

Fiscal Estimate - 2015 Session

Original
 Updated
 Corrected
 Supplemental

| | |
|-----------------------------|-----------------------------------|
| LRB Number 15-3717/1 | Introduction Number SB-410 |
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Description
 Invasions of privacy and providing a criminal penalty

Fiscal Effect

State:

| | | |
|---|---|--|
| <input type="checkbox"/> No State Fiscal Effect | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget |
| <input checked="" type="checkbox"/> Indeterminate | <input type="checkbox"/> Decrease Existing Revenues | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Increase Existing Appropriations | | <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 | | | |
| <input checked="" type="checkbox"/> Indeterminate | | | |
| 1. <input type="checkbox"/> Increase Costs | 3. <input type="checkbox"/> Increase Revenue | 5. Types of Local Government Units Affected | |
| <input type="checkbox"/> Permissive <input 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 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 checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 410 | |

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| Agency/Prepared By DOC/ Jokisch Jacob (608) 240-5415 | Authorized Signature Jeffrey Grothman (608) 240-5056 | Date 12/3/2015 |
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Fiscal Estimate Narratives

DOC 12/3/2015

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|---|----------------------------|------------------------|
| LRB Number 15-3717/1 | Introduction Number SB-410 | Estimate Type Original |
| Description Invasions of privacy and providing a criminal penalty | | |

Assumptions Used in Arriving at Fiscal Estimate

This bill prohibits certain acts that violate a person's right to privacy. Current law prohibits installing or using a surveillance device that has been installed in a private place to observe a nude or partially nude person without that person's consent. The bill clarifies that a surveillance device needs only be capable of observing the activities of a person and need not be primarily designed for that purpose.

Under the bill, a person may not install or use in a private place a surveillance device to view a nude or partially nude person in a private place without that person's consent. Under current law, a person who captures a representation of a nude or partially nude person without the person's consent and while that person has a reasonable expectation of privacy, or a person who makes, exhibits, or distributes a reproduction of such a representation of the nude or partially nude person, is guilty of a Class I felony.

Under the bill, a person is guilty of a Class I felony if he or she makes, reproduces, exhibit, or distributes a video or audio representation of a person who is nude or partially nude; of a person's clothed, covered, or partially clothed or covered genitalia or buttock that is not otherwise visible to the public; of a person urinating, defecating, or using a feminine hygiene product; or of a person engaged in sexual intercourse or sexual contact, and if the same conditions of lack of consent and expectation of privacy exist.

The bill defines consent as "words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to the act," and establishes that a person under the age of 18 is incapable of consent. Under the bill, a person suffering from a mental illness or defect that impairs his or her capacity to appraise personal conduct and a person who is unconscious or otherwise physically unable to communicate.

Currently, the Department of Corrections (as of 06/30/15) has the following number of people on community supervision for committing offenses under Wis. Stat. 942.08 and 942.09:

- 942.08: 17 people
- 942.09: 40 people
- Both 942.08 and 942.09: 3 people

The Department of Corrections (as of 06/30/15) has the following number of people incarcerated for committing offenses under Wis. Stat. 942.08 and 942.09:

- 942.08: 3 people
- 942.09: 25 people
- Both 942.08 and 942.09: 1 person

The Department of Corrections is unable to determine the fiscal impact of the bill as it cannot predict how the number of people that will be sentenced and the sentencing practices of judges will change under the new law.

The average FY15 annual cost for an inmate in a DOC institution is approximately \$32,800. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$5,600 based on FY15 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person.

The average FY15 annual cost to supervise and offender in the community is approximately \$2,800. If there is a large increase in the number of offenders placed on probation or extended supervision or their time on supervision is extended as a result of this bill, additional community corrections funding and/or positions may be necessary to handle the

population.

The local fiscal impact of the bill cannot be predicted because the Department of Corrections cannot predict the number of people that will be sentenced and the sentencing practices of judges under the new law. Costs at the local level may increase if offenders are placed in jail rather than prison. The average FY15 annual cost to jail an adult inmate was \$18,800.

Long-Range Fiscal Implications