



## Legislative Fiscal Bureau

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June, 2021

Joint Committee on Finance

Paper #397

### Internet Crimes Against Children (Justice)

[LFB 2021-23 Budget Summary: Page 369, #5]

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#### CURRENT LAW

Local units of government are primarily responsible for law enforcement protection and investigating potential crimes. In addition, state statute requires the Department of Justice (DOJ) to investigate crimes that are statewide in nature, importance, or influence. Section 165.70 of the statutes specifically requires DOJ to enforce, among other crimes, the use of a computer to facilitate a child sex crime.

The Internet Crimes Against Children (ICAC) task force unit at DOJ is responsible for investigating internet crimes against children in conjunction with other law enforcement partners in the ICAC Task Force. The budget for the ICAC Unit at DOJ in 2020-21 is \$5,304,200 (all funds) and 38.0 positions. The unit's total funding is comprised of \$4,227,500 GPR, \$820,800 PR, and \$255,900 FED, supporting 36.0 GPR and 2.0 FED positions. The unit's program revenue-funded budget is supported by the \$13 crime laboratory and drug law enforcement (CLDLE) surcharge and the deoxyribonucleic acid (DNA) surcharge.

The Department's drug law enforcement, crime laboratories, and genetic evidence activities appropriation is supported by revenue from the CLDLE surcharge and the DNA surcharge. More specifically, money is transferred from the CLDLE and DNA surcharge fund appropriation to the drug law enforcement appropriation. The drug law enforcement appropriation supports activities relating to drug law enforcement, drug law violation prosecution assistance, criminal investigative operations, and activities of the state and regional crime laboratories. Base funding for the drug law enforcement appropriation is \$9,317,000 PR annually.

## DISCUSSION POINTS

1. The Wisconsin ICAC task force was created in 1998 with federal funding to counter the threat of offenders using online technology to sexually exploit children. The task force conducts investigations, provides investigative, forensic and prosecutorial assistance to police agencies and prosecutors, encourages statewide and regional collaboration, and provides training for law enforcement, prosecutors, parents, teachers, and other community members. The task force also coordinates with the Wisconsin Clearinghouse for Missing and Exploited Children to provide support services to children and families that have experienced victimization. As of August, 2020, all 271 law enforcement agencies, including DOJ, participating in the Wisconsin ICAC task force.

2. Internet crimes against children cases generally fall into four broad categories: (a) investigations of cyber-tips received from individuals and internet service providers through the National Center for Missing and Exploited Children; (b) online child enticement investigations; (c) "peer-to-peer" 34 investigations; and (d) cases involving other law enforcement agencies. In 2019-20, the ICAC task force opened 3,547 ICAC investigations. The Division took the lead on 520 investigations in 2019-20.

3. All 271 law enforcement agencies participating in the Wisconsin ICAC task force have a capacity to conduct "reactive" ICAC investigations, responding to tips or information that an Internet crime against a child may have occurred. In addition, many of these agencies can also conduct "proactive" investigations, such as peer-to-peer investigations and online child enticement investigations.

4. In 2000, Congress mandated that all internet service providers register and report any child pornography on their servers to the cyber-tiplines program at the National Center for Missing and Exploited Children. In 2019-20, the Wisconsin ICAC task force received 2,993 cyber tips from the National Center for Missing and Exploited Children. From these cyber tips, the ICAC task force opened 1,507 cases, of which 945 were investigated by DOJ and the remaining 2,048 were referred to affiliate law enforcement agencies. When the ICAC task force receives multiple cyber tips involving the same suspect, these cyber tips are consolidated into a single case for subsequent follow-up by DOJ or affiliated law enforcement agencies.

5. In 2019-20, the Wisconsin ICAC task force made 478 arrests. Of the 478 arrests made by the Wisconsin ICAC task force in 2019-20, 61 arrests were made by DOJ special agents. The Department staff indicates that it does not currently have an electronic reporting system that would permit it to report the case types to which these arrests could be attributed, either for the ICAC task force as a whole or for DOJ.

6. Under 2017 Act 59 and again under 2019 Act 9, \$750,000 PR was provided in each year of the biennium on a one time basis. Revenue was transferred from the crime laboratory and drug law enforcement surcharge and the DNA analysis surcharge. Funding was used to support: (a) overtime for DCI and local law enforcement ICAC affiliates to increase the number of cases investigated and ensure prompt investigation of tips; (b) for critical equipment; (c) advanced and basic training for the ICAC task force; (d) vehicles for DCI ICAC to expand on-site evidence previews statewide; (e) staff LTEs to help manage tips from the National Center for Exploited and Missing Children; and (f) to

provide investigative support to ICAC investigators through WSIC [Wisconsin Statewide Intelligence Center].

7. Assembly Bill 68/Senate Bill 111, would provide \$750,000 PR annually during the 2021-23 biennium only to support law enforcement activities relating to ICAC. The administration intends for program revenue for these costs to be supported from a transfer of monies from DOJ's CLDLE and DNA surcharge fund. Under the bill, the fund is projected to have an opening balance of \$3,585,400 and to conclude the 2021-23 biennium with a balance of \$3,486,700. It should also be noted that, under the bill, the fund is estimated to operate in an imbalance during the 2021-23 biennium. In 2021-22, total obligations (\$17,398,600) are estimated to exceed annual revenue (\$17,300,000) by \$98,600. In 2022-23, total obligations would equal annual revenue.

8. The Department indicates that "approximately half of the funding would continue to support overtime for ICAC investigators statewide to keep up with tips and caseloads." In addition, the funding would support ongoing training due to high turnover and would expand forensic investigative capacity. Further, funding would be used for ongoing maintenance and licensing on forensic hardware and lifecycle replacement.

9. In order to provide DOJ additional funds for law enforcement activities related to ICAC, the Committee could provide \$750,000 PR annually during the 2021-23 biennium to DOJ's ICAC appropriation. [Alternative 1] Under this alternative, funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's drug law enforcement PR appropriation.

10. The Committee could also approve a reduced level of funding for the ICAC appropriation, as compared to the amount recommended in AB 68/SB 111. Specifically, the Committee could provide DOJ with \$375,000 PR annually. [Alternative 2] Under this alternative, funding for ICAC would be supported by a transfer of funds from DOJ's drug law enforcement appropriation and would result in a concluding 2022-23 revenue balance of \$4,236,700, and the not incur a structure deficit.

11. The Committee could also maintain current law and not provide DOJ additional resources at this time for the ICAC appropriation [Alternative 3]. Providing funding for the ICAC appropriation by transferring funds from DOJ's CLDLE and DNA surcharge fund appropriation would reduce the balance in the fund and increase the fund's estimated structural imbalance during the 2021-23 biennium.

## ALTERNATIVES

1. Provide DOJ's ICAC appropriation \$750,000 PR annually. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's CLDLE surcharge and the DNA surcharge.

| ALT 1 | Change to Base |
|-------|----------------|
| PR    | \$1,500,000    |

2. Provide DOJ's ICAC appropriation \$375,000 PR annually. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's CLDLE surcharge and the DNA surcharge.

| ALT 2 | Change to Base |
|-------|----------------|
| PR    | \$750,000      |

3. Take no action.

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