Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2009 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **09-4393/1**	Introduction Number **AB-0769**

Description
Evidentiary recordings of persons under the age of 18 engaging in sexually explicit conduct and attempt of certain sex crimes against children and providing penalties

Fiscal Effect

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

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

Fund Sources Affected ☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
SPD/ Megan Christiansen (608) 267-0311	Krista Ginger (608) 264-8572	3/4/2010

Fiscal Estimate Narratives

SPD 3/4/2010

LRB Number **09-4393/1**	Introduction Number **AB-0769**	Estimate Type **Original**
Description Evidentiary recordings of persons under the age of 18 engaging in sexually explicit conduct and attempt of certain sex crimes against children 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 and certain commitment 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.

Although this bill would not create a new crime, it would increase the penalties for two current felonies: attempting to cause a minor to view or listen to sexually explicit conduct under certain circumstances and attempting to communicate with a person believed to be under sixteen years of age with the intent to have sexual contact with an individual under sixteen. The exposure to increased penalties would increase the complexity, and therefore the cost, of these felony cases for the SPD. However, we do not have data to project how many SPD cases would be affected by this change.

Because probation or prison could be ordered upon conviction for these felony crimes, the proposed longer sentences, including supervision terms, 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 2009 for SPD representation by a private bar attorney in a revocation proceeding was $382.18.

This bill also would require the defense to inspect recorded evidence against a defendant in child pornography cases only in a location maintained by the court or a law enforcement agency. This restriction could result in increased travel time in some counties where this is not already the practice. The SPD does not have data to determine how many cases would be affected.

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 criminal charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing, and associated with increased travel times for attorneys in some counties.

Long-Range Fiscal Implications