

Fiscal Estimate Narratives

DVA 1/12/2011

LRB Number 11-0388/1	Introduction Number SB-001 (JR1)	Estimate Type Original
Description Limiting noneconomic damages awarded in actions against long-term care providers; actions against manufacturers, distributors, sellers, and promoters of certain products; confidentiality of health care services reviews; use as evidence of information regarding health care providers; reporting of quality indicators identifying individual hospitals; homicide or injury by negligent handling of a dangerous weapon, explosives, or fire; criminal abuse of individuals at risk; criminal abuse and neglect of patients and residents; evidence of lay and expert witnesses; damages for frivolous claims; and punitive damage awards		

Assumptions Used in Arriving at Fiscal Estimate

This bill makes several changes to current law regarding civil actions for negligence in long-term care facilities product liability, actions in strict liability, punitive damage awards, and awards for defending a frivolous lawsuit. The bill also makes changes regarding the confidentiality and use of reviews and evaluations of health care providers and regarding criminal liability for certain acts or omissions by health care providers.

The many provisions of this bill involve changes that do not have any fiscal effect for the Wisconsin Department of Veterans Affairs (WDVA). However, those provisions that have a fiscal effect are as follows:

Strict Liability: The bill will place limitations on liability, time limitations on the execution of claims, and modifications to available defenses for liability. The department is covered by sovereign immunity until a claim is adjudicated through the statutory claim process. WDVA has no history of cases evolving past the claims process, leaving no comparative data for evaluation; therefore, the fiscal effect is indeterminable.

Damages for Frivolous Claims: The bill will allow attorney fees in a case that a frivolous claim is demonstrated. The department does not have historical records; therefore, the fiscal effect would be indeterminable.

Confidentiality of Health Care Services Reviews: This bill make changes relative to health care providers and the use of information generated in the course of the performance of duties or during reviews. The department does not have a base of comparative cases to formulate viable data; therefore, the fiscal effect would be indeterminable.

Use of Health Care Reports or Employee Statements: The changes relative to health care reports or the use of employee statements in the course of a civil or criminal case, the department does not have a viable base of comparative cases to formulate any viable date; therefore, the fiscal effect would be indeterminable.

Crimes: The changes to the treatment of certain acts as crimes, the department does not have a sufficient history of such acts occurring within its facilities to provide an estimate of any fiscal effect; therefore, the fiscal effect would be indeterminable.

Expert and Lay Witness Testimony: The vast majority of legal actions filed against the department are governed by administrative code rules promulgated by state agencies. The potential changes do not address the use of testimony in this class of litigation. Therefore, the effect on the department would be minimal.

Long-Range Fiscal Implications