funding DOA estimated would be available for task forces after other funding priorities were established.

11. According to OJA, the funding cut in the second year would be spread out over all task forces. Because the grant awards to task forces do not coincide with the state fiscal year, OJA would make an effort to even out funding available to task forces over the two-year period to the extent possible.

### **Governor's Commission on Law Enforcement and Crime Set-aside and Special Projects**

12. While not specified in the bill or executive budget book, the Department of Administration indicates that the Governor intends to provide \$315,000 annually for the set-aside for the Governor's Commission on Law Enforcement and Crime (GLECC). These funds are not specifically allocated for any local project, but would be distributed as determined during the next biennium by GLECC. The bill also provides \$210,000 annually for special projects. When facing a shortfall in local Byrne dollars, it could be argued that monies unallocated for specific purposes should be eliminated. On the other hand, others might argue that these unallocated funds allow GLECC and OJA to identify and respond to unanticipated needs or challenges over the course of the biennium.

### **Jail Literacy Programs**

13. The Governor proposes to increase funding for jail literacy programs from \$150,000

in 2000-01 to \$300,000 annually. OJA was directed in 1999 Act 9 to provide \$150,000 for jail literacy programs in 2000-01 with the requirement that the grant recipient pay at least 25% of the total cost of its pilot literacy program. OJA was directed to award grants on a competitive basis to six counties for pilot literacy programs in jails or houses of corrections.

14. According to OJA, a solicitation to submit proposals for jail literacy program funding was sent out, with little response from counties. OJA officials believe the reluctance to submit requests was likely due to the \$25,000 limit on funding and the 25% match requirement. OJA subsequently reissued a request for proposals; six proposals were received and five were funded. Under the Governor's recommendation, the \$25,000 grant ceiling and the 25% match requirement would be eliminated (the 10% local match requirement would instead apply). OJA indicates that counties in addition to the five currently participating have expressed interest in applying for any future jail literacy funds.

### **Racial Profiling/In-Car Cameras**

15. The bill would provide \$240,000 annually for the purchase of video cameras installed in police patrol cars to identify and deter racial profiling. This proposal is a product of the Governor's Task Force on Racial Profiling. The task force concluded that, "law enforcement should be encouraged to use in-car video cameras provided primarily through public funding alternatives" and that "Task Force members and the law enforcement community are interested in new initiatives but are not in favor of unfunded mandates." The task force's report cited testimony that in-car cameras can not only help to identify and prove when racial profiling occurs, but can also be an effective deterrent against false accusations of racial profiling. Both the Wisconsin Chiefs of Police and the Wisconsin Law Enforcement Coalition recommended the use of video cameras, with public funding, in their resolutions on racial profiling.

16. In considering the purchase of video cameras by local police departments, the report stated that, "the cost of purchasing and installing video cameras can be a deterrent to their implementation." The Task Force estimated that the average cost of a video camera is \$5,000. The Governor's proposal, therefore, would fund approximately 48 in-car cameras annually in 2001-03.

17. The Task Force report does not identify the number of cameras that potentially would be needed, although it does acknowledge the cost would be large. The report further suggests that funding could be provided over time, "with priority given to vehicles used in appropriate areas or with appropriate personnel." However, the report does not define "appropriate."

18. It is estimated that state-wide there are approximately 3,500 police vehicles, with the City of Milwaukee having approximately 350 vehicles. If 48 in-car cameras were provided annually, it would take over seven years to fully equip the City of Milwaukee's current squad cars with in-car cameras.

19. The report states, "In short, the benefits of the video cameras and their cost must be weighed against the entire budget and priorities of any agency. This does not diminish the value of

the video cameras, but when viewed as part of a whole, they must receive the same scrutiny as any other budget item."

### **Ecstasy Awareness and Enforcement Grants**

20. The bill would provide \$250,000 annually for ecstasy awareness and enforcement grants. The executive budget book indicates that these would be discretionary grants provided to local anti-drug task forces "for increased enforcement and awareness campaigns to educate potential abusers, parents and community members of the nature and impact of ecstasy and other so-called club drugs and relevant criminal penalties. Included in the Governor's recommendation is all of the required match." However, statutory authorization for this 25% match was inadvertently not included in the bill, but was requested as a modification to the bill by the State Budget Director in a letter to the Co-Chairs of the Joint Committee on Finance on March 21, 2001.

