

# District Attorneys

(LFB Budget Summary Document: Page 159)

## **LFB Summary Items for Which Issue Papers Have Been Prepared**

<u>Item #</u>	<u>Title</u>
2	Pay Progression (Paper #270)
3	Additional GPR Prosecutor Positions (Paper #271)

## **LFB Summary Items Removed From Budget Consideration**

<u>Item #</u>	<u>Title</u>
4	Deputy District Attorney Allocation

## **LFB Summary Item Addressed in Standard Budget Adjustments (Paper #101)**

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments





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June, 2021

Joint Committee on Finance

Paper #270

### **Pay Progression (District Attorneys, Justice, and Public Defender)**

[LFB 2021-23 Budget Summary: Page 159, #2; Page 373, #16; Page 453, #2]

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#### **CURRENT LAW**

Under 2011 Act 238 and 2013 Act 20, assistant district attorneys (ADAs) and deputy district attorneys (DDAs) are compensated pursuant to a merit-based pay progression plan under which prosecutors may receive annual salary adjustments. Act 20 also established a pay progression plan for assistant state public defenders (ASPDs) and assistant attorneys general (AAGs) that mirrors the pay progression plan provided to assistant and deputy district attorneys. The merit-based pay progression plan consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between an attorney's lowest hourly salary and the attorney's highest possible annual salary. Notwithstanding the creation of a 17 hourly salary step pay progression plan, District Attorneys, the State Public Defender, and the Attorney General may: (a) deny annual salary increases to individual ADAs, DDAs, ASPDs, and AAGs; or (b) increase the salary of individual ADAs, DDAs, ASPDs, and AAGs by up to 10% per year. Pay adjustments are made on the first pay period occurring after July 1. In order to be eligible for pay progression, individuals generally must have served the state as an ADA, DDA, ASPD, or AAG for a continuous period of 12 months or more.

The District Attorney (DA) function has an annual GPR appropriation utilized to supplement salary and fringe benefit funding in order to support salary adjustments under the pay progression plan. The Office of the State Public Defender (SPD) had an annual GPR appropriation utilized to supplement salary and fringe benefit funding in order to support salary adjustments under the pay progression plan. Under 2017 Act 59, the SPD's annual GPR appropriation for salary adjustments for ASPDs was deleted. Instead, under the bill, funding for salary adjustments would be included in a biennial GPR appropriation utilized to support all operations of the SPD, but is separately accounted for within the appropriation. The Department of Justice (DOJ) had utilized existing resources, including discretionary settlement funds, to support salary adjustments for AAGs.

Under 2017 Act 369, discretionary settlement funds are required to be deposited into the general fund. This provision is currently under litigation.

The District Attorneys were authorized 493.5 ADA and DDA positions, including 449.0 GPR attorneys and 44.5 PR attorneys. The SPD is currently authorized 374.2 ASPDs, all of which are GPR-funded. The Department of Justice is currently authorized 106.30 AAG and AAG supervisor positions, including 83.45 GPR attorneys, 18.35 PR attorneys, and 4.5 FED attorneys.

## **DISCUSSION POINTS**

1. Under the 2019-21 state employee compensation plan established by the Division of Personnel Management in the Department of Administration (DOA), the minimum hourly salary for ADAs, DDAs, and ASPDs is \$26.17 per hour (\$54,434 annually), while the maximum salary for these employees is \$63.20 per hour (\$131,546 annually). [Due to supervisory responsibilities, DDAs and ASPD supervisors may earn up to an additional \$2.75 per hour (\$5,720 annually).] Generally, the compensation plan requires that ADAs be hired at the minimum salary level, while the SPD and DOJ are authorized to hire ASPDs at a rate up to \$44.69 per hour (\$92,955 annually).

2. The pay progression plan for these individuals exists to increase employee retention by creating a path for experienced attorneys to move from the minimum salary level to the maximum salary level. The pay progression plan consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the minimum salary level and the maximum salary level. One full salary step totals \$2.18 per hour, or \$4,534 annually. Notwithstanding the creation these 17 steps, ADAs, DDAs, ASPDs, and AAGs may, at the discretion of their supervisor, receive up to a 10% increase in their salary on an annual basis until the attorney reaches the maximum allowable salary under the compensation plan. Once an attorney reaches the maximum salary level, the attorney may no longer receive salary adjustments under the pay progression plan. Under the pay progression plan, ADAs, DDAs, ASPDs, and AAGs are eligible to receive a salary adjustment after having been employed in such a position for 12 continuous months.

3. Table 1 identifies funding provided to the District Attorneys and the SPD for pay progression during the 2013-15, 2015-17, 2017-19, and 2019-21 biennia, as well as a brief description of how the funding was utilized. Table 1 also identifies amounts recommended in the bill for pay progression during the 2021-23 biennium.

**TABLE 1****Funding Appropriated for Pay Progression for the District Attorneys  
and the State Public Defender, 2013-14 through 2022-23\***

<u>Fiscal Year</u>	<u>District Attorneys</u>		<u>State Public Defender</u>	
	<u>Appropriated Amount</u>	<u>Utilization of Funding</u>	<u>Appropriated Amount</u>	<u>Utilization of Funding</u>
2013-14	\$1,018,400	Increase salaries of eligible attorneys to the next hourly salary step.	\$997,000	Increase salaries of eligible attorneys to the next hourly salary step.
2014-15	3,625,500	Increase salaries of certain attorneys by, on average, 6.6%, and provide other attorneys a one-time lump sum of \$2,000.	1,978,600	Increase salaries of eligible attorneys by, on average, 4.4%.
2015-16	0		0	
2016-17	556,900	Increase salaries for eligible attorneys by, on average, 2%.	481,300	Increase salaries for eligible attorneys attorneys by, on average, 2%
2017-18	1,005,700	Intended to increase salaries of eligible attorneys by \$1.97 per hour.	1,280,300	Intended to increase salaries of eligible attorneys by, on average 5%.
2018-19	2,606,000	Intended to increase salaries of eligible attorneys by \$1.97 per hour.	2,607,300	Intended to increase the salaries of eligible attorneys by 5%.
2019-20	1,520,200	Intended to increase salaries of eligible attorneys by \$2.09 per hour July 1, 2019.	300,300	Intended to fund a 2% increase on January 1, 2020.
2020-21	3,048,700	Intended to increase salaries of eligible attorneys by \$2.09 per hour July 1, 2020.	903,100	Intended to fund a 2% increase on January 1, 2021.
2021 Act 7	0		0	Allow for the State Public Defender to provide the difference between the 2% increase received by the SPD and a \$2.09 per hour increase in 2019-21.
2021-22**	1,923,800	Intended to increase salaries of eligible attorneys by \$2.18 per hour July 1, 2022.	1,806,600	Intended to fund a \$2.18 per hour increase on January 1, 2022.
2022-23**	3,790,000	Intended to increase salaries of eligible attorneys by \$2.18 per hour July 1, 2023.	3,568,000	Intended to fund a \$2.18 per hour increase on January 1, 2023.

