



## Fiscal Estimate Narratives

SPD 9/20/2013

LRB Number	13-0744/1	Introduction Number	AB-0357	Estimate Type	Original
<b>Description</b> Penalty enhancer for certain crimes committed on the premises of a gas station if actor is armed 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 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 adds a penalty enhancer to convictions where a person, while armed with a handgun and on the premises of a gas station, commits intentional homicide, first-degree reckless homicide, felony murder, certain batteries, taking hostages, kidnapping and certain crimes if the property taken or destroyed is at least \$100. For a felony conviction, the penalty enhancer increases imprisonment by five years for a felony and by three months for a misdemeanor.

The SPD has no data to predict the impact this legislation would have on our assigned cases. Since this bill adds a penalty enhancement but not a new crime, the SPD will not likely see an increase in caseload; however, due to the penalty enhancement the complexity and length of the cases may increase. The SPD's FY 2013 average cost to provide representation with a private bar attorney in a felony case is \$556.21 and \$247.54 in a misdemeanor case.

This bill would increase the complexity of SPD cases that DOC would seek to revoke probation or extended supervision. Thus, the bill could indirectly increase the length of time and complexity of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during FY 2013 for SPD representation by a private bar attorney in a revocation proceeding was \$303.86.

Because the length of incarceration and extended supervision is increased with this bill, the costs to Department of Corrections (DOC) may also increase.

This bill would also have a fiscal impact on counties for convictions resulting in incarceration in a county jail. Also, 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. The SPD has no data to predict the additional cost to counties resulting from the changes proposed in this bill.

### Long-Range Fiscal Implications