



## Fiscal Estimate Narratives

DOC 6/8/2015

LRB Number	15-2439/1	Introduction Number	AB-0259	Estimate Type	Original
<b>Description</b> Competency determination hearings and commitment					

### Assumptions Used in Arriving at Fiscal Estimate

Under current law, if at a competency hearing a court determines that a defendant is not competent but is likely to become competent within the shorter of 12 months or the maximum sentence for the most serious offense with which he or she is charged, the court must commit the defendant for treatment for a period not to exceed 12 months, or the maximum sentence for the most serious offense with which he or she is charged, whichever is shorter.

This bill proposes that a defendant charged with a serious felony or a serious child sex offense must instead be committed for treatment until the defendant becomes competent or for the duration of the maximum sentence for the most serious offense with which he or she is charged, whichever is shorter.

The Department of Corrections (DOC) has a policy to address the placement of individuals who are concurrently serving a criminal sentence and are committed under Chapter 971 statutes (including 971.14, regarding competency proceedings) for mental health services. Under this policy, if a court orders a competency to stand trial evaluation and finds the defendant not competent and in need of treatment to competency, the defendant is transferred to the appropriate Department of Health Services (DHS) mental health facility or the Wisconsin Resource Center (administered by DHS in partnership with DOC).

As this bill could expand the length of commitment for treatment to competency for some defendants beyond the 12 month maximum period under current law, it could increase how long some defendants who are also currently serving separate criminal sentences are transferred out of correctional institutions to mental health facilities for treatment. Any increase in how long an inmate remains outside DOC facilities would temporarily decrease the cost to DOC of housing the inmate.

The DOC is unable to estimate the state fiscal effect of this bill, as it is unable to estimate how many individuals will be subject to its provisions, nor how the revised treatment commitment requirement will affect the length of transfers of current and future inmates from DOC institutions to DHS facilities for treatment.

While it is not possible to estimate the overall effect of the revised treatment requirement, any change in the prison population will have a financial effect on the DOC. The average FY14 annual cost for an inmate in a DOC institution is approximately \$32,800. 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 \$5,700 based on FY14 costs. Should DOC use contract beds, the rate would be approximately \$18,800 annually per person.

### Long-Range Fiscal Implications