

Fiscal Estimate Narratives

SPD 10/2/2013

LRB Number	13-1701/3	Introduction Number	SB-307	Estimate Type	Original
Description Traffic violations resulting in harm to vulnerable highway users, driver education instruction, 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 proceedings. The SPD plays a significant 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 penalty enhancements for traffic violations that result in bodily harm, great bodily harm, or death to vulnerable highway users. For most traffic violations, the bill doubles the applicable forfeiture or fine if the violation results in harm to a vulnerable highway user, and this doubling is in addition to any other applicable penalty enhancement, such as the doubling for certain traffic violations committed in highway maintenance or construction areas. Also, for specific violations, the bill makes the offense a Class I or H felony if the violation results in harm to a vulnerable highway user. This bill mandates that a person who causes bodily harm by Operating While Intoxicated to a vulnerable highway user is guilty of a Class H felony. This bill also includes increased penalties for failure to yield, inattentive driving, reckless driving and any local authority enacted traffic regulation if the violation results in harm to a vulnerable highway user.

The SPD is not able to estimate the number of additional cases resulting from this bill since some of the traffic violations do not currently qualify for public defender representation. The mandatory prison sentence for a conviction in cases resulting in great or substantial bodily harm could increase the complexity, and resulting cost, of providing representation; however, that incremental cost cannot be quantified. The average cost during Fiscal Year 2013 for SPD representation by a private bar attorney in a misdemeanor case was \$247.54; and in a felony case 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 the provisions of the bill.

Because of the increased minimum penalty in these cases, the counties are also subject to increased costs. 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 penalties for these 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