



## Fiscal Estimate Narratives

SPD 1/25/2008

LRB Number	07a0847/1	Introduction Number	AA1- AB397	Estimate Type	Supplemental
<b>Description</b> Amendment					

### Assumptions Used in Arriving at Fiscal Estimate

#### Narrative Regarding Amendment

The proposed amendment would result in the maximum penalties applying to a slightly smaller range of cases than would the original bill. It also appears that the amendment would remove the requirement of a mandatory term of imprisonment, thus providing similar discretion to the sentencing judge that exists in most criminal cases. Thus, the potential effects discussed in SPD's original fiscal estimate (additional trials and contested sentencing hearings) could apply less frequently if the amendment were adopted.

#### Narrative Regarding Original Bill

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation that creates a new criminal offense or expands the definition of an existing criminal offense has the potential to increase SPD costs.

Although this bill does not create a new criminal offense, it would increase the maximum penalties for certain offenses of aiding a felon. The bill would also create a mandatory sentence of imprisonment. The proposed changes could result in additional trials and/or contested sentencing hearings. However, because the SPD does not anticipate a substantial number of cases charged under this statute, we do not expect a large fiscal effect.

The SPD does not have the data to predict the increased costs that could result from the changes proposed in this bill. During the last three years, the SPD has provided representation in approximately 25-30 cases per year under this statute.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. Thus, the possibility of additional trials and contested sentencing hearings could add to county costs in cases in which the court appoints the defense attorney. The counties could also incur additional costs associated with longer incarceration of defendants, both pending trial and after sentencing.

### Long-Range Fiscal Implications