

Fiscal Estimate Narratives

SPD 12/23/2015

LRB Number	15-2649/1	Introduction Number	SB-414	Estimate Type	Original
Description Considering post-traumatic stress disorder as a mitigating factor in sentencing certain criminal offenders					

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.

This bill allows the court to consider post-traumatic stress disorder as a mitigating factor in making a sentencing decision if the person is a military veteran and the post traumatic stress disorder was a result from the person's military service.

It is possible that given the added mitigating factor, the SPD may see an increase in the complexity of cases in which it provides representation but it is unlikely that the provisions of this bill will cause a significant fiscal effect. The SPD's average cost to provide representation with a private bar attorney in a felony case was \$551.02 and \$255.54 for a misdemeanor case in fiscal year 2014. Because of the annual caseloads for staff attorney positions specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

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