

Fiscal Estimate Narratives

SPD 11/15/2007

LRB Number	07-3131/1	Introduction Number	SB-321	Estimate Type	Corrected
Description Criteria for determining indigency for purposes of representation by the State Public Defender and requiring the exercise of rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

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 neither creates new criminal offenses, nor changes penalties, it would increase the number of SPD cases by updating the SPD financial criteria. These criteria have remained the same, without adjustments for inflation, since 1987, with the consequence that many applicants of low income (below the federal poverty level) do not presently qualify for SPD representation. The SPD estimates that the annual cost attributable to the changes proposed in this bill would be \$4,582,200 once fully implemented. This estimate is based upon average SPD costs and a study of applications for SPD services, which showed that the SPD would have 15,400 additional clients annually if these changes take effect. In general, the number of criminal charges filed and statewide economic conditions are significant variables affecting the number of SPD cases.

With an effective date of July 1, 2009, this bill would not have any fiscal impact in the current, 2007-2009, biennium.

Much, if not all, of the increased costs will be offset by reductions in county expenditures for the appointment of counsel. Many applicants who exceed 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 applicants. This bill would greatly decrease the number of applicants for court-appointed attorneys in criminal cases because the revised SPD financial criteria would result in SPD appointments in most of the cases in which courts currently appoint attorneys at county expense.

Long-Range Fiscal Implications

With an effective date of July 1, 2009, this bill would not have any fiscal impact in the current biennium. The estimated future cost to the SPD would be \$4,287,300 in Fiscal Year 2010, and \$4,582,200 in Fiscal Year 2011 and subsequent fiscal years. However, due to the expected reductions in county expenditures, the net long range fiscal impact statewide may be negligible.