

Fiscal Estimate Narratives

SPD 3/6/2015

LRB Number	15-1716/1	Introduction Number	SB-043	Estimate Type	Original
Description					
John Doe proceedings 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 modifies current processes related to John Doe proceedings. This bill allows investigations under a John Doe proceeding for certain felonies under the Criminal Code or any conduct punishable by fine or imprisonment or both that is allegedly committed by an on-duty law enforcement officer, corrections officer, or state probation, parole, or extended supervision officer. Unlike current law where a judge has discretion regarding secrecy of a John Doe proceeding, this bill allows a judge to enter a secrecy order upon a showing of good cause by the district attorney, but the order may apply only to the judge, the district attorney or other prosecuting attorney, law enforcement personnel, interpreters, and reporters who make or transcribe a record of the proceeding. Any person who violates a secrecy order is subject to a fine of up to \$10,000, imprisonment for up to nine months, or both. This bill also imposes a six-month time limit on a John Doe proceeding, although this limit may be extended for additional six-month periods if a majority of judicial administrative district chief judges find good cause for each extension. This bill also provides that the same finding is required to add specified crimes to the original complaint. Finally, under this bill, records reflecting the costs of John Doe investigations and proceedings are a matter of public record, temporary or permanent reserve judges are excluded from presiding over John Doe proceedings, and special prosecutors may be appointed to assist the district attorney in a John Doe proceeding only under certain conditions.

The fiscal impact to the SPD is not easily quantifiable. Under current law, if an SPD attorney were the subject of a John Doe proceeding, that attorney might need to withdraw from one or more cases. Those cases would be assigned to a private bar attorney, which would add cost to the representation. Under the bill, a slight cost savings may be realized if an SPD attorney is able to determine whether anything in the investigation creates a conflict that requires the attorney to withdraw or whether the investigation is irrelevant to the attorney's current cases.

Long-Range Fiscal Implications