

Fiscal Estimate Narratives

SPD 2/2/2016

LRB Number	15-3533/1	Introduction Number	AB-0737	Estimate Type	Original
Description Crime of child sex trafficking, the inclusion of child sex trafficking in the definition of child abuse, the investigation of a child abuse report in which a person who is not a caregiver of the child is suspected of permitting, allowing, or encouraging the child to engage in prostitution or of child sex trafficking for purposes of a commercial sex act, 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 expands what constitutes the crime of child sex trafficking, includes child sex trafficking under the definition of abuse in the Children's Code, requires the reporting and investigation of certain suspected child abuse cases involving prostitution or child sex trafficking, and makes changes to the information required to be in a court order or provided to a care provider when a child is placed outside the home. This bill adds transporting or knowingly attempting to transport any child for the purpose of commercial sex acts to existing child sex trafficking crimes. This bill adds child sex trafficking to the definition of "abuse" in the Children's Code. As such, a child who is the victim of child sex trafficking may be the subject of a child in need of protection or services petition alleging that the child is a victim of abuse. This bill requires the sheriff or police department to refer to an agency, and the agency to investigate, a case of child abuse in which a person who is not a caregiver of the child is suspected of permitting, allowing, or encouraging the child to engage in prostitution or of trafficking a child for purposes of a commercial sex act. This bill includes information on any involvement of the child, whether as victim or perpetrator, in certain sex crimes if the information is necessary for the care of the child or for the protection of any person under the care of the substitute care provider. In the Children's Code, these sex crimes include sex trafficking and child sex trafficking. This bill adds the same requirement under the Juvenile Justice Code for when a juvenile who has been involved in sex trafficking or child sex trafficking is placed in the care of a substitute care provider.

Since this bill expands what constitutes the crime of child sex trafficking, 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 increase due to the provisions in the bill and how many people would meet the eligibility requirements for SPD services. The SPD's average cost to provide representation with a private bar attorney in a misdemeanor case was \$255.54 and \$551.02 for a felony case in fiscal year 2014.

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 though both an increase and decrease in specific 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. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications