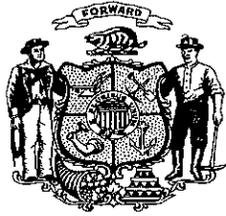


State of Wisconsin

SENATE CHAIR
Alberta Darling

317 East, State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-5830



ASSEMBLY CHAIR
John Nygren

308 East, State Capitol
P.O. Box 8593
Madison, WI 53708-8953
Phone: (608) 266-2343

Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative John Nygren

Date: June 7, 2019

Re: s. 16.515/16.505(2), Stats. Request

Attached is a copy of a request from the Department of Administration, received June 7, 2019, pursuant to s. 16.515/16.505(2), Stats., on behalf of the Fond du Lac County District Attorney's office.

Please review the material and notify **Senator Darling** or **Representative Nygren** no later than **Tuesday, June 25, 2019**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

AD:JN:jm



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary

Date: June 6, 2019

To: The Honorable Alberta Darling, Co-Chair
Joint Committee on Finance

The Honorable John Nygren, Co-Chair
Joint Committee on Finance

From: Joel T. Brennan, Secretary *JTB*
Department of Administration

Subject: s. 16.515/16.505(2) Request(s)

JUN 07 2019
J. Finance

Enclosed are request(s) that have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2017-18</u>		<u>2018-19</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DAs 20.475(1)(h)	Gifts and grants				1.0

As provided in s. 16.515, the request(s) will be approved on June 27, 2019, unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about any of the requests.

Please contact Kirsten Grinde at 266-1353, or the analyst who reviewed the request in the Division of Executive Budget and Finance, if you have any additional questions.

Attachments

Date: May 27, 2019
To: Brian Pahnke
From: Maggie Hamer
Subject: Section 16.505(2) Request

Attached is a s. 16.505(2) request analysis for your approval and processing. Listed below is a summary of each item:

DOA RECOMMENDATION:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2017-18</u>		<u>2018-19</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DAs 20.475(1)(h)	Gifts and grants				1.0

AGENCY REQUEST:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2017-18</u>		<u>2018-19</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DAs 20.475(1)(h)	Gifts and grants				1.0

BP APPROVAL  (FORWARD TO GAIL TAPPEN)



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary
Brian Pahnke, Administrator

Date: May 27, 2019

To: Joel Brennan, Secretary
Department of Administration

From: Maggie Hamer
Executive Policy and Budget Analyst

Subject: Request Under s. 16.505(2) from the Fond du Lac County District Attorney for the Creation of a 1.0 FTE Program Revenue Assistant District Attorney Permanent Position.

Request:

The Department of Administration, on behalf of the Fond du Lac County District Attorney's Office, requests the creation of a 1.0 FTE program revenue assistant district attorney permanent position.

Revenue Sources for Appropriation(s):

The revenue source for the position in the gifts and grants appropriation under s. 20.475(1)(h) is fees from participants in the county's misdemeanor diversion program coupled with supplemental funds from Fond du Lac County. As the position is funded from a program revenue continuing, all moneys received appropriation, there is no accompanying request for an increase in expenditure authority. Fond du Lac County would reimburse the salary and fringe benefits costs for the assistant district attorney prosecutor position from the amassed participant fees. If the fees collected are less than what is needed to fund the position, the county would make up the difference from its general purpose revenue.

Background:

On February 26, 2010, the Joint Committee on Finance granted position authority for an assistant district attorney in Fond du Lac County to focus on a misdemeanor diversion program. The position was funded through an American Recovery and Reinvestment Act Byrne Justice Assistance Grant Award and was effective through December 31, 2012. When that grant award ended the position authority expired.

On January 3, 2013, the Committee granted position authority for a 1.0 FTE misdemeanor diversion assistant district attorney position in Fond du Lac County funded by a Byrne Justice Assistance Grant through the Office of Justice Assistance. This grant funding was terminated on December 31, 2016. The project position reached its four-year statutory maximum length at that time.

On March 29, 2017, the Joint Committee on Finance approved the creation of a 1.0 FTE project position to continue the work of the misdemeanor diversion assistant district attorney position. This position was to be funded by fees generated by the diversion program. Authority expired on April 2, 2019.

