

Fiscal Estimate Narratives

DOJ 3/7/2012

LRB Number	11-4217/1	Introduction Number	SB-536	Estimate Type	Original
Description Prosecution time limits for the offense of trafficking a child, possession of child pornography, termination of parental rights after committing the offense of trafficking a child, criminal procedure, crime victim compensation, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Under s. 939.74, a prosecution for trafficking a child, which is a felony, must be commenced before the victim reaches the age of 24. Under SB 536, a prosecution for trafficking a child must be commenced before the victim reaches the age of 45.

Under s. 948.12, generally whoever knowingly possesses any recording of a child engaged in sexually explicit conduct is guilty of a felony. Under SB 536, generally whoever knowingly possesses, or accesses in any way with intent to view, any recording of a child engaged in sexually explicit conduct is guilty of a felony.

While most felony prosecutions are handled by district attorneys, assistant attorneys general in the Department of Justice's Criminal Litigation Unit on occasion act as special prosecutors throughout Wisconsin at the request of district attorneys. In addition, the Department of Justice's Criminal Appeals Unit represents the State of Wisconsin in defending felony convictions when those convictions are challenged in state or federal court. Under Wisconsin law, this unit is charged with preparing briefs and presenting arguments in front of any state appellate or federal court hearing a challenge to a felony conviction.

Since SB 536 expands the types of cases that can be prosecuted as felonies, it is possible that the enactment of the bill could result in an increased caseload for the department's Criminal Litigation and Criminal Appeals units. The department anticipates that any increased caseload would be relatively small and could most likely be absorbed with existing resources. However, if the increased caseload is significant, DOJ will need additional resources.

Under Chapter 949 of the Wisconsin Statutes, the Department of Justice administers the Crime Victim Compensation (CVC) program. The CVC program compensates victims and their dependents of certain crimes for costs that include medical treatment, lost wages, funeral/burial expenses, and replacement costs of clothing or bedding held for evidentiary purposes. The maximum compensation award for any one injury or death is \$40,000, and another \$2,000 for burial expenses. The CVC program is a "payer of last resort", meaning it only covers expenses remaining after all other payment sources, such as insurance, worker's compensation, unemployment compensation, etc., have been exhausted.

To be eligible for compensation, certain criteria have to be met, including: 1) the crime must be reported to a law enforcement agency within 5 days of its occurrence or, if the incident could not have reasonably been reported within that period, within 5 days of the time when a report could reasonably have been made; 2) a CVC program application must be filed within one year after the date of the personal injury or death; 3) the victim must not have engaged in conduct which substantially contributed to the victim's injury or death or engaged in conduct in which the victim could have reasonably foreseen could lead to injury or death; and 4) the victim must cooperate with appropriate law enforcement agencies.

SB 536 expands the list of crimes eligible for compensation under the CVC program to include sexual exploitation of a child, incest with a child, use of a computer to facilitate a child sex crime, soliciting a child for prostitution, and sexual intercourse with a child age 16 or older.

Over the past four years, the CVC program received only a few applications annually from victims of the crimes listed above. During that time, if the crimes listed above had been eligible for compensation, and the applications submitted in connection with those crimes were not otherwise disqualified, DOJ estimates that the approval of claims in those limited cases would have had a minimal fiscal impact on the CVC program.

Long-Range Fiscal Implications