



## Fiscal Estimate Narratives

SPD 1/13/2011

LRB Number	11-0415/1	Introduction Number	AB-0118	Estimate Type	Original
<b>Description</b> Aiding a felon 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.

This bill would subject family members (currently exempted) of an alleged felon to being charged with a Class G felony for tampering with or falsifying physical evidence with intent to prevent the person's arrest. The bill also provides an exception for anyone who harbors or aids a felon if the felon is accused of domestic abuse against that person and the person could be called to testify against the felon.

The SPD has no data to predict the number of additional Class G 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 was \$591.42 in fiscal year 2010.

Additionally, this bill changes the classifications for anyone harboring or aiding a felon accused of serious crimes from Class I to Class G felonies. While the increased penalties could result in increased costs to represent the accused, it is important to note that the SPD did not appoint counsel for any defendants accused of these crimes in FY10.

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. Probation is also an option for misdemeanor cases; however, a felony case may result in a longer term of 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 2010 for SPD representation by a private bar attorney in a revocation proceeding was \$366.09.

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 additional persons are subject to prosecution for a crime. 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