

Fiscal Estimate - 2013 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 13-2873/1	Introduction Number AB-0780	
Description Eliminating voluntary intoxication as a defense to criminal liability		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </div> </div>		
Local: <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 30%;"> 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 30%;"> 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts </div> </div>		
Fund Sources Affected Affected Ch. 20 Appropriations <input 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 DOC/ Robin Walrath (608) 240-5422	Authorized Signature Melissa Roberts (608) 240-5055	Date 2/24/2014

Fiscal Estimate Narratives

DOC 2/24/2014

LRB Number	13-2873/1	Introduction Number	AB-0780	Estimate Type	Original
Description Eliminating voluntary intoxication as a defense to criminal liability					

Assumptions Used in Arriving at Fiscal Estimate

Under current legislation, if a person is in an intoxicated or drugged condition when they are alleged to have committed a crime, the condition is a defense to criminal liability if: 1) the person was involuntarily intoxicated or drugged and rendered incapable of distinguishing between right and wrong; or 2) the person's condition, whether voluntary or involuntary, made it impossible to have intent to commit the crime. Current criminal recklessness legislation renders voluntary intoxication an ineffective defense to criminal liability in the circumstance that had the actor not been in that condition, they would have been aware of creating an unreasonable and substantial risk of death or great bodily harm. Under proposed legislation, voluntary intoxication is eliminated as a defense.

It is difficult to determine a potential fiscal impact experienced by the Department for the elimination of voluntary intoxication as a defense to criminal liability. The current statutory provision rendering voluntary intoxication an ineffective defense was not utilized to sentence a DOC prisoner or community supervision offender in FY13. Since no additional penalty is provided for voluntary intoxication within the proposed legislation, and the proposed legislation exists as an element of crime, it is not clear to what extent, or whether, this provision would affect the outcomes of criminal proceedings. If the provision did indeed increase felony convictions, the Department's cost would increase.

The average FY13 annual cost for an inmate in a DOC institution is approximately \$32,100. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$5,400 based on FY13 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person.

State costs could change if an increased number of offenders are convicted as a consequence of this element of crime and placed on probation. The average FY13 annual cost to supervise one offender is approximately \$2,700. County jails could also experience increased costs, as offenders may be sentenced to jail as a condition of probation.

Long-Range Fiscal Implications