21. "Club drugs" generally refer to a number of illicit drugs, including ecstasy, that are most commonly used at nightclubs and "raves." According to the federal Drug Enforcement Administration, the drugs have gained popularity primarily due to the false perception that they are not as harmful, nor as addictive, as mainstream drugs such as heroin.

22. Along with the awareness and enforcement grant program, the bill also provides for increased penalties for club drugs. Under current law, the penalty for the manufacture, distribution, delivery, or possession with intent to manufacture, distribute or deliver a variety of "club drugs" is a fine of not more than \$15,000 or imprisonment of not more than seven years and six months or both. Under the bill, the penalties would vary depending on the drug and the quantity confiscated, with the greatest penalty being a fine of not less than \$1,000 nor more than \$1,000,000 and imprisonment for not less than 10 years nor more than 45 years for more than 400 grams of methamphetamine.

23. At this time there is not a defined plan as to how these funds would be distributed to task forces or how they would be used to increase enforcement and awareness of the dangers and penalties concerning ecstasy and other club drug use.

### **Automated Fingerprint Identification System (AFIS)**

24. The bill would provide \$940,100 PR in 2001-02 and \$2,200,100 PR in 2002-03 to upgrade the Department of Justice's (DOJ) automated fingerprint identification system (AFIS). Under current law, fingerprints, photos, and demographic information for all persons arrested, taken into custody or sentenced to prison must be submitted to DOJ as the state repository for criminal history information. The AFIS system stores electronically the fingerprints that are required to be submitted to DOJ. The AFIS system allows law enforcement to run a fingerprint collected at a crime scene or a fingerprint collected from an arrested individual against the AFIS fingerprint database, and if the matching fingerprint is in the database, to positively identify the individual whose fingerprint was run. The AFIS system also allows DOJ to electronically store fingerprints collected at crime scenes that cannot be matched to an individual. If at a later time the individual's fingerprint is collected by law enforcement because the individual is arrested, the electronic storing

of unmatched crime scene fingerprints allows DOJ to link the individual to another crime he or she may have committed.

25. It is current law enforcement practice in Wisconsin to take fingerprint impressions of all ten fingers (called tenprints) when an individual is arrested. DOJ's current AFIS system has a database capacity of 883,000 tenprints. As of the end of April, there are 873,000 tenprints stored in DOJ's AFIS, and 4,000 to 5,000 additional tenprint records are being added per month. By August of this year, DOJ expects to be out of space to store additional tenprints in the current AFIS system. In addition, the current system is eight years old, replacement parts are increasingly hard to find and the manufacturer will no longer support DOJ's current AFIS beginning in 2002.

26. Before the state purchased an AFIS system, the City of Milwaukee acquired its own AFIS system. Milwaukee stores many of the same fingerprints on its AFIS system that are required to be sent to DOJ under state law. However, Milwaukee also stores additional applicant, licensing and employment fingerprints on its AFIS system not required by state law. Milwaukee's AFIS system is more than 13 years old and not Y2K compliant. Special arrangements have been made with the manufacturer to roll back the internal clocks to keep the system in operation.

27. DOJ officials indicate that, with the funds provided for in the bill for AFIS, DOJ can both make the necessary upgrades to the state system as well as meet Milwaukee's needs. DOJ and the Milwaukee Police Department are working out an arrangement whereby unique Milwaukee fingerprint records not otherwise required to be kept under state law could be stored on the state AFIS system and Milwaukee would have access to these records through four replacement AFIS workstations that DOJ would acquire for Milwaukee through the AFIS monies provided under the bill. Funding provided in the bill includes \$940,100 annually in Byrne CJRI set-aside monies. Combined with base resources, it appears that the Governor's recommendation would allow DOJ and Milwaukee to meet their respective AFIS needs.

