



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2431/1
MLJ&CMH:wj&kjf

2019 ASSEMBLY BILL 145

March 27, 2019 - Introduced by Representatives TUSLER, OTT, BROOKS, JAMES, KURTZ, MURPHY, MURSAU, PETERSEN, PRONSCHINSKE, QUINN, SHANKLAND, THIESFELDT, VANDERMEER and WICHGERS, cosponsored by Senators JACQUE, BERNIER and WANGGAARD. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to repeal* 978.001 (1p) and 978.11; *to renumber and amend* 977.08 (3)
2 (b); *to amend* 13.093 (2) (a), 16.971 (9), 16.971 (10), 230.08 (2) (e) 7., 230.33 (1),
3 977.02 (5), 977.08 (3) (c), 977.08 (4m) (c), 978.03, 978.045 (1g), 978.045 (1r) (bm)
4 (intro.), 978.045 (2), 978.05 (9) and 978.12 (1) (c); and *to create* 13.0967, 15.77,
5 20.548, 20.923 (4) (f) 7x., 227.118, 227.19 (3) (em), 230.08 (2) (qp), 230.12 (13),
6 977.08 (3) (b) 2., 977.08 (4m) (d), 978.001 (1b), (1d) and (1n), 978.003, 978.004
7 and 978.005 of the statutes; **relating to:** creation of a prosecutor board and a
8 state prosecutors office; funding for the department of justice, assistant district
9 attorneys, the public defender, and the courts; Public Defender Board
10 regulation, and making an appropriation.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

PUBLIC DEFENDER

Under current law, the Public Defender Board may promulgate rules to assure that representation of indigent clients by the private bar is at the same level as the representation provided by the state public defender. Under this bill, the board's

ASSEMBLY BILL 145

authority to promulgate rules is expanded to include setting standards for and imposing conditions upon private bar attorney certification, decertification, or recertification to represent clients. The bill also adds the following list of reasons as grounds for which the office of the state public defender may exclude a private bar attorney from a public defender list: 1) the attorney has failed to meet minimum attorney performance standards adopted by the state public defender; 2) the attorney has failed to comply with the supreme court rules of professional conduct for attorneys; 3) the attorney has engaged in conduct that is contrary to the interests of clients, the interests of justice, or the interests of the state public defender; or 4) the state public defender learns of any information that raises a concern about the attorney's character, performance, ability, or behavior.

The bill changes the rate at which the public defender must pay a private local attorney to whom a case is assigned from \$40 per hour for time spent related to a case to \$70 per hour for time spent related to a case. The bill provides \$16,612,700 in each fiscal year of the 2019-21 biennium for the rate increase.

The bill provides \$1,767,900 GPR in fiscal year 2019 and \$3,535,800 in fiscal year 2020-21 to fund the assistant state public defender pay progression plan, which is a plan in current law that consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest hourly salary and the highest hourly salary for the salary range for the assistant state public defender positions.

The bill directs the Public Defender Board to conduct a student loan payment pilot program for private bar attorneys who accept public defender appointments. The program would provide a payment to private bar attorneys that they may use to repay student loans of up to \$20,000 per year for attorneys in counties with a population of 25,000 or less who agree to accept at least 50 state public defender appointments per year. The bill provides \$250,000 in each fiscal year of the 2019-21 biennium for the program.

DISTRICT ATTORNEYS

The bill creates an independent prosecutor board that oversees and sets policies for a state prosecutors office, also created in the bill. Under the bill, the executive director of the state prosecutors office manages the office; prepares personnel policies, fiscal estimates, and an annual report; and represents the board before the governor, the legislature, bar associations, and courts. The executive director may also identify methods and practices for district attorneys that promote professional competence and ethical practices. Under the bill, the state prosecutors office assumes duties relating to district attorneys that current law assigns to the Department of Administration, such as preparing a budget for all of the prosecutorial units, approving appointments of special prosecutors when needed, and making requests for assistant district attorneys in certain prosecutorial units. The bill requires any rule that directly affects the state prosecutors office to be reviewed by the office and for the office to submit a report on the proposed rule that includes information about the effect of the proposed rule on the state prosecutors office. The bill requires DOA to provide the state prosecutors office with general access to a case

ASSEMBLY BILL 145

management system currently used by the Department of Justice to manage case-related information and to share the information among prosecutors.

The bill provides \$1,600,000 in fiscal year 2019-20 and \$3,200,000 in fiscal year 2020-21 to fund the deputy and assistant district attorney pay progression plan, which is a plan in current law that consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest hourly salary and the highest hourly salary for the salary range for the deputy and assistant district attorney positions. The bill also provides \$3,320,000 in fiscal year 2019-20 and \$4,427,000 in fiscal year 2020-21 to increase the authorized FTE for the assistant district attorneys by 60.85 FTE positions.

