FISCAL ESTIMATE							1999 Session	
FISCAL ESTIMATE CORRECTED SUPPLEMENTAL Amendment No. If Applicable SS 280		v 00	IGINAL	П	HPDATED			
Subject Relimbursements of counties for payments made to court-appointed counsel and making an appropriation Fiscal Effect State: No State Fiscal Effect State: No State Fiscal Effect State: No State Fiscal Effect Check columns solew only if bill makes a direct appropriation crafteds a sum sufficient appropriation Increase Existing Revenues Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Revenues Decrease Existing Appropriation Decrease Existing Revenues Decrease Revenues De								
Fiscal Effect State: No State Fiscal Effect Check columns below only if bill makes a direct appropriation Increase Existing Appropriation Increase Existing Appropriation Decrease Existing Revenues Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing Appropriation Decrease Existing App					oo, reamerrine			
State: No State Fiscal Effect Check columns below only if bill makes a direct appropriation	Subject Reimbursements of counties for page	yments	made to cou	rt-ap	pointed counse	l and making an ap	propriation	
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation or affects a sum sufficient appropriation Increase Existing Appropriation Decrease Existing Revenues Decrease Costs Decrease Costs Decrease Costs Decrease Costs Decrease Existing Revenues Decrease Existing Revenues Decrease Existing Revenues Decrease Costs Decrease Costs Decrease Costs Decrease Costs Decrease Revenues Decrease Revenues Decrease Costs Decrease Costs Decrease Revenues Decrease	Fiscal Effect							
or affects a sum sufficient appropriation □ Increase Existing Appropriation □ Decrease Existing Appropriation □ Decrease Existing Appropriation □ Create New Appropriation □ Increase Existing Revenues □ Decrease Costs □ Permissive □ Mandatory □ Decrease Costs □ Permissive □ Mandatory □ Permissi						l I Ingreson Costs M	tou he nessible to Absorb	
Decrease Existing Appropriation Decrease Existing Revenues Decrease Costs	•					• •		
Create New Appropriation Cocal: No local government costs Increase Revenues S. Types of Local Governmental Units Affected Permissive Mandatory Towns Villagos Cities Countries Permissive Mandatory School Districts WTCS Districts Mandatory School Districts WTCS Districts Permissive Mandatory School Districts WTCS Districts WTCS Districts Mandatory School Districts WTCS Districts	☐ Increase Existing Appropriation ☐ Increase Existing Revenues					:		
Increase Costs							☐ Decrease Costs	
1.								
Permissive Mandatory Decrease Costs Decrease Costs Permissive Mandatory Decrease Revenues Mandatory School Districts Mandatory Decrease Revenues Mandatory School Districts Mandatory Mandatory School Districts Mandatory Manda		1	□ Incresse Reve	anuas		5 Types of Local G	overnmental Units Affected:	
2. Decrease Costs Permissive Mandatory 4. Decrease Revenues School Districts Others Described Mandatory School Districts Mandatory Mandatory School Districts Described Mandatory Described Mandatory Described National Mand		The following the first th				1		
Permissive		4. [•	☐ Counties ☐ O	thers	
Assumptions Used in Arriving at Fiscal Estimate This bill would create a sum sufficient appropriation in the director of state courts' budget to reimburse counties for the costs of court-appointed counsel. Although enactment of this bill woul not have a fiscal effect on the State Public Defender's Office (SPD), enactment of the bill would have a significant fiscal impact on the state of Wisconsin's budget, as explained below. Under chapter 977 of the Wisconsin statutes, the SPD represents indigent persons who are charged with crimes. The statutes specify the indigency standards the SPD must apply as well at the types of cases for which the SPD is authorized to provide representation. If a person does not meet these indigency standards or if the SPD is not authorized to represent a person in a particular matter, the court may appoint counsel for the person. Such appointment, however, is a county expense. It should be noted that the LRB draft states "the director of state courts shall pay each county the amount that a circuit court has ordered the county to pay to an attorney appointed by the court to represent an individual if that individual has been denied his or her request for the appointment of counsel under s. 977.08." Because chapter 977 sets forth the eligibility requirements for SPD representation, the draft may more appropriately state "the director of state courts shall pay each county the amount that a circuit court has ordered the county to pay to an attorney appointed by the court to represent an individual if that individual is ineligible for representation under chapter 977." (CONTINUED ON ATTACHED SHEETS)			☐ Permissive)		L	☐ WTCS Districts	
Assumptions Used in Arriving at Fiscal Estimate This bill would create a sum sufficient appropriation in the director of state courts' budget to reimburse counties for the costs of court-appointed counsel. Although enactment of this bill would not have a fiscal effect on the State Public Defender's Office (SPD), enactment of the bill would have a significant fiscal impact on the state of Wisconsin's budget, as explained below. Under chapter 977 of the Wisconsin statutes, the SPD represents indigent persons who are charged with crimes. The statutes specify the indigency standards the SPD must apply as well at the types of cases for which the SPD is authorized to provide representation. If a person does not meet these indigency standards or if the SPD is not authorized to represent a person in a particular matter, the court may appoint counsel for the person. Such appointment, however, is a county expense. It should be noted that the LRB draft states "the director of state courts shall pay each county the amount that a circuit court has ordered the county to pay to an attorney appointed by the court to represent an individual if that individual has been denied his or her request for the appointment of counsel under s. 977.08." Because chapter 977 sets forth the eligibility requirements for SPD representation, the draft may more appropriately state "the director of state courts shall pay each county the amount that a circuit court has ordered the county to pay to an attorney appointed by the court to represent an individual if that individual if that individual if that individual if that individual if the above assumptions, an increased annual cost to the state of Wisconsin of \$8.2 million (if counties are reimbursed at the \$40 per hour rate) to \$14.3 million (if counties are reimbursed at the Supreme Court rate of \$70 per hour). Agency/Prepared by: (Name & Phone No.) Authorized Signature/Telephone No.					Affected C	h. 20 Appropriations		
