

### Fiscal Estimate - 2013 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> 13-3904/1	<b>Introduction Number</b> SB-492
<b>Description</b> Human trafficking, human trafficking victims, property forfeitures, rights of victims, admitting evidence of past actions, definitions of certain offenses, and providing penalties	
<b>Fiscal Effect</b>	
<b>State:</b>	
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Decrease Costs
<b>Local:</b>	
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate	
1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b>	
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.550(1)(b-d)	
<b>Affected Ch. 20 Appropriations</b>	
<b>Agency/Prepared By</b>	<b>Authorized Signature</b>
SPD/ Anna Oehler (608) 267-0311	Adam Plotkin (608) 264-8572
<b>Date</b>	
1/22/2014	

## Fiscal Estimate Narratives

SPD 1/22/2014

LRB Number	13-3904/1	Introduction Number	SB-492	Estimate Type	Original
<b>Description</b>					
Human trafficking, human trafficking victims, property forfeitures, rights of victims, admitting evidence of past actions, definitions of certain offenses, and providing penalties					

**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.

Current law defines human trafficking as actually, or attempting the action of, recruiting, enticing, harboring, transporting, providing, or obtaining an individual without consent of the individual. This bill eliminates the element that the individual has not consented. This bill adds threatening to control any individual's access to an addictive controlled substance; using any scheme, pattern, or other means to coerce, threaten, or intimidate any individual; using or threatening to use force or violence on any individual; and causing or threatening to cause any individual to do any act against the individual's will or without the individual's consent to the human trafficking criminal code and would be considered a felony. This bill also creates a process under which a person, who qualifies a victim of human trafficking, may request a court to vacate a crime of prostitution conviction, adjudication, finding or expunge the record. The court may comply with the request if the person is qualified as a human trafficking victim, the prosecutor is notified and does not disagree and the individual will benefit and society will not be harmed. This bill adds a Class F felony if a person knowingly receives compensation from the earnings of debt bondage or from the earnings of sexual contact or intercourse for which anything of value is given to, promised or received by any person. This bill also adds to the exposure of "intimate parts", which is defined to include a breast, buttock, anus or groin of a human being to current felony criminal code related to sex offenses against children. This bill provides the victim the right to view the sentence recommendation on the presentence report and allows the district attorney to share the recommendation. This bill states that, in a prosecution alleging human trafficking, an offense against a child, a serious sex offense, or a crime of domestic abuse or alleging the defendant committed a crime against his or her spouse, an individual with whom the defendant cohabited, or an individual with whom the defendant has a child, evidence of similar acts is generally admissible, and is admissible regardless of whether the victim of the other act is the same as the offense that is the subject of the prosecution.. This bill adds to the list of serious sex offenses requiring lifetime supervision the violation, or the solicitation, conspiracy, or attempt to commit a violation, of a crime against reputation, privacy, and civil liberties, if the court determines that the person committed the violation for his or her sexual arousal or gratification. This bill adds the offense of strangulation to the several statutes.

It is possible that given the new criminal charges, the SPD will see an increase in the number of cases in which it provides representation. We are unable, however, to quantify the number of cases that might occur due to the provisions in the bill. The SPD's average cost to provide representation with a private bar attorney in a felony case was \$556.21 and \$247.54 in a misdemeanor case in fiscal year 2013. 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.

Because probation or prison could be ordered upon conviction for the proposed 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 2013 for SPD representation by a private bar attorney in a revocation proceeding was \$303.86.

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**