CIRCUIT COURTS

The bill provides \$2,500,000 in fiscal year 2019-20 and \$5,000,000 in fiscal year 2020-21 to fund court appointments made at county expense.

JUSTICE

The bill creates a pay scale for DOJ state crime laboratory analysts that consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest hourly salary and the highest hourly salary for the salary range for DOJ state crime laboratory analysts contained in the state compensation plan. The compensation plan goes into effect on July 1, 2019.

The bill creates within DOJ 25 FTE positions and provides \$1,378,700 in fiscal year 2019-20 and \$3,378,900 in fiscal year 2020-21 to fund ongoing law enforcement investigations, forensics activities, and operations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.093 (2) (a) of the statutes is amended to read:
2 13.093 (2) (a) Any bill making an appropriation, any bill increasing or
3 decreasing existing appropriations or state or general local government fiscal
4 liability or revenues, and any bill that modifies an existing surcharge or creates a
5 new surcharge that is imposed under ch. 814, shall, before any vote is taken thereon
6 by either house of the legislature if the bill is not referred to a standing committee,
7 or before any public hearing is held before any standing committee or, if no public
8 hearing is held, before any vote is taken by the committee, incorporate a reliable

ASSEMBLY BILL 145

1 estimate of the anticipated change in appropriation authority or state or general
2 local government fiscal liability or revenues under the bill, including to the extent
3 possible a projection of such changes in future biennia. The estimate shall also
4 indicate whether any increased costs incurred by the state under the bill can be
5 mitigated through the use of contractual service contracts let in accordance with
6 competitive procedures. For purposes of this paragraph, a bill increasing or
7 decreasing the liability or revenues of the unemployment reserve fund is considered
8 to increase or decrease state fiscal liability or revenues. Except as otherwise
9 provided by joint rules of the legislature or this paragraph, such estimates shall be
10 made by the department or agency administering the appropriation or fund or
11 collecting the revenue. The legislative council staff shall prepare the fiscal estimate
12 with respect to the provisions of any bill referred to the joint survey committee on
13 retirement systems which create or modify any system for, or make any provision for,
14 the retirement of or payment of pensions to public officers or employees. The director
15 of state courts shall prepare the fiscal estimate with respect to the provisions of any
16 bill that modifies an existing surcharge or creates a new surcharge that is imposed
17 under ch. 814. The executive director of the state prosecutors office shall prepare the
18 fiscal estimate with respect to the provisions of any bill that affects prosecutors or
19 the state prosecutors office, including bills modifying or creating crimes or
20 sentencing practices. When a fiscal estimate is prepared after the bill has been
21 introduced, it shall be printed and distributed as are amendments.

22 **SECTION 2.** 13.0967 of the statutes is created to read:

23 **13.0967 Review of bills affecting state prosecutors office.** Any bill that
24 is introduced in either house of the legislature that directly affects the state
25 prosecutors office shall have a notation to that effect on its jacket when the jacket is

ASSEMBLY BILL 145

1 prepared. When a bill that has that notation on the jacket is introduced, the
2 legislative reference bureau shall submit a copy of the bill to the state prosecutors
3 office.

4 **SECTION 3.** 15.77 of the statutes is created to read:

5 **15.77 Prosecutor board.** There is created a prosecutor board consisting of
6 11 members, appointed for staggered 3-year terms, as follows:

7 (1) From each district under s. 752.11 (1) (b), (c), and (d), 2 district attorneys
8 appointed by a majority of district attorneys from the district.

9 (2) From the district under s. 752.11 (1) (a), the district attorney and a deputy
10 district attorney appointed by the district attorney.

11 (3) Two nonelected prosecutors, each from a different county, appointed by a
12 majority of nonelected prosecutors. Under this subsection, “prosecutor” does not
13 include a special prosecutor appointed under s. 978.045 or 978.05 (8) (b).

14 (4) The attorney general or his or her designee.

15 **SECTION 4.** 16.971 (9) of the statutes is amended to read:

16 16.971 (9) In conjunction with the public defender board, the prosecutor board,
17 the director of state courts, and the departments of corrections and justice and
18 ~~district attorneys~~, the department may maintain, promote and coordinate
19 automated justice information systems that are compatible among counties and the
20 officers and agencies specified in this subsection, using the moneys appropriated
21 under s. 20.505 (1) (kh) and (kq). The department shall annually report to the
22 legislature under s. 13.172 (2) concerning the department’s efforts to improve and
23 increase the efficiency of integration of justice information systems.

