



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

March 27, 2017

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: January 2017 Special Session Assembly Bill 10: Department of Justice Criminal Investigative Resources for Drug Interdiction and Drug Trafficking

Assembly Bill 10 and Senate Bill 10 (AB 10/SB 10) for the January, 2017, special session are companion bills. Assembly Bill 10 was introduced on February 17, 2017, and referred to the Committee on Criminal Justice and Public Safety. Senate Bill 10 was introduced on February 21, 2017, and referred to the Committee on Judiciary and Public Safety. The bills provide the Department of Justice (DOJ) \$420,000 GPR annually during the 2017-19 biennium to support 4.0 special agent positions in the Department's Division of Criminal Investigation for the purposes of drug interdiction and investigating drug trafficking.

On March 2, 2017, the Senate Committee on Judiciary and Public Safety unanimously recommended passage of SB 10 with a 5-0 vote. On March 9, 2017, the Assembly Committee on Criminal Justice and Public Safety recommended passage of AB 10 with a 9-3 vote. On March 16, AB 10 was referred to the Joint Committee on Finance.

BACKGROUND

The Department of Justice's Division of Criminal Investigation (DCI) is charged with the responsibility of carrying out and meeting the statutory law enforcement obligations of the Department. Under s. 165.70 of the statutes, DOJ is required to investigate crime that is statewide in nature, importance, or influence. In addition, the statutes require DOJ to enforce Chapter 961 of the statutes (Uniformed Controlled Substances Act). Notwithstanding, s. 165.70 stipulates that it is not the intent to deprive local law enforcement of its concurrent power to enforce these provisions.

Adjusted base funding and position authority for DCI totals \$17,304,400 (all funds) annually and 151.80 positions. Funding and position authority is comprised of \$9,894,200 GPR and 97.30 GPR positions, \$5,753,600 PR and 45.75 PR positions, \$1,268,400 FED and 6.00 FED positions, and \$388,200 SEG and 2.75 SEG positions. According to DOJ, DCI has 25.0 special agents, 2.0 special agents-in-charge, and 1.0 criminal analyst devoted full-time to drug enforcement

investigations. In addition, DOJ estimates that it utilizes 22.26 FTE positions, including special agents and supervisory and support staff, for drug enforcement activities. This estimate is based on the workloads of individuals who work on various case types.

As part of its efforts to stem the flow of drugs into and within the state, DCI's Field Operations Bureau assists local law enforcement agencies with enforcement and investigation efforts. Typically, DCI assists local law enforcement with investigation efforts that span multiple regions of the state. The Division may also develop its own cases based on information it receives. In these cases, DCI will often coordinate with local law enforcement, but there may be times when local law enforcement is unable to assist in the case and DCI leads the investigation. In addition to these efforts, DCI participates in cooperative anti-drug efforts with local, state, and federal law enforcement agencies. Notably, the DCI participates in the federal Organized Crime Drug Enforcement Task Force and the Wisconsin High Intensity Drug Trafficking Area Task Force.

The Organized Crime Drug Enforcement Task Force is a program administered by the United States Attorneys' Offices in both the Eastern District and the Western District of Wisconsin. The task force targets organized high level drug trafficking groups. The task force made 31 prosecution referrals in 2014-15 and seven prosecution referrals in 2015-16.

The Field Operations Bureau is also involved in the Wisconsin High Intensity Drug Trafficking Area Task Force (HIDTA). The goal of this multi-jurisdictional task force is to apply enhanced intelligence processes, as well as a high level of enforcement, coordination, and prosecution to reduce organized drug distribution, drug-related violent crime, and money laundering. The enforcement component of Wisconsin HIDTA consists of three investigative bodies: (a) the Heroin Initiative; (b) the Drug Gang Task Force; and (c) the Interdiction Initiative. The Heroin Initiative, supervised by a DCI special agent, investigates high level heroin drug trafficking organizations in the Wisconsin HIDTA region. This initiative made 80 prosecution referrals in 2014-15 and an additional 82 prosecution referrals in 2015-16. The Drug Gang Task Force is a multi-agency initiative supervised by the Milwaukee Police Department that focuses on the identification, infiltration, disruption, and dismantling of violent street gangs involved in drug trafficking in the Milwaukee area. This Task Force made 242 prosecution referrals in 2014-15 and 138 prosecution referrals in 2015-16. Finally, the Interdiction Initiative coordinates regional enforcement agencies throughout southeastern Wisconsin in an attempt to intercept the transportation of controlled substances and currency into, out of, and through the Wisconsin HIDTA area of responsibility. The Initiative made 61 prosecution referrals in 2014-15 and 34 prosecution referrals in 2015-16.

