

Fiscal Estimate Narratives

DOJ 1/26/2012

LRB Number	11-3619/1	Introduction Number	SB-350	Estimate Type	Original
Description Increased penalty for repeated domestic abuse offenses and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Under s. 939.621, if a person commits an act of domestic abuse, as defined in s. 968.075(1) (a) and the act constitutes the commission of a crime, the maximum term of imprisonment for that crime may be increased by not more than 2 years if the crime is committed during the 72 hours immediately following an arrest for a domestic abuse incident, as set forth in s. 968.075 (5). The penalty increase under this section changes the status of a misdemeanor to a felony.

2011 Senate Bill 350 expands s. 939.621 so that the same penalty increase from a misdemeanor to a felony applies if a person who was convicted, on 2 separate occasions, of a felony or a misdemeanor for which a court imposed a domestic abuse surcharge under s. 973.055(1) or waived a domestic abuse surcharge pursuant to s. 973.055 (4), during the 10-year period immediately prior to the commission of the crime for which the person presently is being sentenced, if the convictions remain of record and unreversed.

While most felony prosecutions are handled by district attorneys, assistant attorneys general in the Department of Justice's Criminal Litigation Unit on occasion act as special prosecutors throughout Wisconsin at the request of district attorneys. In addition, the Department of Justice's Criminal Appeals Unit represents the State of Wisconsin in defending felony convictions when those convictions are challenged in state or federal court. Under Wisconsin law, this unit is charged with preparing briefs and presenting arguments in front of any state appellate or federal court hearing a challenge to a felony conviction.

Since SB 350 broadens the type of activity that can be prosecuted as a felony, it is possible that the enactment of the bill could result in an increased caseload for the department's Criminal Litigation and Criminal Appeals units. The department is not certain how many new felony cases it may handle due to the enactment of SB 350. If the number of new cases DOJ is asked to prosecute, or DOJ is required to handle on appeal, is significant, the department will need additional resources to handle its increased caseload.

Long-Range Fiscal Implications