24 **SECTION 5.** 16.971 (10) of the statutes is amended to read:

ASSEMBLY BILL 145

1 16.971 (10) The department shall maintain, and provide the department of
2 justice and the state prosecutors office with general access to, a case management
3 system that allows the state prosecutors office and district attorneys to manage all
4 case-related information and share the information among prosecutors.

5 **SECTION 6.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
6 the following amounts for the purposes indicated:

	2019-20	2020-21
7 20.548 Prosecutor board		

8 (1) COORDINATION AND ADMINISTRATION OF
9 PROSECUTOR FUNCTIONS

10 (a) Program administration	GPR	A	252,000	246,500
---	-----	---	---------	---------

11 **SECTION 7.** 20.548 of the statutes is created to read:

12 **20.548 Prosecutor board.** There is appropriated to the prosecutor board for
13 the following program:

14 **(1) COORDINATION AND ADMINISTRATION OF PROSECUTOR FUNCTIONS.** (a) *Program*
15 *administration.* The amounts in the schedule for program administration costs of
16 the office of state prosecutors.

17 (g) *Gifts, grants, and proceeds.* All moneys received from gifts and grants and
18 all proceeds from services, conferences, and sales of publications and promotional
19 materials for the purposes for which made or received.

20 **SECTION 8.** 20.923 (4) (f) 7x. of the statutes is created to read:

21 20.923 (4) (f) 7x. State prosecutors office: executive director.

22 **SECTION 9.** 227.118 of the statutes is created to read:

ASSEMBLY BILL 145

1 **227.118 Review of rules affecting state prosecutors office. (1) REPORT**
2 ON RULES AFFECTING STATE PROSECUTORS OFFICE. If a proposed rule directly affects the
3 state prosecutors office, the agency proposing the rule shall, prior to submitting the
4 proposed rule to the legislative council staff under s. 227.15, submit the proposed
5 rule to the state prosecutors office. The state prosecutors office shall prepare a report
6 on the proposed rule before it is submitted to the legislative council staff under s.
7 227.15. The state prosecutors office may request any information from other state
8 agencies, local governments, individuals, or organizations that is reasonably
9 necessary for the office to prepare the report. The state prosecutors office shall
10 prepare the report within 30 days after the rule is submitted to the office.

11 **(2) FINDINGS OF THE OFFICE TO BE CONTAINED IN THE REPORT.** The report of the
12 state prosecutors office shall contain information about the effect of the proposed
13 rule on the state prosecutors office.

14 **(3) APPLICABILITY.** This section does not apply to emergency rules promulgated
15 under s. 227.24.

16 **SECTION 10.** 227.19 (3) (em) of the statutes is created to read:

17 227.19 **(3)** (em) The report of the state prosecutors office, if the proposed rule
18 directly affects the state prosecutors office.

19 **SECTION 11.** 230.08 (2) (e) 7. of the statutes is amended to read:

20 230.08 **(2)** (e) 7. Justice — ~~5~~ 6.

21 **SECTION 12.** 230.08 (2) (qp) of the statutes is created to read:

22 230.08 **(2)** (qp) The executive director in the office of state prosecutors.

23 **SECTION 13.** 230.12 (13) of the statutes is created to read:

24 230.12 **(13)** DEPARTMENT OF JUSTICE STATE CRIME LABORATORIES PAY PROGRESSION
25 PLAN. (a) There is established a pay progression plan for department of justice state

ASSEMBLY BILL 145

1 crime laboratory analysts. The pay progression plan shall consist of 17 hourly salary
2 steps, with each step equal to one-seventeenth of the difference between the lowest
3 hourly salary and the highest hourly salary for the salary range for the analysts
4 contained in the compensation plan. The pay progression plan shall be based
5 entirely on merit.

6 (b) Beginning with the first pay period that occurs on or after July 1, 2020, all
7 department of justice state crime laboratory analysts who have served with the state
8 as analysts for a continuous period of 12 months or more, and who are not paid the
9 maximum hourly rate, shall be paid an hourly salary at the step that is immediately
10 above their hourly salary on June 30, 2020. All other analysts, who are not paid the
11 maximum hourly rate, shall be paid an hourly salary at the step that is immediately
12 above their hourly salary on June 30, 2020, when they have served with the state as
13 analysts for a continuous period of 12 months.

