

### Fiscal Estimate - 2007 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>07-2032/2</b>	<b>Introduction Number</b> <b>AB-0434</b>
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**Description**  
 The State Public Defender reimbursement rate for private attorneys and time for the State Public Defender to make indigency determinations and assign counsel

**Fiscal Effect**

**State:**

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

**Local:**

<input type="checkbox"/> No Local Government Costs		
<input type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	<b>5. Types of Local Government Units Affected</b> <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

<b>Agency/Prepared By</b> SPD/ Mike Tobin (608) 266-8259	<b>Authorized Signature</b> Krista Ginger (608) 264-8572	<b>Date</b> 7/10/2007
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## Fiscal Estimate Narratives

SPD 7/10/2007

LRB Number	07-2032/2	Introduction Number	AB-0434	Estimate Type	Original
<b>Description</b> The State Public Defender reimbursement rate for private attorneys and time for the State Public Defender to make indigency determinations and assign counsel					

### 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 hourly rate paid to private attorneys who accept appointments from the SPD. The rate would increase from \$40 to \$70 per hour, except travel time. This increase results in an increased cost to SPD of \$30 for each hour that a private attorney works on a SPD-appointed case. SPD estimates, on the basis of recent caseload data, that the annual cost of this increase would be \$19,365,000. The cost in the first year would be significantly less, however, as the SPD pays private bar attorneys after the case has concluded; thus payments would not be made at the higher rate until approximately six months after the bill's effective date.

The bill also requires that SPD determine eligibility for SPD services and (if the defendant qualifies) appoint an attorney within one business day of the defendant's initial court appearance. Although SPD attempts under current law to determine eligibility and appoint counsel as promptly as possible, this provision would nonetheless present a challenge in the following situations: defendant does not promptly apply for SPD services; defendant does not know pertinent financial information at time of interview; SPD determines need for additional verification of financial information; SPD is unable to locate available attorney within statutory time period (the increase of the private-bar payment rate would mitigate, but not eliminate, the difficulty of finding an available attorney within the proposed time period). When SPD does not meet the statutory time period for appointment, the court could determine eligibility and appoint an attorney at SPD expense.

SPD cannot estimate the number of additional cases that would result from this proposal. However, it is likely that some courts would place a higher priority on having a lawyer appointed promptly than on ensuring that the defendant meets the strict SPD financial criteria for eligibility. Thus, SPD considers it likely that this proposal would result in an increase in SPD cases.

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. The ability of the court, in the circumstances described above, to appoint a lawyer at SPD expense could save money for some counties by (in effect) converting some appointments that are a county expense under current law to a SPD expense.

### Long-Range Fiscal Implications