

Fiscal Estimate Narratives

SPD 10/9/2007

LRB Number	07-2416/1	Introduction Number	AB-0525	Estimate Type	Original
Description Threatening or committing battery against certain employees of first class cities 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 battery offenses. The average SPD cost to provide representation in a felony case is \$543.01 (for felony classes D-I, based upon FY 2007 data). The average SPD cost to provide representation in a misdemeanor case is \$224.78. Thus, for every case charged as a felony instead of a misdemeanor, the SPD would incur an increased cost.

The proposed changes could result in additional trials on the issues of whether the defendant knew that the victim was a city official and whether the official was acting in his or her official capacity. There could also be additional contested sentencing hearings because of the higher maximum penalties.

However, because the SPD does not anticipate a substantial number of cases in which the alleged victim is a city employee not presently covered by enhanced penalties of this nature, we do not expect a large fiscal effect.

The SPD does not have the data to predict the increased costs that could result from the changes proposed in this bill. If the bill becomes law, it would be possible in the future to track the number of charges under the new penalty provision.

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 possibility of additional contested sentencing hearings could add to county costs in cases in which the court appoints the defense attorney. The counties could also incur additional costs associated with longer incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications