

Fiscal Estimate Narratives

SPD 11/3/2017

LRB Number	17-0316/1	Introduction Number	AB-0548	Estimate Type	Original
Description claims by and treatment of wrongfully imprisoned persons and making appropriations					

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.

Current law allows the State Claims Board to provide \$5,000 per year, up to \$25,000 total, to an individual that the board finds innocent of the crime for which they were incarcerated. This bill increases the annual compensation to \$50,000 with no aggregate limit. The bill creates a new procedure to provide a hearing on the claim. Finally, the bill allows a person released from imprisonment after January 1, 2006 to file a claim if the person claims to be innocent of the underlying crime.

The bill creates two new instances in which an inmate under the newly created §808.085 or a petitioner under §775.05 can apply for public defender representation provided that he or she meets financial eligibility guidelines. The SPD does not currently provide representation in any matter similar to these new provisions. The new process created under §808.085 would create a small additional caseload for SPD staff. The State Claims Board currently receives approximately 4-6 claims per year for wrongful imprisonment compensation under §775.05. It is impossible to estimate how many persons will qualify for SPD representation under these new sections.

Because of the small number of new potential cases, it is unlikely that the bill will have a significant fiscal impact on SPD.

Long-Range Fiscal Implications
