

Fiscal Estimate Narratives

SPD 11/27/2015

LRB Number	15-1583/2	Introduction Number	AB-0446	Estimate Type	Original
Description Mandatory period of confinement for homicide by intoxicated use of a vehicle 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 this bill, a person who is convicted of homicide by intoxicated use of a vehicle must be sentenced to imprisonment and his or her period of confinement must be at least seven years. Under the bill, if the decedent was a passenger in the person's car, a court may sentence the person to less than the minimum if the court finds that the best interests of the community will be served and that the public will not be harmed. If the court sentences a person to less than the minimum, the bill requires the court to put its findings in writing.

According to the Department of Corrections admissions data related to OWI convictions occurring in FY 2015, 22 individuals were admitted to prison for these offenses. The SPD's average cost to provide representation in a homicide case in fiscal year 2014 was \$4,604.51. If 50% of the defendants were financially eligible for a public defender, the SPD would provide counsel for approximately 11 each year at an annual cost increase of \$50,649.61.

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 2014 for SPD representation by a private bar attorney in a revocation proceeding was \$294.04.

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