

Fiscal Estimate Narratives
DOC 3/5/2008

LRB Number	07-3260/2	Introduction Number	SB-401	Estimate Type	Original
Description Defining the age at which a person who is alleged to have violated a criminal law, a civil law, or a municipal ordinance is subject to circuit court or municipal court rather than juvenile court jurisdiction, imposing a fee on the sale of video games and video gaming devices, and making an appropriation.					

Assumptions Used in Arriving at Fiscal Estimate

This bill increases from 17 to 18 the age at which a person would be subject to procedures and sentencing outlined in the adult criminal code. There would still remain the ability for courts to waive a person under the age of 18 into adult court, and juveniles alleged to have committed certain crimes would be under the original jurisdiction of the adult court for criminal proceedings. This bill also imposes a fee on the sale of video games and video gaming devices at the rate of 1% of gross receipts from such sales. These funds would be appropriated to the Department of Corrections (DOC) who would be required to allocate the funds to counties through the Youth Aids Program to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services.

This change would mean that most 17 year olds currently admitted to county jails, state prisons, probation, or parole would instead be admitted to county secure detention facilities, state juvenile correctional institutions (JCI), or juvenile supervision provided by either the county or state. A 17 year old alleged to have attempted or committed first degree intentional homicide or committed second degree intentional homicide, first degree reckless homicide, or assault and/or battery to staff while in a juvenile correctional institution, juvenile detention facility or a secured residential care center, and/or battery to a probation & parole agent while on supervision would be under the original jurisdiction of the adult court.

The Office of Justice Assistance's publication Wisconsin Adult Jail Populations – 2003 included information on the number of 17 year old admissions to county jails during 2002 and 2003. In 2002, 57 jails reported 13,868 admissions of 17 year olds and in 2003, 47 jails reported 11,075 admissions. If these 17 year olds were considered juveniles in criminal proceedings, an unknown number would be placed in secure detention facilities (e.g. for predisposition custody or short-term sanctions) instead of in jails. County jails and secure detention facilities are funded with county dollars. The cost to house a juvenile in a secure detention facility ranges from \$140 to \$215 per day while the cost to house an adult in a county jail is about \$50 per day. Only 16 counties operate secure detention facilities, while 71 counties operate jails. Several of the 16 counties are routinely at or near capacity in their secure detention facilities. Therefore, this bill will require most counties to either transport 17 year olds to other counties in order to find available beds, resulting in increased transportation costs, or to build or expand their own facilities.

During CY07, there were 107 offenders admitted to state prison who were 17 years old at the time of their offense. While this bill would likely cause a population shift from adult prisons to JCIs, it is not possible to determine the precise number.

The FY07 per capita annual cost to house an inmate in a state prison was approximately \$29,600. This figure reflects all expenditures for operating a prison (i.e. staff, fuel and utilities, supplies and services etc.) However, when there are small to moderate changes in the inmate population it is the per capita variable or incremental costs that are affected (i.e. food, health care and clothing). In FY07 these costs were \$4,800/year per inmate. If the population change affects the need for contract beds, these costs are \$18,800 annually per person.

If 100 additional juveniles were added to JCIs, it is anticipated that annual JCI expenditures would increase by an estimated \$4,900,000 and an additional 67 FTE would be needed. An increase of 200 juveniles would increase expenditures an estimated \$9,700,000 and would require an additional 133 FTE. An increase of 300 juveniles would increase JCI expenditures by at least \$15,800,000 and an additional 219 FTE would be needed. Assuming expenditure levels at the amounts budgeted for FY09, increasing the JCI populations would result in a reduction in the daily rate charged to counties from \$268 to an estimated \$249 with 100 additional juveniles in JCIs, \$234 with 200 additional juveniles in JCIs, and \$220 with 300 additional

juveniles in JCI.

Because DOC adult institutions are operating above their operating capacity, there would not be a corresponding decrease in adult institution per capita costs. Assuming the Department would save only variable costs in adult institutions, these costs would decrease \$480,000 with a 100-person reduction in adult prison populations, \$960,000 with a 200-bed reduction and \$1,440,000 with a 300 person reduction in adult prison populations. If the Department is able to reduce the number of contract beds, the savings would be greater.

In addition to a change in where incarcerated 17 year olds would be housed, there would be a change in how 17 year olds would be supervised while on probation and parole. Currently, all adults under community supervision are supervised with state GPR funds and state employees. Counties do all the supervision for juveniles who would be considered to be on probation in the adult correctional system. The only state supervision of people under 17 is for a very small number of juveniles placed on state aftercare or state corrective sanctions once they have completed a stay in a JCI. Currently, 23 counties contract for state aftercare of their juveniles once they have completed a stay in a JCI.

During CY07, 2,115 offenders were placed on probation who were 17 years old at the time of their offense. As with state prison populations, it is not possible to determine the number of 17 year olds that would be affected by this bill. The FY07 annual per capita cost to supervise an adult on probation or parole was \$2,200 and a juvenile on state aftercare supervision was \$18,200. The cost for county supervision of a juvenile is lower than state aftercare, and varies from county to county. The estimated cost for counties to supervise and provide services to a juvenile is \$6,500 to \$10,000 annually.

Courts may also order a variety of other juvenile dispositions including out-of-home care. Foster Care placements are approximately \$70 per day, while Residential Care Centers typically exceed \$280 per day. As with other dispositional options, we are not able to determine the cost to counties for out-of-home care placements of 17-year-old offenders if they were returned to the juvenile system.

It is not possible to determine how courts would decide to sentence 17 year olds under this bill. The courts would be able to waive 17 year olds to adult court, and 17 year olds alleged to have committed certain offenses would be under the original jurisdiction of adult court as per Wis. Stat 938.183. A review of offenders who were 17 when they committed their offense, showed 6 inmates were admitted to prison in CY07 for offenses which under current statutes give juveniles original adult court jurisdiction (these offenses include first degree intentional and reckless homicide). Even though some 17 year olds would end up in adult prison as a result of being waived or having committed a serious crime with original adult court jurisdiction, it is likely there would be a reduction in county jail, state prison, and state adult community supervision populations as a result of this bill. This could result in a reduction to state GPR costs.

However, an increase in the populations of secure detention facilities, state juvenile correctional institutions, and state and county juvenile supervision populations would result in an increase to state PR costs, state PR FTE, and county costs to pay for the higher costs associated with housing and supervising more juveniles.

The bill also would add a fee on video games which would be appropriated to a new appropriation Wis. Stat 20.410(3)(h) Video games fee; community youth and family aids. Since revenues for this appropriation would fluctuate depending on the annual sales of video games and video gaming devices, the amount of funding that would be allocated to counties would also fluctuate annually, making it difficult for the state or counties to project the amount of money they would be receiving in their annual youth aids allocation. In addition, the bill does not provide a mechanism for allocating these new funds, which is necessary in order for DOC to properly determine how much each county would receive.

Long-Range Fiscal Implications