14 (c) Beginning with the first pay period that occurs on or after July 1, 2021, and
15 with the first pay period that occurs on or after each succeeding July 1, all
16 department of justice state crime laboratory analysts who have served with the state
17 as analysts for a continuous period of 12 months or more, and who are not paid the
18 maximum hourly rate, may, at the discretion of the attorney general, be paid an
19 hourly salary at any step, or part thereof, above their hourly salary on the
20 immediately preceding June 30. All other analysts who are not paid the maximum
21 hourly rate may, at the discretion of the attorney general, be paid an hourly salary
22 at any step, or part thereof, above their hourly salary on the immediately preceding
23 June 30, when they have served with the state as agents for a continuous period of
24 12 months. No salary adjustment for an analyst under this paragraph may exceed
25 10 percent of his or her base pay during a fiscal year.

ASSEMBLY BILL 145

1 **SECTION 14.** 230.33 (1) of the statutes is amended to read:

2 230.33 (1) A person appointed to an unclassified position by the governor,
3 elected officer, judicial body, or prosecutor board, or by a legislative body or
4 committee shall be granted a leave of absence without pay for the duration of the
5 appointment and for 3 months thereafter, during which time the person has
6 restoration rights to the former position or equivalent position in the department in
7 which last employed in a classified position without loss of seniority. The person
8 shall also have reinstatement privileges for 5 years following appointment to the
9 unclassified service or for one year after termination of the unclassified appointment
10 whichever is longer. Restoration rights and reinstatement privileges shall be
11 forfeited if the reason for termination of the unclassified appointment would also be
12 reason for discharge from the former position in the classified service.

13 **SECTION 15.** 977.02 (5) of the statutes is amended to read:

14 977.02 (5) Promulgate rules establishing procedures to assure that
15 representation of indigent clients by the private bar at the initial stages of cases
16 assigned under this chapter is at the same level as the representation provided by
17 the state public defender, including setting standards for and imposing conditions
18 upon private bar attorney certification, decertification, or recertification to represent
19 clients under this chapter.

20 **SECTION 16.** 977.08 (3) (b) of the statutes is renumbered 977.08 (3) (b) 1. and
21 amended to read:

22 977.08 (3) (b) 1. A final set of lists for each county shall be prepared, certified,
23 and annually updated by the state public defender. Persons may not be excluded
24 from any a list unless only if the state public defender states in writing the reasons
25 for such action in ~~the context of~~ accordance with subd. 2. and existing rules adopted

ASSEMBLY BILL 145

1 by the state public defender board. Any attorney thus excluded ~~shall then have the~~
2 ~~opportunity to~~ may appeal the state public defender's decision to the board, which
3 shall issue a final decision in writing.

4 **SECTION 17.** 977.08 (3) (b) 2. of the statutes is created to read:

5 977.08 (3) (b) 2. An attorney may be excluded from a list under subd. 1. if any
6 of the following applies:

7 a. The attorney fails or has failed to meet minimum attorney performance
8 standards adopted by the state public defender.

9 b. The attorney fails or has failed to comply with SCR chapter 20.

10 c. The attorney engages in conduct that is contrary to the interests of clients,
11 the interests of justice, or the interests of the state public defender.

12 d. The state public defender learns of any information that raises a concern
13 about the attorney's character, performance, ability, or behavior.

14 **SECTION 18.** 977.08 (3) (c) of the statutes is amended to read:

15 977.08 (3) (c) A person appointed from the set of lists prepared under par. (b)
16 1. shall be appointed in order from the top of each list; if any attorney thus appointed
17 states in writing that he or she cannot accept the appointment, he or she shall be
18 placed on the bottom of the list, and the attorney thus elevated to the top of the list
19 shall be appointed.

20 **SECTION 19.** 977.08 (4m) (c) of the statutes is amended to read:

21 977.08 (4m) (c) Unless otherwise provided by a rule promulgated under s.
22 977.02 (7r) or by a contract authorized under sub. (3) (f), for cases assigned on or after
23 July 29, 1995, and before July 1, 2019, private local attorneys shall be paid \$40 per
24 hour for time spent related to a case, excluding travel, and \$25 per hour for time spent
25 in travel related to a case if any portion of the trip is outside the county in which the

ASSEMBLY BILL 145

1 attorney's principal office is located or if the trip requires traveling a distance of more
2 than 30 miles, one way, from the attorney's principal office.

3 **SECTION 20.** 977.08 (4m) (d) of the statutes is created to read:

4 977.08 (4m) (d) Unless otherwise provided by a rule promulgated under s.
5 977.02 (7r) or by a contract authorized under sub. (3) (f), for cases assigned on or after
6 July 1, 2019, private local attorneys shall be paid \$70 per hour for time spent related
7 to a case, excluding travel, and \$25 per hour for time spent in travel related to a case
8 if any portion of the trip is outside the county in which the attorney's principal office
9 is located or if the trip requires traveling a distance of more than 30 miles, one way,
10 from the attorney's principal office.