### **Misdemeanor Diversion Program**

28. The bill provides that the Secretary of Administration may allocate up to \$2,000,000 in state Byrne funds and matching penalty assessment funds in 2002-03 for distribution to the State Public Defender (SPD), the Director of State Courts and the Wisconsin District Attorneys Association (WDAA) to fund activities to divert misdemeanor offenders from imprisonment. Under the bill, the SPD, in consultation with the Director of State Courts and the WDAA, would be required to: (a) develop alternative charging and sentencing options for misdemeanor crimes in order to divert misdemeanor offenders from imprisonment; and (b) submit a proposal describing the recommended options to DOA by July 1, 2002. The proposal would be required to address, among other topics, alternative charging and sentencing options for nonviolent crimes against property. No expenditure of Byrne grant money or matching penalty assessment funds for a diversion program could be made without the approval of the proposal by DOA. Upon approval of the proposal by DOA, the SPD and the Director of State Courts would be required to implement, in conjunction with the Wisconsin District Attorneys Association, the portions of the proposal that are permitted under state statutes or rules.

29. In its budget request, the SPD proposed a statutory change in the procedure for charging misdemeanor violations of 29 specified criminal statutes when the alleged offender has never been convicted of a felony offense and has not been convicted of any similar offense in the previous three years. Under the SPD's proposal, before issuing a criminal charge, the district attorney would be required to offer the alleged offender the opportunity to: (a) complete a diversion program by satisfying all conditions of the program including restitution when ordered; or (b) pay a forfeiture under a stipulated finding of guilt under a non-criminal county ordinance.

30. At its January 16, 2001, executive board meeting, the Wisconsin District Attorneys Association reviewed the SPD misdemeanor diversion program request and unanimously approved a motion to oppose the request and instead recommend that the Department of Corrections create a diversion program to accommodate what the SPD proposed. Reasons discussed concerning the WDAA opposition to the SPD proposal included both policy concerns that the program would invade a district attorney's discretion in how to handle certain cases and concerns that a diversion program would require staff, which were not requested in the SPD proposal.

31. The Governor did not include the SPD's proposal in the budget bill, but instead included the provision requiring the three agencies to develop a proposal by July 1, 2002. Because the proposal has not as yet been developed, there is little specific information concerning a potential diversion program. The Director of State Courts Office indicates that no one had contacted the Office to discuss this provision but would be willing to participate in the workgroup. The WDAA, while expressing opposition to the SPD's original proposal, has indicated that it supports the Governor's proposal and is also willing to participate in the workgroup. The SPD has also expressed interest in participating in the workgroup.

32. Because there is no specific proposal, it is not known what the cost would be to implement a misdemeanor offender diversion program in 2002-03. Therefore, it may be questioned whether any or all of the \$2,000,000 proposed for the program will be needed in this biennium. Under the bill, the diversion program proposal would be submitted to DOA on July 1, 2002. Only after DOA approval could a program be implemented. Time needed for review, approval and program start-up would likely delay full program implementation by at least three to six months. Reduced funding would allow the issue to be studied, and would still provide for potential program implementation in 2002-03.

33. Because there is so little information available about the possible design and operation of a misdemeanor diversion program, some legislative review prior to implementation may be considered appropriate. Therefore, if the Committee chooses to approve or modify the Governor's recommendation, a provision could be added to require Joint Committee on Finance approval, through a passive review process, of any diversion program proposal approved by DOA.

### **Non-Statutory Directives Concerning Byrne Funding**

34. 1999 Act 9 decisions concerning Byrne project funding were reflected in the act as non-statutory directives to OJA to provide the specified funding. In the 2001-03 budget bill, non-statutory directives are provided only for the ADA positions and the misdemeanor grant program.

For state programs, appropriations to the state agencies in the bill reflect the bill's intent. Local programs, with the two exceptions noted above, are identified only in the executive budget book or not at all.

35. A reason for not including specific language in the bill on project funding would be to provide OJA flexibility to adjust program funding levels should federal revenues be different than currently estimated. Providing specific direction to OJA in the bill on program funding could be seen as a way to ensure that legislative program funding priorities are met, to the extent that federal funding is available.

