



## Fiscal Estimate Narratives

SPD 5/18/2011

LRB Number	11-2007/1	Introduction Number	SB-093	Estimate Type	Original
<b>Description</b> Going armed with weapons, possessing or transporting a firearm, bow, or crossbow under certain circumstances, disorderly conduct limitations, and electric weapons					

### 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. Conversely, legislation has the potential to decrease SPD costs if it repeals a criminal offense, limits the definition of an existing criminal offense, or decreases the penalties for an existing offense.

This bill would repeal the current law misdemeanor offense of going armed with a concealed and dangerous weapon. In FY10, the SPD provided representation in concealed carry cases: 416 in adult court, and 52 in juvenile court.

The SPD's average cost to provide representation with a private bar attorney in a misdemeanor case is \$219.07, calculated on the basis of the SPD's average cost per case in fiscal year 2010. The SPD's average cost to provide representation in a juvenile proceeding appointed to private bar attorneys was \$204.94 for the same fiscal year.

Based on FY10 appointments, we would expect enactment of this bill to decrease SPD expenses by \$101,800 annually.

Because probation can be ordered in lieu of incarceration for the current law misdemeanor, this change could indirectly lead to fewer 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 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.

Counties may also reduce costs when a crime is repealed. 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 decreased costs resulting from this bill. The counties could also experience lower costs associated with incarceration of defendants, both pending trial and after sentencing.

### Long-Range Fiscal Implications