

Fiscal Estimate Narratives

CTS 6/10/2013

LRB Number	13-1983/1	Introduction Number	SB-179	Estimate Type	Original
Description Miscellaneous provisions related to rental and vehicle towing practices and eviction proceedings, prohibitions on enacting ordinances that place certain limitations or requirements on landlords, providing an exemption from emergency rule procedures, granting rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

This bill makes numerous changes to the statutes governing the relationship between landlords and tenants, primarily residential tenancies. The portions of the bill that most directly impact the court system are the portions dealing with eviction actions.

The bill would affect eviction actions in the following ways: (1) it would authorize service of the summons and complaint by mail; (2) it would require a return date (initial appearance) of not less than 5 days nor more than 20 days, down from a current maximum number of days of 30 days; (3) it would require the court to set a hearing within 20 days of the date of the initial appearance, down from the current requirement of 30 days; and (4) it would require issuance of a writ of assistance within 5 days after a court enters judgment.

In calendar year 2012, there were 28,533 eviction actions filed in the circuit courts of Wisconsin. This total includes 32 cases filed against tenants who were being evicted because the property which they rented was being foreclosed upon, and the eviction action was filed pursuant to the former s. 704.35 and 846.35, Stats., which were repealed by 2011 Wisconsin Act 32. Of these eviction actions, 24,962 were uncontested and 3,571 were contested actions. Of the contested cases disposed of, approximately a third were dismissed before trial (which could include some cases that were settled between the parties), another third resulted in a default or uncontested judgment and the final third resulted in a court trial (i.e. no jury).

It is impossible to determine whether this bill's provisions, particularly the shortened time periods for return dates and hearings, will result in increased or decreased workload changes for the circuit courts. The primary responsibility for noticing and scheduling of return dates and hearings falls to the Clerk of Circuit Court. The shorter time periods could result in eviction actions being processed and concluded more quickly, although it would appear the clerk's workload would remain the same because he or she would be required to perform the same notice and schedule functions as under current law. If the shorter time periods result in scheduling difficulties, including the need to reschedule court dates, then it is possible the clerk's workload could increase.

The bill may also require courts in smaller population counties to change their current court schedules in order to comply with the shortened time periods. In less populous counties, small claims court (which would include eviction actions) is sometimes only held on a weekly or biweekly basis. It is not known whether this change would impact the efficiency of the use of the court's time.

Because of the volume of eviction actions filed in a year, there could be workload impacts – either greater workload or lesser workload -- on the court system if this bill results in a substantial change of behavior among parties involved in eviction actions. It is impossible to determine how behavior of the parties might change as a result of this bill. The following information is provided to give some guidance on the current workload generated by eviction actions.

To determine the impact on required judicial resources of eviction actions, we have relied on the Judicial Needs Assessment 2006, submitted to the Director of State Courts by the National Center for State Courts. For this study, all Wisconsin judges and court commissioners participated in a time study designed to measure the time currently spent processing different types of cases from initial filing to final resolution. Among the case types studied were uncontested cases and contested small claims cases (which would include eviction cases that result in a trial). According to the study, uncontested cases took 4.3 minutes of judicial time, while contested small claims cases took 99.3 minutes of judicial time.

Long-Range Fiscal Implications