

Fiscal Estimate - 2003 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 03-2730/3	Introduction Number AB-616
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Subject
 Eligibility for Public Defender representation

Fiscal Effect

State:

- No State Fiscal Effect
- Indeterminate
 - Increase Existing Appropriations
 - Decrease Existing Appropriations
 - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
 - Yes
 - No
- Decrease Costs

Local:

- No Local Government Costs
- Indeterminate
 - 1. Increase Costs
 - Permissive Mandatory
 - 2. Decrease Costs
 - Permissive Mandatory
 - 3. Increase Revenue
 - Permissive Mandatory
 - 4. Decrease Revenue
 - Permissive Mandatory
- 5. Types of Local Government Units Affected
 - Towns
 - Counties
 - School Districts
 - Village
 - Others
 - WTCS Districts
 - Cities

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.550(1)(j) and (ja)	

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

SPD 11/3/2003

LRB Number	03-2730/3	Introduction Number	AB-616	Estimate Type	Original
Subject					
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Assumptions Used in Arriving at Fiscal Estimate

This bill modifies financial eligibility standards for the State Public Defender, effective January 1, 2004, to be comparable to those for the Wisconsin Works (W-2) program. The revised SPD eligibility guidelines will allow income up to 115% of the Federal Poverty Level and is consistent with allowable W-2 assets with the exception of equity in the principal residence.

Defendants who cannot afford counsel and are facing potential loss of liberty have a constitutional right to counsel, even if they do not meet the SPD's current eligibility standards. For those defendants, the court must appoint counsel at county expense. Under this bill, it is projected that defendants in approximately 13,026 of those cases would now qualify for SPD representation annually.

The bill provides 29.0 FTE attorneys and 15.25 FTE support staff, and expenditure authority for associated salaries, fringe benefits, supplies & services, and for payments to private bar attorneys. The positions and funding (all program revenue in 2003-05) will allow the SPD to appoint staff attorneys in 75% of the projected 13,026 additional cases each year, with private bar attorneys appointed to the remaining 25%.

This bill has no GPR cost during the 2003-2005 biennium. Between the date enacted and June 25, 2005, counties will be billed a flat rate for these appointments to offset the increased costs incurred by the SPD to represent the additional clients. In lieu of the SPD collection program, judges would retain the ability to order recoupment of attorney fees from the newly-eligible clients during the charge-back period, to offset the counties' cost of appointment during that period.

Total program revenue funding from the counties during the 2003-05 biennium is projected to be \$5.8 million. When judges appoint counsel for indigent defendants who are constitutionally entitled to counsel but who do not meet the SPD's current, outdated guidelines, counties usually pay at the \$70 per hour specified by SCR 81.02(1). Under this bill, the SPD will appoint counsel in these cases and counties will instead pay the SPD a flat rate for each case type, upon appointment of counsel. The flat rate is based on the SPD's statutory rate of \$40 per hour. The fiscal effect for counties is indeterminate: counties in which judges have been consistently appointing counsel in these cases will save money; counties in which counsel is not appointed consistently for all constitutionally-eligible defendants will experience increased costs during 2003-05. The 44.25 FTE positions will be converted to GPR on June 26, 2005, which is the start of the first pay period of FY2006. On that date, the county charge-backs will end, and the state will pick up the full cost, ending county liability for representing indigent defendants.

Long-Range Fiscal Implications

In calendar year 2001 (the most recent data available to the SPD), counties reported spending \$2,795,212 for indigent defense. On June 26, 2005, county liability for providing representation will end, which will result in cost savings for counties. The ongoing annual increased state (GPR) cost to provide representation to defendants meeting the proposed eligibility criteria is currently estimated to be \$2,569,233.