

Fiscal Estimate Narratives
SPD 4/1/2009

LRB Number	09-2252/1	Introduction Number	AB-0177	Estimate Type	Original
Description Operating a motor vehicle while suspended, revoked, or disqualified					

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 does not provide for a new criminal offense, expand the definition of a criminal offense, or increase criminal penalties. The bill would remove the mandatory revocation of driving privileges that presently applies following a fourth offense of operating after revocation (OAR) and similar offense. The SPD does not anticipate any increase in its caseload, expenditures, or revenues as a result of this proposal.

The bill would result in fewer cases of 5th-offense OAR, which in turn would result in a savings of \$217.54 per case, calculated on the basis of the SPD's average cost per case in fiscal year 2008. The SPD does not have data available to determine the number of cases by which the SPD's misdemeanor caseload would be reduced. It is common for persons convicted of OAR 4th to have multiple barriers to reinstating their operating privileges. Although the changes proposed in the bill would eliminate the mandatory revocation under current law, the bill would not affect revocations imposed as a result of other convictions (for example, for operating while intoxicated). The Department of Transportation may be able to estimate the impact that this bill would have on the number of misdemeanor traffic cases.

The biennial budget bill contains a provision that would make the offense of OAR a non-criminal offense unless the underlying revocation stems from an alcohol-related or drug-related violation. If this provision in the budget bill becomes law, the SPD anticipates a decrease in misdemeanor traffic cases (which the SPD has estimated as part of the budget process). Thus, any decrease in criminal cases that might occur as a result of this bill would likely occur as part of the decrease attributable to the provision in the budget bill.

Counties are also subject to increased costs when a new crime is created. 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. Therefore, counties could also see a decrease in the costs for appointed counsel if this bill reduces the number of traffic misdemeanor cases.

Long-Range Fiscal Implications