

Fiscal Estimate Narratives

SPD 3/18/2017

LRB Number	17-0611/1	Introduction Number	SB-055	Estimate Type	Original
Description crimes subject to a mandatory minimum sentence					

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.

Current law imposes a mandatory minimum sentence for felony murder or second-degree intentional homicide if the person has been previously convicted of felony murder, second-degree intentional homicide, or a crime punishable by life imprisonment. The court must sentence the person to be confined in prison for at least three years and six months.

This bill increases the mandatory minimum sentence to five years and adds the following crimes to be subject to the mandatory minimum sentence if the person has been previously convicted of one of the crimes or a crime punishable by life imprisonment: first-degree or second-degree reckless homicide, homicide by intoxicated use of a vehicle or firearm, aggravated battery, mayhem, taking hostages, kidnapping, causing death by tampering with household products, arson of buildings or damage by explosives, carjacking, armed robbery, robbery of a financial institution, physical abuse of a child, child abduction and child trafficking.

Although this bill would not create a new crime, it would increase the mandatory minimum prison time for certain crimes, as described in the paragraphs above. The potential for longer periods of imprisonment would increase the complexity and the cost of these cases and the number resulting in disposition by trial. The incremental cost cannot be quantified, as the SPD cannot predict the number of cases that would be affected by the changes.

Because of the increased minimum penalty in these cases, the counties are also subject to increased costs. 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. Thus, the counties would experience increased costs attributable to the higher penalties for these charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications