

**FISCAL ESTIMATE**

DOA-2048 N(R10/98)

X ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
**LRB 0350/1      AB 201**  
 Amendment No. if Applicable

**Subject**  
 Eliminating substitution of judges in criminal matters

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

X Increase Costs - May be possible to Absorb Within Agency's Budget  Yes    X No

Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive     Mandatory  
 2.  Decrease Costs  
 Permissive     Mandatory

3.  Increase Revenues  
 Permissive     Mandatory  
 4.  Decrease Revenues  
 Permissive     Mandatory

5. Types of Local Governmental Units Affected:  
 Towns       Villages       Cities  
 Counties     Others \_\_\_\_\_  
 School Districts     WTCS Districts

**Fund Sources Affected**

X GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Ch. 20 Appropriations**

s. 20.550(1)(d)

**Assumptions Used in Arriving at Fiscal Estimate**

This bill would eliminate the right under section 971.20 to substitute a judge in criminal cases. If the right to substitute were eliminated, then defendants would be required to file motions for recusal in order to have a different judge assigned to the case. This would increase costs to the SPD as follows:

- 1) In FY98, the private bar handled approximately 13,800 felony and misdemeanor cases (this figure excludes the misdemeanor cases assigned to the contract attorneys). Assuming that a motion for recusal is filed in 2% to 3% of these cases, then 276 to 414 private bar SPD cases would involve such a motion. (Per data from the Director of State Courts Office, substitution requests were filed in 2% to 3% of criminal cases from 1993 through 1997.) Assuming that each motion requires 1 hour of attorney time (.5 hours to prepare the motion and .5 hours to argue the motion in court), the increase in attorney time would be 276 to 414 hours. At the \$40 per hour private bar rate, the increased costs would be \$11,040 to \$16,560.
- 2) Because SPD staff attorneys currently handle the maximum number of cases they are able to do in a given year, the additional time required to prepare motions for recusal would require the addition of more staff attorneys or the assignment of additional cases to the private bar. In FY98, SPD staff attorneys handled 44,200 felony and misdemeanor cases. If a motion for recusal were filed in 2% to 3% of these cases, then 884 to 1326 SPD staff cases would involve a motion for recusal. Assuming that each motion requires 1 hour of attorney time (.5 hours to prepare the motion and .5 hours to argue the motion in court), the increase in attorney time would be 884 to 1326 hours. If we assume that all of these additional hours would ultimately end up in the private bar (rather than hiring additional staff attorneys), then the additional costs would be \$35,360 to \$53,040 (assumes \$40 per hour rate).

Also, depending on the number of recusal motions that are denied, the number of interlocutory appeals could also increase, thereby further increasing costs to the SPD.

The SPD does not have any data from which to estimate local government costs.

**Long-Range Fiscal Implications**

Using the above assumptions, an annual increase in costs of \$46,400 to \$69,600.

Agency/Prepared by: (Name & Phone No.)  
 SPD/Gina Pruski/266-6782

Authorized Signature/Telephone No.  
*Gina Pruski* #6-6782

Date  
 March 12, 1999

**FISCAL ESTIMATE WORKSHEET**

1999 Session

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/98)

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB or Bill No./Adm. Rule No  
LRB 0350/1      AB 201

Amendment No.

**Subject**

Eliminating substitution of judges in criminal matters

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	( FTE)	(- FTE)
State Operations - Other Costs (Private Bar Appropriation)	\$46,400 to \$69,600	-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	<b>\$46,400 to \$69,600</b>	<b>\$ -</b>
<b>B. State Costs by Source of Funds</b>	<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR	\$46,400 to \$69,600	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>State Revenues</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$ -</b>

**NET ANNUALIZED FISCAL IMPACT**  
STATE

LOCAL

NET CHANGE IN COSTS      \$46,400 to \$69,600      \$ \_\_\_\_\_

NET CHANGE IN REVENUES      \$ \_\_\_\_\_      \$ \_\_\_\_\_

Agency/Prepared by: (Name & Phone No.) Public Defender/Gina Pruski/6-6782	Authorized Signature/Telephone No. <i>Gina Pruski</i> #6-6782	Date March 12, 1999
--	--	------------------------