

Fiscal Estimate Narratives
DOC 3/7/2005

LRB Number 05-0740/1	Introduction Number AB-30	Estimate Type Original
Subject First degree sexual assault of a child; sex predator commitments		

Assumptions Used in Arriving at Fiscal Estimate

Current law provides a procedure for involuntarily committing sexually violent persons [§ 980] to the Department of Health and Family Services [DHFS] for control, care and treatment. Current law also provides a maximum sentence of 40 years incarceration time and 20 years extended supervision for those guilty of 1st degree sexual assault of a child under the age of 13.

This bill eliminates the procedure for involuntary commitments of sexually violent persons after enactment and increases the maximum sentence for 1st degree sexual assault of a child under the age of 13 from 40 years to 45 years incarceration and from 20 years to 25 years extended supervision through the creation of a Class AB felony.

The Department of Health and Family Services [DHFS] is responsible for all costs of those offenders who have been committed to the Department of Health and Family Services and fully reimburses the Department of Corrections for supervising these offenders while the offender is on community supervision. In the long term, this bill would increase the Department of Corrections' costs as the Department would no longer be reimbursed by the DHFS for supervising these offenders.

Department of Corrections' Tasks in Civilly Committing Sexually Violent Persons:

The Department first screens and evaluates all sex offender cases. Once the adult cases are screened, a percentage of those cases are referred to the End of Confinement Review Board (ECRB). ECRB member's travel to institutions to conduct detailed file reviews to make a preliminary determination of whether an inmate may be eligible for chapter 980 proceedings, resulting in a report reviewed with all ECRB members. The Division of Juvenile Corrections' (DJC) Sexually Violent Person Act Review Committee (SVPARC), which is equivalent to the ECRB for adults, reviews juvenile cases.

On those cases referred by the ECRB or SVPARC, the Department conducts special purpose evaluations (SPEs) or psychological evaluations. During a special purpose evaluation, a psychologist again conducts a detailed file review at the institution and gathers pertinent legal and clinical records from other sources such as parole agents or district attorneys. A clinical interview with the offender is also conducted at this time, and an even more detailed forensic report is generated.

Next, some of these cases are referred from DOC to the Department of Justice (DOJ). For these DOJ referrals, the §980 psychologists are generally required to prepare and provide court testimony. The DOJ court hearing determines final §980 status of these referrals.

DHFS indicates there are currently 285 offenders involuntarily committed under §980 today. Since this bill does not retroactively dissolve current civil commitments, the Department of Corrections would still be responsible for providing §980 testimony, gathering data, and providing assistance to the DHFS and the courts whenever an offender currently committed petitions for release.

Special Bulletin Notification [SBN] of Sex Offenders Entering the Community:

According to § 301.46(2m), the Department must notify law enforcement agencies when a person who is required to register as a sex offender and who has been found to be a sexually violent person or who has committed two or more sex offenses is placed in the community.

In addition, the Department may issue discretionary SBNs and does so with any offender identified by the End of Confinement Review Board and §980 commitment process as sexually violent. It is assumed the Department would continue issuing discretionary SBNs, although the discontinuation of the §980

commitment process would necessitate a revision in the current screening and decision-making process.

During FY04, approximately 1,492 sex offenders were screened for the potential involuntary commitment §980 process. Of the group screened, only 9% were sex offenders who had committed two or more sex offenses so fully 91% would need to be evaluated for discretionary SBN purposes.

Staffing:

The Department currently has 1.0 FTE performing the initial screening of adult cases, 4.25 FTE psychologists in the Department's §980 section and another 0.25 FTE psychologist in one of the juvenile institutions conducting special purpose evaluations necessary for commitment proceedings.

The Department could likely reduce staffing below the current 5.50 FTE discussed above. Nevertheless, the Department can not estimate the time necessary to continue to provide data and §980 testimony for those offenders currently civilly committed or for the discretionary SBN process.

Increased maximum sentence for 1st degree sexual assault of a child under the age of 13: This bill increases the maximum sentence from 40 years to 45 years incarceration and from 20 years to 25 years extended supervision.

Currently, inmates incarcerated for a single offense of 1st degree sexual assault of a child under the age of 13, sentenced under Truth-in-Sentencing guidelines, have average bifurcated sentences of approximately 10.6 years incarceration and 12.75 years extended supervision. Less than 4 percent of offenders are currently sentenced to the maximum allowable [40 years incarceration + 20 years extended supervision].

The Department is unable to predict if sentence structures will be adjusted to account for the loss of the involuntary civil commitment process. However, the average annual cost to incarcerate an adult in the correctional system is \$28,000 and the average annual cost of extended supervision is \$2,000. Any increase in either incarceration or extended supervision time will result in increased costs to the Department.

Long-Range Fiscal Implications