Fiscal Estimate - 2015 Session

☒ Original   ☐ Updated   ☐ Corrected   ☐ Supplemental

LRB Number 15-1975/2	Introduction Number AB-0147

Description
Battery and threats to a judge, a prosecutor, or a law enforcement officer and providing a criminal penalty

Fiscal Effect

State:
☐ No State Fiscal Effect
☒ Indeterminate
    ☐ Increase Existing Appropriations
    ☐ Decrease Existing Appropriations
    ☐ Create New Appropriations
    ☐ Increase Existing Revenues
    ☐ Decrease Existing Revenues
    ☒ Increase Costs - May be possible to absorb within agency's budget
        ☒ Yes   ☐ No
    ☐ Decrease Costs

Local:
☐ No Local Government Costs
☒ Indeterminate
  1. ☒ Increase Costs
     ☐ Permissive ☒ Mandatory
  2. ☐ Decrease Costs
     ☐ Permissive ☐ Mandatory
  3. ☐ Increase Revenue
     ☐ Permissive ☐ Mandatory
  4. ☐ Decrease Revenue
     ☐ Permissive ☐ Mandatory

5. Types of Local Government Units Affected
  ☐ Towns ☐ Village ☐ Cities
  ☒ Counties ☐ Others
  ☐ School Districts ☐ WTCS Districts

Fund Sources Affected	**Affected Ch. 20 Appropriations**
☒ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS	

Agency/Prepared By	Authorized Signature	Date
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Description		
Battery and threats to a judge, a prosecutor, or a law enforcement officer 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 a crime for a person who intentionally causes or threatens bodily harm to a judge, a prosecutor, or a law enforcement officer, or who intentionally causes or threatens bodily harm to a family member of any of those persons, is guilty of a Class H felony if the person knows or should know that the victim is a judge, prosecutor, law enforcement officer, or a family member of any of those, if the person commits the offense in response to any action taken in the judge's, prosecutor's, or law enforcment officer's official capacity, or if the person commits the offense while the judge, prosecutor, or law enforcement officer is acting in his or her official capacity.

It is possible that given the added criminal charges, 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 $551.02. 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 2014 for SPD representation by a private bar attorney in a revocation proceeding was $294.04.

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