\* Amounts provided may be utilized by the agency at their discretion for eligible attorneys.

\*\*Information related to 2021-22 and 2022-23 are based on amounts included in the budget bill.

4. Note that similar information for annualized funding allocated for AAG's for pay progression from 2014-15 through 2019-20 is provided in Table 2.

**TABLE 2**

**Annualized Funding Utilized for Pay Progression for the Assistant Attorneys General  
2014-15 through 2019-20**

<u>Fiscal Year</u>	<u>Funded Amount</u>	<u>% Increase over Base</u>
2015	\$405,122	8.41%
2016	410,779	8.66
2017	384,550	6.59
2018	283,046	3.64
2019	226,583	1.85
2020	356,923	3.19

5. When budgeting for salary adjustments under the pay progression plan, greater amounts are typically appropriated in the second year of the biennium when compared to the first year of the biennium to support both: (a) any salary increases awarded in the first year of the biennium; and (b) any additional salary increases provided in the second year of the biennium. Ongoing support for any salary increases provided to ADAs, DDAs, or ASPDs during the 2021-23 biennium will likely be included in the DA's and SPD's full funding of continuing position salaries and fringe benefits standard budget adjustment included in the 2023-25 biennial budget bill.

6. Unlike the District Attorneys, the DOJ does not have a separate GPR appropriation to support salary adjustments for assistant attorneys general under the pay progression plan. Until 2018, DOJ supported salary adjustments through the utilization of existing resources, including discretionary settlement funds. Discretionary settlement funds were amounts received by DOJ as a result of certain litigation that may be expended by DOJ for any purpose permitted by state law, at the discretion of the Attorney General.

**Attorney Retention**

7. Table 3 provides information from the DOA's Division of Personnel Management (DPM) on the separation rates (rates of departure) for fiscal years 2013-14 through 2019-20 for ADAs, ASPDs, and other nonsupervisory state attorneys.

**TABLE 3****Attorney Retention**

	<u>FY14</u> <sup>1</sup>	<u>FY15</u>	<u>FY16</u>	<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>
<b>Retirement</b>							
ADA	1.70%	3.10%	2.90%	3.20%	1.70%	3.7%	2.4%
ASPD Attorneys	1.8	5.7	5.2	3.7	2	3.0	2.6
Classified Staff Attorneys	2.2	5.5	6.8	5.7	4.8	3.0	7.0
<b>Non-Retirement Separations</b>							
ADA <sup>2</sup>	7.40%	6.30%	6.30%	10.70%	7.00%	11.2%	12.3%
ASPD Attorneys <sup>2</sup>	3.9	5	9.6	9	8.4	10.9	7.5
Classified Staff Attorneys <sup>2</sup>	2.2	3.7	6.1	6.1	3.2	15.7	17.4
<b>Total Retirement and Non-Retirement Separations</b>							
ADA	9.10%	9.40%	9.20%	13.80%	8.70%	15.0%	14.7%
ASPD Attorneys	5.7	10.7	14.8	12.7	10.7	13.8	10.1
Classified Staff Attorneys	4.4	9.2	12.9	11.9	8	18.7	24.4

<sup>1</sup> 2013-14 was the first fiscal year in which funding for pay progression was provided.

<sup>2</sup> These separations only include separations from state service. These separations do not include appointments to other positions in Wisconsin state service, such as appointment to a District Attorney position or state circuit court judgeship.

8. Appendix III and Appendix IV provide additional information compiled by DPM on separations from state service by permanent classified employees, by job group, (excluding the University of Wisconsin System) for 2018-19 and 2019-20, respectively. Note that the legal professionals and paralegals job group does not include ADAs and ASPDs, since ADAs and ASPDs are unclassified employees. As Appendix III indicates, the separation rate from state service by job group in 2018-19 ranged from 3.1% to 42.3%, while the separation rate across all job groups was 13.8%. Appendix IV indicates that the separation rate from state service by job group ranged from 3.4% to 48.6% in 2019-20, while the separation rate across all job groups was 12.2%. In comparing the separation data for the AAGs, ADAs and ASPDs (provided in Table 3) with other job groups in state service, it would appear as though the AAGs, ADA and ASPD separation rate has been similar to that of other job groups within state service. When comparing the data in Table 3 and Appendices III and IV, however, it should be noted that the job groups listed in Appendices III and IV vary in the level of professional training and education required to adequately perform the job.

9. While the salary provided to AAGs, ADAs and ASPDs has been identified as a key concern in the retention of these employees, there are many factors that may contribute to an employee's decision to remain employed with his or her current employer or seek opportunities elsewhere. The extent to which attorneys may leave state service due to dissatisfaction with salary levels cannot be answered based on the available data. It is likely that some resignations are related to salary issues, in whole or in part, while other resignations are unrelated to salary concerns.

10. The State Prosecutors Office (SPO) has provided data on employees vacating ADA positions from calendar years 2019 and 2020. During this time period, the SPO identified 139 ADA separations, of which 100 were departures (71.9%) and 39 were lateral transfers to other DA offices (28.1%). Of these 100 departures, seven (7.0%) were appointments to a deputy DA position or

elections or appointments to a DA position. Further, 19 departures (19.0%) were due to retirement. In addition, six departures (6.0%) were due to layoff, position termination, health, disability, and death.

11. During the two-year period, 33 departures (33.0%) were due to ADAs taking government positions with local units of government, the state, and the federal government, including eight who became judges or elected representatives, 10 who took other state legal positions, and one who became a court commissioner. While these departures may have been motivated, in part, by salary dissatisfaction, they may also have been motivated by a desire for career advancement while still working in government, or for other reasons.

12. The remaining cases, which represent resignations from ADA positions for other reasons, total 35, or 35% of departures. Table 4 summarizes the variety of reasons provided for these remaining 35 resignations.

**TABLE 4**  
**Reasons for Certain ADA Resignations, 2019 and 2020**

<u>Reason for Resignation</u>	<u>Number</u>
Private sector (leaving state service)	22
Moved out of state	5
Other work	3
Family	3
No reason provided	1
Not Re-elected	<u>1</u>
Total	35

13. As with the ADAs, it would appear as though attorney departures from the SPD likely occurred for a variety of reasons. The SPD identified 76 assistant state public defender departures from CY 2019 and 2020. Table 5 summarizes the variety of reasons provided for the 70 positions providing responses.

