

Fiscal Estimate Narratives
SPD 3/31/2010

LRB Number 09-4543/1	Introduction Number SB-643	Estimate Type Original
Description Sales and transfers of firearms, records from sales of firearms, possession of firearms by persons convicted of violent offenses that are not felonies, 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 and certain commitment 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.

Under current law it is a class G felony for a person convicted of a felony to possess a firearm. This bill would expand that prohibition to a number of "violent nonfelony offenses", as defined in the bill, unless five years have passed since the conviction.

The SPD has no data to predict the number of additional felony cases that would result from the changes proposed in this bill. The SPD's average cost to provide representation with a private bar attorney in a felony case is \$584.62, calculated on the basis of the SPD's average cost per case in fiscal year 2009.

Because probation or prison could be ordered upon conviction for the proposed felony crime, 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.

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 expansion of felony firearm possession resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications