

### Fiscal Estimate - 2009 Session

- Original     
  Updated     
  Corrected     
  Supplemental

LRB Number <b>09-1807/1</b>	Introduction Number <b>AB-0164</b>
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**Description**  
 Notice of intent to remove a child from the home of a relative and review of decisions or orders involving the placement and care of a child placed in the home of a relative

**Fiscal Effect**

**State:**

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

**Local:**

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> No Local Government Costs                                |  |   |
| <input type="checkbox"/> Indeterminate  |  |   |
| 1. <input checked="" type="checkbox"/> Increase Costs                             | 3. <input type="checkbox"/> Increase Revenue                           | <b>5.Types of Local Government Units Affected</b><br><input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities<br><input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others<br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| <input type="checkbox"/> Permissive <input checked="" 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> 10/23/2009
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## Fiscal Estimate Narratives

SPD 10/23/2009

LRB Number	<b>09-1807/1</b>	Introduction Number	<b>AB-0164</b>	Estimate Type	<b>Original</b>
<b>Description</b> Notice of intent to remove a child from the home of a relative and review of decisions or orders involving the placement and care of a child placed in the home of a relative					

### 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 has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill does not provide for a new criminal offense, expand the definition of a criminal offense, or increase criminal penalties. The bill proposes new notice requirements when the Department of Children and Families or a county social-service agency proposes to remove a child from an out-of-home placement with a relative. There could be an effect upon the SPD if the bill, in conjunction with existing law, is interpreted to provide a right to counsel for a relative in whose home a child has previously been placed. As explained in the next paragraph, this interpretation is possible, but unlikely.

Section 48.23, Stats., provides that other than in CHIPS (children alleged to be in need of protection or services) cases brought under section 48.13, Stats., the court may refer a person entitled to counsel to SPD for appointment of counsel. Historically, courts have not referred parties to SPD for appointment of counsel for the type of hearing addressed in this bill, and these hearings would likely occur in the context of a CHIPS hearing. Thus, under existing law, a likely interpretation of the proposed procedures is that any appointment of counsel would be the court's responsibility, at county expense.

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. Similarly, there are situations under the Children's Code, chapter 48, Stats., when the court may be required or may have the discretion to appoint an attorney at county expense.

As discussed above, the types of hearings resulting from this bill would likely be considered part of a CHIPS proceeding, in which the court would have the duty to appoint an attorney at county expense. Thus, the possibility of additional hearings, resulting from providing the right to a hearing to relatives of the child, could add to county costs in cases in which the court appoints an attorney for the relative in whose home the child has been placed.

### Long-Range Fiscal Implications