

Fiscal Estimate Narratives

SPD 3/6/2012

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|---|-----------|---------------------|---------|---------------|----------|
| LRB Number | 11-4168/1 | Introduction Number | AB-0646 | Estimate Type | Original |
| Description Prosecution time limits for the offense of trafficking a child, possession of child pornography, termination of parental rights after committing the offense of trafficking a child, criminal procedure, crime victim compensation, and providing a penalty | | | | | |

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.

This bill creates felonies related to possession of child pornography, increases time limits for prosecution of trafficking a child, termination of parental rights after committing an offense of trafficking a child and adding offenses to those that qualify for victim compensation.

The SPD has no data to predict the number of additional felony cases that could result from the changes proposed in this bill. The bill could result in additional cases in which the SPD provides representation. The provisions of the bill that increase the statute of limitations for these crimes could increase the complexity of these cases due to factors such as the passage of time, unavailability of witnesses, and degradation or loss of evidence.

Because of the annual caseloads for staff attorney positions specified for budgeting purposes under §977.08 (5), it would be more cost effective to add staff attorney positions should the bill result in a number of additional charges. The average cost in Fiscal Year 2011 to provide representation in a Class A, B, or C felony case was \$1,526.39. The average cost in Fiscal Year 2011 to provide representation in a termination of parental rights case \$1,340.94.

Because probation could be ordered upon conviction for the new criminal offense, this bill would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke 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 2011 for SPD representation by a private bar attorney in a revocation proceeding was \$322.46. Therefore, the SPD would incur additional costs because of additional revocation cases attributable to this 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