



## Fiscal Estimate Narratives

SPD 11/4/2013

LRB Number	13-1794/1	Introduction Number	AB-0480	Estimate Type	Original
<b>Description</b> Medical use of marijuana, the regulation of marijuana distribution organizations, requiring the exercise of rule-making authority, making appropriations, 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.

The bill does not provide for a new criminal offense, expand the definition of a criminal offense, or increase criminal penalties. The bill would amend procedures in criminal cases in which the defendant is charged with possession of marijuana. Specifically, the bill would provide a defense to prosecution if the defendant can show that he or she possessed the marijuana for medical reasons (the bill would also provide for an administrative process to document the medical reason for using the substance). Therefore, the SPD does not anticipate any increase in its caseload as a result of this proposal.

It is possible that the law could result in prosecutors electing not to issue charges in some cases in which criminal charges would be issued under current law. However, it is also possible that the persons who would qualify for legal marijuana use are not persons who would otherwise use the substance, who would be likely to be apprehended for its possession, or who would meet the financial eligibility criteria for SPD representation. Therefore, the SPD cannot predict a decrease in charges for possession of marijuana as a result of this bill.

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. However, for the same reason that the SPD does not anticipate any impact on its caseload or expenditures, the counties are unlikely to see any increase in case appointments or costs.

### Long-Range Fiscal Implications