

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-5131/1	Introduction Number AB-0775
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Description
 sentencing for crimes committed by a person who is under the age of 18

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate
 Increase Existing Appropriations
 Increase Existing Revenues
 Increase Costs - May be possible to absorb within agency's budget
 Decrease Existing Appropriations
 Decrease Existing Revenues

 Yes No
 Create New Appropriations

 Decrease Costs

Local:

No Local Government Costs
 Indeterminate

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	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	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
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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 DA/ Kasey Deiss (608) 267-2700	Authorized Signature James Langdon (608) 264-6109	Date 1/29/2020
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Fiscal Estimate Narratives

DA 1/29/2020

LRB Number	19-5131/1	Introduction Number	AB-0775	Estimate Type	Original
Description sentencing for crimes committed by a person who is under the age of 18					

Assumptions Used in Arriving at Fiscal Estimate

This fiscal estimate is submitted by the Director of the State Prosecutors Office on behalf of Agency 475 – District Attorneys. This fiscal estimate is responsive only to the fiscal and resource effect of the proposed legislation on the District Attorney program.

This bill creates a sentence adjustment procedure for a “youthful offender,” defined under the bill as a person who committed a crime before he or she turned 18 years old. This bill also prohibits a court from sentencing a youthful offender to life imprisonment without the possibility of parole or release to extended supervision, and creates new mitigating factors in the sentencing criteria when sentencing a youthful offender. Finally, this bill eliminates statutory mandatory life sentences without parole for youthful offenders in order to align with federal constitutional law.

Under current law, an inmate can petition to reduce the confinement portion of his or her bifurcated sentence after serving a certain proportion of the sentence. An inmate who is serving a life sentence can petition to be released to extended supervision or parole after serving at least 20 years of his or her sentence or after another date set by the sentencing court. This bill creates a new procedure for a youthful offender, including a youthful offender who is serving a life sentence, to receive a sentence adjustment after serving 15 years of his or her sentence. Under the bill, one year before the inmate is eligible to petition for the sentence adjustment, the Department of Corrections is required to notify the youthful offender of his or her eligibility. The court may reduce the term of imprisonment for the youthful offender and may modify the conditions of parole or extended supervision if the court determines that the interests of justice warrant a reduction, taking into account the factors enumerated in the bill. If the court denies the petition under the bill, the youthful offender may petition again every five years, up to five times. Under the bill, DOC is required to send a notice to all youthful offenders who have served at least 14 years of their sentences within six months after the bill takes effect.

Under current law, when a court makes a sentencing decision, it must consider certain guidelines, including whether there were any aggravating factors present. Under this bill, when a court is sentencing a youthful offender, it must also consider mitigating factors related to the age and maturity of the youthful offender. These sentencing guidelines for youthful offenders take effect retroactively under the bill, meaning that they apply to any conviction for which sentencing has already occurred.

Under current law, if a person is convicted of a serious felony on three separate occasions or a serious child sex offense on two separate occasions, the person is subject to a mandatory life sentence without the possibility of parole or extended supervision. However, in *Miller v. Alabama*, 567 U.S. 460 (2012), the U.S. Supreme Court held that imposing a mandatory life sentence without parole for a juvenile constitutes cruel and unusual punishment and therefore violates the eighth amendment of the Constitution. This bill clarifies that the statutory mandatory sentence of life imprisonment without the possibility of parole or extended supervision for repeat offenders does not apply to youthful offenders. This bill also prohibits a court from imposing a life sentence without the possibility of parole or extended supervision for a youthful offender. These changes to sentencing also apply retroactively under the bill.

District Attorneys predicted an increased fiscal impact on their offices resulting from this legislation. Of particular concern was the provision that introduces new sentencing criteria for juveniles and makes that sentencing criteria retroactively applicable to cases previously adjudicated. This provision of the bill would likely result in a surge of new sentencing hearings for individuals previously convicted of offenses as juveniles.

Long-Range Fiscal Implications

District Attorneys predicted increased long-range expenses and resource use for their offices resulting from this legislation.