

Fiscal Estimate Narratives

SPD 4/24/2013

LRB Number	13-2113/1	Introduction Number	SB-150	Estimate Type	Original
Description Local ordinances regarding possession of marijuana or a synthetic cannabinoid					

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 proceedings. The SPD plays a significant 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 allow a local governmental unit or county to enact and enforce an ordinance to prohibit the possession of any amount of marijuana and to prosecute a person for a second or subsequent offense of possessing marijuana or a synthetic cannabinoid. The enforcement of the local ordinance occurs when the person is alleged to possess more than 25 grams of marijuana and may prosecute a second or subsequent offense only if the state complaint against the person is dismissed or if the district attorney declines to prosecute the case.

We are unable to determine the impact on the agency due to the inability to know whether the case will ultimately be a municipal court action or a circuit court action. The SPD does not represent clients at the municipal court level but would represent if a case was referred to the circuit court. While we are uncertain how many of those cases would be represented by SPD, the SPD does represent clients regularly on possession of marijuana charges in circuit court. The SPD's average cost in to provide representation with a private bar attorney in a misdemeanor case is \$237.02, calculated on the basis of the SPD's average costs per case type in fiscal year 2012. If a significant number of cases are diverted to municipal court then the SPD would realize a cost savings.

Counties may realize cost savings through the diversion of cases to the municipal court level. These savings are related to reduced jail populations and decreased recidivism.

Long-Range Fiscal Implications