

Fiscal Estimate Narratives

SPD 10/19/2007

LRB Number	07-2732/1	Introduction Number	SB-290	Estimate Type	Original
Description Releasing a person convicted of certain offenses					

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.

This bill neither creates a new criminal offense, nor increases the maximum penalties for certain battery offenses. The proposed change prohibits courts from allowing release on bond pending appeal for defendants convicted of certain charges.

The SPD does not have the data to identify the number of cases in which release pending appeal presently occurs in these cases. SPD does not believe that there are many instances of such release under present law, which provides courts with the discretion whether to release a defender pending appeal. The proposed changes could have some effect on appellate practice in the specified cases, if the appellate attorney believes that there is a basis to challenge the constitutionality of the bond restrictions. If attorneys spend additional time researching and litigating issues related to the interpretation or validity of the new law, SPD would incur costs commensurate with that additional work. SPD does not anticipate a substantial fiscal impact, however.

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. Since this bill does not provide for a new crime, it is unlikely to affect county costs for these appointments. The counties could incur additional costs associated with incarceration of defendants pending appeal.

Long-Range Fiscal Implications