

Fiscal Estimate Narratives

SPD 10/31/2013

LRB Number	13-3482/1	Introduction Number	SB-372	Estimate Type	Original
Description Creating a mechanism for an interested person to request an emergency stabilization and providing a penalty					

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 creates a new petition procedure for initiating an emergency detention under Chapter 51 of the Wisconsin statutes. It also substitutes existing terminology of "emergency detention" to "emergency stabilization". The new procedure requires an emergency stabilization form to be created by the Department of Health Services and allows any person to request emergency stabilization for any person who meets the standards for emergency detention. The bill requires written notification to the requestor for any denied request and sets timelines for approving or denying emergency stabilization requests and petitioning the court for emergency stabilization if the County Human Services Department denies a request for emergency stabilization. Under the bill, whoever submits a formal request for emergency stabilization or files a petition for judicially ordered emergency stabilization knowing that information contained in the request or petition is false is guilty of a felony and subject to a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

The SPD has no data to predict the number of additional Chapter 51 cases that would result from the changes proposed in this bill. The SPD's FY2013 average cost to provide representation with a private bar attorney in a Chapter 51 case was \$167.74. The SPD could also have additional cases that would result from submitting a false emergency stabilization request or petition. The SPD's FY2013 average cost to provide representation with a private bar attorney in felony cases was \$556.21. 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 may have increased costs to implement and maintain a new petitioning process for emergency stabilization resulting from this bill. The SPD is unable to estimate the costs associated with the additional requirements related to emergency stabilization. Counties are also subject to increased costs when new penalties are 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 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