

Fiscal Estimate Narratives

SPD 2/2/2016

LRB Number	15-3099/1	Introduction Number	SB-497	Estimate Type	Original
Description Using a drone to commit a crime and providing a criminal 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 an enhanced penalty for a crime if the offender uses a drone to commit the crime. Under the bill, if a person uses a drone to commit a violation of the criminal code or commits a criminal offense related to a controlled substance, the person is subject to an increased penalty for the underlying crime. Under the bill, if the underlying offense is a misdemeanor but not a Class A misdemeanor, the person is subject to a maximum fine of \$10,000, and a maximum term of imprisonment of one year in the county jail. Additionally, if the underlying crime is a Class A misdemeanor, the person who uses a drone to commit that crime is guilty of a felony and subject to a \$10,000 fine and up to two years in prison. If the underlying crime is a felony, the maximum fine for the crime is increased by up to \$5,000 and the maximum term of imprisonment for the crime is increased by up to five years.

It is possible that given the enhanced length of the possible sentence, the SPD may see an increase in the complexity and length of cases in which it provides representation. We are unable, however, to quantify the fiscal impact 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 misdemeanor case was \$255.54 and \$551.02 in a felony case in fiscal year 2014.

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