

Fiscal Estimate Narratives

SPD 2/20/2012

LRB Number	11-4008/1	Introduction Number	SB-473	Estimate Type	Original
Description Statute of limitations for first-degree sexual assault, attempted homicide, and attempted first-degree sexual assault					

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 critical 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 eliminates the statute of limitations for first degree sexual assault of an adult or child and attempted first and second degree intentional homicide; therefore, prosecution for these felonies could occur at any time. Also, this bill allows the commencement of prosecution to occur within 12 months for specific felonies under chapter 940 or 948, if the applicable statute of limitations has not expired, if an individual is identified as the source of state-collected deoxyribonucleic acid.

The SPD has no data to predict the number of additional felony cases that could result from the changes proposed in this bill. The bill could result in both additional cases in which the SPD provides representation as well as potentially increasing the complexity of these cases due to factors such as the passage of time.

Because of the annual caseloads for staff attorney positions specified for budgeting purposes under §977.08 (5), it would be more cost effective to add staff attorney positions should the bill result in a number of additional charges. The average cost in Fiscal Year 2011 to provide representation in a Class A, B, or C felony case was \$1,526.39.

Because probation could be ordered upon conviction for the 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 2011 for SPD representation by a private bar attorney in a revocation proceeding was \$322.46. Therefore, the SPD would incur additional costs because of additional revocation cases attributable to this bill.

Counties are also subject to increased costs when sentence exposure for crime is increased. 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. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications