

### Fiscal Estimate - 2005 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>05-2154/3</b>	<b>Introduction Number</b> <b>AB-1062</b>
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**Description**  
 The State Public Defender reimbursement rate for private attorneys and time for the State Public Defender to make indigency determinations and assign counsel

**Fiscal Effect**

**State:**

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Create New Appropriations		

**Local:**

<input type="checkbox"/> No Local Government Costs	<b>5. Types of Local Government Units Affected</b>	
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

<b>Agency/Prepared By</b> SPD/ Mike Tobin (608) 266-8259	<b>Authorized Signature</b> Krista Ginger (608) 264-8572	<b>Date</b> 2/28/2006
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## Fiscal Estimate Narratives

SPD 2/28/2006

LRB Number	05-2154/3	Introduction Number	AB-1062	Estimate Type	Original
<b>Description</b> The State Public Defender reimbursement rate for private attorneys and time for the State Public Defender to make indigency determinations and assign counsel					

### Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) provides legal representation in criminal cases and other specified proceedings in which the loss of personal liberty or parental rights may occur. For adult clients, the SPD must complete a financial eligibility evaluation before appointing an attorney. SPD services are constitutionally required because in the case types handled by SPD, a defendant without the financial means to hire an attorney has the right to have an attorney appointed. Therefore, any bill that would increase the number of cases handled by SPD would increase SPD costs.

Although this bill does not create new criminal offenses or increase penalties, it would increase SPD costs substantially by increasing the hourly payment from \$40 to \$70 for private attorneys who accept SPD rotational case appointments. The annual cost to SPD would be approximately \$17,236,800 because of this change.

Two other provisions of this bill could also increase costs. First, the bill requires the SPD to complete its determination of financial eligibility within one business day of the initial appearance. Although the SPD completes most evaluations within this time period, some evaluations require the SPD to obtain verification of certain assets or expenses. The verification process is statutorily mandated and is intended to promote accuracy of SPD eligibility determinations. SPD would probably incur additional costs to pay overtime and to hire limited-term employees to attempt to complete the verification process more quickly. Without the additional staff resources, we would have to forego verification on some individuals, which may result in representation being provided to ineligible defendants.

Second, the bill authorizes the court to determine eligibility and to appoint counsel whenever the SPD fails to complete its eligibility determination within the bill's time requirements. The bill does not make clear whether the court is required to follow the SPD's complete process for determining eligibility (or even to follow the SPD financial criteria). Overall, the courts are likely to give a higher priority to ensuring legal representation than to determining whether the SPD or the county is the appropriate funding source. Thus, SPD would likely see increased costs from this provision as well. SPD does not have data available to estimate the impact of these provisions.

Counties could arguably see a cost savings from fewer appointments at county expense, although SPD cannot estimate an amount.

### Long-Range Fiscal Implications