Analysis:

Fond du Lac County's diversion program is designed to reduce long-term recidivism by diverting eligible, nonviolent offenders from the criminal justice system. Utilizing evidence-based principles and practices, the program identifies offenders based on their risk of reoffending and requires that individuals meet specific program expectations and remain crime free for the term of the diversion, typically six months to two years depending on the individual. Those who successfully complete the conditions of their diversion agreement are not subject to a criminal charge on their record; those who fail to meet program conditions are prosecuted for their charges. The program diverted 85 cases in 2018.

Since the program's inception, several new resources have been utilized to improve outcomes, including using a new risk assessment tool (COMPAS), partnering with new treatment providers to address a broader range of concerns amongst offenders, expanding relationships with domestic abuse prevention and treatment providers, and expanding the use of alcohol and drug dependency treatment.

The misdemeanor diversion assistant district attorney serves as the program director for Fond du Lac County's diversion program and is responsible for managing and screening offenders to participate in the program, assuring victim's rights are covered, preparing legal paperwork, making all court appearances and implementing the appropriate level of supervision and oversight for each individual participant.

Position authority for the most recent project position began on April 3, 2017, and expired on April 2, 2019. During this time, the position was funded with revenues collected from the misdemeanor diversion program. If the funds collected were insufficient to fully support the project position, Fond du Lac County had agreed to pay the difference, ensuring that the position was fully funded.

According to the county, revenues collected from program participants over the last three years have averaged \$22,266 annually. Fond du Lac County operates on an annual budget cycle and has indicated to the District Attorney's Office that county funding has been approved to supplement the program revenues to fund the assistant district attorney position for the 2019 calendar year. The County Board has indicated that it expects the supplemental funding to continue indefinitely. Because this funding is expected to continue, the department has requested a permanent position be created. If the board were ever to fail to authorize the supplemental funds necessary to fully support the position, the position could be eliminated.

The misdemeanor diversion assistant district attorney position furthers the state's policy to fight drug and other crimes and to reduce recidivism by diverting nonviolent offenders

Joel Brennan, Secretary
Page 3
May 27, 2019

away from the traditional criminal justice system and directing them toward effective services and treatment.

Recommendation:

Approve the request.



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary
James M. Langdon, Administrator

DATE: April 11, 2019

TO: Brian Pahnke, Administrator
Division of Executive Budget and Finance

FROM: Kasey Deiss, Director
State Prosecutors Office

SUBJECT: REQUEST UNDER S. 16.505 FOR DEPARTMENT 475: FOND DU LAC
COUNTY DISTRICT ATTORNEY'S OFFICE

On behalf of the Fond du Lac County District Attorney's Office, I am submitting the attached request for authorization to continue a 1.0 FTE program revenue permanent position in Department 475, District Attorneys.

Thank you for your attention to this matter.

Attachment

**DEPARTMENT OF ADMINISTRATION REQUEST UNDER S. 16.505 FOR
POSITION AUTHORIZATION**

I. REQUEST

The Department of Administration (DOA) requests, under s.16.505, the creation of permanent position authorization of a 1.0 FTE program revenue (PR) assistant district attorney (ADA) position in the Fond du Lac District Attorney's Office beginning on April 3, 2019. This position will be funded from fees paid by participants in the Misdemeanor Diversion program. The position will be funded via appropriation 20.475(1)(h).

II. BACKGROUND

In December of 2009, the Office of Justice Assistance (OJA) approved a Fond du Lac grant application for a Misdemeanor Diversion prosecutor. The American Recovery and Reinvestment Act (ARRA) grant, made available through the Byrne Justice Assistance Grant (JAG) program, fully funded an ADA position that would focus on a misdemeanor diversion program. Funding had been authorized through December 31, 2012. Effective February 26, 2010, the Joint Committee on Finance (JCF) granted position authority for the Misdemeanor Diversion ADA through December 31, 2012.

ARRA Byrne JAG funding ended December 31, 2012. Effective January 3, 2013, JCF granted position authority for a 1.0 FTE PR Misdemeanor Diversion prosecutor through December 31, 2014. OJA authorized grant funding for the position through December 31, 2014 with the goal that the bulk of funding would eventually be secured from fees assessed to participants in the diversion program. Subsequently, DOJ awarded JAG Pre-Trial Diversion Program grant funds for a prosecutor's salary and fringe benefits through December 31, 2016.

In March of 2017, JCF extended project position authority though April 2, 2019 with the County of Fond du Lac agreeing to augment any shortfalls in revenue collected from the misdemeanor diversion program. Following the success of the last two years, the County and the DAs office would like to make this arrangement permanent through the creation of a Permanent PR position. According to the County, revenues collected from Diversion program participants over the last three years averaged \$22,266 annually.

