

Fiscal Estimate Narratives

SPD 1/24/2014

LRB Number	13-0074/1	Introduction Number	AB-0630	Estimate Type	Original
Description Elimination of a provision that excepts spiritual treatment of a child in the law criminalizing physical abuse of a child and in the laws governing the practice of medicine or surgery, the investigation of child abuse or neglect, the administration of psychotropic medication to juveniles in correctional custody, and the election of Christian Science treatment in lieu of medical or surgical treatment					

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 provision in current law that provides that a person is not guilty of physical abuse of a child solely because he or she provides certain forms of spiritual treatment versus medical or surgical treatment. This bill eliminates the provision in current law that provides that a determination that abuse or neglect has occurred may not be based solely on the fact that the child's parent, guardian, or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child. The bill instead provides that a county department may not base a determination that a child, a member of a child's family, or a child's guardian or legal custodian is in need of services solely on the fact that the child's parent, guardian, or legal custodian has cultural or religious child-rearing beliefs and employs cultural or religious child-rearing practices that differ from general community standards, unless those beliefs and practices present a specific danger to the physical or emotional health or safety of the child. This bill eliminates the provision in current law that provides that the juvenile court may not determine that a parent's or guardian's consent is unreasonably withheld solely because the parent or guardian relies on treatment by spiritual means through prayer for healing in accordance with his or her religious tradition. This bill limits the provision that a person who elects Christian Science treatment in lieu of medical or surgical treatment for the cure of a disease may not be compelled to submit to medical or surgical treatment to apply only to the election of the Christian Science treatment by an adult patient.

It is possible that there would additional Child in Need of Protective Services cases as a result of the bill. The SPD's average cost to provide representation with a private bar attorney in a CHIPS case was \$189.21.

This bill could also have a fiscal impact on counties. 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 counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications