

### Fiscal Estimate - 2009 Session

Original       Updated       Corrected       Supplemental

<b>LRB Number</b> <b>09-3270/1</b>	<b>Introduction Number</b> <b>SB-443</b>
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**Description**  
 Theft of communication and video services, civil damages resulting from the theft of certain services, and providing penalties

**Fiscal Effect**

**State:**

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

**Local:**

<input type="checkbox"/> No Local Government Costs	3. <input type="checkbox"/> Increase Revenue	5. Types of Local Government Units Affected	
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities
1. <input checked="" type="checkbox"/> Increase Costs	4. <input type="checkbox"/> Decrease Revenue		<input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others
<input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs	<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>	<b>Authorized Signature</b>	<b>Date</b>
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**Fiscal Estimate Narratives**  
**SPD 1/19/2010**

LRB Number <b>09-3270/1</b>	Introduction Number <b>SB-443</b>	Estimate Type <b>Original</b>
<b>Description</b> Theft of communication and video services, civil damages resulting from the theft of certain services, and providing penalties		

**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 creates a new misdemeanor criminal offense for theft of communication and video services. The SPD's average cost to provide representation in a misdemeanor case is \$214.11, calculated on the basis of the SPD's average cost per case in fiscal year 2009.

Because probation could be ordered upon conviction for the additional cases attributable to the proposed new criminal offense, this bill would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation. 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 incur additional costs because of additional misdemeanor and revocation cases attributable to this bill. The SPD has no data to predict the number of additional cases that would result from the change proposed in 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 additional criminal charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, pending trial (or pending a proceeding to revoke probation) and after sentencing.

**Long-Range Fiscal Implications**