11 **SECTION 21.** 978.001 (1b), (1d) and (1n) of the statutes are created to read:

12 978.001 (1b) "Board" means the prosecutor board.

13 (1d) "Executive director" means the executive director appointed under s.
14 978.003 (3).

15 (1n) "Office" means the state prosecutors office.

16 **SECTION 22.** 978.001 (1p) of the statutes is repealed.

17 **SECTION 23.** 978.003 of the statutes is created to read:

18 **978.003 Board; duties.** The board shall do all of the following:

19 (1) Submit the budget in accordance with s. 16.42 after the executive director
20 submits the budget to the board and the board approves it.

21 (2) At least annually submit to the joint committee on finance
22 recommendations on the allocation of prosecutor resources.

23 (3) Appoint an attorney with experience in criminal prosecution as the
24 executive director of the office.

25 (4) Oversee, and set policy initiatives for, the executive director.

ASSEMBLY BILL 145

1 (5) Review existing law or proposed legislation and make recommendations to
2 the legislature.

3 **SECTION 24.** 978.004 of the statutes is created to read:

4 **978.004 State prosecutors office executive director.** (1) The executive
5 director shall do all of the following:

6 (a) Manage and direct the office subject to the policy initiatives set under s.
7 978.003 (4).

8 (b) Prepare and submit to the board for its approval a budget and any personnel
9 and employment policies that the board requires.

10 (c) Prepare and submit to the board and other appropriate persons an annual
11 report of the activities of the office in the form that the board directs.

12 (d) Represent the board before the governor, the legislature, bar associations,
13 courts, and other appropriate entities.

14 (e) Appoint in the classified service an executive assistant and all other
15 employees of the office. Before making an appointment under this paragraph, the
16 executive director shall notify the board of any prospective appointment. If the board
17 does not object to the prospective appointment within 7 working days after
18 notification, the executive director may make the appointment. If the board objects
19 to a prospective appointment, the executive director may not make the appointment
20 until the board approves it.

21 (f) Prepare fiscal estimates on bills affecting prosecutors or the office, including
22 bills modifying or creating crimes or sentencing practices. To prepare a fiscal
23 estimate, the executive director shall consult with and obtain data from district
24 attorneys. The executive director shall transmit a draft fiscal estimate to the board.
25 If the board does not object to the draft fiscal estimate within 7 working days after

ASSEMBLY BILL 145

1 receiving it, the executive director may submit the fiscal estimate. If the board
2 objects to a draft fiscal estimate, the executive director may not submit the fiscal
3 estimate until the board approves it.

4 (2) The executive director may identify methods and practices for district
5 attorneys that promote professional competence, ethical practices, and
6 evidence-based practices.

7 **SECTION 25.** 978.005 of the statutes is created to read:

8 **978.005 Limits on board and executive director.** Neither the board nor
9 the executive director may make any decision regarding the handling of any case nor
10 interfere with any district attorney in carrying out professional duties. Neither the
11 board nor the office may interfere with or infringe upon the autonomy of a district
12 attorney or upon the authority of a district attorney to manage his or her own
13 prosecutorial unit.

14 **SECTION 26.** 978.03 of the statutes is amended to read:

15 **978.03 Deputies and assistants in certain prosecutorial units.** (1) The
16 district attorney of any prosecutorial unit having a population of 750,000 or more
17 may appoint 7 deputy district attorneys and such assistant district attorneys as may
18 be requested by the department of administration, or by the board, and authorized
19 in accordance with s. 16.505. The district attorney shall rank the deputy district
20 attorneys for purposes of carrying out duties under this section. The deputies,
21 according to rank, may perform any duty of the district attorney, under the district
22 attorney's direction. In the absence or disability of the district attorney, the deputies,
23 according to rank, may perform any act required by law to be performed by the
24 district attorney. Any such deputy must have practiced law in this state for at least
25 2 years prior to appointment under this section.

ASSEMBLY BILL 145

1 **(1m)** The district attorney of any prosecutorial unit having a population of
2 200,000 or more but less than 750,000 may appoint 3 deputy district attorneys and
3 such assistant district attorneys as may be requested by the department of
4 administration, or by the board, and authorized in accordance with s. 16.505. The
5 district attorney shall rank the deputy district attorneys for purposes of carrying out
6 duties under this section. The deputies, according to rank, may perform any duty
7 of the district attorney, under the district attorney's direction. In the absence or
8 disability of the district attorney, the deputies, according to rank, may perform any
9 act required by law to be performed by the district attorney. Any such deputy must
10 have practiced law in this state for at least 2 years prior to appointment under this
11 section.

