



## Fiscal Estimate Narratives

SPD 2/12/2014

LRB Number	13-3369/2	Introduction Number	AB-0767	Estimate Type	Original
<b>Description</b> Unlawful use of a global positioning device 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 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 prohibits certain uses of a global positioning device (GPS). Under this bill, a person who places a GPS on a vehicle owned by another person without that person's knowledge or who intentionally obtains information regarding another person's movement or location generated by a GPS without that person's knowledge is guilty of a Class A misdemeanor. Additionally, under this bill a person who places a GPS on a vehicle used primarily by his or her spouse without the spouse's knowledge after a petition for an annulment, divorce or legal separation has been filed is guilty of a Class A misdemeanor. This bill creates exemptions for a person who installs a subscription-based communication or navigation system, for an employer who places a GPS to track, during business hours, commercial motor vehicles used for his or her business, and for a law enforcement officer acting in his or her official capacity.

It is possible that given the new criminal charges, the SPD will see an increase in the number of cases in which it provides representation. We are unable, however, to quantify the number of cases that might occur due to the provisions in the bill. The SPD's average cost to provide representation with a private bar attorney in a misdemeanor case was \$247.54 in fiscal year 2013. 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.

Because probation or prison could be ordered upon conviction for the proposed crime, this change could indirectly lead to additional 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 increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2013 for SPD representation by a private bar attorney in a revocation proceeding was \$303.86.

This bill could also have a fiscal impact on counties. 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. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

### Long-Range Fiscal Implications