

LRB or Bill No./Adm. Rule No.

LRB1428/2

AB 3

Amendment No. if Applicable

ORIGINAL  UPDATED

**FISCAL ESTIMATE**

CORRECTED  SUPPLEMENTAL

DOA-2048 N(R10/98)

**Subject**

Recommendations of the Criminal Penalties Study Committee

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local:  No local government costs

- 1.  Increase Costs
  - Permissive  Mandatory
- 2.  Decrease Costs
  - Permissive  Mandatory

- 3.  Increase Revenues
  - Permissive  Mandatory
- 4.  Decrease Revenues
  - Permissive  Mandatory

5. Types of Local Governmental Units Affected:
- Towns  Villages  Cities
  - Counties  Others \_\_\_\_\_
  - School Districts  WTCS Districts

**Fund Sources Affected**

GPR  FED  PRO  PRS  SEG  SEG-S

**Affected Ch. 20 Appropriations**

ss.20.550 (1) (b), (c), (d)

**Assumptions Used in Arriving at Fiscal Estimate**

This bill incorporates the recommendations of the Criminal Penalties Study Committee. The following specific provisions included in the bill would increase costs to the State Public Defender's Office (SPD): 1) changing certain crimes from misdemeanors to felonies; 2) having the court determine the length of time an offender will serve in prison after revocation of the offender's extended supervision; and 3) permitting certain older prisoners to petition the court for a modification of his or her bifurcated sentence.

Specifically, the bill changes the crimes of stalking, criminal damage to railroad property, possession of a firearm in a school and discharge of a firearm in a school from misdemeanors to felonies. This will increase costs to the SPD because felony cases are more expensive than misdemeanor cases.

Having the court determine the length of time an offender will serve in prison after revocation of the offender's extended supervision will increase costs to the SPD because an attorney will have to appear in court for this determination. (Under current law, the court does not determine the length of time an offender will serve in prison after revocation of his or her parole. Rather, the administrative law judge determines the length of time the offender will serve in prison after revocation of the offender's parole.)

Permitting certain older prisoners to petition the court for a modification of his or her bifurcated sentence will increase costs to the SPD because the SPD will represent such prisoners. These will be new cases for the agency. Because a prisoner cannot file such a petition until he or she has served at least 5 or 10 years of the sentence (depending on the prisoner's age), the costs for this provision will not affect the SPD until at least 5 years from the time that this provision would go into effect.

It should be noted that, under truth in sentencing, the SPD expects to handle more cases involving revocation of an offender's extended supervision. That is, because the time that an offender is on extended supervision will likely be longer than the time that an offender is on parole under current law, the number of revocations will likely increase. Also, because the Criminal Penalties Study Committee has recommended that extended supervision revocation hearing be completed faster than parole revocation hearings currently are, the SPD may need additional staff, such as paralegals, to assist in preparing for these hearings. The cost of adding paralegal staff would be \$37,868 per year per paralegal (includes salary and fringe). (As comparison, the cost of adding attorney staff, including salary and fringe, would be \$50,547 per year per attorney.)

Also, the SPD expects to incur costs associated with training its staff and the SPD certified private bar on the new law. Such training would be ongoing as sentencing guidelines are created for additional crimes or changed for the crimes for which the committee has already recommended guidelines.

Finally, the SPD may incur costs as a result of spending more time on felony cases under the new law and may incur more costs depending on the order in which penalty enhancers will be imposed. More time will be spent advising clients about the consequences under the new law and figuring out the sentencing guidelines.

**Long-Range Fiscal Implications :** Total costs per year are indeterminable at this time. Agency will monitor fiscal effect for future budget considerations.

Agency/Prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

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1/23/01