12 **(2)** The district attorney of any prosecutorial unit having a population of
13 100,000 or more but not more than 199,999 may appoint one deputy district attorney
14 and such assistant district attorneys as may be requested by the department of
15 administration, or by the board, and authorized in accordance with s. 16.505. The
16 deputy may perform any duty of the district attorney, under the district attorney's
17 direction. In the absence or disability of the district attorney, the deputy may
18 perform any act required by law to be performed by the district attorney. The deputy
19 must have practiced law in this state for at least 2 years prior to appointment under
20 this section.

21 **(3)** Any assistant district attorney under sub. (1), (1m), or (2) must be an
22 attorney admitted to practice law in this state and, except as provided in s. 978.043
23 (1), may perform any duty required by law to be performed by the district attorney.
24 The district attorney of the prosecutorial unit under sub. (1), (1m), or (2) may appoint

ASSEMBLY BILL 145

1 such temporary counsel as may be authorized by the department of administration
2 board.

3 **SECTION 27.** 978.045 (1g) of the statutes is amended to read:

4 978.045 (1g) A court on its own motion may appoint a special prosecutor under
5 sub. (1r) or a district attorney may request a court to appoint a special prosecutor
6 under that subsection. Before a court appoints a special prosecutor on its own motion
7 or at the request of a district attorney for an appointment that exceeds 6 hours per
8 case, the court or district attorney shall request assistance from a district attorney,
9 deputy district attorney or assistant district attorney from other prosecutorial units
10 or an assistant attorney general. A district attorney requesting the appointment of
11 a special prosecutor, or a court if the court is appointing a special prosecutor on its
12 own motion, shall notify the department of administration, on a form provided by
13 that department, of office that the district attorney's attorney or the court's inability
14 court, whichever is appropriate, is unable to obtain assistance from another
15 prosecutorial unit or from an assistant attorney general.

16 **SECTION 28.** 978.045 (1r) (bm) (intro.) of the statutes is amended to read:

17 978.045 (1r) (bm) (intro.) The judge may appoint an attorney as a special
18 prosecutor at the request of a district attorney to assist the district attorney in the
19 prosecution of persons charged with a crime, in grand jury proceedings, in
20 proceedings under ch. 980, or in investigations. Except as provided under par. (bp),
21 the judge may appoint an attorney as a special prosecutor only if the judge or the
22 requesting district attorney submits an affidavit to the ~~department of~~
23 administration office attesting that any of the following conditions exists:

24 **SECTION 29.** 978.045 (2) of the statutes is amended to read:

ASSEMBLY BILL 145

1 978.045 (2) If the ~~department of administration~~ office approves the
2 appointment of a special prosecutor under sub. (1r), the court shall fix the amount
3 of compensation for the attorney appointed according to the rates specified in s.
4 977.08 (4m) (b). The department of administration shall pay the compensation
5 ordered by the court from the appropriation under s. 20.475 (1) (d). The court, district
6 attorney, and the special prosecutor shall provide any information regarding a
7 payment of compensation that the department requests. Any payment under this
8 subsection earns interest on the balance due from the 121st day after receipt of a
9 properly completed invoice or receipt and acceptance of the property or service under
10 the order or contract, whichever is later, at the rate specified in s. 71.82 (1) (a)
11 compounded monthly.

12 **SECTION 30.** 978.05 (9) of the statutes is amended to read:

13 978.05 (9) BUDGET. Prepare a biennial budget request for submission to the
14 ~~department~~ executive director under s. ~~978.11~~ 978.004 (1) (b) by September 1 of each
15 even-numbered year.

16 **SECTION 31.** 978.11 of the statutes is repealed.

17 **SECTION 32.** 978.12 (1) (c) of the statutes is amended to read:

18 978.12 (1) (c) *Assistant district attorneys.* Assistant district attorneys shall be
19 employed outside the classified service. For purposes of salary administration, the
20 administrator of the division of personnel management in the department of
21 administration, in consultation with the office, shall establish one or more
22 classifications for assistant district attorneys in accordance with the classification
23 or classifications allocated to assistant attorneys general. Except as provided in ss.
24 111.93 (3) (b) and 230.12 (10), the salaries of assistant district attorneys shall be
25 established and adjusted in accordance with the state compensation plan for

ASSEMBLY BILL 145

1 assistant attorneys general whose positions are allocated to the classification or
2 classifications established by the administrator of the division of personnel
3 management in the department of administration under this paragraph.

SECTION 33. Nonstatutory provisions.

(1) STUDENT LOAN PAYMENT PILOT PROGRAM.

