

Fiscal Estimate - 2005 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 05s0209/1 **Introduction Number** SSA1-SB289

Subject
 Penalties for and supervision of certain sex offenders

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate
 Increase Existing Appropriations
 Increase Existing Revenues
 Increase Costs - May be possible to absorb within agency's budget
 Decrease Existing Appropriations
 Decrease Existing Revenues

 Yes No
 Create New Appropriations
 Decrease Costs

Local:

No Local Government Costs
 Indeterminate

1. Increase Costs 3. Increase Revenue
 5. Types of Local Government Units Affected
 Permissive Mandatory
 Permissive Mandatory
 Towns Village Cities
 2. Decrease Costs 4. Decrease Revenue
 Permissive Mandatory
 Permissive Mandatory
 Counties Others
 Permissive Mandatory
 Permissive Mandatory
 School Districts WTCS Districts

Fund Sources Affected **Affected Ch. 20 Appropriations**

GPR
 FED
 PRO
 PRS
 SEG
 SEGS
 20.410 (1) (a) and 20.410 (1) (b) OR 20.410 (1) (ab)

Agency/Prepared By	Authorized Signature	Date
DOC/ Cathy Halpin (608) 240-5538	Robert Margolies (608) 240-5056	9/29/2005

Fiscal Estimate Narratives

DOC 9/30/2005

LRB Number	05s0209/1	Introduction Number	SSA1-SB289	Estimate Type	Supplemental
Subject					
Penalties for and supervision of certain sex offenders					

Assumptions Used in Arriving at Fiscal Estimate

This substitute amendment increases the penalties for certain sexual assault offenses against a person involving force or violence, or threat of force or violence. This bill also includes certain sex offenses under the two-strikes law.

INCREASED PENALTIES FOR SEXUAL ASSAULT OFFENSES AGAINST A PERSON INVOLVING FORCE OR VIOLENCE (VICTIM 16 OR OLDER):

This substitute amendment changes a sexual assault offense that involves force or violence, or threat of force or violence, from a 2nd degree sexual assault to a 1st degree sexual assault offense. The penalty would increase from a Class C felony (max of 25 years confinement time and 15 years extended supervision) to a Class B felony (max of 40 years confinement time and 20 years extended supervision).

Data indicates the current average confinement time for a person convicted of 2nd degree sexual assault equals approximately 11 years for new admissions during 2004. [135 months] The average prison time for a person convicted of 1st degree sexual assault is nearly 22 years [261 months] during that same time period. Thus, it is assumed that every offender convicted of this crime could potentially serve an average additional 10.5 years in prison, before being released to extended supervision. Since this increase would be at the latter portion of an offender's sentence, the Department would not see the impact of this change immediately. For every additional year of prison confinement the Department's costs would increase \$26,085 per offender in current dollars. Conversely, if the Department contracted for these beds at the current \$51.46 rate, the annual cost of incarceration would be \$18,783. In CY04 there were 147 persons admitted to prison for 2nd-degree sexual assault. It is assumed that this data is representative of future statistics. Thus, it is estimated that 147 offenders a year will be incarcerated for an additional 10.5 years, and an additional 147 offenders will remain in prison for 10.5 additional years in every subsequent year. Annual costs would increase from \$2,761,100 [contracts] to \$3,834,500 [in state] beginning in the 12th year to \$28,991,400 [contracts] to \$40,262,200 [in state] annually by the 22nd year, for an additional 1,617 offenders who would not otherwise be incarcerated during that period.

INCREASED PENALTIES FOR SEXUAL ASSAULT OFFENSES AGAINST A PERSON AGE 13, 14, OR 15 INVOLVING FORCE OR VIOLENCE:

The bill changes a sexual assault of a child age 13, 14 or 15 that involves the threat or use of force or violence from a second degree sexual assault to a first degree sexual assault of a child, thus increasing the penalty from a Class C felony to a Class B felony.

Available DOC data about registered sex offenders who have been convicted of second degree sexual assault against a child indicates that approximately two-thirds of such offenders have offense patterns that include the threat or use of force or violence.

Offenders admitted to prison in CY04 with a new sentence and convicted of 1st degree sexual assault of a child have been sentenced to serve confinement time averaging approximately 175 months [14.5 years]. There were 123 offenders admitted to prison in CY04 with a new sentence and convicted of 2nd degree sexual assault of a child. These offenders have been sentenced to serve confinement time averaging approximately 84 months [7 years]. If it is assumed that two-thirds of the offenders convicted of 2nd degree sexual assault of a child

threatened or used force, the Department could expect to incarcerate an additional 82 offenders each year beginning in Year 8 for an additional 7.5 years [difference between 14.5 and 7 years] at an annual cost of approximately \$26,085 per offender in current dollars. Conversely, if the Department contracted for these beds at the current \$51.46 rate, the annual cost of incarceration would be \$18,783. Annual costs would increase from \$1,577,800 [contracts] to \$2,139,000 [in state] beginning in Year 8 to \$11,551,500 [contracts] to \$16,042,300 [in state] by Year 15 for an additional 656 offenders who would not otherwise have been incarcerated during that period.

TWO STRIKES:

Under current law, a district attorney can choose to prosecute certain sex offenses against a child under the two strikes law. This would result in a term of life imprisonment with no possibility of early release. Under this bill, this same authority is provided in the case of certain sex offenses against adults. Since the Department is not able to predict how often this will occur, it is not possible to estimate this provision's fiscal impact.

In summary, prison populations could increase by a total of 2,273. This increase will occur gradually over many years as offenders sentenced under the new law begin to serve longer periods of confinement. Total costs in 2005 dollars are estimated to increase to \$40,542,900 [contract] or \$56,304,500 [in state] annually when the full impact of the 2,273 offenders is reached.

Long-Range Fiscal Implications

Growth of prison population by 2,273--\$40,542,900 [contract] or \$56,304,500 [in state] per year.

The prison costs above are based on the current costs of operating existing institutions. It is extremely unlikely that the additional offenders could be absorbed in current institutions. As a result, the Department would either have to build additional prison space or contract out for placement of these offenders.

Constructing additional bed space would likely require \$120 million in capital costs in current dollars, or approximately \$9.8 million in annual debt service payments.

The cost of contracting in the future is also unknown, as the Department's current contract for out-of-state beds expires at the end of 2005. Therefore, it is unlikely the current rate of \$51.46 can be maintained in the future.