

Fiscal Estimate - 2005 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 05-4542/1	Introduction Number SB-575	
Description Applying cash deposited for bail to restitution payments or to recompense ordered in criminal cases		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input checked="" type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input checked="" type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory		
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input checked="" type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
Agency/Prepared By SPD/ Mike Tobin (608) 266-8259	Authorized Signature Krista Ginger (608) 264-8572	Date 2/7/2006

Fiscal Estimate Narratives

SPD 2/7/2006

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Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) provides legal representation in criminal cases and other specified proceedings in which the loss of personal liberty or parental rights may occur. For adult clients, the SPD must complete a financial eligibility evaluation before appointing an attorney. SPD services are constitutionally required because in the case types handled by SPD, a defendant without the financial means to hire an attorney has the right to have an attorney appointed. Therefore, any bill that would increase the number of cases handled by SPD would increase SPD costs.

This bill neither establishes a new crime nor increases penalties.

Nonetheless, it may increase costs to the justice system indirectly. This bill mandates that money posted as cash bail is first distributed to crime victims to satisfy restitution obligations, thus changing the current law that mandates use of this money to pay court fines and costs.

The amount of restitution is often difficult to establish in a criminal case. Examples of the issues that arise are causation (did defendant's conduct cause all, or only part, of the loss claimed?), value (what was the value of the property before and after the damage?), insurance coverage (should restitution go directly to the victim or to the insurer that already paid an insurance claim?), and joint liability (are other defendants also responsible for restitution?). Thus, courts sometimes defer determination of the amount of restitution until after other issues in the case are resolved.

This bill may increase the number of cases in which contested restitution hearings are held, and some of these hearings may occur before all relevant information is available. These hearings would likely add to SPD workload and cost in cases in which the SPD has appointed counsel for the defendant.

It is also likely that the state, cities, and counties will see a decrease in revenue because cash bail will not be available in as many cases (and/or in the same amount) once restitution has been deducted. The effect on the cities and counties is likely in cases that are reduced from criminal charges to municipal and county ordinances.

Long-Range Fiscal Implications