The 1.0 FTE ADA has worked with non-violent misdemeanor offenders accused of possession, theft crimes, criminal damage to property, obstruction, disorderly conduct, OAR due to OWI/PAC, and other non-violent misdemeanors. The two main target offender groups have included those who commit crimes to fuel substance abuse problems and those who are non-recidivist youths (age 25 and under) who can

avoid the impact of a criminal conviction on their future aspirations. The goal has been to more effectively reduce recidivism among non-violent misdemeanor offenders by diverting at least 200-250 offenders per year into a program that recognizes and addresses the root cause of their criminal conduct. While the overall purpose and structure of the program remains the same, recently several changes have occurred including: training and commencing implementation of a new initial assessment tool (COMPAS) with potential participants, which has been helpful for determining needs that must be addressed; partnering with new education and treatment providers to address concerns in several new areas; and, strengthening connections with domestic/abusive patterns treatment providers, and others who provide comprehensive assessment and referral for areas including AODA, mental health, and one-on-one counseling for victimization.

III. ANALYSIS

This position is in furtherance of the State's policy to fight drug and other crimes and to divert non-violent offenders away from the traditional criminal justice system and direct them toward services and treatment, thereby reducing recidivism.

IV. FISCAL ANALYSIS

As mentioned above, the funding will be provided by Fond du Lac County through the assessment of diversion program fees. Fond du Lac anticipates that fees collected from participants augmented as necessary from Fond du Lac County will be sufficient to fund this position in an ongoing manner. The program revenue appropriation is continuing and will be re-estimated based on actual experience.

V. REVENUE SOURCE FOR APPROPRIATION

Funds to continue the Misdemeanor Diversion program have been collected and will continue to be collected through fees assessed to program participants and will be used in the long-term to fund the prosecutor position. In the event that revenues collected from the Diversion Program are insufficient to fully fund the position, Fond du Lac County will reimburse the salary and fringe benefit costs for the State-paid ADA position in the Department of District Attorneys.

VI. SPECIAL INFORMATION

The co-chairs of the Joint Committee on Finance, in a letter to Department of Administration Secretary dated June 12, 1996, set forth four additional items of information that should be included in a s.16.505 request for additional positions in the District Attorney program.

- 1) *An explanation of the effect of the positions on weighted caseload for the requesting counties (the LAB methodology is suggested).*

Table 1 indicates the LAB methodology's results using the modifications recommended by the Wisconsin District Attorneys Association and highlights the impact on the Milwaukee DA Office. The table uses the most current court data available and the positions authorized as of August 9, 2018. It is important to note that the position need shown in the LAB methodology is a general need responding to all duties of a DA office and is not specific to a particular type of criminal activity or caseload..

- 2) *An assessment of similar caseload problems in counties not addressed by the request.*

Data with which to make this assessment are not available.

- 3) *An explanation of why the request has greater priority than similar needs existing in other counties.*

The funds will be made available from Fond du Lac County through the assessment of fees. The funding is not available to other counties.

- 4) *If the request is intended to address a specific type of caseload, an explanation of why this type of caseload has a greater priority than other types.*

These funds may not be used to address types of caseloads not specifically authorized by County Resolution.

April 11, 2019
 Fond du Lac County – Misdemeanor Diversion Program
 s.16.505 Request

