



## Fiscal Estimate Narratives

SPD 10/15/2009

LRB Number	09-2011/1	Introduction Number	SB-341	Estimate Type	Original
<b>Description</b> Reckless bodily harm to a child 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 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 increases the penalties for the criminal offense of recklessly causing great bodily harm to a child. This offense is presently classified as a Class G felony, and the bill would reclassify it as a Class E felony. The SPD's average cost per felony appointed to private bar attorneys was \$584.62 for fiscal year 2009. In general, the higher the possible penalties are for a particular charge, the more attorney time is required to provide representation. However, the SPD does not have data to differentiate between the average costs for Class G and Class E felonies.

Because longer periods of probation or prison could be ordered upon conviction if the felony classification is increased, this change would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill would indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2009 for SPD representation by a private bar attorney in a revocation proceeding was \$382.18.

Therefore, the SPD would likely incur additional costs attributable to the increased penalties under this bill. Because of the annual caseloads for staff attorney positions specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

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 counties would experience increased costs attributable to the higher classification of criminal charges resulting from this bill.

### Long-Range Fiscal Implications