

Fiscal Estimate - 2015 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 15-3215/1	Introduction Number AB-0395
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Description Lethal violence protective temporary restraining orders and injunctions and providing a criminal penalty
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Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Decrease Existing Revenues
<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Decrease Existing Revenues
<input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No	
Local:	
<input type="checkbox"/> No Local Government Costs	<input type="checkbox"/> Increase Revenue
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Revenue
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
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	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG 20.550	

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

SPD 10/15/2015

LRB Number	15-3215/1	Introduction Number	AB-0395	Estimate Type	Original
Description Lethal violence protective temporary restraining orders and injunctions and providing a criminal penalty					

Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal and certain commitment proceedings. The SPD plays a critical role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill creates a lethal violence protective temporary restraining order and a lethal violence protective injunction. Upon receiving a petition filed by a law enforcement officer or a family or household member of the respondent, a court shall issue a temporary restraining order (TRO) prohibiting the respondent from possessing a firearm and ordering the respondent to surrender all of his or her firearms if the court finds reasonable grounds to believe that the respondent is substantially likely to injure himself or herself or another person if the respondent possesses a firearm. At the injunction hearing, the court may grant a lethal violence protective injunction ordering the respondent to refrain from possessing a firearm if the court finds reasonable grounds to believe that the respondent is substantially likely to injure himself or herself or another person if the respondent possesses a firearm. A lethal violence protective injunction is effective for one year and may be renewed for additional one-year terms. Any person who is subject to a lethal violence protective injunction may petition no more than once a year to vacate the injunction. A person who possesses a firearm while subject to a lethal violence protective TRO or injunction is guilty of a Class G felony. In addition, a person who files a petition for a lethal violence protective TRO or injunction, knowing the information in the petition to be false or with the intent to harass, is subject to a fine of up to \$10,000 and imprisonment for up to nine months or both.

It is possible that given the impact of this bill to reduce criminal charges, the SPD will see an increase in the number of cases in which it provides representation. We are unable, however, to quantify the number of cases that might not occur due to the provisions in the bill. The SPD's average cost to provide representation with a private bar attorney in a felony case was \$551.02 in fiscal year 2014.

This bill could also have a fiscal impact on counties. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications