

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11-0051/1	Introduction Number AB-0136	
Description Mandatory minimum sentences and extended supervision eligibility for persons who commit certain crimes against children 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 checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <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 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input checked="" 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 type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
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Fiscal Estimate Narratives

SPD 5/25/2011

LRB Number	11-0051/1	Introduction Number	AB-0136	Estimate Type	Original
Description Mandatory minimum sentences and extended supervision eligibility for persons who commit certain crimes against children 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.

Although this bill would not create a new crime, it would increase mandatory prison time for certain crimes committed against children, as described in the following paragraphs. The potential for longer periods of imprisonment would increase the complexity, and resulting cost, of providing representation; however that incremental cost cannot be quantified, as the SPD does not have data regarding the number of cases that would be affected by the changes and/or by what extent.

This bill would reclassify the current Class B felony, which is subject to a term of imprisonment of 60 years, of having sexual intercourse with a child under twelve years of age to a Class A felony, subject to life imprisonment. In fiscal year 2010, the SPD provided representation in 295 cases which would be affected by this provision. The bill would also remove the possibility for extended supervision for that crime, as well as for the Class A felony of having sexual intercourse or sexual contact with a child under thirteen that results in great bodily harm. In fiscal year 2010, the SPD provided representation in a total of 324 cases which would not have been eligible for extended supervision under this provision.

Additionally, this bill would remove the possibility for extended supervision for Class A intentional homicides in which the victim was under age eighteen. In fiscal year 2010, the SPD provided representation in 110 Class A intentional homicide cases; however, the age of the victims is not readily available, so the portion of these cases subject to this change is not known.

Finally, this bill increases the mandatory minimum prison term for persons over 18 possessing child pornography from three to twelve years. In fiscal year 2010, the SPD provided representation in 15 such cases.

As noted above, the potential for longer periods of imprisonment in these provisions could increase the complexity, and resulting cost, of providing representation; however that incremental cost cannot be quantified.

But, the provisions eliminating the possibility for extended supervision in life sentences would likely lead to a reduction of 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 reduce 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 are also subject to increased costs when sentence exposure for crime is increased. 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.

Long-Range Fiscal Implications