

Fiscal Estimate Narratives

SPD 4/25/2007

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| LRB Number | 07-1555/1 | Introduction Number | AB-0241 | Estimate Type | Original |
| Description Graffiti 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 proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation that creates a new criminal offense or expands the definition of an existing criminal offense has the potential to increase SPD costs.

Although this bill does not create a new criminal offense, it would increase the maximum penalties for certain graffiti offenses by reducing the monetary threshold at which the amount of damage results in a felony case. The proposed change would result in some cases (those in which the alleged damage ranges from \$1,000 to \$2,500) becoming felony cases. The average SPD cost for a felony case in FY 2006 was \$545.60 (for felony classes D-I), compared to an average of \$228.10 for a misdemeanor. Thus, the SPD would incur an estimated additional cost of \$317.50 for each case affected by this bill.

The SPD provided representation in 111 misdemeanor cases (of which 74 were misdemeanor delinquency cases) under the graffiti statute in FY 2006 (this number does not include cases in which clients simultaneously faced more-serious charges). We do not have data to indicate how many of these cases could have been charged as felonies under this bill (under current law, there is no need for the prosecution to allege a level of monetary damage in a misdemeanor case).

Counties are also subject to increased costs when a new crime is created. 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. Thus, the increased penalties would add to county costs in cases in which the court appoints the defense attorney. The counties also incur additional costs associated with longer incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications