



## Fiscal Estimate Narratives

SPD 10/7/2015

LRB Number	15-1672/1	Introduction Number	AB-0341	Estimate Type	Original
<b>Description</b> Making a terrorist threat 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 makes it a crime to make a terrorist threat. Under this bill, no person may threaten to cause the death of or bodily injury to any person or threaten to damage any person's property by any means under any of the following circumstances: 1. the actor intends to prevent the occupation of or cause the evacuation of a building, dwelling, school premises, vehicle, facility of public transportation, or place of public assembly or any room within a building, dwelling or school premises; 2. the actor intends to cause serious public inconvenience; 3. the actor intends to cause serious public panic or fear; 4. the actor intends to cause an interruption or impairment of governmental operations or public communication, of transportation, or of a supply of water, gas, or other public service; 5. the actor creates an unreasonable and substantial risk of causing one of these occurrences and is aware of that risk. A person who violates the prohibition is guilty of a Class I felony, unless the person thereby contributes to the death of any person. In that case, the person is guilty of a Class G felony.

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 and how many people would meet the eligibility requirements for SPD services. The SPD's average cost to provide representation with a private bar attorney in a felony case was \$551.02 in fiscal year 2014. 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; however, the SPD does not anticipate that this penalty will be infrequently charged.

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 2014 for SPD representation by a private bar attorney in a revocation proceeding was \$294.04.

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