



## Fiscal Estimate Narratives

DOC 12/11/2015

LRB Number	15-3340/1	Introduction Number	AB-0566	Estimate Type	Original
<b>Description</b> Invasions of privacy and providing a criminal penalty					

### Assumptions Used in Arriving at Fiscal Estimate

This bill increases the penalties for certain criminal invasions of privacy. Under current law, a person is guilty of a Class A misdemeanor if he or she does any of following: 1) installs or uses a surveillance device in any private place to observe any nude person; 2) looks, for sexual arousal or gratification, into a private place that is part of a public accommodation in which a person may reasonably be expected to be nude; or 3) looks, for sexual arousal or gratification, into an individual's dwelling if an individual is present and has a reasonable expectation of privacy.

Under the bill, a person who violates any of these prohibitions is guilty of a Class I felony if the victim is under the age of 18 when the violation occurs.

Under current law, a person who captures a representation of a nude person in a circumstance that the person depicted has a reasonable expectation of privacy, who distributes such a representation, or who possesses such a representation is guilty of a Class I felony. Under the bill, a person who violates any of these provisions is guilty of a Class H felony if the victim is under the age of 18 when the violation occurs.

Under current law, a person who posts or publishes a representation of a nude or partially nude person or a person engaging in sexual conduct, knowing that the representation of the person is a private representation, is guilty of a Class A misdemeanor. Under the bill, the person is guilty of a Class I felony if the victim is under the age of 18 when the violation occurs.

Under current law, a person who intentionally captures a representation of a nude or partially nude person in a locker room without that person's consent but who does not exhibit, distribute, or transmit the representation, is guilty of a Class B misdemeanor. Under the bill, a person who violates this provision is guilty of a Class A misdemeanor, except that if the victim is under the age of 18 when the violation occurs, the person is guilty of a Class I felony.

Under current law, a person who intentionally captures and exhibits, distributes, or transmits a representation of a nude or partially nude person in a locker room without that person's consent is guilty of a Class A misdemeanor. Under the bill, a person who violates this provision is guilty of a Class I felony, except that if the victim is under the age of 18 when the violation occurs, the person is guilty of a Class H felony.

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. The DOC does not currently track whether the victims in cases involving Wis. Stat. 942.08 and 942.09 were under 18 years of age at the time of the offense. Additionally, the DOC cannot predict the changes in sentencing practices of judges from changing the penalty under 942.09(5)(a) from a Class B misdemeanor to a Class A misdemeanor.

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 an 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 receive longer jail sentences. Costs may decrease if offenders are sent to prison instead of jail. The average FY15 annual cost to jail an adult inmate was \$18,800.

### **Long-Range Fiscal Implications**