

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11-1854/1	Introduction Number SB-127
Description Aggravating factors for a court to consider when sentencing persons	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease 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 type="checkbox"/> Decrease Costs
Local:	
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate	
1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" 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 checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <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 20.550(1)(d)	
Affected Ch. 20 Appropriations	
Agency/Prepared By	Authorized Signature
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Date	
6/17/2011	

Fiscal Estimate Narratives
SPD 6/17/2011

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Description Aggravating factors for a court to consider when sentencing persons					

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.

Although this bill would not create a new crime, it would create a new aggravating factor, if the crime involved an act of domestic violence and was committed in the presence of a child, that must be considered by the sentencing court. The potential for longer periods of imprisonment resulting from this new aggravating factor could increase the complexity, and resulting cost, of providing representation; however that incremental cost cannot be quantified, as the SPD does not have data to determine the number of cases in which this aggravating factor would apply.

The SPD would experience increased costs for an indeterminate number of misdemeanor and/or felony battery case under this bill. The SPD's average cost to provide representation with a private bar attorney in a misdemeanor case was \$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 \$591.40 for the same fiscal year.

Because longer terms of probation or prison could be ordered upon conviction for these crimes than under current law, this change would indirectly lead to additional 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 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 increased complexity of some cases resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications