

Fiscal Estimate - 2015 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 15-0188/2	Introduction Number AB-0224
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Description
 Marijuana possession, regulation of marijuana distribution and cultivation, medical marijuana, operating a motor vehicle while under the influence of marijuana, making appropriations, requiring the exercise of rule-making authority, and providing criminal penalties

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate

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

Local:

No Local Government Costs
 Indeterminate

1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	5. Types of Local Government Units Affected <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
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

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Fiscal Estimate Narratives

DOC 6/8/2015

LRB Number	15-0188/2	Introduction Number	AB-0224	Estimate Type	Original
Description Marijuana possession, regulation of marijuana distribution and cultivation, medical marijuana, operating a motor vehicle while under the influence of marijuana, making appropriations, requiring the exercise of rule-making authority, and providing criminal penalties					

Assumptions Used in Arriving at Fiscal Estimate

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. This bill changes state law so that it permits both recreational use of marijuana and medical use of marijuana.

This bill also creates new criminal offenses regarding marijuana.

This fiscal estimate will first address the elimination of certain crimes and second the creation of new criminal offenses.

Elimination of Certain Crimes:

This bill eliminates the following statutes from the criminal code:

Wis. Statute §961.41(3G)(E) Possession of THC and Wis. Statute §961.41(3G)(E) Possession of THC (2nd offense), and Wis. Statute §961.41(1M)(H).

In FY14, 36 people were admitted to prison whose most serious offense falls under those statutes and 1,596 offenders were placed on Extended Supervision (ES)/probation whose most serious offense falls under those statutes. For purposes of this fiscal estimate, an annualized population of these inmates/offenders was calculated (2,432 offenders and 108 inmates), we assume that this average daily population of 2,540 people would not be incarcerated or under community supervision. Therefore, this bill would result in a decrease in DOC's population based on the elimination of crimes.

Assumptions:

- 1) Individuals convicted under the statutes above do not have any other convictions for which they may be under supervision.
- 2) Offenders under community supervision for the above listed crimes are supervised as "Minimum" level offenders.
- 3) Average FY14 cost for an inmate in a contract bed is approximately \$18,800.
- 4) Number of inmates incarcerated for the above listed crimes on an annual basis: 108
- 5) Number of individuals under community supervision for the above listed crimes on an annual basis: 2,432
- 6) This bill would result in a decrease in DOC's population based on the elimination of crimes.

Based on the assumptions laid out above, DOC estimates that the bill could result in an estimated cost savings of \$3,728,200 per fiscal year.

$(108 \text{ incarcerated individuals} \times \$18,800/\text{year} = \$2,030,400) + (2,432 \text{ offenders under minimum level community supervision} = \$1,697,800)$

Community supervision savings are estimated by determining the number of DOC staff necessary to supervise 2,432 minimum level supervision offenders using the Case Classifications Staff Deployment (CCSD) formula. The CCSD formula indicates an estimated 29 FTE (20.00 FTE Probation & Parole Agents; 3.0 Correctional Field Supervisors; 1.0 Program Support Supervisor; 6.0 Office Operations Associates) are necessary to supervise 2,432 minimum level supervision offenders.

The average FY14 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 \$5,700 based on FY14 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person. A decrease in prison population may result in an institution closing housing units.

It should be noted that individuals convicted under these statutes may be under supervision or be incarcerated for other crimes as well, this may translate into an elimination of the estimated savings, in part or whole. Because of this, the fiscal impact is indeterminate.

Creation of New Offenses:

This bill creates the following new misdemeanors/felonies:

Class B Misdemeanor for possessing 28 grams of marijuana or more; Class I Felony for any marijuana seller having a security system to alert the person to the presence of law enforcement; Class A Misdemeanor for recreational use and sale of marijuana via US Mail; Class I Felony for a person selling marijuana without a permit; Class H Felony for a person selling marijuana to a minor; Class B Misdemeanor for a person cultivating more than 24 marijuana plants at a time.

In addition, this bill changes the amount of THC that violates operating a motor vehicle with a detectable amount of a restricted controlled substance from a trace of THC to 5 ng/ml or more. The bill does not change the penalty structure for operating a vehicle with a detectable amount of a restricted controlled substance (which includes THC).

Overall:

While there may be cost savings as demonstrated above, it is not possible to determine the total fiscal impact to the Department of Corrections because the proposed bill would create a new population of inmates/offenders and no data exists to estimate how many individuals would be convicted of these crime and sentenced to DOC's institutions or be placed under the DOC's supervision in the community.

State costs could change if an increased or decreased number of offenders are convicted of these crimes and placed on probation. If there is a large increase in the number of offenders placed on probation or extended supervision, additional community corrections funding and/or positions may be necessary to handle the population. The average FY14 annual cost to supervise one offender is approximately \$2,800.

The average FY14 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 \$5,700 based on FY14 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person.

The local fiscal impact of the bill cannot be predicted because the DOC 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 FY14 annual cost to jail inmates is \$18,800.

Long-Range Fiscal Implications