With regard to the Bureau's total narcotics caseload, DOJ indicates that the Bureau opened 581 narcotics cases and closed 469 cases in 2014-15. In 2015-16, the Bureau opened 568 narcotics cases and closed 415 narcotics cases.

In addition to performing narcotics investigations, DOJ manages Wisconsin's section of the Federal Bureau of Investigation (FBI) Uniform Crime Reporting (UCR) program. The UCR program compiles data on the number of offenses and arrests reported by law enforcement agencies across the United States. Law enforcement agencies currently report data to DOJ through

either a summary-based reporting system or an incident-based reporting system. Offense data reported to the UCR program through the summary-based reporting system does not identify drug-specific offenses. Therefore, statewide data on the number of reported drug crime offenses is not currently available. [According to DOJ, the FBI intends to sunset the summary-based reporting system by January, 2021, and, therefore, all law enforcement will utilize incident-based reporting which would identify drug offenses.]

In contrast to offense data, arrest data reported to the program under both summary-based reporting and incident-based reporting identifies whether the arrest was made in relation to a drug crime. Drug crime arrests are categorized by the type of drug involved (including marijuana, opium and cocaine, synthetic narcotics, and other drugs), as well as whether the arrest was for the possession or sale of the illegal drug. Violations that would be counted as a "possession" arrest include possessing, concealing, buying, receiving, and using or consuming the illegal drug. Violations that would be counted as a "sale" arrest include cultivating, manufacturing, distributing, transporting, and selling the illegal drug.

Table 1 identifies the number of drug crime arrests, by arrest type, from calendar year 2011 through 2015, as well as the arrest rate per 100,000 people in Wisconsin. [Arrest rates are calculated utilizing population estimates from the United States Census Bureau.] Table 1 also identifies the total number of arrests (all crimes) during this same time period. Table 2 represents the number of drug crime arrest types as a percentage of total drug crime arrests as well as a percentage of total arrests (all crimes).

In reviewing the arrest data contained in both tables, note that the summary-based reporting utilized to compile this data identifies the number of persons arrested, not the number of violations identified for an individual arrest. Under the UCR summary-based reporting rules, if an individual is arrested for committing two different crimes on the same arrest, the most serious violation would be reported to the UCR program. The FBI directs law enforcement agencies to determine the most serious violation on an incident when reporting the arrest. For example, if an individual is arrested for selling an equal amount of marijuana and cocaine, the law enforcement agency may decide to report the arrest as a cocaine sale arrest. On the other hand, if an individual is arrested for selling a large amount of marijuana and a small amount of cocaine, the law enforcement agency may decide to report the arrest as a marijuana sale arrest.

TABLE 1

Drug Crime Arrests and Total Arrests, 2011 Thru 2015

	2011		2012		2013		2014		2015	
	Number of Arrests	Arrests Per 100,000	Number of Arrests	Arrests Per 100,000	Number of Arrests	Arrests Per 100,000	Number of Arrests	Arrests Per 100,000	Number of Arrests	Arrests Per 100,000
Marijuana possession	15,345	268.8	16,302	284.7	15,389	268.0	14,753	256.2	14,463	250.8
Other drug possession	2,500	43.8	3,133	54.7	2,821	49.1	2,976	51.7	3,187	55.3
Marijuana sales	2,162	37.9	2,125	37.1	2,073	36.1	1,945	33.8	1,942	33.7
Opium & cocaine possession	1,845	32.3	1,809	31.6	1,616	28.1	1,593	27.7	1,912	33.1
Synthetic narcotic possession	1,220	21.4	1,403	24.5	1,412	24.6	1,452	25.2	1,440	25.0
Opium & cocaine sales	1,364	23.9	1,450	25.3	1,488	25.9	1,286	22.3	1,314	22.8
Other drug sales	683	12.0	729	12.7	830	14.5	861	15.0	892	15.5
Synthetic narcotic sales	394	6.9	466	8.1	406	7.1	378	6.6	414	7.2
Total (drug crimes)	25,513	446.8	27,417	478.8	26,035	453.3	25,244	438.4	25,564	443.2
Total arrests	337,420	5,909.7	339,806	5,934.3	307,617	5,356.5	280,264	4,867.1	269,767	4,677.0

TABLE 2

Drug Crime Arrest Types as a Percentage of Total Drug Arrests and Total Arrests (All Crimes), 2011 Thru 2015

