

Fiscal Estimate Narratives

SPD 10/24/2013

LRB Number	13-0803/1	Introduction Number	AB-0423	Estimate Type	Original
Description Impoundment of motor vehicle registration plates for certain operating while intoxicated and other offenses 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 adds an impoundment violation to an Operating While Intoxicated (OWI) offense. As defined by this bill, an "impoundment violation" is an OWI-related offense committed within ten years of a prior OWI-related offense, with a blood alcohol concentration of more than twice the prohibited blood alcohol concentration, or with a minor passenger under 16 years of age and more than 36 months younger than the violator. When a person's operating privilege is revoked for an impoundment violation, the Department of Transportation must impound the registration plate of any vehicle owned by, or registered or leased in the name of, the violator and, in certain cases, the vehicle involved in the impoundment violation, whether or not owned by the violator. A person whose plates are impounded may seek administrative or judicial review of an impoundment order. Also, under this bill, an individual who fails to comply with the impoundment order is guilty of a misdemeanor and may be fined not more than \$500 or imprisoned for not more than 30 days, or both.

The SPD has no data to predict the impact this legislation could have on our assigned cases. Since this bill adds an impoundment violation to an OWI offense if the accused does not comply with the impoundment order at which point they can be charged with a misdemeanor offense, the SPD may realize an increase in its caseload. The SPD's FY 2013 average cost to provide representation with a private bar attorney was \$247.54 in a misdemeanor case. 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.

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) could also increase.

Counties and municipalities may have increased costs for impoundment of vehicles resulting from this bill. The SPD is unable to estimate the costs associated with vehicle impoundment.

Long-Range Fiscal Implications