FINAL 2015-2017 DISTRICT ATTORNEY OFFICE WORKLOAD ANALYSIS

DA Office	8/9/18 GPR- Funded FTE Positions*	8/9/18 Program Revenue- Funded FTE Positions*	8/9/18 Total FTE Positions*	Additional FTE Needed	Estimated Total FTE Needed	Additional FTE Needed as a % of 8/9/18 GPR- Funded FTE	Additional FTE Needed as a % of 8/9/18 Total FTE	GPR- Funded FTE as a % of Estimated Total FTE Needed	Total FTE as a % of Estimated Total FTE Needed
Adams	1.20		1.20	2.27	3.47	189%	189%	35%	35%
Ashland	2.00		2.00	1.29	3.29	65%	65%	61%	61%
Barron	3.00		3.00	2.90	5.90	97%	97%	51%	51%
Bayfield	1.00		1.00	0.89	1.89	89%	89%	53%	53%
Brown	12.00	1.00	13.00	12.76	25.76	106%	98%	47%	50%
Buffalo	1.00		1.00	0.85	1.85	85%	85%	54%	54%
Burnett	1.25		1.25	2.19	3.44	175%	175%	36%	36%
Calumet	2.00		2.00	1.28	3.28	64%	64%	61%	61%
Chippewa	5.00		5.00	2.41	7.41	48%	48%	67%	67%
Clark	2.00		2.00	0.21	2.21	11%	11%	90%	90%
Columbia	4.75		4.75	3.77	8.52	79%	79%	56%	56%
Crawford	1.00		1.00	0.02	1.02	2%	2%	98%	98%
Dane	26.85	2.00	28.85	4.93	33.78	18%	17%	79%	85%
Dodge	4.00		4.00	2.16	6.16	54%	54%	65%	65%
Door	2.00		2.00	0.16	2.16	8%	8%	93%	93%
Douglas	3.50		3.50	3.73	7.23	107%	107%	48%	48%
Dunn	3.00		3.00	3.14	6.14	105%	105%	49%	49%
Eau Claire	8.00	1.00	9.00	7.18	16.18	90%	80%	49%	56%
Florence	0.50		0.50	-0.11	0.39	-22%	-22%	128%	128%
Fond du Lac	5.00	2.00	7.00	4.56	11.56	91%	65%	43%	61%
Forest	1.00		1.00	1.07	2.07	107%	107%	48%	48%
Grant	2.00		2.00	1.29	3.29	65%	65%	61%	61%
Green	2.00		2.00	0.83	2.83	42%	42%	71%	71%
Green Lake	1.50		1.50	1.08	2.58	72%	72%	58%	58%
Iowa	1.75		1.75	1.59	3.34	91%	91%	52%	52%
Iron	1.00		1.00	-0.26	0.74	-26%	-26%	135%	135%
Jackson	2.00		2.00	1.58	3.58	79%	79%	56%	56%
Jefferson	5.30		5.30	2.41	7.71	45%	45%	69%	69%
Juneau	2.50		2.50	0.82	3.32	33%	33%	75%	75%
Kenosha	15.00	1.00	16.00	6.75	22.75	45%	42%	66%	70%
Kewaunee	1.50		1.50	-0.25	1.25	-17%	-17%	120%	120%
La Crosse	8.00		8.00	5.78	13.78	72%	72%	58%	58%
Lafayette	1.00		1.00	0.37	1.37	37%	37%	73%	73%
Langlade	1.50		1.50	2.16	3.66	144%	144%	41%	41%
Lincoln	2.00		2.00	1.61	3.61	81%	81%	55%	55%
Manitowoc	5.00		5.00	4.71	9.71	94%	94%	51%	51%
Marathon	8.50	2.50	11.00	6.73	17.73	79%	61%	48%	62%
Marinette	3.00		3.00	0.00	3.00	0%	0%	100%	100%
Marquette	1.00		1.00	0.46	1.46	46%	46%	68%	68%
Milwaukee	87.00	27.50	114.50	-15.24	99.26	-18%	-13%	88%	115%
Monroe	3.00		3.00	4.25	7.25	142%	142%	41%	41%
Oconto	2.00		2.00	0.59	2.59	30%	30%	77%	77%
Oneida	2.50		2.50	1.93	4.43	77%	77%	56%	56%

April 11, 2019
 Fond du Lac County – Misdemeanor Diversion Program
 s.16.505 Request