	2011		2012		2013		2014		2015	
	% of Arrests	% of Total Arrests	% of Arrests	% of Total Arrests	% of Arrests	% of Total Arrests	% of Arrests	% of Total Arrests	% of Arrests	% of Total Arrests
Marijuana possession	60.1%	4.5%	59.5%	4.8%	59.1%	5.0%	58.4%	5.3%	56.6%	5.4%
Other drug possession	9.8	0.7	11.4	0.9	10.8	0.9	11.8	1.1	12.5	1.2
Marijuana sales	8.5	0.6	7.8	0.6	8.0	0.7	7.7	0.7	7.6	0.7
Opium/cocaine possession	7.2	0.5	6.6	0.5	6.2	0.5	6.3	0.6	7.5	0.7
Synthetic narcotic possession	4.8	0.4	5.1	0.4	5.4	0.5	5.8	0.5	5.6	0.5
Opium/cocaine sales	5.3	0.4	5.3	0.4	5.7	0.5	5.1	0.5	5.1	0.5
Other drug sales	2.7	0.2	2.7	0.2	3.2	0.3	3.4	0.3	3.5	0.3
Synthetic narcotic sales	1.5	0.1	1.7	0.1	1.6	0.1	1.5	0.1	1.6	0.2
Total	100.0%	7.6%	100.0%	8.1%	100.0%	8.5%	100.0%	9.0%	100.0%	9.5%

On September 22, 2016, the Governor issued Executive Order #214, which established the Governor's Task Force on Opioid Abuse, a nonstatutory committee under s. 14.019 of the statutes. The Task Force was created, "for the purpose of advising and assisting the Governor in a coordinated effort to combat the opioid crisis facing the State of Wisconsin." Subsequently in 2016, the Task Force submitted a report entitled *Combating Opioid Abuse*. Included in the Task Force's report was the following recommendation:

"We know that we cannot arrest our way out of the opioid addiction crisis we face. In most cases this is about disease and dependency, not about crime. People who engage in other crimes like theft or operating while intoxicated because of addictions must still face the

consequences of those actions. And law enforcement is and must remain a vital partner in providing first-response treatment and transition into recovery. However, we can and must get tough on one particular set of criminals: the dealers and traffickers who are making millions selling heroin and pills to our kids. We propose \$420,000 to hire additional Criminal Investigation Agents at DOJ to focus specifically on drug traffickers operating in Wisconsin."

SUMMARY OF BILL

The bill provides \$420,000 GPR annually to the Department of Justice's law enforcement services general program operations appropriation during the 2017-19 biennium. In addition, the bill increases the position authority of the Department by 4.0 positions during the 2017-19 biennium in order to support 4.0 criminal investigation special agents who would focus on drug interdiction and drug trafficking.

FISCAL EFFECT

The bill increases funding for DOJ's law enforcement services general program operations GPR appropriation by \$420,000 annually during the 2017-19 biennium. In addition, the bill increases the position authority for the appropriation by 4.0 positions annually. Adjusted base funding and position authority for the appropriation in 2016-17 is \$21,455,300 and 203.08 positions.

The bill would not have a fiscal effect for the 2015-17 biennium. During the 2017-19 biennium, the funding provided under the bill would total \$840,000 GPR.

Under the state employee compensation plan, the minimum salary for a special agent is \$22.47 per hour (\$46,738 annually). Notwithstanding, under the compensation plan, DOJ may compensate individuals hired as special agents at a rate up to \$37.08 per hour (\$77,126 annually). According to DOJ, the Department currently compensates newly hired special agents at the maximum appointment rate.

On February 28, 2017, DOJ prepared a fiscal estimate for the bill. In the fiscal estimate, the Department indicates that the salary and fringe benefit costs for a newly hired special agent position total \$111,100 per year. The salary and fringe benefit costs identified by DOJ represent the costs of hiring a special agent at the maximum appointment level of \$37.08 per hour.

In addition to salary and fringe benefit costs, DOJ's fiscal estimate identifies ongoing supplies and services costs totaling \$20,000 annually per agent for law enforcement vehicles, travel, training, equipment and other supplies. Further, DOJ identifies one-time costs totaling \$15,000 per agent associated with equipment and supplies assigned to the agent, such as protective gear, communications equipment, investigative equipment, and weapons.

The total annual cost of one special agent hired at the minimum salary level is \$102,300 in the first year (\$409,200 for 4.0 special agents), and \$87,300 annually thereafter (\$349,200 for 4.0 special agents). The total annual cost of one special agent hired at the maximum appointment level

is \$146,100 in the first year (\$584,400 for 4.0 special agents) and \$131,100 annually thereafter (\$524,400 for 4.0 special agents). Therefore, annual amounts provided under the bill would support the cost hiring the 4.0 special agents at the minimum salary level, and partially defray additional costs DOJ incurs if it decides to hire the special agents above the minimum salary level. If DOJ hires the 4.0 special agents at the maximum appointment level, DOJ would need to utilize existing resources to augment funding provided under the bill to support the positions.

Prepared by: Michael Steinschneider