**TABLE 5**  
**Reasons for Certain SPD Resignations, 2019 and 2020**

<u>Reason for Resignation</u>	<u>Number</u>
Retire	20
Private Practice	16
County	9
Prosecutor	9
Judiciary	8
Executive agency	<u>8</u>
Total	70



14. Retention information for AAG's from CY 2019 and 2020 indicates that 19 assistant attorneys general departed from the Department of Justice. Of these 19 departures, five were the result of retirement, four were the result of the attorneys transferring to another state agency, and 10 departures were for unspecified reasons.

15. The Bureau of Labor Statistics (BLS), U.S. Department of Labor, publishes monthly estimates of Wisconsin Occupational Employment and Wage Estimates. These occupational employment and wage estimates are calculated with data collected from employers in all industry sectors in metropolitan and nonmetropolitan areas in Wisconsin. Published monthly data on employer costs for employee compensation based on its National Compensation Survey. The surveys are conducted quarterly. The most recent published data for the four surveys conducted in 2020, indicates that for attorneys, wages and salaries averaged \$49.05 per hour. In addition, hourly wages in the 10th percentile were \$27.28, 25th were \$34.25, 75th were \$73.82, and 90th were over \$100.00 per hour.

16. During the same time period (2020) wages for ADAs, DDAs, ASPDs, and AAGs ranged from a minimum of \$25.65 to a maximum of \$61.96 per hour. The average salary of ASPDs was \$36.00 on May 1, 2020. The average salary of DAs and DDAs was \$37.15 on May 1, 2020. The average salary of AAGs was \$50.62 on May 1, 2020.

### **Pay Progression Provisions Under the Bill**

17. Both the District Attorneys and the State Public Defender have identified the recruitment and retention of attorneys as an issue, and have identified compensation levels as a significant cause of the issue. The value of individual attorneys to DA offices and the SPD increases with time of service. With experience, the ability of these attorneys to address an increased caseload improves, and the quality of service that these attorneys can provide to the state and affected individuals also improves. In addition, when attorney turnover is reduced, DA offices and the SPD can minimize the resources that must be applied to the recruitment and training of new attorneys. Finally, in retaining quality staff, increased compensation can be a tangible way for the DAs and the SPD to indicate to the staff that the staff, and the work the staff performs, is valued.

18. On May 6, 2021, the Committee provided \$2,608,600 GPR annually for the State Public Defender to support the annualized costs for 2021 attorney pay progression made in accordance with 2021 Act 7 (enacted on March 1, 2021). Therefore, the alternatives below will not include this funding.

19. Assembly Bill 68/Senate Bill 111, provides the District Attorneys, SPD, and Department of Justice with funding in order to support salary increases for assistant and deputy DAs, ASPDs, and AAGs under the pay progression plan. While the respective agencies would have discretion in administering pay progression amounts, the appropriated amounts under the bill are intended to support a one-step pay increase to ADAs, DDAs, ASPDs, and AAGs eligible under the pay progression plan on July 1, 2022 and 2023. Total funding for pay progression for the DAs, SPDs, and DOJ is provided on a one-time basis, and would, therefore, not be included in the agencies base budget for the 2023-25 biennium.

20. *Budget Bill.* Given the benefits of reducing attorney turnover, the Committee could

provide funding to the DAs, SPD, and DOJ to support salary adjustments under the pay progression plan. Funding could be provided in the manner recommended by the budget bill [Alternative 1]. This alternative is intended to provide a one-step increase in 2021-22 and another one step increase in 2022-23. This would result in DA pay progression funding totaling \$1,923,800 GPR in 2021-22 and \$3,790,000 GPR in 2022-23, SPD pay progression funding totaling \$1,806,600 GPR in 2021-22 and \$3,568,000 GPR in 2022-23, and AAG pay progression funding totaling \$408,600 GPR, \$76,400 PR, and \$21,400 FED in 2021-22 and \$781,500 GPR, \$147,000 PR, and \$28,500 FED in 2022-23. Funding for pay progression would be provided on a one-time basis.

21. In order to provide pay progression on the same schedule as other state employees, the Committee could modify pay progression funding to support one step salary increase in January, 2022, and 2023. Under this alternative, a non-statutory provision to exempt pay progression from the requirement that pay progression be provided beginning with the first pay period after July 1 would be required. [Alternative 2] Alternative 2 would result in DA pay progression funding totaling \$935,400 GPR in 2021-22 and \$1,869,800 GPR in 2022-23, SPD pay progression funding totaling \$862,800 GPR in 2021-22 and \$1,754,300 GPR in 2022-23, and AAG pay progression funding totaling \$193,800 GPR, \$35,200 PR, and \$9,100 FED in 2021-22 and \$366,700 GPR, \$64,100 PR, and \$10,400 FED in 2022-23.

22. If the Committee provides pay progression, but at the same level as other professions as recommended under AB 68/SB 111, the Committee could modify pay progression funding to support a 2% salary increase in January, 2022, and 2023. Under this alternative, a non-statutory provision to exempt pay progression from the requirement that pay progression be provided beginning with the first pay period after July 1 would be required. [Alternative 3] Alternative 3 would result in DA pay progression funding totaling \$339,000 GPR in 2021-22 and \$1,012,700 GPR in 2022-23, SPD pay progression funding totaling \$321,000 GPR in 2021-22 and \$961,900 GPR in 2022-23, and AAG pay progression funding totaling \$89,600 GPR, \$16,800 PR, and \$5,100 FED in 2021-22 and \$241,800 GPR, \$47,600 PR, and \$15,000 FED in 2022-23.

23. If the Committee provides pay progression, but at a lower level than that recommended by the budget bill for the DAs, AAGs, and the SPD, the Committee could modify pay progression funding to support a 1% salary increase in January 2022 and 2023. Under this alternative, a non-statutory provision to exempt pay progression from the requirement that pay progression be provided beginning with the first pay period after July 1 would be required. [Alternative 4]. Alternative 4 would result in DA pay progression funding totaling \$169,500 GPR in 2021-22 and \$510,100 GPR in 2022-23, SPD pay progression funding totaling \$161,300 GPR in 2021-22 and \$483,900 GPR in 2022-23, and AAG pay progression funding totaling \$44,800 GPR, \$8,400 PR, and \$2,500 FED in 2021-22 and \$34,800 GPR, \$26,100 PR, and \$7,700 FED in 2022-23.

24. *Various Percentage Increase.* Alternatively, the Committee may wish to provide the DAs, SPD, and AAG with funding to support a different level of pay increase, as compared to what is provided under the bill. Under the pay progression plan, the maximum annual salary increase that may be provided to an ADA, DDA, ASPD, or AAG is 10%. Appendix I identifies the cost of providing the DAs, the SPD, and DOJ funding to support pay increases between 1% and 10% in July, 2021 and 2022 for ADAs, DDAs, and ASPDs, as a reflection of a change to the base. Appendix I also identifies the cost of providing one-full step under the pay progression plan (\$2.18 per hour).

