

Fiscal Estimate Narratives

SPD 4/10/2009

LRB Number	09-2202/1	Introduction Number	AB-0192	Estimate Type	Original
Description Battery to a highway construction or maintenance worker 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.

Although this bill does not create a new criminal offense, it would increase the maximum penalties for certain battery offenses. Battery cases in which the alleged victim was a highway worker would be classified as felonies, rather than misdemeanors, regardless of the extent of the injury caused. In fiscal year 2008, the SPD's average cost per felony was \$544.58, compared to an average cost per misdemeanor of \$217.54. Because the SPD does not have data regarding the employment status of alleged victims in misdemeanor battery cases, the agency cannot estimate the number of cases that would become felonies under this 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 higher average costs associated with felony cases would 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. Depending on the number of cases resulting in prison sentences instead of jail sentences, some of the increased incarceration costs could be incurred by the Department of Corrections instead of by counties.

Long-Range Fiscal Implications