

Fiscal Estimate Narratives

SPD 11/3/2017

LRB Number	17-4326/2	Introduction Number	SB-446	Estimate Type	Original
Description plans for supervised release of sexually violent persons, representation of sexually violent persons by the state public defender, and making an appropriation					

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 been found to be a sexually violent person may be involuntarily committed to the Department of Health Services for control, care, and treatment. If a person is committed and placed in institutional care, the person may periodically petition the court for supervised release. If a court determines that supervised release is appropriate, the court must select a county to prepare a report that includes prospective residential options for the person. Unless good cause exists, the court must select the person's county of residence, and the county must prepare the report within 60 days. DHS must then prepare for the court a supervised release plan for the person that identifies the residential option for the court to approve. Under current law, the plan must be submitted to the court within 90 days of the finding that supervised release is appropriate.

Under this bill, if a court determines that supervised release is appropriate, the court must order the person's county of residence to prepare a report that identifies one appropriate residence for the person. The county must create a temporary committee to prepare the report for the county and, under this bill, the county must prepare the report within 120 days of the order. A county that does not comply violates the person's rights as a patient and the county is subject to enforcement and damages for each violation, and each day beyond the 120 days constitutes a separate violation. Once DHS receives the report, DHS must submit to the court a supervised release plan within 30 days. The bill also changes the method to determine eligibility for representation by the State Public Defender for clients under Chapter 980.

The SPD does not anticipate a significant fiscal impact as a result of the provisions this proposal.

Long-Range Fiscal Implications