Appendix I identifies these costs if: (a) pay increases are provided in both years of the biennium; (b) pay increases are only provided in 2021-22; and (c) pay increases are only provided in 2022-23. Appendix II provides similar information for non-GPR fund sources within the Department of Justice.

25. *Delete Funding.* On the other hand, the Committee could decide to eliminate all funding for pay progression for ADAs, DDAs, ASPDs, and AAGs [Alternative 5].

26. As pay progression is a commitment to move ADAs, DDAs, ASPDs, and AAGs from the minimum hourly salary available to these employees (currently \$26.17 per hour) to the maximum available hourly salary available to these employees (currently \$63.20 per hour), pay progression is a substantial ongoing financial commitment for the state. Further, since the state must continue to support the cost of past salary increases, the annual cost of supporting the pay progression plan builds on itself. For example, the cost of supporting a 5% annual salary increase for ADAs, DDAs, ASPDs, and AAGs under the pay progression plan would be \$3,606,200 GPR in 2021-22 and \$7,256,900 GPR in 2022-23. It is estimated that providing a similar 5% annual salary increase during the 2023-25 biennium would cost \$10,315,300 GPR in 2023-24 and \$13,597,200 GPR in 2024-25 through full funding of salary and fringe benefits and additional funding for pay progression. The cost of pay progression for ADAs, DDAs, ASPDs, and AAGs would still be higher than these estimates if funding is provided for 10% annual pay progression increases, as is allowable under current law.

27. The ultimate annual cost of pay progression, however, depends on turnover rates. A higher turnover rate reduces the annual cost of pay progression as more highly compensated attorneys would be replaced by lower compensated attorneys. It should be noted, however, that one of the goals of the pay progression plan is to reduce attorney turnover.

## ALTERNATIVES

1. *One Step July 1, 2021 and 2022.* Provide DA pay progression funding totaling \$1,923,800 GPR in 2021-22 and \$3,790,000 GPR in 2022-23, SPD pay progression funding totaling \$1,806,600 GPR in 2021-22 and \$3,568,000 GPR in 2022-23, and AAG pay progression funding totaling \$408,600 GPR, \$76,400 PR, and \$21,400 FED in 2021-22 and \$781,500 GPR, \$147,000 PR, and \$28,500 FED in 2022-23. Funding for pay progression would be provided on a one-time basis.

ALT 1	Change to Base
<u>For DAs</u>	
GPR	\$5,713,800
<u>For SPD</u>	
GPR	\$5,374,600
<u>For AAGs</u>	
GPR	\$1,190,100
PR	223,400
FED	49,900
Subtotal	\$1,463,400
Total	\$12,551,800

2. *One Step January 1, 2022 and 2023.* DA pay progression funding totaling \$935,400 GPR in 2021-22 and \$1,869,800 GPR in 2022-23, SPD pay progression funding totaling \$862,800 GPR in 2021-22 and \$1,754,300 GPR in 2022-23, and AAG pay progression funding totaling \$193,800 GPR, \$35,200 PR, and \$9,100 FED in 2021-22 and \$366,700 GPR, \$64,100 PR, and \$10,400 FED in 2022-23. Adopt a non-statutory provision to exempt pay progression from the requirement that pay progression be provided beginning with the first pay period after July 1. Funding for pay progression would be provided on a one-time basis.

<b>ALT 2</b>	<b>Change to Base</b>
<u>For DAs</u>	
GPR	\$2,805,200
<u>For SPD</u>	
GPR	\$2,617,100
<u>For AAGs</u>	
GPR	\$560,500
PR	99,300
FED	19,500
Subtotal	\$679,300
Total	\$6,101,600

3. *2% Increase.* DA pay progression funding totaling \$339,000 GPR in 2021-22 and \$1,012,700 GPR in 2022-23, SPD pay progression funding totaling \$321,000 GPR in 2021-22 and \$961,900 GPR in 2022-23, and AAG pay progression funding totaling \$89,600 GPR, \$16,800 PR, and \$5,100 FED in 2021-22 and \$241,800 GPR, \$47,600 PR, and \$15,000 FED in 2022-23. Adopt a non-statutory provision to exempt pay progression from the requirement that pay progression be provided beginning with the first pay period after July 1. Funding for pay progression would be provided on a one-time basis.

<b>ALT 3</b>	<b>Change to Base</b>
<u>For DAs</u>	
GPR	\$1,351,700
<u>For SPD</u>	
GPR	\$1,282,900
<u>For AAGs</u>	
GPR	\$31,400
PR	64,400
FED	20,100
Subtotal	\$415,900
Total	\$3,050,500

4. *1% Increase.* DA pay progression funding totaling \$169,500 GPR in 2021-22 and \$510,100 GPR in 2022-23, SPD pay progression funding totaling \$161,300 GPR in 2021-22 and \$483,900 GPR in 2022-23, and AAG pay progression funding totaling \$44,800 GPR, \$8,400 PR, and

\$2,500 FED in 2021-22 and \$34,800 GPR, \$26,100 PR, and \$7,700 FED in 2022-23. Adopt a non-statutory provision to exempt pay progression from the requirement that pay progression be provided beginning with the first pay period after July 1. Funding for pay progression would be provided on a one-time basis.

<b>ALT 4</b>	<b>Change to Base</b>
<u>For DAs</u>	
GPR	\$679,600
<u>For SPD</u>	
GPR	\$645,200
<u>For AAGs</u>	
GPR	\$179,600
PR	34,500
FED	<u>10,200</u>
Subtotal	\$224,300
Total	\$1,549,100

5. Take no action.

Prepared by: Sarah Wynn  
 Appendices

## APPENDIX I

### Summary of Pay Progression Costs During the 2021-23 Biennium for the District Attorneys and the Office of the State Public Defender By Percent Increase