### **Consolidation of State and Local Byrne Penalty Assessment Match Appropriations**

36. Under current law penalty assessment matching funds are deposited into three separate appropriations: (a) the anti-drug enforcement program--administration appropriation; (b) the anti-drug enforcement program, penalty assessment--local appropriation; and (c) the anti-drug enforcement program, penalty assessment--state appropriation. Under the bill, the Governor would combine the penalty assessment--local match and penalty assessment--state match appropriations into a single appropriation.

37. Consolidation of appropriations allows agencies more administrative flexibility with regard to expenditure control by providing a larger and less restricted level of funding. With the penalty assessment match appropriations, combining the appropriations would allow for transfer between state and local programs to the extent allowed by federal law.

38. However, having separate penalty assessment state and local appropriations provides the Legislature with greater oversight over the use of federal Byrne funds. Separate appropriations would also allow the proper reflection of each appropriation's funding category (state operations and local assistance).

## **ALTERNATIVES**

### **A. Byrne and Penalty Assessment Match Funding**

1. Approve the Governor's recommendation, as technically corrected, to provide the following for Byrne grant and penalty assessment funding: (a) provide \$753,500 FED in 2001-02 and \$293,100 FED in 2002-03 to reflect a reestimate of available Byrne grant funding for local programs; and (b) provide -\$1,259,700 FED in 2001-02 and \$240,300 FED in 2002-03 to reflect a reestimate of available Byrne grant funding for state programs (reflects technical correction deleting \$293,200 FED annually for state Byrne funds that were inadvertently provided). In addition, authorize OJA to provide the full 25% match for the ecstasy awareness and enforcement grants with penalty assessment revenues, as requested as a modification to the bill by the State Budget Director. In addition, delete \$869,600 PR in 2001-02 and \$870,200 PR in 2002-03 in penalty assessment funding for youth diversion program funding, for full funding of certain salaries and fringe benefits and reclassification standard budget adjustments, as well as penalty assessment match money for

Byrne and JAIBG administration that was inadvertently provided twice.

<u>Alternative A1</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
<b>2001-03 FUNDING</b> (Change to Bill)	- \$586,400	- \$1,739,800	- \$2,326,200

2. Modify Alternative 1 by reducing Byrne funding by \$1,026,500 FED in 2002-03 and the associated penalty assessment match money by \$342,200 PR for the initial implementation of a misdemeanor offender diversion program developed by SPD in consultation with the Director of State Courts and the WDAA and approved by DOA. Under this alternative, \$631,300 would be available for the diversion program in 2002-03.

<u>Alternative A2</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
<b>2001-03 FUNDING</b> (Change to Bill)	- \$1,612,900	- \$2,082,000	- \$3,694,900

3. Modify Alternative 1 as follows: (a) reduce funding in 2002-03 for the initial implementation of a misdemeanor offender diversion program developed by SPD in consultation with the Director of State Courts and the WDAA by \$626,500 FED and \$208,800 PR in associated penalty assessment match money; and (b) delete \$200,000 FED and \$40,000 PR annually of funding for the purchase of in-car cameras. Under this alternative, \$1,164,700 would be provided in 2002-03 for the diversion program, and funding for in-car cameras would be eliminated.

<u>Alternative A3</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
<b>2001-03 FUNDING</b> (Change to Bill)	- \$1,612,900	- \$2,028,600	- \$3,641,500

4. Modify Alternative 1 as follows: (a) delete the GLECC set-aside for unspecified projects by \$262,500 FED and \$52,500 PR annually; (b) delete the special projects funding for unspecified projects by \$175,000 FED and \$35,000 PR annually; and (c) reduce by \$75,800 FED and \$15,200 PR in 2001-02 and \$75,700 FED and \$15,100 PR in 2002-03 of funding for the purchase of in-car cameras. Under this alternative, GLECC set-aside and special projects funding would be eliminated and \$149,000 in 2000-01 and \$149,200 in 2001-02 would be provided for in-car cameras.