6 (a) The public defender board shall conduct a student loan payment pilot
7 program for private bar attorneys who accept public defender appointments. The
8 program shall provide up to \$20,000 per year, or the outstanding balance on the
9 attorney's student loans, whichever is less, to eligible attorneys to use to repay
10 student loans. To be eligible to receive a payment under this paragraph in any
11 calendar year, an attorney must meet all of the following criteria:

12 1. The attorney is licensed to practice law in Wisconsin.

13 2. The attorney is certified to accept state public defender appointments.

14 3. The attorney agrees to accept a minimum of 50 state public defender
15 appointments per year.

16 4. The attorney maintains a law practice that either is headquartered or
17 performs a demonstrated majority of its legal work in a county with a population of
18 25,000 or fewer residents.

19 5. The attorney has outstanding student loans that were incurred to obtain a
20 juris doctor degree from an accredited university.

21 (b) An attorney who will meet all of the criteria under par. (a) may apply for the
22 student loan payment pilot program beginning on January 1 of each year to qualify
23 to receive a payment at the end of that year. Applications will be accepted on a rolling
24 basis and all payments will be disbursed in the order that applications are received.
25 At the end of the year, the attorney must certify that he or she has met all of the

ASSEMBLY BILL 145

1 criteria for that year and must provide proof of his or her outstanding student loan
2 balance on January 1 of that year to determine the payment amount that he or she
3 is eligible to receive under the program.

4 (c) The public defender board may promulgate emergency rules under s. 227.24
5 to implement the program under par. (a) for the period before the effective date of
6 permanent rules but not to exceed the period authorized under s. 227.24 (1) (c),
7 subject to extension under s. 227.24 (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and
8 (3), the board is not required to provide evidence that promulgating a rule under this
9 paragraph as an emergency rule is necessary for the preservation of the public peace,
10 health, safety, or welfare and is not required to provide a finding of emergency for a
11 rule promulgated under this paragraph.

12 (2) PROSECUTOR BOARD AND STATE PROSECUTORS OFFICE.

13 (a) *Initial terms for prosecutor board members.* Notwithstanding s. 15.77, of
14 the members of the prosecutor board who are appointed as initial members, one
15 member representing each district under s. 752.11 (1) (b) and (d) and one member
16 under s. 15.77 (3) shall serve for a one-year term and one member representing the
17 district under s. 752.11 (1) (c), one member under s. 15.77 (2), and one member under
18 s. 15.77 (3) shall serve for a 2-year term.

19 (b) *Transfer of state prosecutors office.*

20 1. 'Assets and liabilities.' On the effective date of this subdivision, the assets
21 and liabilities of the department of administration that are primarily related to the
22 state prosecutors office, as determined by the secretary of administration, become
23 the assets and liabilities of the prosecutor board.

24 2. 'Tangible personal property.' On the effective date of this subdivision, all
25 tangible personal property, including records, of the department of administration

ASSEMBLY BILL 145

1 that is primarily related to the state prosecutors office, as determined by the
2 secretary of administration, is transferred to the prosecutor board.

3 3. 'Contracts.' All contracts entered into by the department of administration
4 that are primarily related to the state prosecutors office, as determined by the
5 secretary of administration, in effect on the effective date of this subdivision, remain
6 in effect and are transferred to the prosecutor board. The prosecutor board shall
7 carry out any such contractual obligations unless modified or rescinded by the
8 prosecutor board to the extent allowed under the contract.

9 4. 'Pending matters.' Any matter pending with the department of
10 administration that is primarily related to the state prosecutors office, as
11 determined by the secretary of administration, on the effective date of this
12 subdivision, is transferred to the prosecutor board, and all materials submitted to or
13 actions taken by the department of administration, with respect to the pending
14 matter are considered as having been submitted to or taken by the prosecutor board.

15 5. 'Rules and orders.' All rules promulgated for the department of
16 administration that are primarily related to the state prosecutors office, as
17 determined by the secretary of administration, that are in effect on the effective date
18 of this subdivision remain in effect until their specified expiration dates or until
19 amended or repealed by the prosecutor board.

20 **SECTION 34. Fiscal changes.**

21 (1) DISTRICT ATTORNEY PAY PROGRESSION. In the schedule under s. 20.005 (3) for
22 the appropriation to the district attorneys under s. 20.475 (1) (em), the dollar amount
23 for fiscal year 2019-20 is increased by \$1,600,000 to fund the assistant district
24 attorney pay progression system. In the schedule under s. 20.005 (3) for the
25 appropriation to the district attorneys under s. 20.475 (1) (em), the dollar amount for

ASSEMBLY BILL 145

1 fiscal year 2020-21 is increased by \$3,200,000 to fund the assistant district attorney
2 pay progression system.

