

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11-1757/1	Introduction Number SB-054
-----------------------------	--

Description
 Certain controlled substances and providing a penalty

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs	5. Types of Local Government Units Affected	
<input checked="" type="checkbox"/> Indeterminate	<input checked="" type="checkbox"/> Increase Revenue	<input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Village <input checked="" type="checkbox"/> Cities
1. <input checked="" type="checkbox"/> Increase Costs	<input checked="" type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	<input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others
<input type="checkbox"/> Decrease Costs	2. <input type="checkbox"/> Decrease Revenue	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<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	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

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"/> SEGS	

Agency/Prepared By SPD/ Megan Christiansen (608) 267-0311	Authorized Signature Adam Plotkin (608) 264-8572	Date 4/6/2011
---	--	-------------------------

Fiscal Estimate Narratives

SPD 4/6/2011

LRB Number	11-1757/1	Introduction Number	SB-054	Estimate Type	Original
Description Certain controlled substances and providing a 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 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.

This bill would create two new misdemeanor crimes and four new felony crimes, all related to possession, manufacture or delivery of synthetic cannabinoids or stimulant substances.

The SPD has no data to predict the number of additional misdemeanor and/or felony cases that would result from the changes proposed in this bill. 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 per felony appointed to private bar attorneys was \$533.85 for the same fiscal year.

Because probation or prison could be ordered upon conviction for the proposed felony crimes, this change would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. Probation is also an option for misdemeanor cases; however, a felony case may result in a longer term of probation. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill would indirectly increase 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.

Because of the annual caseloads for staff attorney positions specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

Counties are also subject to increased costs when a new crime is created. 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 increased costs attributable to the higher classification of criminal charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing. However, this bill also permits a county or municipality to pass an ordinance providing a forfeiture for a first violation of possession of a synthetic cannabinoid, which could result in additional revenue at the local level.

Long-Range Fiscal Implications