

Fiscal Estimate Narratives

SPD 3/28/2005

LRB Number	05-1273/1	Introduction Number	AB-256	Estimate Type	Original
Subject					
Operating after revocation					

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 the SPD, a defendant without the financial means to hire an attorney has the right to have an attorney appointed. Therefore, any bill that would reduce the number of cases handled by the SPD would result in a decrease in SPD costs.

This bill includes provisions that would reduce the number of cases in which the SPD would appoint counsel, which would result in a decrease in SPD costs, as discussed below.

This bill provides that all first violations of operating a motor vehicle after a person's operating privileges were suspended or revoked would be civil - not criminal - violations. Pursuant to 1997 Wisconsin Act 84, first offense operating after revocation (OAR) cases became criminal cases (and thus entitled to SPD representation when financially eligible) in May 2002. The SPD appointed counsel in a total of 21,717 OAR cases in fiscal year 2003-2004, an increase of 8,785 cases over the twelve month period immediately preceding enactment of this provision of 1997 Wisconsin Act 84. The annual cost of SPD representation for 8,785 misdemeanor cases is \$2,107,346. We project that SPD costs would decrease by that amount each year if all first offense OARs instead became civil violations.

This bill would also preclude a court from suspending or revoking a person's operating privileges for failure to pay child support or for being convicted of certain drug offenses. Suspending or revoking the operating privileges of a habitual traffic offender would only be allowed if the person committed certain traffic violations that are felonies or that involve reckless or intoxicated driving. These changes would result in fewer drivers having their operating licenses revoked or suspended each year. However, it is not possible to determine the affect of the reduction in first offense OARs on the SPD's workload and costs, as the SPD would only become involved if the driver had not only been revoked, but had also continued to drive, been subsequently arrested, and met the SPD's financial eligibility guidelines. Note that under current law, the SPD does not provide representation in cases resulting from operating after suspension.

In addition to decreased costs to the SPD, reducing the number of criminal cases in the system should result in decreased costs to counties and the Department of Corrections as well. Counties would also likely experience increased revenues from the resulting increase in civil forfeitures.

Long-Range Fiscal Implications