#### *Pay Increases in 2021-22 and 2022-23*

Percent Increase	District Attorneys			State Public Defender			Assistant Attorney Generals			District Attorneys, State Public Defender, and AAGs		
	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>
1%	\$334,300	\$681,300	\$1,015,600	\$316,000	\$645,300	\$961,300	\$89,600	\$180,100	\$269,700	\$739,900	\$1,506,700	\$2,246,600
2%	668,600	1,347,500	2,016,100	628,900	1,281,700	1,910,600	179,200	351,400	530,600	1,476,700	2,980,600	4,457,300
3%	993,700	2,001,900	2,995,600	938,000	1,915,000	2,853,000	265,800	509,400	775,200	2,197,500	4,426,300	6,623,800
4%	1,315,700	2,653,100	3,968,800	1,242,900	2,540,700	3,783,600	348,300	662,200	1,010,500	2,906,900	5,856,000	8,762,900
5%	1,633,300	3,295,500	4,928,800	1,547,500	3,153,400	4,700,900	425,400	808,000	1,233,400	3,606,200	7,256,900	10,863,100
6%	1,945,400	3,928,600	5,874,000	1,848,100	3,767,700	5,615,800	502,500	949,000	1,451,500	4,296,000	8,645,300	12,941,300
7%	2,256,000	4,551,100	6,807,100	2,145,100	4,378,100	6,523,200	578,100	1,088,600	1,666,700	4,979,200	10,017,800	14,997,000
8%	2,565,400	5,161,200	7,726,600	2,440,200	4,986,000	7,426,200	650,800	1,223,600	1,874,400	5,656,400	11,370,800	17,027,200
9%	2,872,200	5,752,100	8,624,300	2,729,900	5,587,800	8,317,700	722,200	1,345,800	2,068,000	6,324,300	12,685,700	19,010,000
10%	3,172,600	6,335,700	9,508,300	3,014,600	6,171,800	9,186,400	791,200	1,464,100	2,255,300	6,978,400	13,971,600	20,950,000
One Step Increase**	\$1,923,800	\$3,790,000	\$5,713,800	\$1,806,600	\$3,568,000	\$5,374,600	\$408,600	\$781,500	\$1,190,100	\$4,139,000	\$8,139,500	\$12,278,500

**Pay Increase in 2021-22 Only**

Percent Increase	District Attorneys			State Public Defender			Assistant Attorney Generals			District Attorneys, State Public Defender, and AAGs		
	2021-22	2022-23	2021-23 Biennium	2021-22	2022-23	2021-23 Biennium	2021-22	2022-23	2021-23 Biennium	2021-22	2022-23	2021-23 Biennium
1%	\$334,300	\$339,000	\$673,300	\$316,000	\$322,600	\$638,600	\$89,600	\$89,600	\$179,200	\$739,900	\$751,200	\$1,491,100
2%	668,600	678,000	1,346,600	628,900	642,100	1,271,000	179,200	179,200	358,400	1,476,700	1,499,300	2,976,000
3%	993,700	1,007,700	2,001,400	938,000	957,800	1,895,800	265,800	265,800	531,600	2,197,500	2,231,300	4,428,800
4%	1,315,700	1,334,500	2,650,200	1,242,900	1,269,300	2,512,200	348,300	348,300	696,600	2,906,900	2,952,100	5,859,000
5%	1,633,300	1,656,700	3,290,000	1,547,500	1,580,500	3,128,000	425,400	425,400	850,800	3,606,200	3,662,600	7,268,800
6%	1,945,400	1,973,500	3,918,900	1,848,100	1,887,700	3,735,800	502,500	502,500	1,005,000	4,296,000	4,363,700	8,659,700
7%	2,256,000	2,288,800	4,544,800	2,145,100	2,191,200	4,336,300	578,100	578,100	1,156,200	4,979,200	5,058,100	10,037,300
8%	2,565,400	2,602,900	5,168,300	2,440,200	2,492,900	4,933,100	650,800	650,800	1,301,600	5,656,400	5,746,600	11,403,000
9%	2,872,200	2,914,400	5,786,600	2,729,900	2,789,200	5,519,100	722,200	722,200	1,444,400	6,324,300	6,425,800	12,750,100
10%	3,172,600	3,219,500	6,392,100	3,014,600	3,080,600	6,095,200	791,200	791,200	1,582,400	6,978,400	7,091,300	14,069,700
One Step Increase**	\$1,870,800	\$1,898,600	\$3,769,400	\$1,725,500	\$1,773,600	\$3,499,100	\$387,500	\$387,500	\$775,000	\$3,983,800	\$4,059,700	\$8,043,500

**Pay Increase in 2022-23 Only**

Percent Increase	District Attorneys			State Public Defender			Assistant Attorney Generals			District Attorneys, State Public Defender, and AAGs		
	2021-22	2022-23	2021-23 Biennium	2021-22	2022-23	2021-23 Biennium	2021-22	2022-23	2021-23 Biennium	2021-22	2022-23	2021-23 Biennium
1%	\$0	\$339,000	\$339,000	\$0	\$322,600	\$322,600	\$0	\$89,600	\$89,600	\$0	\$751,200	\$751,200
2%	0	678,000	678,000	0	642,100	642,100	0	179,200	179,200	0	\$1,499,300	1,499,300
3%	0	1,007,700	1,007,700	0	957,800	957,800	0	265,800	265,800	0	\$2,231,300	2,231,300
4%	0	1,334,500	1,334,500	0	1,269,300	1,269,300	0	348,300	348,300	0	\$2,952,100	2,952,100
5%	0	1,656,700	1,656,700	0	1,580,500	1,580,500	0	425,400	425,400	0	\$3,662,600	3,662,600
6%	0	1,973,500	1,973,500	0	1,887,700	1,887,700	0	502,500	502,500	0	\$4,363,700	4,363,700
7%	0	2,288,800	2,288,800	0	2,191,200	2,191,200	0	578,100	578,100	0	\$5,058,100	5,058,100
8%	0	2,602,900	2,602,900	0	2,492,900	2,492,900	0	650,800	650,800	0	\$5,746,600	5,746,600
9%	0	2,914,400	2,914,400	0	2,789,200	2,789,200	0	722,200	722,200	0	\$6,425,800	6,425,800
10%	0	3,219,500	3,219,500	0	3,080,600	3,080,600	0	791,200	791,200	0	\$7,091,300	7,091,300
One Step Increase**	\$0	\$1,898,600	\$1,898,600	\$0	\$1,773,600	\$1,773,600	\$0	\$387,500	\$387,500	\$0	\$4,059,700	\$4,059,700

\*\*One step under the pay progression plan totals \$2.18 per hour, or \$4,534 annually.

