

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11-2027/2	Introduction Number SB-090	
Description Carrying a concealed weapon; licenses authorizing persons to carry concealed weapons; possessing or transporting a firearm, bow, or crossbow under certain circumstances; disorderly conduct limitations; photographic identification cards for former law enforcement officers; providing an exemption from emergency rule procedures; requiring the exercise of rule-making authority; making appropriations; and providing penalties		
Fiscal Effect		
State:		
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input checked="" type="checkbox"/> Decrease Costs		
Local:		
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5.Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input checked="" type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected		
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
Affected Ch. 20 Appropriations		
Agency/Prepared By SPD/ Megan Christiansen (608) 267-0311	Authorized Signature Adam Plotkin (608) 264-8572	Date 5/18/2011

Fiscal Estimate Narratives

SPD 5/18/2011

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Description Carrying a concealed weapon; licenses authorizing persons to carry concealed weapons; possessing or transporting a firearm, bow, or crossbow under certain circumstances; disorderly conduct limitations; photographic identification cards for former law enforcement officers; providing an exemption from emergency rule procedures; requiring the exercise of rule-making authority; making appropriations; and providing penalties					

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 major 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. Conversely, legislation has the potential to decrease SPD costs if it repeals a criminal offense, limits the definition of an existing criminal offense, or decreases the penalties for an existing offense.

This bill would repeal the current law misdemeanor offense of going armed with a concealed and dangerous weapon. In FY10, the SPD provided representation in concealed carry cases: 416 in adult court, and 52 in juvenile court.

The SPD's average cost to provide representation with a private bar attorney in a misdemeanor case is \$219.07, calculated on the basis of the SPD's average cost per case in fiscal year 2010. The SPD's average cost to provide representation in a juvenile proceeding appointed to private bar attorneys was \$204.94 for the same fiscal year.

Based on FY10 appointments, we would expect enactment of this bill to decrease SPD expenses by \$101,800 annually.

This bill also creates three new misdemeanor crimes: 1) for carrying a concealed weapon in a place prohibited by the bill; 2) for intentionally failing to relinquish a license to DOJ after its revocation; and 3) for intentionally representing an invalid concealed carry license as valid; for selling, lending or allowing another to use one's license; for representing that a license issued to another was issued to oneself; for permitting unlawful use of one's license; for reproducing a license for unlawful purposes; or for altering a license. The SPD has no data to predict the number of additional cases that would result from these new misdemeanors. As noted above, the SPD's average cost to provide representation with a private bar attorney in a misdemeanor case is \$219.07, calculated on the basis of the SPD's average cost per case in fiscal year 2010.

This bill also expands the definition of the Class H felony of false swearing to include intentionally making a false statement in an application for a license to carry. The SPD has no data to predict the number of additional felony cases that would result from this change. The SPD's average cost to provide representation with a private bar attorney in a felony case is \$591.40, calculated on the basis of the SPD's average cost per case in fiscal year 2010.

Because probation can be ordered in lieu of incarceration for the current law misdemeanor, this change could indirectly lead to fewer cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill could indirectly decrease the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2010 for SPD representation by a private bar attorney in a revocation proceeding was \$366.09.

Counties may also reduce costs when a crime is repealed. 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. Thus, the counties would experience decreased costs

resulting from this bill. The counties could also experience lower costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications