

Fiscal Estimate Narratives
DOJ 1/3/2008

LRB Number 07-3584/1	Introduction Number SB-364	Estimate Type Original
Description The definition of sexual intercourse for the crime of incest		

Assumptions Used in Arriving at Fiscal Estimate

Under s. 944.06, Wis. Stats, whoever marries or has nonmarital sexual intercourse with a person he or she knows is a blood relative and such relative is in fact related in a degree within which the marriage of the parties is prohibited by the law of this state is guilty of a Class F felony. Under the applicable definitions section, "sexual intercourse" requires only vulvar penetration and does not require emission." Senate Bill 364 expands the definition of "sexual intercourse" to also include cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or any object into the genital or anal opening either by the defendant or upon the defendant's instruction.

While most felony prosecutions are handled by district attorneys, assistant attorneys general in the Department of Justice's Criminal Litigation Unit on occasion act as special prosecutors throughout Wisconsin at the request of district attorneys. In addition, the Department of Justice's Criminal Appeals Unit represents the State of Wisconsin in defending felony convictions when those convictions are challenged in state or federal court. Under Wisconsin law, this unit is charged with preparing briefs and presenting arguments in front of any state appellate or federal court hearing a challenge to a felony conviction.

Since SB 364 broadens the types of activities that can be prosecuted as felonies under s. 944.06, it is possible that the enactment of the bill could result in an increased caseload for the department's Criminal Litigation and Criminal Appeals units. However, the department anticipates that any increased caseload would be relatively small and could most likely be absorbed with existing resources.

Long-Range Fiscal Implications