This bill would create a sum sufficient appropriation in the director of state courts' budget to reimburse counties for the costs of court-appointed counsel. Although enactment of this bill would not have a fiscal effect on the State Public Defender's Office (SPD), enactment of the bill would have a significant fiscal impact on the state of Wisconsin's budget, as explained below. Under chapter 977 of the Wisconsin statutes, the SPD represents indigent persons who are charged with crimes. The statutes specify the indigency standards the SPD must apply as well at the types of cases for which the SPD is authorized to provide representation. If a person does not meet these indigency standards or if the SPD is not authorized to represent a person in a particular matter, the court may appoint counsel for the person. Such appointment, however, is a county expense. It should be noted that the LRB draft states "the director of state courts shall pay each county the amount that a circuit court has ordered the county to pay to an attorney appointed by the court to represent an individual if that individual has been denied his or her request for the appointment of counsel under s. 977.08." Because chapter 977 sets forth the eligibility requirements for SPD representation, the draft may more appropriately state "the director of state courts shall pay each county the amount that a circuit court has ordered the county to pay to an attorney appointed by the court to represent an individual if that individual is ineligible for representation under chapter 977." (CONTINUED ON ATTACHED SHEETS) Long-Range Fiscal Implications Using the above assumptions, an increased annual cost to the state of Wisconsin of \$8.2 million (if counties are reimbursed at the \$40 per hour rate) to \$14.3 million (if counties are reimbursed at the Supreme Court rate of \$70 per hour). Agency/Prepared by: (Name & Phone No.) Authorized Signature/Telephone No.			□ SEG □ SE	EG-S				
reimburse counties for the costs of court-appointed counsel. Although enactment of this bill would not have a fiscal effect on the State Public Defender's Office (SPD), enactment of the bill would have a significant fiscal impact on the state of Wisconsin's budget, as explained below. Under chapter 977 of the Wisconsin statutes, the SPD represents indigent persons who are charged with crimes. The statutes specify the indigency standards the SPD must apply as well at the types of cases for which the SPD is authorized to provide representation. If a person does not meet these indigency standards or if the SPD is not authorized to represent a person in a particular matter, the court may appoint counsel for the person. Such appointment, however, is a county expense. It should be noted that the LRB draft states "the director of state courts shall pay each county the amount that a circuit court has ordered the county to pay to an attorney appointed by the court to represent an individual if that individual has been denied his or her request for the appointment of counsel under s. 977.08." Because chapter 977 sets forth the eligibility requirements for SPD representation, the draft may more appropriately state "the director of state courts shall pay each county the amount that a circuit court has ordered the county to pay to an attorney appointed by the court to represent an individual if that in	Assumptions Used in Arriving at Fiscal E	stimate						
Long-Range Fiscal Implications Using the above assumptions, an increased annual cost to the state of Wisconsin of \$8.2 million (if counties are reimbursed at the \$40 per hour rate) to \$14.3 million (if counties are reimbursed at the Supreme Court rate) of \$70 per hour). Agency/Prepared by: (Name & Phone No.) Authorized Signature/Telephone No.	Under chapter 977 of the Wischarged with crimes. The state the types of cases for which the types of cases for which the these indigency standar particular matter, the court matter appointed by the court to represent for the appointment of eligibility requirements for SP director of state courts shall proposed to the pay to an attorney as	ct on to consider of court of	n statutes, to pecify the is author if the SPD coint couns that the LF circuit cours an individual esentation ach county to the depter 977	Wishthe indiging indi	SPD represe gency standard to provide rot authorized or the person draft states ". Is ordered the that individual of the person arount that arount that art to represer	ents indigent persards the SPD mulepresentation. If to represent a pointment of the county to pay fall has been derouse chapter 977 more appropriate a circuit court hant an individual if	sons who are ust apply as well as a person does not person in a ment, however, is at state courts shall to an attorney mied his or her sets forth the ly state "the s ordered the	
Using the above assumptions, an increased annual cost to the state of Wisconsin of \$8.2 million (if counties are reimbursed at the \$40 per hour rate) to \$14.3 million (if counties are reimbursed at the Supreme Court rate) of \$70 per hour). Agency/Prepared by: (Name & Phone No.) Authorized Signature/Telephone No.		(CO	NTINUED ON	TA I	TACHED SHEI	ETS)		
Out - Dutalla Defender/Cine Brucki / \ \ \ \ \ \ \ \ \ \ \ \ UCI. 19. 1999	Using the above assumptions, ar are reimbursed at the \$40 per hou of \$70 per hour).	ur rate) to \$14.3 mil	lion	(if counties ar	e reimbursed at th	e Supreme Court rate	

