

Fiscal Estimate Narratives

SPD 4/13/2011

LRB Number	11-1662/1	Introduction Number	AB-0086	Estimate Type	Original
Description Corrections and sentencing					

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.

This bill would eliminate various provisions for early release from correctional institutions that were included in the enacted 2009-11 biennial budget bill, Act 28, and were effective October 1, 2009. Under those provisions, persons granted early release were placed on extended supervision earlier and for a longer duration than was ordered in their original sentence. Eliminating the early release provisions would reduce the offender's potential time on extended supervision. Thus, this change could indirectly lead to fewer cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision than under current law. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill could indirectly decrease the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2010 for SPD representation by a private bar attorney in a revocation proceeding was \$366.09.

The SPD does not track whether clients in revocation cases were granted any kind of early release to extended supervision, so has no data to predict a decrease in revocation cases that might result from the changes proposed in this bill.

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 could experience decreased costs as a result of this bill.

Long-Range Fiscal Implications