***Pay Increases in 2021-22 and 2022-23***

Percent Increase	<u>Assistant Attorney Generals (PR)</u>			<u>Assistant Attorney Generals (FED)</u>		
	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>
1%	\$17,500	\$36,800	\$54,300	\$4,000	\$6,000	\$10,000
2%	35,100	71,500	106,600	8,100	11,300	19,400
3%	52,600	98,600	151,200	12,100	14,500	26,600
4%	67,900	123,500	191,400	15,400	17,700	33,100
5%	80,300	148,100	228,400	18,000	20,900	38,900
6%	92,700	169,300	262,000	20,600	24,100	44,700
7%	104,400	186,700	291,100	23,100	27,400	50,500
8%	115,400	201,800	317,200	25,700	30,700	56,400
9%	126,400	217,100	343,500	28,300	34,000	62,300
10%	137,300	232,400	369,700	30,900	37,400	68,300
One Step Increase**	\$76,400	\$147,000	\$223,400	\$21,400	\$28,500	\$49,900

***Pay Increase in 2021-22 Only***

Percent Increase	<u>Assistant Attorney Generals (PR)</u>			<u>Assistant Attorney Generals (FED)</u>		
	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>
1%	\$17,500	\$18,300	\$35,800	\$4,000	\$3,000	\$7,000
2%	35,100	36,600	71,700	8,100	6,000	14,100
3%	52,600	54,900	107,500	12,100	9,000	21,100
4%	67,900	71,000	138,900	15,400	11,300	26,700
5%	80,300	84,200	164,500	18,000	12,800	30,800
6%	92,700	97,400	190,100	20,600	14,400	35,000
7%	104,400	109,900	214,300	23,100	15,900	39,000
8%	115,400	121,700	237,100	25,700	17,400	43,100
9%	126,400	133,400	259,800	28,300	19,000	47,300
10%	137,300	145,200	282,500	30,900	20,500	51,400
One Step Increase**	\$70,300	\$73,600	\$143,900	\$18,200	\$13,000	\$31,200



*Pay Increase in 2022-23 Only*

<u>Percent Increase</u>	<u>Assistant Attorney Generals (PR)</u>			<u>Assistant Attorney Generals (FED)</u>		
	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2021-23 Biennium</u>
1%	\$0	\$18,300	\$18,300	\$0	\$3,000	\$3,000
2%	0	36,600	36,600	0	6,000	6,000
3%	0	54,900	54,900	0	9,000	9,000
4%	0	71,000	71,000	0	11,300	11,300
5%	0	84,200	84,200	0	12,800	12,800
6%	0	97,400	97,400	0	14,400	14,400
7%	0	109,900	109,900	0	15,900	15,900
8%	0	121,700	121,700	0	17,400	17,400
9%	0	133,400	133,400	0	19,000	19,000
10%	0	145,200	145,200	0	20,500	20,500
One Step Increase**	\$0	\$73,600	\$73,600	\$0	\$13,000	\$13,000

\*\*One step under the pay progression plan totals \$2.18 per hour, or \$4,534 annually.





## Legislative Fiscal Bureau

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June, 2021

Joint Committee on Finance

Paper #271

### **Additional Assistant District Attorney Positions (District Attorneys)**

[LFB 2021-23 Budget Summary: Page 160, #3]

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#### **CURRENT LAW**

Prior to January 1, 1990, District Attorneys (DAs), assistant district attorneys (ADAs), and deputy district attorneys (DDAs) were county employees. Under 1989 Act 31, prosecutors became state employees on January 1, 1990. As a result, the state currently supports the costs of prosecutors' salaries and fringe benefits. These costs are primarily supported by the District Attorneys' salaries and fringe benefits annual GPR appropriation [s. 20.475(1)(d)]. Other costs associated with the operations of the District Attorney offices (such as support personnel and office supplies) are supported directly by the county.

On the date of transition to state service, 332.05 prosecution positions became state employees. In the base, 493.5 prosecutor positions were authorized, including 449 funded from general purpose revenue and 44.5 funded from program revenue. Of the 493.5 prosecutors statewide, 70 are elected DAs, 26 are Deputy DAs, and the remaining 401.9 are ADAs. Base salary and fringe benefit funding for DAs, ADAs, and deputy DAs in 2020-21 is \$51,022,700 GPR and \$3,882,500 PR.

#### **DISCUSSION POINTS**

1. In addition to GPR, local and federal grants are utilized to support program revenue positions in certain prosecutorial units. Prosecutorial units typically receive these grants directly, and utilize the funding to reimburse the state for the costs of the prosecutors' salaries and fringe benefits. [Each county is its own prosecutorial unit, except Shawano and Menominee Counties which form one prosecutorial unit.] The state receives these reimbursement payments in the District Attorneys' gifts and grants annual PR appropriation.

2. Note that the number of PR-funded prosecutor positions changes throughout the year as position authority for certain grant-funded project positions expires and position authority for new grant-funded positions is authorized by the Joint Committee on Finance under s. 16.505 of the statutes.

3. Of the 44.5 PR prosecutor positions for the District Attorney function, 42.5 PR positions are funded from various local and federal grants. One of the remaining PR positions (assigned to the Milwaukee County DA office) is supported by state revenue from the crime laboratory and drug law enforcement surcharge and DNA surcharge. While this prosecutor position is assigned to Milwaukee County, the position acts as a statewide DNA evidence prosecutor position. In addition, the other PR-supported ADA position is a sex predator prosecutor position in Brown which serves approximately 20 other DA offices.

4. Of the 42.5 PR positions funded from various local and federal grants, 3.0 PR positions are supported by grants from the corresponding county. These 3.0 PR positions are identified below in Table 1. Note that the grant-funded positions identified in the table are those positions for which a grant is provided directly from a county agency. Additional grant-funded positions may be supported by federal grants for which the county provides a match requirement or grants from other agencies for which the county provides indirect support. Further, positions supported by grants that only "pass through" the county are not included in Table 1.

**TABLE 1**

**Program Revenue Funded Prosecutor Positions Supported by County Grants**

<u>DA Office</u>	<u>FTE</u>	<u>Grant Funding Source(s)</u>
Dane	1.0	Dane County Narcotics Task Force
Fond du Lac	1.0	Fond du Lac County Board
Waukesha	1.0	Waukesha County Drug Enforcement Grant

5. Under 2019 Act 9, \$3,581,900 GPR in 2019-20 and \$4,794,900 GPR in 2020-21 and 61.46 additional prosecutor positions were provided. These positions were allocated to 56 counties as directed by the Governor. Table 2 shows the distribution of these additional positions as passed by the Legislature (Enrolled Assembly Bill 56), as modified by the Governor through veto (2019 Act 9), and total additional positions, by county.