<u>Alternative A4</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
<b>2001-03 FUNDING</b> (Change to Bill)	- \$1,612,900	- \$1,945,100	- \$3,558,000

5. Modify Alternative 1 as follows: (a) delete the GLECC set-aside funds for unspecified projects by \$262,500 FED and \$52,500 PR annually; (b) delete the special projects funds for unspecified projects by \$175,000 FED and \$35,000 PR annually; and (c) reduce by \$75,800 FED and \$25,300 PR in 2001-02 and \$75,700 FED and \$25,200 PR in 2002-03 of funding for ecstasy awareness and enforcement grants. Under this alternative, GLECC set-aside and special

projects funding would be eliminated and \$148,900 in 2001-02 and \$149,100 in 2002-03 would be provided for ecstasy awareness and enforcement grants.

<b>Alternative A5</b>	<b>FED</b>	<b>PR</b>	<b>TOTAL</b>
<b>2001-03 FUNDING</b> (Change to Bill)	- \$1,612,900	- \$1,965,300	- \$3,578,200

6. Modify Alternative 1 as follows: (a) delete the GLECC set-aside funds for unspecified projects by \$262,500 FED and \$52,500 PR annually; (b) delete the special projects funds for unspecified projects by \$175,000 FED and \$35,000 PR annually; and (c) reduce by \$75,800 FED and \$40,200 PR in 2001-02 and \$75,700 FED and \$40,100 PR in 2002-03 funds provided for ecstasy awareness and enforcement grants, to be matched with a 15% penalty assessment match as provided under current law. Under this alternative, GLECC set-aside and special projects funding would be eliminated and \$134,000 in 2001-02 and \$134,200 in 2002-03 would be provided for ecstasy grants with a 15% state match.

<b>Alternative A6</b>	<b>FED</b>	<b>PR</b>	<b>TOTAL</b>
<b>2001-03 FUNDING</b> (Change to Bill)	- \$1,612,900	- \$1,995,100	- \$3,608,000

7. Modify Alternative 1 as follows: (a) delete the GLECC set-aside funds for unspecified projects by \$262,500 FED and \$52,500 PR annually; (b) delete the special projects funds for unspecified projects by \$175,000 FED and \$35,000 PR annually; and (c) reduce by \$75,800 FED and \$15,200 PR in 2001-02 and \$75,700 FED and \$15,100 PR in 2002-03 funds for the jail literacy program. Under this alternative, GLECC and special projects funding would be eliminated and \$209,000 in 2001-02 and \$209,200 in 2002-03 would be provided for jail literacy programs.

<b>Alternative A7</b>	<b>FED</b>	<b>PR</b>	<b>TOTAL</b>
<b>2001-03 FUNDING</b> (Change to Bill)	- \$1,612,900	- \$1,945,100	- \$3,558,000

8. In addition to any of the above alternatives, provide that prior to implementation of a misdemeanor offender diversion program, the program proposal be approved by the Joint Committee on Finance under a passive review process.

**B. Consolidation of State and Local Byrne Penalty Assessment Match Appropriations**

1. Approve the Governor’s recommendation to make the following changes to the state and local Byrne penalty assessment match appropriations: (a) rename the anti-drug enforcement program, penalty assessment--local appropriation as the anti-drug enforcement program, penalty assessment--state and local appropriation; and (b) delete the anti-drug enforcement program, penalty

assessment--state appropriation and transfer its adjusted base of \$1,294,200 annually to the anti-drug enforcement program, penalty assessment--state and local appropriation.

2. Maintain current law by retaining separate penalty assessment match appropriations for state and local Byrne funds.

### **C. Project Funding**

1. Approve the Governor's recommendation as follows: (a) provide \$2,800 PR in 2001-02 and \$23,400 PR in 2002-03 to the District Attorneys in federal Byrne anti-drug enforcement program grant money and matching penalty assessment funds to continue to fund four ADA positions which prosecute drug-related crimes, and, direct the Office of Justice Assistance to provide the Dane County multijurisdictional enforcement group (task force) a total of \$84,000 in 2001-02 and \$91,000 in 2002-03 to fund one ADA position and \$277,900 in 2001-02 and \$291,400 in 2002-03 to the Milwaukee County task force to fund three ADA positions; and (b) provide \$940,100 PR in 2001-02 and \$2,200,100 PR in 2002-03 to the Department of Justice to upgrade its automated fingerprint identification system (AFIS) with funding provided as follows: (1) \$940,100 annually from the criminal justice records improvement set-aside of the federal Byrne program and matching penalty assessment monies; (2) \$760,000 in 2002-03 from the National Criminal History Improvement Project; and (3) \$500,000 in proceeds in 2002-03 from the sale of the old AFIS system. (In addition, \$200,000 annually in base maintenance funds would be applied to the purchase.)

