

STATE OF WISCONSIN

OFFICE OF THE STATE PUBLIC DEFENDER

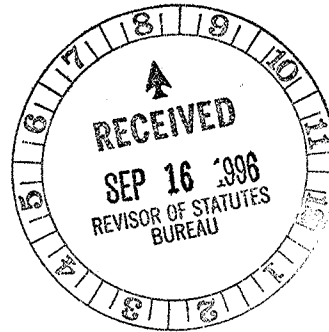
I, Daniel M. Berkos, Chair of the State Public Defender Board and custodian of the official records, certify that the annexed rules relating to the procedures for assignment of counsel were duly approved and adopted by this board on June 14, 1996.

I certify that this copy has been compared by me with the original on file in this Office and that the same is a true copy thereof, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 13th day of September 1996.

Daniel M. Berkos

DANIEL M. BERKOS, Chair
State Public Defender Board



PROPOSED ORDER OF THE STATE PUBLIC DEFENDER CREATING A RULE

The Wisconsin state public defender board proposes an order to amend PD 2.03 (4), (5) and (8), relating to the procedures for assignment of counsel.

Analysis

The proposed rules are necessary to reflect recent changes related to the procedures for assigning both staff and private counsel. Also, the proposed rules are needed for consistency among PD administrative rules. The proposed rules will aid in implementation of the statutory mandates related to the appointment of counsel and collections contained in the biennial budget act.

Specifically, proposed s. PD 2.03 (4) amends the language related to the categories of persons for which counsel is appointed. The amendments contained in proposed s. PD 2.03 (5) reflect recent statutory changes related to the repayment of attorney costs. Finally, proposed s. PD 2.03 (8) specifies the proper title of the person who may authorize group assignment of cases to the private bar.

Statutory authority: ss. 977.02 (2m), (3), (4) and (6), Stats.

Statutes interpreted: ss. 977.07 and 977.08, Stats.

Section 1.

PD 2.03 (4), (5), and (8) are amended to read:

PD 2.03 (4) The county designee shall, upon finding a person ~~indigent or partially indigent~~ eligible, immediately contact the state public defender for purposes of assignment of counsel.

PD 2.03 (5) The state public defender or county designee shall advise all persons charged with a crime, detained for purposes of juvenile or involuntary civil commitment proceedings, or otherwise facing a legal proceeding which is within the scope of representation provided by the state public defender, prior to their initial court appearance, that they have a right to be represented by an attorney in the proceeding ~~without charge if found indigent or for a partial charge if found partially indigent~~ if found eligible. The state public defender or county designee shall advise all persons of the applicable repayment obligation specified in s. PD 6.01 and the optional prepayment amount specified in s. PD 6.02. The state public defender or county designee shall also advise all persons prior to their initial appearance that they have a right to a ~~free~~ determination of their eligibility for those legal services. The county designee shall forward to the state public defender on a monthly basis the names, addresses, and case numbers of these persons and the dates on which the contacts were made.

PD 2.03 (8) If the case is assigned to local private counsel, a representative of the state public defender shall immediately contact the attorney whose name appears on the top of the appropriate certification list and assign that attorney to represent that person. If that attorney cannot accept the assignment, the next attorney on the list shall be contacted and the first attorney's name shall be placed on the bottom of the list as required by s. 977.08 (3) (c), Stats. If the attorney accepts the assignment, that attorney's name shall be placed on the bottom of the list. The ~~chief~~ director of the ~~trial~~ assigned counsel division may authorize a specific representative of the state public defender to make group assignments of cases. Group assignments may be made by number of cases or by designating an attorney to take all cases assigned during a given time period. The ~~chief's~~ director's authorization shall designate the maximum number of cases in a group or the maximum time period the representative may assign. Each attorney on the list of the state public defender shall be offered an equal opportunity at group assignment of cases. In all other respects, group assignments shall be made in the manner specified for individual assignments.

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated: 9/13/96

Wisconsin State Public Defender Board

By: Daniel M. Berkos
DANIEL M. BERKOS, Chair