3 (2) ADDITIONAL ASSISTANT DISTRICT ATTORNEY POSITIONS. In the schedule under
4 s. 20.005 (3) for the appropriation to the district attorneys under s. 20.475 (1) (d), the
5 dollar amount for fiscal year 2019-20 is increased by \$3,320,000 to increase the
6 authorized FTE assistant district attorney positions by 60.85 positions. In the
7 schedule under s. 20.005 (3) for the appropriation to the district attorneys under s.
8 20.475 (1) (d), the dollar amount for fiscal year 2020-21 is increased by \$4,427,000
9 to provide funding for the positions authorized under this subsection. The state
10 prosecutors office shall determine the districts in which such assistant district
11 attorneys shall be placed.

12 (3) ASSIGNED COUNSEL RATE. In the schedule under s. 20.005 (3) for the
13 appropriation to the public defender board under s. 20.550 (1) (a), the dollar amount
14 for fiscal year 2019-20 is increased by \$16,612,700 to pay private attorneys
15 appointed under s. 977.08 (4m) (c) on or after July 1, 2019. In the schedule under s.
16 20.005 (3) for the appropriation to the public defender board under s. 20.550 (1) (a),
17 the dollar amount for fiscal year 2020-21 is increased by \$16,612,700 to pay private
18 attorneys appointed under s. 977.08 (4m) (c) on or after July 1, 2019.

19 (4) PUBLIC DEFENDER PAY PROGRESSION. In the schedule under s. 20.005 (3) for
20 the appropriation to the public defender board under s. 20.550 (1) (a), the dollar
21 amount for fiscal year 2019-20 is increased by \$1,767,900 to fund the assistant state
22 public defender pay progression system. In the schedule under s. 20.005 (3) for the
23 appropriation to the public defender board under s. 20.550 (1) (a), the dollar amount
24 for fiscal year 2020-21 is increased by \$3,535,800 to fund the assistant state public
25 defender pay progression system.

ASSEMBLY BILL 145

1 (5) STUDENT LOAN PAYMENT PILOT PROGRAM. In the schedule under s. 20.005 (3)
2 for the appropriation to the public defender board under s. 20.550 (1) (a), the dollar
3 amount for fiscal year 2019-20 is increased by \$250,000 to conduct a student loan
4 payment pilot program under SECTION 33 (1) of this act for private bar attorneys who
5 accept public defender appointments and who meet certain additional criteria. In
6 the schedule under s. 20.005 (3) for the appropriation to the public defender board
7 under s. 20.550 (1) (a), the dollar amount for fiscal year 2020-21 is increased by
8 \$250,000 to conduct a student loan payment pilot program under SECTION 33 (1) of
9 this act for private bar attorneys who accept public defender appointments and who
10 meet certain additional criteria.

11 (6) INVESTIGATIONS AND FORENSICS. In the schedule under s. 20.005 (3) for the
12 appropriation to the department of justice under s. 20.455 (2) (a), the dollar amount
13 for fiscal year 2019-20 is increased by \$593,300 to increase the authorized FTE
14 positions for the department by 10.0 positions. In the schedule under s. 20.005 (3)
15 for the appropriation to the department of justice under s. 20.455 (2) (a), the dollar
16 amount for fiscal year 2020-21 is increased by \$742,600 to provide funding for the
17 positions authorized under this subsection.

18 (7) STATE CRIME LABORATORY ANALYSTS. In the schedule under s. 20.005 (3) for
19 the appropriation to the department of justice under s. 20.455 (2) (a), the dollar
20 amount for fiscal year 2019-20 is increased by \$785,400 to increase the authorized
21 FTE positions for the department by 15.0 analyst positions on July 1, 2019, to
22 improve the efficiency of operations at the state crime laboratories. In the schedule
23 under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455
24 (2) (a), the dollar amount for fiscal year 2020-21 is increased by \$1,307,600, and for
25 the appropriation to the department of justice under s. 20.455 (2) (kd), the dollar

ASSEMBLY BILL 145

1 amount is increased by \$1,328,700, to provide funding for the positions authorized
2 under this subsection and to provide pay increases to state crime laboratory analysts
3 under s. 230.12 (13).

4 (8) INCREASE IN COURT APPOINTMENT RATE. In the schedule under s. 20.005 (3) for
5 the appropriation to the circuit courts under s. 20.625 (1) (cg), the dollar amount for
6 fiscal year 2019-20 is increased by \$2,500,000 to fund court appointments made at
7 county expense. In the schedule under s. 20.005 (3) for the appropriation to the
8 circuit courts under s. 20.625 (1) (cg), the dollar amount for fiscal year 2020-21 is
9 increased by \$5,000,000 to fund court appointments made at county expense.

10 (END)