

Fiscal Estimate Narratives
SPD 2/1/2007

LRB Number 07-0578/1	Introduction Number AB-0054	Estimate Type Original
Description Repeat drunken driving offenders 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 repeat intoxicated-driving offenses (OWI). The proposed changes would likely result in additional contested sentencing hearings and also more cases in which the defense attorney needs to research the validity of the prior convictions. There are already some OWI cases in which the defendant challenges the prior offenses because the defendant did not have an attorney (or knowingly waive the right to an attorney) in one or more of the previous cases. This type of challenge may entail an extensive investigation to obtain and review court records from several previous proceedings.

The SPD does not have the data to predict the increased costs that are likely to result from the changes proposed in this bill. If the bill becomes law, it would be possible in the future to compare the SPD costs in the various case categories created by the legislation.

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 factors discussed above (contested sentencing hearings and investigation of prior offenses) 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