

## Fiscal Estimate - 2009 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>09-1130/1</b>	<b>Introduction Number</b> <b>SB-014</b>			
<b>Description</b> The definition of sexual intercourse for the crime of incest				
<b>Fiscal Effect</b>				
<b>State:</b>				
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top; padding: 2px;"> <input type="checkbox"/> Increase Existing Appropriations  <input type="checkbox"/> Decrease Existing Appropriations  <input type="checkbox"/> Create New Appropriations                 </td> <td style="width: 33%; vertical-align: top; padding: 2px;"> <input type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Revenues                 </td> <td style="width: 33%; vertical-align: top; padding: 2px;"> <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget                      <input type="checkbox"/> Yes                 <input checked="" type="checkbox"/> No  <input type="checkbox"/> Decrease Costs                 </td> </tr> </table>		<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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<b>Local:</b>				
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate <table style="width: 100%; border: none; margin-top: 10px;"> <tr> <td style="width: 33%; vertical-align: top; padding: 2px;">                 1. <input checked="" type="checkbox"/> Increase Costs                      <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory                  2. <input type="checkbox"/> Decrease Costs                      <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory             </td> <td style="width: 33%; vertical-align: top; padding: 2px;">                 3. <input type="checkbox"/> Increase Revenue                      <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                  4. <input type="checkbox"/> Decrease Revenue                      <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory             </td> <td style="width: 33%; vertical-align: top; padding: 2px;"> <b>5. Types of Local Government Units Affected</b>  <input type="checkbox"/> Towns     <input type="checkbox"/> Village     <input type="checkbox"/> Cities  <input checked="" type="checkbox"/> Counties   <input type="checkbox"/> Others  <input type="checkbox"/> School Districts   <input type="checkbox"/> WTCS Districts             </td> </tr> </table>		1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<b>5. Types of Local Government Units Affected</b> <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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<b>Fund Sources Affected</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 <span style="float: right;"><b>Affected Ch. 20 Appropriations</b></span>				
<b>Agency/Prepared By</b>				
SPD/ Mike Tobin (608) 266-8259				
<b>Authorized Signature</b>				
Krista Ginger (608) 264-8572				
<b>Date</b>				
2/3/2009				

## Fiscal Estimate Narratives

SPD 2/3/2009

LRB Number	09-1130/1	Introduction Number	SB-014	Estimate Type	Original
<b>Description</b> The definition of sexual intercourse for the crime of incest					

### 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.

This bill does not create a new criminal offense or change the maximum penalties for any offense. However, the bill expands the scope of an existing crime by providing a broader definition of "sexual intercourse" in the existing statute prohibiting incest.

The SPD cannot reliably estimate the number of new cases that would be prosecuted as a result of this change. In the last three calendar years (2006-08), the SPD has appointed attorneys in 13 separate cases that involved charges of incest (some of these cases involved either multiple charges of incest or charges of separate statutes in addition to the charge of incest). Thus, the SPD does not appoint attorneys in a large number of cases annually under the existing statute. However, the SPD does not have access to any information regarding cases that have not been charged in the past because of the present scope of the statute that would have been charged under the proposed definition of "sexual intercourse."

The average cost for a SPD appointment in a felony case is \$544.58. The cost for cases involving an alleged sexual assault often exceeds this average because of such factors as the likelihood of a trial or the need for a risk assessment to prepare for a contested sentencing hearing.

Counties are also subject to increased costs when a new crime is created or when the scope of an existing crime is expanded. 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. The counties also incur costs associated with incarceration of defendants, both pending trial and after sentencing.

### Long-Range Fiscal Implications