

### Fiscal Estimate - 2011 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>11-2469/2</b>	<b>Introduction Number</b> <b>AB-0284</b>
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**Description**  
 Relating to: eliminating the right to refuse probation

**Fiscal Effect**

**State:**

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

**Local:**

<input type="checkbox"/> No Local Government Costs		
<input checked="" type="checkbox"/> Indeterminate		
1. <input checked="" type="checkbox"/> Increase Existing 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	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
		<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities
		<input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others
		<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	20.550(1)(d)

<b>Agency/Prepared By</b> SPD/ Adam Plotkin (608) 264-8572	<b>Authorized Signature</b> Adam Plotkin (608) 264-8572	<b>Date</b> 10/3/2011
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**Fiscal Estimate Narratives**  
**SPD 10/3/2011**

LRB Number 11-2469/2	Introduction Number AB-0284	Estimate Type Original
<b>Description</b> Relating to: eliminating the right to refuse probation		

**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 and certain commitment proceedings. The SPD plays a critical 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 eliminates the current statutory ability for a defendant convicted of a crime to refuse a sentence of probation. The bill also prohibits the refusal by the defendant of any condition of probation.

Because probation could be ordered upon conviction of a crime, it is possible that this bill could lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation. 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 SPD has no data to predict the number of additional revocation cases that would result from the changes proposed in this bill. The average cost during fiscal year 2011 for SPD representation by a private bar attorney in a revocation proceeding was \$322.46.

Because of the annual caseloads for staff attorney positions specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

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 increased 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**