**TABLE 2****Prosecutor Positions Provided by 2019 Act 9**

<u>County</u>	<u>Enrolled AB 56</u>	<u>2019 Act 9 Governor Veto</u>	<u>Total Additional</u>	<u>County</u>	<u>Enrolled AB 56</u>	<u>2019 Act 9 Governor Veto</u>	<u>Total Additional</u>
Adams	0.80	0.00	0.80	Marinette	0.40	0.00	0.40
Ashland	0.60	0.00	0.60	Marquette	0.60	0.00	0.60
Barron	1.00	0.00	1.00	Milwaukee	0.00	3.00	3.00
Bayfield	0.60	0.10	0.70	Monroe	2.00	-1.00	1.00
Brown	3.00	0.00	3.00	Outagamie	2.00	0.00	2.00
Buffalo <sup>1</sup>	0.20	0.00	0.20	Ozaukee	1.70	-0.10	1.60
Burnett	0.75	0.00	0.75	Pierce	0.50	0.00	0.50
Calumet	1.00	0.00	1.00	Polk	1.00	0.00	1.00
Chippewa	1.00	0.00	1.00	Portage	2.00	0.00	2.00
Columbia	1.25	-1.00	0.25	Price	0.50	0.00	0.50
Dane	0.15	1.00	1.15	Racine	2.00	0.00	2.00
Dodge	1.00	0.00	1.00	Rock	0.00	1.00	1.00
Douglas	1.50	0.00	1.50	Rusk	0.50	0.00	0.50
Dunn	2.00	0.00	2.00	Sawyer	1.00	0.00	1.00
Eau Claire	2.00	0.00	2.00	Shawano and Menominee	1.00	0.00	1.00
Florence <sup>2</sup>	0.10	0.00	0.10	Sheboygan	2.00	-0.50	1.50
Fond du Lac <sup>3</sup>	3.00	-1.00	2.00	St. Croix	1.00	0.00	1.00
Forest	1.00	0.00	1.00	Taylor	0.50	0.00	0.50
Green	0.50	0.10	0.60	Walworth	1.00	0.00	1.00
Green Lake	0.50	0.00	0.50	Washburn	0.75	0.00	0.75
Iowa	0.25	0.00	0.25				
Jackson	1.00	0.00	1.00	Washington	1.00	0.40	1.40
Jefferson	0.70	0.00	0.70	Waukesha	2.50	0.00	2.50
Juneau	0.50	0.00	0.50	Waupaca	0.50	0.00	0.50
Kenosha	1.00	0.00	1.00	Waushara	0.60	0.00	0.60
La Crosse	2.00	0.00	2.00	Winnebago	2.00	0.00	2.00
Langlade	1.00	0.00	1.00	Wood	<u>2.00</u>	<u>0.00</u>	<u>2.00</u>
Lincoln	1.00	0.00	1.00				
Manitowoc	2.00	-1.00	1.00	Total	64.95	0.00	64.95
Marathon <sup>3</sup>	4.50	-1.00	3.50				

<sup>1</sup> Buffalo had a 0.5 elected DA and a 0.5 ADA. The requested 0.2 positions were used to make both 0.6 positions.

<sup>2</sup> Florence had a 0.5 elected DA. The 0.1 position was used to make it a 0.6 position.

<sup>3</sup> Included PR positions converted to GPR positions.

6. Table 3 shows the total number of prosecutor positions authorized for each county.

**TABLE 3****State Prosecutor Positions – Base**

<u>County</u>	<u>Positions</u>	<u>County</u>	<u>Positions</u>
Adams	2.00	Marathon	12.00
Ashland	2.60	Marinette	3.00
Barron	4.00	Marquette	1.60
Bayfield	1.70	Milwaukee	124.50
Brown	17.00	Monroe	4.00
Buffalo	1.20	Oconto	2.00
Burnett	2.00	Oneida	2.50
Calumet	3.00	Outagamie	12.00
Chippewa	6.00	Ozaukee	4.60
Clark	2.00	Pepin	0.80
Columbia	5.00	Pierce	3.00
Crawford	1.00	Polk	4.00
Dane	30.00	Portage	6.00
Dodge	5.00	Price	1.50
Door	2.00	Racine	20.00
Douglas	5.00	Richland	1.80
Dunn	5.00	Rock	15.00
Eau Claire	11.00	Rusk	2.00
Florence	0.60	Saint Croix	7.00
Fond du Lac	8.00	Sauk	6.00
Forest	2.00	Sawyer	3.00
Grant	2.00	Shawano/ Menominee	4.00
Green	2.60	Sheboygan	9.00
Green Lake	2.00	Taylor	1.50
Iowa	2.00	Trempealeau	2.00
Iron	1.00	Vernon	2.00
Jackson	3.00	Vilas	2.00
Jefferson	6.00	Walworth	6.00
Juneau	3.00	Washburn	2.00
Kenosha	17.00	Washington	6.40
Kewaunee	1.50	Waukesha	19.00
LaCrosse	10.00	Waupaca	4.00
Lafayette	1.00	Waushara	2.60
Langlade	2.50	Winnebago	12.00
Lincoln	3.00	Wood	6.00
Manitowoc	6.00		
		Total	493.50

7. As noted above, under 1989 Act 31, prosecutors became state employees. Further, according the State Prosecutors Office (SPO), some counties have also utilized county resources to assist the District Attorney and his or her staff prosecute cases. For example, the SPO indicates that county corporation counsel in certain counties handle some children in need of protection or services (CHIPS) and juveniles in need of protection or services (JIPS) cases. Further, some counties provide

payment to public service special prosecutors for further prosecutorial assistance. Public service special prosecutors are attorneys appointed by the District Attorney who are willing to serve as a special prosecutor without state compensation. The extent to which these additional resources are utilized by each county is not tracked on a statewide basis.

8. In addition to county provided resources, the state provides additional resources to prosecutors resources through the Department of Justice (DOJ). The Department identified the following positions providing direct assistance to DAs: (a) 6.0 general criminal litigation assistance positions; (b) 2.0 traffic safety resource prosecutor positions; (c) 2.0 Milwaukee district attorney gun unit positions; (d) 4.0 drug enforcement resource prosecutor positions assigned to Eau Claire, Wausau, Appleton and Madison; (e) 1.0 sexual assault kit initiative (SAKI) Prosecutor position; (f) 3.0 sex predator prosecutor positions; (g) 3.0 white collar crime positions; (h) 1.0 unemployment and worker’s compensation fraud positions; and (i) 1.0 statewide prosecutors education and training coordinator and electronic evidence resource prosecutor position.

**New GPR positions**

9. In the 2019-21 budget bill, the Governor recommended the creation of an additional 30.0 assistant district attorney positions. The Joint Committee on Finance agreed with the 30.0 positions. The Assembly increased the number of new positions by an additional 34.95. The budget bill, as passed by the Legislature, created a total of 64.95 positions, which were distributed amongst 53 counties as the Shawano/Menominee prosecutorial unit.

10. In his partial veto of the 2019-21 budget, the Governor deleted the language specifying the distribution of the 34.85 positions created by the Assembly and Legislature and directed the Department of Administration and State Prosecutors Office to allocate the positions to counties "in a manner the considers need holistically, including staffing needs based on creation or expansion of treatment alternatives and diversion programs, meeting with victims prior to changing, addressing backlogs, and utilizing available workload analyses."

