

Fiscal Estimate Narratives

DOC 6/16/2011

LRB Number	11-1116/4	Introduction Number	AB-0173	Estimate Type	Original
Description Local ordinances, determining the lawful presence of a person arrested for or charged with a crime or certain civil violations, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

This bill requires a law enforcement officer to have a federal agency, or a person authorized by a federal agency, determine whether a person who is arrested for or charged with a crime or civil violation is lawfully present in the state if the officer has reasonable suspicion that the person is not lawfully present. This bill allows an individual to be detained in secure custody up to 48 hours to allow the person to obtain appropriate documentation to prove lawful presence. If an individual is unable or unwilling to produce required documentation to prove lawful presence then the individual must be securely transported to a federal immigration or border patrol agency. Transportation to a federal immigration or border patrol agency can happen prior to the person being tried for a crime or, if the person is convicted of a crime, after the person's discharge from jail or prison. The individual may be released if they can produce the required documentation to prove lawful presence in the state.

This bill allows for counties to seek reimbursement for jail costs from a person held in secured custody because they could not provide proof of lawful presence. This bill prohibits political subdivisions from enacting ordinances that would prohibit employees from inquiring about lawful presence when requesting public services and notifying the federal agency of the presence of aliens who are not lawfully present in the state. This bill also allows a citizen to petition for a writ of mandamus to require compliance of these laws by a political subdivision (county, town, city or village) and provides a penalty for political subdivisions who have failed to comply.

Currently, 2% of the DOC prison population as of June 14, 2011 are identified as undocumented persons, or who the bill refers to as "illegal aliens". These individuals, upon completion of their sentence, would require transport by a law enforcement officer to a federal immigration or border patrol agency. The immigration detention locations in Wisconsin are located in Kenosha (Kenosha County Detention Center) and Juneau (Dodge Detention Facility). We are unable to estimate the cost of transportation of these individuals to a federal immigration or border patrol agency.

This bill will increase costs to local law enforcement agencies and jails. The cost of securely detaining an individual in a local jail while they obtain proof of lawful presence would be \$51.46 per day (contract bed rate counties charge DOC to house inmates at a local facility) and can be held up to 48 hours. We are unable to estimate the number of individuals requested to prove lawful presence and subsequently placed in secure custody. Local law enforcement agencies would be required to securely transport any individuals unable to prove lawful presence to a federal immigration or border patrol agency. We are unable to estimate the cost of transportation of these individuals to a federal immigration or border patrol agency.

The county may seek reimbursement for expenses incurred in relation to holding a person in secured custody. Since the individual was deemed not to be lawfully present in the state, it is unlikely that reimbursement will occur unless the person has been determined to be able to pay. Under this bill, the local jailer must provide data and assist the district attorney or corporation counsel in determining if reimbursement from an individual is possible.

Local costs if courts find a political subdivision noncompliant with this legislation is unable to be estimated.

Long-Range Fiscal Implications