Fiscal estimate LRB 3532/2 continued...

If courts applied the federal poverty guidelines (which are less stringent than the standards set forth for SPD representation in chapter 977), then the additional cost to the state upon enactment of this LRB draft would be as much as \$6.6 million per year. This figure is based on the SPD's 1996 review of 300 financial evaluation forms of applicants who did not qualify for SPD representation. This figure assumes a reimbursement rate of only \$40 per hour, however. (SPD-certified private bar attorneys are paid \$40 per hour pursuant to section 977.08(4m), Stats.) If courts appointed counsel at the Supreme Court rate of \$70 per hour (see SCR 81.02), then the additional cost to the state would be \$11.5 million per year. Moreover, if courts appointed counsel for persons who did not even meet the federal poverty guidelines, then the additional cost to the state would be even more.

In addition, courts appoint counsel at county expense for parents in child in need of protection or services (CHIPS) and juvenile in need of protection or services (JIPS) cases. Under current law, the SPD is not authorized to represent parents in CHIPS/JIPS cases. If counties were reimbursed for such appointments, then the additional cost to the state would be at least \$1.6 million per year. (This figure is derived from the SPD's estimate of the cost of representing indigent CHIPS/JIPS parents if such authorization was granted to the SPD.) Like above, this figure assumes a reimbursement rate of only \$40 per hour, however. If courts appointed counsel at the Supreme Court rate of \$70 per hour (see SCR 81.02), then the cost increase would be \$2.8 million per year for CHIPS/JIPS cases. It should be noted, however, that the cost of appointing counsel in CHIPS/JIPS cases could be more than the \$2.8 million per year if courts appoint counsel for CHIPS/JIPS parents who would not meet the SPD's indigency standards but nevertheless could not afford to hire an attorney.

It should be noted that judges do not presently appoint counsel for all persons who do not qualify for SPD representation or all CHIPS/JIPS parents. If this LRB draft becomes law, the constraints judges presently have to not appoint counsel in every case, such as limited county budgets, would no longer exist. Moreover, the \$70 per hour Supreme Court rate may be used more often if counties were no longer required to pay for the cost of appointed counsel. Finally, because the cost of appointed counsel would no longer be paid by the counties, counties may be less inclined to expend their limited resources to verify the financial situation of persons who are appointed counsel by the courts and to pursue repayment of attorneys' fees.

Therefore, assuming that the courts will assign counsel in every case in which a criminal defendant does not qualify for SPD representation yet cannot afford to hire an attorney and for all CHIPS/JIPS parents, the total additional cost to the state would be \$8.2 million per year (if counties are reimbursed at the \$40 per

hour rate) to \$14.3 million per year (if counties are reimbursed at the Supreme Court rate of \$70 per hour).

Finally, obviously, local government costs (i.e. county costs) would decrease upon enactment of this LRB draft.