11. As a consequence of the Governor's veto, the administration reallocated 5.60 positions. The following counties had positions that were approved by the Legislature shifted to other counties.

<u>County</u>	<u>Position Reduction</u>
Columbia	1.00
Fond du Lac	1.00
Manitowoc	1.00
Marathon	1.00
Monroe	1.00
Ozaukee	0.10
Sheboygan	<u>0.50</u>
Total	5.60

12. Assembly Bill 68/Senate Bill 111 would provide 9.9 GPR ADA positions annually and funding to support these positions. Of the 9.9 positions, 5.5 are new GPR ADA positions, 4.0 are

ADA positions converted from PR to GPR and 0.4 ADA positions are included to add on to existing part-time positions. Under the bill these additions and conversions would affect eight county DA offices.

13. The Department of Administration indicates that the 5.5 positions are provided to the specified counties whose positions were modified by the Governor after the passage of 2019 Act 9. This alternative would provide \$313,400 GPR in 2021-22, \$417,900 GPR in 2022-23 and allocate new positions to: (a) Columbia; (b) Fond du Lac; (c) Manitowoc; (d) Marathon; (e) Monroe; and (f) Sheboygan (0.5 position). In addition, the bill would provide \$30,400 GPR annually and an additional 0.4 GPR position to increase a 0.6 GPR prosecutor position in Green County to full-time.

14. If the Committee wishes to fund the additional 5.5 GPR prosecutor positions and increase the Green County position to full-time, \$343,800 GPR in 2021-22, \$448,300 GPR and 5.9 GPR positions annually could be provided. This alternative would provide positions to counties impacted by the Governor's 2019 Act 9 partial veto. [Alternative A1]

15. If no action is taken regarding new GPR positions, total state supported District Attorney staff would remain at 493.5 positions (449 GPR positions). [Alternative A2]

### **Conversion of PR Positions**

16. In addition, the bill recommends conversion of some permanent PR positions to GPR positions. Specifically, 4.0 PR positions in two counties were created on a permanent basis funded from what was anticipated to be on-going PR funding. However, federal or county grant funding has declined and, therefore, funding may no longer be available. These counties are identified below.

17. *Milwaukee*. Two of four positions for which funding is recommended, an ADA on a drug team for the Milwaukee County speedy trial drug courts, currently is funded by a federal Byrne JAG grant from the Wisconsin Department of Justice to the Milwaukee Metropolitan Drug Enforcement Group (MMDEG). The federal Byrne JAG program grant from DOJ to MMDEG currently provides full PR funding for 4.0 ADAs and 5.0 law enforcement officers. Although federal Byrne JAG funding has declined in recent years, DOJ has made funding of multi-jurisdictional drug enforcement task forces a priority and provided level funding for the state's drug enforcement task forces from 2012 to 2018. Funding for all 4.0 ADAs was maintained over the last biennium because law enforcement agreed to new larger reductions in their part of the award. According to the Milwaukee DA's office, funding through the award is expected to continue to decline and law enforcement cannot be expected to take additional reductions to maintain the 4.0 ADA prosecutor positions. This means that funding for the one of the four positions may only be available for six to nine months. These four positions are four of nine positions that staff three speedy trial felony drug courts. One other position is funded by a separate grant and the remaining four are funded by GPR. These nine prosecutors are assigned to three, three person teams, which staff one speedy trial drug court. The administration indicates that reducing one team to two instead of three would significantly hinder the team's ability to review and prosecute cases due to the volume of court orders reviewed by the teams, the number of felony drug arrests and law enforcement referrals, and the volume of early intervention referrals. In a three person team two attorneys review referrals while the other conducts preliminary hearings on felony drug cases.



18. The bill recommends the conversion of an additional 1.0 PR positions to GPR funding for the violent crimes unit in Milwaukee County. Funding is currently provided by a grant from the North Central High Intensity Drug Trafficking area and office of National Drug Control Policy. The Milwaukee County DA's office was advised that the position will no longer be funded after December 31, 2020 and the position ended. This position one of six ADA positions that provided legal assistance and advice in support of HIDTA initiative in order to help target drug trafficking organizations and violent gangs. The ADAs work with HIDTA officers during investigations including: drafting, reviewing and approving applications for search warrants, subpoenas for records, wiretap orders, and electronic surveillance orders, and prosecute criminal cases in state court. The ADAs help coordinate referrals for federal prosecution when that venue is more appropriate. In addition, HIDTA ADAs work to identify non-violent, low level offenders, whose criminal activity is motivated by substance abuse, in order to redirect them into alternatives to traditional prosecution.

19. Conversion of the three Milwaukee County ADA positions from program revenue to general purpose revenue, would require \$333,100 GPR and -\$333,100 PR, and 3.0 GPR positions and -3.0 PR positions annually. [Alternative B1]

20. *Fond du Lac*. The Fond du Lac PR position is currently paid for by the county and funding is not guaranteed from year to year in the county budget. Until June 30, 2012, the position was funding through a federal Violence Against Women Act (VAWA) grant and since that time has been county funded. The recommendation is to convert this county PR funding to a state GPR funded position. The positions prosecutes domestic violence and sexual assault cases. The DA office indicates that "If the position ceased to exist, the cases would have to either be disbursed to every ADA in the office, or another ADA would be assigned this dedicated caseload, and create a shortfall in another area of the office."

21. Conversion of the Fond du Lac County ADA position from program revenue to general purpose revenue, would require \$74,400 GPR and -\$74,400 PR, and 1.0 GPR positions and -1.0 PR positions annually [Alternative B2]

## ALTERNATIVES

### A. GPR Positions

1. Provide \$343,800 GPR in 2021-22, \$448,300 GPR in 2022-23, and 5.9 GPR-funded positions annually, to provide additional ADAs requested by seven offices.

ALT A1	Change to Base	
	Funding	Positions
GPR	\$792,100	5.90

2. Take no action.

**B. PR Positions [Choose B1, B2, or B3]**

1. *Milwaukee County*. Provide \$333,100 GPR and -\$333,100 PR, and 3.0 GPR positions and -3.0 PR positions annually, to convert funding for certain prosecutor positions from program revenue to general purpose revenue.

ALT B1	Change to Base	
	Funding	Positions
GPR	\$666,200	3.00
PR	<u>- 666,200</u>	<u>- 3.00</u>
Total	\$0	0.00

2. *Fond du Lac County*. Provide \$74,400 GPR and -\$74,400 PR, and 1.0 GPR positions and -1.0 PR positions annually, to convert funding for certain prosecutor positions from program revenue to general purpose revenue.

ALT B2	Change to Base	
	Funding	Positions
GPR	\$148,800	1.00
PR	<u>- 148,800</u>	<u>- 1.00</u>
GPR	\$0	0.00

3. Take no action.

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