

Deferred Prosecution Agreements

A Guide to Wisconsin's Law

A district attorney should not use his or her office to obtain money from defendants or others whose conduct is reviewed by the district attorney if the disposition of the money is in the district attorney's sole control, even if the district attorney directs the money to a charitable purpose.

Nor should a district attorney use his or her position to obtain money for a private organization of which the district attorney or the district attorney's spouse is an officer, director, or authorized representative or agent.

At section 19.45(2), Wisconsin's Code of Ethics for State Public Officials and Employees provides, in part:

No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. * * * *

Using one's position as a district attorney to obtain money over which the district attorney exercises sole control can be a use of office for the private benefit of the district attorney that violates §19.45(2), even if the money is subsequently used for a charitable purpose.

A district attorney could also run afoul of the statute if the district attorney used his or her position to obtain money for a private organization of which the district attorney or his or her spouse is an officer, director, or authorized representative or agent.