

Fiscal Estimate - 2021 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 21-2367/1	Introduction Number AB-0174
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Description
 recommendation to revoke extended supervision, parole, or probation if a person is charged with a crime and expunging a criminal record of a crime

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs	5. Types of Local Government Units Affected	
<input checked="" type="checkbox"/> Indeterminate	1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
	2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
	4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

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	20.410(1)(a), 20.410(1)(b), 20.410(1)(f), 20.410(1)(aa)

Agency/Prepared By DOC/ Dawn Woeshnick (608) 240-5417	Authorized Signature Paulina De Haan (608) 240-5056	Date 4/13/2021
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Fiscal Estimate Narratives

DOC 4/13/2021

LRB Number	21-2367/1	Introduction Number	AB-0174	Estimate Type	Original
Description recommendation to revoke extended supervision, parole, or probation if a person is charged with a crime and expunging a criminal record of a crime					

Assumptions Used in Arriving at Fiscal Estimate

This bill requires the Department of Corrections (DOC) to recommend revoking a person's extended supervision, parole, or probation if the person is charged with a crime while on extended supervision, parole, or probation.

Under current law, DOC utilizes Department Policy, evidence-based practices, Department Administrative Code, and statutory requirements to determine whether or not to revoke a person's extended supervision, parole, or probation if the person is charged with a crime while on extended supervision, parole, or probation.

Under current law, a sentencing court may order a person's criminal record expunged of a crime if the court determines that the person will benefit and society will not be harmed and if certain conditions are met. This bill adds to those conditions that the court may not order the record expunged of a crime if the person had previously been convicted of a crime, including a crime for which the record had been expunged.

2013 Act 196 provided the DOC with the authority to develop a system of short-term sanctions for violations of conditions of parole, probation, extended supervision (ES), and deferred prosecution agreements. These sanctions can result in offenders being placed in a regional detention facility or a county jail for up to 90 days. Under this proposed bill, the system of short-term sanctions established by 2013 Act 196 would not be an option for offenders charged with a crime while on extended supervision, parole, or probation.

In CY18, the DOC recommended the revocation for 9,961 cases of individuals on extended supervision, parole, or probation. The Department of Administration's Division of Hearings and Appeals (DOA DHA) reviews and determines the outcome of revocations recommended by the DOC. It is estimated that DOA DHA would see an increase of 6,280 revocation cases each year. DOA DHA charges DOC approximately \$284 to review and provide a disposition for each revocation case. Under this bill, it is estimated that increased revocation recommendations would result in increased DOA DHA charges to DOC in the amount of \$1,786,600 annually.

In CY18, Approximately 87% of the cases recommended for revocation by DOC were revoked by DOA DHA, resulting in the offender being sent to prison. In FY16, on average, individuals on community supervision with a new conviction were revoked to prison for approximately 39 months of incarceration. It is unknown if these patterns of revocation rates and sentencing will continue under the proposed legislation. It is possible that both will decrease due to the DOC being required to recommend revocation for the charge of any crime, instead of the current process that utilizes several factors to determine if recommending revocation is an appropriate response to the offender's behavior.

For purposes of this fiscal estimate, the Department assumes that approximately 47% of the cases recommended for revocation by DOC will be revoked by DOA DHA, resulting in the offender being sent to prison. In addition, the Department assumes revocation sentences will be 19 months.

The Department requested data from Wisconsin Court System Circuit Court Access (CCAP) to determine the number of offenders under community supervision during FY19 and were charged with a crime. Using that data, the Department estimates 6,280 offenders on community supervision were charged with a new crime and remained on community supervision. Under this bill, DOC would be required to recommend revoking the community supervision of all 6,280 individuals. The Department assumes 47% of revocations recommended by DOC will be affirmed by the Administrative Law Judge (ALJ). The Department estimates this bill will result in an average increased daily population of 1,599 in the Department's Division of Adult Institutions (DAI) during the first year. When the population is annualized after 19 months, there will be a permanent increase of 4,673 persons in our care (PIOC) to DAI's population.

Due to the global pandemic, over the past year the number of people in DOC's care has been declining. Even so, the overall PIOC population still exceeds the capacity of DOC facilities. Additionally, as courts return to

normal operations, the number of intakes into the prison system is expected to increase from current levels. If the Department constructed new facilities to accommodate the increased populations that would be expected from passage of this legislation, Oshkosh Correctional Institution which housed an average daily population of 2,035 PIOC's in FY20, could be used as the model for these new facilities. The Department would need to construct two new Oshkosh Correctional Institution-sized facilities to accommodate the number of PIOC's that would enter the system in the second year after enactment of this legislation. It is estimated that the cost to construct one new 2,000 bed medium security correctional institution would be approximately \$450 Million to \$550 Million.

The average FY20 annual cost for a PIOC in a DOC institution is approximately \$36,200. The estimated population increase will ultimately depend upon: 1) the number of individuals being charged with a crime, 2) the rate at which the ALJs affirm the revocation recommendations, and 3) the length of reincarceration time imposed upon the offenders by the ALJs.

The proposed legislation also modifies the conditions under which a person's criminal records for a crime can be expunged. There would likely be a slight decrease in expungement orders that the Department receives and processes. The amount of time required to process orders at the county level would also likely decrease under the bill. It is not possible to project the overall decrease in expungement orders that would be processed by the Department or by counties if this bill were enacted.

SUMMARY:

It is estimated that this bill would result in increased operations costs (excluding possible construction costs) to the Department of Corrections in the amount of \$59,662,600 during the first year of enactment. The Department estimates there will be a permanent increased operations cost of approximately \$170,962,500 after the population is annualized during the second year of enactment.

Long-Range Fiscal Implications