Outagamie	9.00		9.00	8.10	17.10	90%	90%	53%	53%
Ozaukee	3.00		3.00	2.90	5.90	97%	97%	51%	51%
Pepin	0.80		0.80	-0.17	0.63	-21%	-21%	127%	127%
Pierce	2.50		2.50	1.80	4.30	72%	72%	58%	58%
Polk	3.00		3.00	2.07	5.07	69%	69%	59%	59%
Portage	4.00		4.00	2.80	6.80	70%	70%	59%	59%
Price	1.00		1.00	0.13	1.13	13%	13%	88%	88%
Racine	18.00		18.00	13.49	31.49	75%	75%	57%	57%
Richland	1.80		1.80	0.05	1.85	3%	3%	97%	97%
Rock	14.00		14.00	2.30	16.30	16%	16%	86%	86%
Rusk	1.50		1.50	0.82	2.32	55%	55%	65%	65%
Saint Croix	6.00		6.00	2.59	8.59	43%	43%	70%	70%
Sauk	5.00	1.00	6.00	0.96	6.96	19%	16%	72%	86%
Sawyer	2.00		2.00	2.34	4.34	117%	117%	46%	46%
Shaw/Men	3.00		3.00	1.83	4.83	61%	61%	62%	62%
Sheboygan	7.50		7.50	4.51	12.01	60%	60%	62%	62%
Taylor	1.00		1.00	0.55	1.55	55%	55%	65%	65%
Trempealeau	2.00		2.00	0.31	2.31	16%	16%	87%	87%
Vernon	2.00		2.00	0.09	2.09	5%	5%	96%	96%
Vilas	2.00		2.00	0.85	2.85	43%	43%	70%	70%
Walworth	5.00		5.00	2.84	7.84	57%	57%	64%	64%
Washburn	1.25		1.25	1.07	2.32	86%	86%	54%	54%
Washington	5.00		5.00	3.81	8.81	76%	76%	57%	57%
Waukesha	14.50	2.00	16.50	8.76	25.26	60%	53%	57%	65%
Waupaca	3.50		3.50	1.98	5.48	57%	57%	64%	64%
Waushara	2.00		2.00	1.28	3.28	64%	64%	61%	61%
Winnebago	10.00		10.00	5.71	15.71	57%	57%	64%	64%
Wood	4.00		4.00	5.41	9.41	135%	135%	43%	43%
TOTALS	383.45	40.00	423.45	166.03	589.48				

*Modifications:

- 1) The 0.5 GPR FTE in Washburn (0.25 FTE) that also serves Burnett (0.25 FTE) is divided by the FTE shown in parentheses.
- 2) In Milwaukee, the total FTE used is 114.5 rather than higher due to the following factors:
 - a) the 1.0 FTE DNA position serves the entire state; so, showing it as a Milwaukee position distorts the data.
 - b) Various PR Positions have no federal funding and are vacant, thus not included in the analysis
- 3) In Brown the total FTE used is 13.00 rather than 14.00 due to the following factor:
 - a) the 1.0 ADA FTE sex predator position in Brown is excluded because it also serves approximately 20 other DA offices.
- 6) The weighted time estimate for CHIPS cases was changed from 2.61 hours to 6.0 hours effective in the 2004-06 study, based on a 7/04 WDAA Executive Board recommendation.
- 7) CHIPS extensions include permanency plan review petitions filed under s. 48.365 beginning with data for 2006.
- 8) Immunization cases filed by DA Offices under s. 48.13(13) are included with CHIPS cases beginning with data for 2006.
- 9) WDAA Executive Board authorized the following changes to the weighted time estimates beginning with the 2007-09 caseload study:
 - a) Increase the "reviewing case referrals that are not prosecuted" from 35 to 100 hours per year, thereby reducing hours available per prosecutor to handle individual cases to 1162 per year.
 - b) Weighted time estimate for Class A and First Degree Reckless homicides changed from 100 hours each to 160 hours each.
 - c) Weighted time estimate for "All other Homicides" changed from 50 to 80 hours each.
 - d) The weighted time estimate for misdemeanors changed from 2.17 hours each to 2.91 hours each.
 - e) The weighted time estimate for criminal traffic changed from 1.68 hours each to 2.91 hours each.
 - f) Weighted time estimate for juvenile delinquency changed from 3.32 hours each to 3.44 hours each.



OFFICE OF THE DISTRICT ATTORNEY

Eric J. Toney, District Attorney
Douglas R. Edelstein, Deputy
Kristin R. Menzl, Assistant
Curtis A. Borsheim, Assistant
Michael E. O'Rourke, Assistant
J. Foss Davis, Assistant
Timothy J. Filipa, Assistant
Catherine A. Block, Assistant
Victim/Witness Services (920) 929-3050

April 04, 2019

Mr. Kasey Deiss
State Prosecutors Office
Kasey.Deiss@Wisconsin.gov

Re: ADA Renewal

Dear Mr. Deiss:

I received your email regarding the renewal of the ADA position for Timothy Filipa. The Fond du Lac County Board has approved funding for this position for the 2019 calendar year. I expect this funding by the county to continue indefinitely. I've spoken with the County Executive and he has supported and continues to support the funding of this position.

Sincerely,

Eric J. Toney
District Attorney

Date Signed: 04/04/19

Electronically Signed By:

Eric J. Toney

District Attorney

State Bar #: 1079214