

### Fiscal Estimate - 2005 Session

Original                       Updated                       Corrected                       Supplemental

<b>LRB Number</b> <b>05s0209/1</b>	<b>Introduction Number</b> <b>SSA1-SB289</b>	
<b>Subject</b> Penalties for and supervision of certain sex offenders		
<b>Fiscal Effect</b>		
<b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <span style="margin-left: 150px;"><input type="checkbox"/> Yes</span> <span style="margin-left: 150px;"><input checked="" type="checkbox"/> No</span> <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input checked="" type="checkbox"/> Increase Costs                      3. <input type="checkbox"/> Increase Revenue                      5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs                      4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<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> 9/30/2005

## Fiscal Estimate Narratives

SPD 9/30/2005

LRB Number	05s0209/1	Introduction Number	SSA1-SB289	Estimate Type	Supplemental
<b>Subject</b>					
Penalties for and supervision of certain sex offenders					

### 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 an entirely new criminal offense for which SPD will be required to appoint attorneys, it does increase the penalties for two felony offenses from the class C level to the class B level. The bill also add two felony offenses to the specified offenses to which the "two strikes" provision for mandatory life imprisonment applies. Thus, the SPD would likely see increased costs from additional attorney time related to the bill's increased penalties and its expanded requirement of mandatory life imprisonment.

One specific provision that is likely to increase attorney workload (and thus increase SPD costs) is the provision defining sexual assault of a child aged 13-15 as a first-degree assault if the defendant used or threatened force or violence. Under present law, the use or threat of force is generally not a critical element of proof in this type of child sexual assault. The victim is, by definition, under the age of consent. Thus, although an allegation of the use of force may be relevant at the sentencing phase, the lack of force is not a defense at trial. Under this bill, the lack of force will not be a complete defense, but will be relevant to the degree of assault. Therefore, the defense attorney will need to investigate and litigate this aspect of the allegations in more cases than under present law.

Counties are likely to see increased costs, associated with longer time spent by defendants in custody awaiting trial on cases for which the bill increases the potential penalties.

### Long-Range Fiscal Implications