

Fiscal Estimate Narratives

SPD 9/21/2011

LRB Number	11-2470/1	Introduction Number	AB-0263	Estimate Type	Original
Description Costs associated with providing false information to a law enforcement officer					

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 critical 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.

The bill allows courts to order, upon conviction, the repayment of any costs incurred by a law enforcement agency to investigate or respond to a false alarm or evidence. While the bill does not create a new crime, the potential for increased monetary punishment upon conviction could increase the complexity, and resulting cost, of providing representation. The additional risk of monetary penalty based on conviction could cause an increase in the number of cases that receive a trial by jury.

The SPD has no data to predict the number of case that would be affected by the bill. In fiscal year 2011, the SPD provided representation in 3508 cases which would be affected by this provision. The SPD's average cost to provide representation with a private bar attorney in a misdemeanor case was \$225.41 in fiscal year 2011, compared to an average cost of \$613.83 for a felony during the same period.

Because of the annual caseloads for staff attorney positions specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

Counties are also subject to increased costs when sentence exposure for crime is increased. 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.

Long-Range Fiscal Implications