



## Fiscal Estimate Narratives

SPD 2/3/2009

LRB Number 09-0564/1	Introduction Number SB-022	Estimate Type Original
<b>Description</b> Reckless homicide of a child by a parent or caregiver and providing a penalty		

### 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 does not create a new criminal offense, it would increase the maximum penalties for certain reckless homicide offenses, depending upon the age of the child victim and the relationship of the defendant to the victim. The proposed changes could result in additional trials and contested sentencing hearings. However, the SPD does not have the data to predict the increased costs that could result from the changes proposed in this bill. The effect would depend upon individualized, discretionary decisions of prosecutors, judges, and defendants (in consultation with their attorneys), which could differ dramatically from case to case.

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 pending trial or sentencing.

### Long-Range Fiscal Implications