



## Fiscal Estimate Narratives

SPD 3/6/2012

LRB Number	11-4209/1	Introduction Number	SB-540	Estimate Type	Original
<b>Description</b> Unlawful use of a global positioning device 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 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 makes it unlawful to place a global positioning device on another person's vehicle without that person's knowledge or consent or to intentionally obtain information regarding another person's movement or location generated by a global positioning device without that person's knowledge or consent. The bill establishes a Class A misdemeanor penalty for violations of the bill's provisions.

The SPD has no data to predict the number of additional cases that could result from individuals unlawfully placing GPS devices pursuant to the changes proposed in this bill. The SPD's average cost to provide representation with a private bar attorney in a misdemeanor is \$225.41, calculated on the basis of the SPD's average costs per case type in fiscal year 2011.

Because probation or prison could be ordered upon conviction for the proposed felony crime, this change could 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 could indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. 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 the higher classification of 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