



## Fiscal Estimate Narratives

SPD 5/10/2006

LRB Number	05-4361/2	Introduction Number	AB-1219	Estimate Type	Original
<b>Description</b> Indigency determinations, provision of legal services by the State Public Defender, and requiring the exercise of rule-making authority					

### Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) provides legal representation in criminal cases and other specified proceedings in which the loss of personal liberty or parental rights may occur. For adult clients, the SPD must complete a financial eligibility evaluation before appointing an attorney. SPD services are constitutionally required because in the case types handled by SPD, a defendant without the financial means to hire an attorney has the right to have an attorney appointed. Therefore, any bill that would increase the number of cases handled by SPD would increase SPD costs.

This bill does not create a new crime or a new penalty, it would increase the number of persons eligible for SPD services by making the financial eligibility criteria similar to the criteria used by the WisconsinWorks (W2) program. Defendants who cannot afford an attorney have a constitutional right to have an attorney appointed, even if they do not meet the current SPD eligibility standards. For defendants who exceed the SPD standards, the court must make a case-by-case determination whether to appoint an attorney at county expense.

The revised SPD eligibility guidelines would use a cost-of-living formula equal to 115% of the federal poverty guidelines and would treat most assets consistently with the W2 asset standards (with the exception that SPD would have a cap on equity in a principal residence).

SPD estimates that the changes would result in approximately 17,100 additional cases per year in which SPD would appoint attorneys. These cases would be appointed to new SPD staff authorized in the bill (75% of the additional cases) and to certified private attorneys (25%). The exact number of additional cases will be affected by the number of prosecutions and economic conditions.

With an effective date of July 1, 2007, this bill would not have any fiscal impact in the current biennium. The estimated cost to SPD, effective July 1, 2007, would be \$5 million in fiscal year 2008 and \$5.25 million in fiscal year 2009 and subsequent fiscal years.

The counties should save substantial amounts of money, varying among the counties according to the different patterns of county appointment of attorneys. In some counties, the clerk of courts collects (pursuant to court order) partial repayment of the funds paid out for appointed counsel. In these counties, the bill would result in decreased revenue from these collection efforts, because there will be fewer appointments that result in collection of attorney fees. On balance, however, all counties should have a net savings from this change in the SPD eligibility standards.

### Long-Range Fiscal Implications

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