



## Fiscal Estimate Narratives

SPD 1/21/2015

LRB Number	15-1010/1	Introduction Number	SB-004	Estimate Type	Original
<b>Description</b> Invading an individual's privacy by viewing under or through clothing 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 creates an additional crime for invasion of privacy to include an individual who knowingly installs or uses a device to intentionally view under outer clothing another individual's genitals, pubic area, breast or buttocks, including those areas covered by undergarments or to view another body part of an individual that is not otherwise visible, without that individual's consent. The original criminal charge of invasion of privacy is a Class A misdemeanor. This bill adds specific elements to the crime to invasion of privacy and increases the criminal charge to a Class I felony.

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 in fiscal year 2014. 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