

### Fiscal Estimate - 2005 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>05-1916/2</b>	<b>Introduction Number</b> <b>AB-436</b>	
<b>Subject</b> Domestic violence mandatory arrest		
<b>Fiscal Effect</b>		
<b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input checked="" type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
<b>Agency/Prepared By</b> SPD/ Mike Tobin (608) 266-8259	<b>Authorized Signature</b> Krista Ginger (608) 264-8572	<b>Date</b> 5/23/2005

## Fiscal Estimate Narratives

SPD 5/23/2005

LRB Number 05-1916/2	Introduction Number AB-436	Estimate Type Original
<b>Subject</b> Domestic violence mandatory arrest		

### 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 change penalties, so it does not increase SPD costs either by bringing new criminal cases into the system or by reclassifying cases.

However, the bill changes arrest procedures in a way that may increase SPD costs for representation in domestic violence cases (such as battery, false imprisonment, disorderly conduct). The bill amends the arrest procedures to place a greater burden on the police to determine primary blame when they initially respond to a domestic incident. Under the bill, the police are presumptively to arrest only the predominant aggressor, not others who may have been partially at fault. Because this provision arguably limits the authority to arrest persons other than the predominant aggressor, defense attorneys are likely to litigate issues of illegal arrest in these cases. This pretrial litigation may add to SPD costs in these cases.

Counties may see increased costs as a result of arrestees serving more time in jail before being released on bond. Law enforcement agencies may also incur higher costs for officer overtime associated with an increased number of motion hearings challenging their arrest decisions.

### Long-Range Fiscal Implications