

STATE OF WISCONSIN

OFFICE OF THE STATE PUBLIC DEFENDER

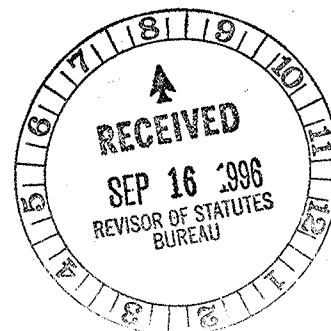
I, Daniel M. Berkos, Chair of the State Public Defender Board and custodian of the official records, certify that the annexed rule related to the redetermination of indigency during the course of representation was duly approved and adopted by this board on June 14, 1996.

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, 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 3.039, relating to the redetermination of indigency during the course of representation.

### **Analysis By Agency**

The proposed amendment clarifies the administrative rule by deleting background information that explains the gross income eligibility table contained in the rule. The deleted information comprises a worksheet showing the disposable monthly income of a single person earning \$7.50 per hour and a summary of the agency's cost-of-counsel table in non-felony cases. Although this part of the rule supports the income levels contained in the table, the worksheet and reference to the cost of counsel do not contribute to the substance of the rule, and their deletion will make the rule clearer.

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

Statute interpreted: s. 977.06 (1) (b), Stats.

### **Section 1.**

PD 3.039 is amended to read:

**PD 3.039 Change of circumstances and redetermination of indigency; withdraw from representation.** If a client has originally qualified for appointment of counsel by a determination of indigency, the state public defender shall apply the following financial guidelines when a client or client's spouse obtains a higher level of income or receives liquid assets:

(1) When a change in income from employment occurs within 30 days from the date that counsel was appointed, the same eligibility standards shall apply as applied to the original determination of indigency. When a change resulting in increased income other than from employment or a change resulting in increased liquid assets occurs, the same eligibility standards shall apply as applied to the original determination of indigency.

(2) If the change in income from employment occurs more than 30 days from the date that counsel was appointed, the client remains eligible for representation by the state public defender if the income does not exceed the gross monthly amount stated in the table included in sub. (3). If the gross monthly income exceeds that amount, the client is considered not indigent.

(3) The gross income eligibility table in this subsection applies to those individuals who originally qualified for public defender representation under this chapter, but who obtained employment that increased their income. Continuing eligibility is based on client income remaining below gross monthly amounts in the following table:

### **Gross Income Eligibility Table**

<del>\$7.50</del>	Hourly
<del>\$300.00</del>	Weekly
<del>\$1,300.00</del>	Monthly
<del>(\$99.45)</del>	Less Social Security (7.65%)
<del>(\$131.00)</del>	Federal Tax
<del>(\$56.50)</del>	State Tax
<del>\$1,013.05</del>	Monthly Take Home
<del>(\$622.50)</del>	Cost of Living at the Federal Poverty Level
<del>\$390.55</del>	"Disposable" Income

~~Per agency cost of counsel table, one can retain a lawyer for a non-felony case for between \$300 and \$700.~~

<u>Family Size</u>	<u>Hourly Amount</u>	<u>Gross Monthly</u>
1	\$7.50	\$1,200.00
2	\$8.70	\$1,392.00
3	\$9.18	\$1,469.00
4	\$9.81	\$1,569.00
5	\$10.38	\$1,660.00
6	\$10.74	\$1,718.00
7	\$11.13	\$1,781.00
8	\$11.44	\$1,831.00
9	\$11.70	\$1,872.00
10	\$11.84	\$1,895.00

(4) When the state public defender determines that a client is not indigent, the state public defender shall move the court to withdraw from representation. The state public defender shall develop procedures for seeking to withdraw from cases in which clients have been determined not to be indigent, including procedures to notify and instruct private attorneys assigned to cases by the state public defender.

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



**WISCONSIN  
PUBLIC  
DEFENDER**

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STATE PUBLIC DEFENDER

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TRAINING DIRECTOR

**Michael Tobin**  
TRIAL DIRECTOR

September 13, 1996

Gary Poulson  
Revisor of Statutes Bureau  
131 W. Wilson St., Room 800  
Madison, WI 53703-3233

Re: PD 2.03 (4), (5) & (8) and PD 3.039

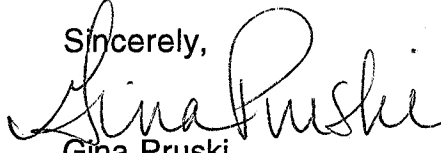
Dear Gary:

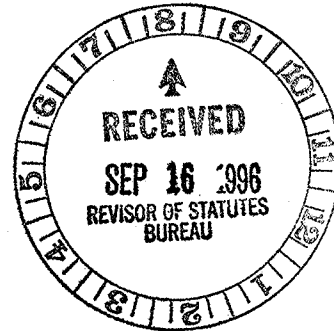
Enclosed please find certified copies of administrative rules which the State Public Defender Board has promulgated.

Extra copies of the rules are enclosed for printing purposes.

Thank you.

Sincerely,

  
Gina Pruski  
Deputy Legal Counsel



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