

Fiscal Estimate Narratives

SPD 9/29/2009

LRB Number	09-0210/1	Introduction Number	AB-0432	Estimate Type	Original
Description Notification requirements for persons who must register as sex offenders and who are on school premises and providing penalties					

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 has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill would create a new crime for violating a regulatory requirement for persons required to register as sex offenders. The offense would be a misdemeanor for the first offense and a felony for the second or subsequent offense. The SPD's average cost to provide representation in a misdemeanor case is \$217.54, calculated on the basis of the SPD's average cost per case in fiscal year 2008. The SPD's average cost per felony for that fiscal year was \$544.58.

Because probation or prison could be ordered upon conviction for the proposed crime (prison would be an option in the felony cases, although not in many of the misdemeanor cases) this change would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill would indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2008 for SPD representation in a revocation proceeding was \$368.86.

The SPD does not have data to predict the number of prosecutions that would occur for alleged violation of the proposed criminal statute. In the future, the SPD could track the number of new cases. Similarly, the SPD does not have the data to determine how many additional persons would be placed on DOC supervision (probation or extended supervision) or the number of additional revocation proceedings that would occur.

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 counties would experience increased costs attributable to the higher classification of some criminal charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications