



State of Wisconsin
2009 - 2010 LEGISLATURE

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**ASSEMBLY AMENDMENT 3,
TO 2009 ASSEMBLY BILL 78**

April 17, 2009 – Offered by Representative GUNDRUM.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 2: delete the material beginning with that line and ending with
page 3, line 2, and substitute:

3 “895.46 (9) (a) The state shall reimburse a state officer or state employee for
4 reasonable attorney fees and costs incurred by the officer or employee in connection
5 with a John Doe proceeding under s. 968.26 (2) arising from the officer’s or employee’s
6 conduct in the performance of official duties if all of the following apply:

- 7 1. The officer or employee was acting within the scope of his or her employment.
8 2. The officer or employee is not convicted of a crime arising from the conduct
9 that is the subject of any criminal complaint issued under s. 968.26 (2) (d).

10 (b) The state shall reimburse a state officer or state employee for reasonable
11 attorney fees and costs incurred by the officer or employee in defending a criminal

1 complaint issued under s. 968.26 (2) (d) arising from the officer's or employee's
2 conduct in the performance of official duties if all of the following apply:

3 1. The officer or employee was acting within the scope of his or her employment.

4 2. The officer or employee is not convicted of a crime arising from the conduct
5 that is the subject of the criminal complaint issued under s. 968.26 (2) (d)."

6 **2.** Page 3, line 10: after "district attorney" insert "or, if the complaint may
relate to the conduct of the district attorney, to another prosecutor under s. 978.045".

7 **3.** Page 3, line 11: after "the judge" insert "may appoint a prosecutor under s.
978.045 to attend or participate in the proceeding. The extent to which the
prosecutor may attend or participate is within the judge's discretion. The judge".

8 **4.** Page 3, line 20: after "secret." insert "The judge may allow the district
attorney who requested the proceeding under sub. (1) or any prosecutor appointed
under sub. (2) (c) to examine witnesses.".

9 **5.** Page 4, line 14: after "(b)" insert "1. In this paragraph, "district attorney"
includes a prosecutor to whom the judge has referred the complaint under par. (a)."

10 **6.** Page 4, line 14: before "If a" insert:

11 "2."

12 **7.** Page 4, line 15: after "the referral," insert "unless the judge extends that
period for cause shown,".

13 **8.** Page 4, line 18: after "the matter" insert "that are in the custody of the
district attorney".

