

Fiscal Estimate Narratives

SPD 2/7/2014

LRB Number	13-0082/3	Introduction Number	AB-0694	Estimate Type	Original
Description Operation of off-highway motorcycles, granting rule-making authority, providing penalties, and making appropriations					

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 establishes requirements for the operation and registration of off-highway motorcycles (OHMs) that are similar to the requirements that apply under current law to all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs). This bill sets forth various requirements for the Department of Natural Resources regarding OHM registration and trail passes, OHM operation, OHM age restrictions, OHM safety grant program and land incentive program and off-highway motorcycle council creation. Specifically, under the law, a person may not operate an OHM with an alcohol concentration of 0.08 or more. This bill requires an OHM operator to submit to certain screening tests if a law enforcement officer has probable cause to believe that the operator is operating the OHM under the influence of alcohol.

Since the bill adds new criminal charges to existing penalties, it is possible the SPD will see an increase in the number of cases in which it provides representation. We are unable, however, to quantify the number of cases that might occur due to the provisions in the bill. The SPD's average cost to provide representation with a private bar attorney in a felony case was \$556.21 and \$247.54 in a misdemeanor case in fiscal year 2013. 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.

Because probation or prison could be ordered upon conviction for the proposed crime, this change could 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 could indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2013 for SPD representation by a private bar attorney in a revocation proceeding was \$303.86.

This bill could also have a fiscal impact on counties. 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. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications