

### Fiscal Estimate - 2009 Session

Original       Updated       Corrected       Supplemental

**LRB Number** 09-4152/2      **Introduction Number** AB-0753

**Description**

Providing information to a firearms dealer when purchasing a handgun, authorizing the Department of Justice to prosecute violations of certain laws regulating firearms, receiving a stolen firearm, and providing penalties.

**Fiscal Effect**

**State:**

- No State Fiscal Effect
- Indeterminate
  - Increase Existing Appropriations       Increase Existing Revenues
  - Decrease Existing Appropriations       Decrease Existing Revenues
  - Create New Appropriations
- Increase Costs - May be possible to absorb within agency's budget
  - Yes       No
  - Decrease Costs

**Local:**

- No Local Government Costs
- Indeterminate
  - 1.  Increase Costs      3.  Increase Revenue
  - Permissive  Mandatory       Permissive  Mandatory
  - 2.  Decrease Costs      4.  Decrease Revenue
  - Permissive  Mandatory       Permissive  Mandatory
- 5. Types of Local Government Units Affected
  - Towns       Village       Cities
  - Counties       Others
  - School Districts       WTCS Districts

**Fund Sources Affected**

**Affected Ch. 20 Appropriations**

- GPR     FED     PRO     PRS     SEG     SEGS

**Agency/Prepared By**

**Authorized Signature**

**Date**

SPD/ Megan Christiansen (608) 267-0311

Krista Ginger (608) 264-8572

2/24/2010

## Fiscal Estimate Narratives

SPD 2/24/2010

LRB Number	09-4152/2	Introduction Number	AB-0753	Estimate Type	Original
<b>Description</b> Providing information to a firearms dealer when purchasing a handgun, authorizing the Department of Justice to prosecute violations of certain laws regulating firearms, receiving a stolen firearm, and providing penalties.					

### 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 increases the penalties for the criminal offense of providing certain false information to a gun dealer. The offense would be a felony in all cases, amending the current law that classifies the conduct in question as a misdemeanor. The SPD's average cost to provide representation in a misdemeanor case is \$212.84, calculated on the basis of the SPD's average cost per case in fiscal year 2009. The SPD's average cost per felony was \$579.62. Therefore, the SPD would incur additional costs in cases that would be reclassified as felonies under this bill. The SPD has not appointed attorneys in any cases alleging violations of the statute in question during the past two fiscal years. Therefore, the SPD does not anticipate a major impact if this provision is enacted, unless there is a major change in the number of prosecutions.

This bill also increases the penalties for the criminal offense of receiving a stolen firearm, under certain circumstances. The offense would be a felony in all cases, amending the current law that relies on the firearm's alleged value to differentiate between misdemeanors and felonies. The SPD would incur an additional cost of \$366.78 in each case that would be reclassified as a felony under this bill. In fiscal year 2009, the SPD appointed attorneys in 257 misdemeanor cases of receiving stolen property. However, the SPD does not have data regarding how many of these cases involved the alleged receipt of stolen firearms. If ten percent of these cases became felonies as a result of this bill, the increased cost for SPD would be approximately \$500.

Because probation or prison could be ordered upon conviction for the proposed felony crime, this change would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. Probation is also an option for misdemeanor cases; however, a felony case may result in a longer term of probation. 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 2009 for SPD representation by a private bar attorney in a revocation proceeding was \$382.18.

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. Thus, the counties would experience increased costs attributable to the higher classification of some criminal charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing. However, because the SPD has not appointed in any cases under the statute in question during the last three fiscal years, the effect on the counties may also be insignificant.

### Long-Range Fiscal Implications