Fiscal Estimate - 2013 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 13-1629/1	Introduction Number AB-0151

Description
Right of a parent to have counsel in a proceeding for a child alleged to be in need of protection or services; the power of the juvenile court to appoint counsel in such a proceeding; and elimination of the right to a jury trial in such a proceeding or in a proceeding for termination of parental rights; granting rule-making authority; and making appropriations

Fiscal Effect

State:
☐ No State Fiscal Effect
☐ Indeterminate
  ☐ Increase Existing Appropriations
  ☐ Decrease Existing Appropriations
  ☐ Create New Appropriations

☐ Increase Existing Revenues
☐ Decrease Existing Revenues

☒ Increase Costs - May be possible to absorb within agency's budget
  ☐ Yes   ☒ No
☐ Decrease Costs

Local:
☐ No Local Government Costs
☒ Indeterminate
  1. ☐ Increase Costs
    ☐ Permissive ☐ Mandatory
  2. ☐ Decrease Costs
    ☐ Permissive ☐ Mandatory

3. ☐ Increase Revenue
  ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue
  ☐ Permissive ☐ Mandatory

5. Types of Local Government Units Affected
☐ Towns ☐ Village ☐ Cities
☒ Counties ☐ Others
☐ School Districts ☐ WTCS Districts

Fund Sources Affected	**Affected Ch. 20 Appropriations**
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS	

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives
SPD 4/25/2013

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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 significant 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 grants a parent of any age the right to counsel in a Child in Need of Protective Services (CHIPS) proceeding, if the child has been taken into custody, thereby permitting such a parent to be represented by the SPD. The bill eliminates the right to request a jury trial in both CHIPS and Termination of Parental Rights (TPR) cases, a provision which will have an adverse impact on the administration of justice in TPR cases but may not have a significant fiscal impact.

The statutory authorization provides for representation of the adult in all stages of a CHIPS proceeding in which the child has been placed in custody (i.e., out of the home). Based on calendar year 2011 data provided by the Director of State Courts, 4,468 CHIPS petitions were filed statewide. The SPD assumes, if authorized to represent both adults and children in CHIPS proceedings, an average of 1.5 appointments per petition. This results in an estimated annual increase of 4,760 cases. Because of the inherent conflict of interest in providing representation for both the child and the parent in a CHIPS proceeding, half of the appointments would be handled by staff attorneys, half by assigned counsel.

To provide staff attorney representation and adequate funding to pay for transcripts, discovery material and experts in 2,380 CHIPS cases, the SPD estimates an annual cost of $1,060,822 for 10 staff attorneys in the trial division and 2 staff attorneys in the appellate division as well as $125,000 per year for transcripts, discovery, and experts.

To provide funding to pay for cases assigned to the private bar and adequate funding to pay for transcripts, discovery material and experts in the other 2,380 CHIPS cases, the SPD estimates an annual cost of $1,904,000 as well as $125,000 per year for transcripts, discovery, and experts.

Long-Range Fiscal Implications