2. In addition to alternative C1, direct OJA to provide Byrne and matching penalty assessment funding as approved.

Prepared by: Paul Onsager  
Attachment

ATTACHMENT

**Governor's Funding Recommendations for Federal Byrne and Matching Penalty Assessment**

<u>Agency/Purpose</u>	<u>Federal Byrne Grant 2001-02</u>	<u>Penalty Assessment Match 2001-02</u>	<u>Federal Byrne Grant 2002-03</u>	<u>Penalty Assessment Match 2002-03</u>
<b>Local Programs:</b>				
Local anti-drug task forces				
Base	\$3,846,200	\$769,200	\$3,846,200	\$769,200
Increase/Decrease	<u>126,600</u>	<u>25,400</u>	<u>-349,200</u>	<u>-69,800</u>
Total	\$3,972,800	\$794,600	\$3,497,000	\$699,400
GLECC set-aside				
Base	\$262,500	\$52,500	\$262,500	\$52,500
Special projects				
Base	\$25,000	\$5,000	\$25,000	\$5,000
Increase/Decrease	<u>150,000</u>	<u>30,000</u>	<u>150,000</u>	<u>30,000</u>
Total	\$175,000	\$35,000	\$175,000	\$35,000
Milwaukee Co ADAs				
Base plus SBAs	\$208,400	\$69,500*	\$218,500	\$72,900*
Dane Co ADAs				
Base plus SBAs	\$63,000	\$21,000*	\$68,300	\$22,800*
DOJ victim/witness reimbursements to counties				
Base	\$709,000	\$141,800	\$709,000	\$141,800
Jail literacy programs				
Base	\$150,000	\$0**	\$150,000	\$0**
Increase	<u>100,000</u>	<u>50,000</u>	<u>100,000</u>	<u>50,000</u>
Total	\$250,000	\$50,000	\$250,000	\$50,000
Milwaukee day report center				
Base	\$466,700	\$93,300	\$466,700	\$93,300
Racial profiling/in-car cameras (new)				
Increase	\$200,000	\$40,000	\$200,000	\$40,000
Ecstasy awareness and enforcement grants (new)				
Increase	\$187,500	\$62,500*	\$187,500	\$62,500*
<b>Total -- Local Programs</b>	<b>\$6,494,900</b>	<b>\$1,360,200</b>	<b>\$6,034,500</b>	<b>\$1,270,200</b>
<b>State Programs:</b>				
CJRI set-aside for DOJ AFIS (new)				
Increase	\$705,100	\$235,000	\$705,100	\$235,000
BJIS operations & installation				
Base	\$1,578,600	\$445,500	\$1,578,600	\$445,500
Increase	<u>100,000</u>	<u>33,300</u>	<u>100,000</u>	<u>33,300</u>
Total	\$1,678,600	\$478,800	\$1,678,600	\$478,800
DOC 5th offense OWI program				
Base plus SBAs	\$348,500	\$116,200	\$348,500	\$116,200
Misdemeanor diversion program (DA-SPD-Courts) (new)				
Increase			\$1,500,000	\$500,000
OJA Byrne administration				
Base plus SBAs	\$301,300	\$131,200	\$301,300	\$131,800
Increase (SASI support)	<u>8,100</u>	<u>3,000</u>	<u>8,100</u>	<u>3,000</u>
Total	\$309,400	\$134,200	\$309,400	\$134,800
<b>Total -- State Programs and Administration</b>	<b>\$3,041,600</b>	<b>\$964,200</b>	<b>\$4,541,600</b>	<b>\$1,464,800</b>

Note: SBAs are Standard Budget Adjustments

\*State match at 25% (change to bill needed for ecstasy awareness and enforcement grants)

\*\*Local projects required to provide full 25% match in 2000-01