

Fiscal Estimate Narratives

SPD 7/10/2017

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| LRB Number | 17-3773/1 | Introduction Number | SB-325 | Estimate Type | Original |
| Description underage sexual activity and providing a criminal 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.

Under current law, a person who has sexual intercourse or sexual contact with a child who is at least 13 but under 16 is guilty of a Class C felony. Under this bill, a person who has sexual intercourse with a child who is between 15 and 18, or sexual contact with a child who is 15; is guilty of a Class A misdemeanor if the person is less than 19 years old. Also, current law excepts certain persons who engage in underage sexual activity from the requirement to register as a sex offender. This exception is commonly referred to as the "Romeo and Juliet exception." This bill adds specific acts of third-degree sexual assault to the list of offenses eligible for the exception if the actor is under the age of 19 and the victim is at least 15.

It is difficult to quantify a fiscal effect of the bill; however, the complexity of cases may decrease since the attorney would no longer have to argue for a client to be excepted from having to register as a sex offender. The SPD's average cost to provide representation with a private bar attorney in a felony case was \$512.17 in fiscal year 2016. The average cost for a misdemeanor case in fiscal year 2016 was \$242.06. The unquantifiable decrease in costs under this bill is a result of the \$270.11 difference between those two penalty class case type.

Long-Range Fiscal Implications