



## Fiscal Estimate Narratives

SPD 10/21/2019

LRB Number	19-3998/1	Introduction Number	SB-376	Estimate Type	Original
<b>Description</b> the possession of a firearm by a person who has committed a misdemeanor crime of domestic violence 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 proceedings. The SPD plays a major 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 the scope of the felony offense for unlawful possession of a firearm. The bill prohibits possession of a firearm by anyone convicted of a misdemeanor offense involving domestic violence. Thus, persons convicted of such a misdemeanor are subject in the future to prosecution for the felony offense of unauthorized possession of a firearm. The SPD's average cost per felony appointed to private bar attorneys was \$540.67 for fiscal year 2018.

Because probation or prison can be ordered upon conviction for felony crimes, the bill would 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 would indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2018 for SPD representation by a private bar attorney in a revocation proceeding was \$294.73.

The SPD would incur additional costs under this bill. 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.

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. Thus, the counties would experience increased costs attributable to the higher classification of criminal charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, pending trial (or pending completion of revocation process) and after sentencing.

### Long-Range Fiscal Implications