

Fiscal Estimate Narratives
DOC 4/22/2011

LRB Number 11-1662/1	Introduction Number AB-0086	Estimate Type Original
Description Corrections and sentencing		

Assumptions Used in Arriving at Fiscal Estimate

This bill repeals or modifies the changes made to sentencing by 2009 Wisconsin Act 28, thereby restoring most of the provisions related to earned release from confinement to their previous form under truth-in-sentencing. Specifically, the changes include:

Repeal provisions related to:

- Certain Earned Release
- Positive Adjustment Time
- Risk Reduction Sentence
- Early Discharge from Extended Supervision
- Early Discharge from Probation

Modify the following provisions:

- Sentence Adjustment 75%/85% back to law prior to Act 28, requiring the inmate to petition the sentencing court and the court making the sentence modification decision.
- Extraordinary Health Conditions/Aged back to law prior to Act 28, with the exception of keeping the "Extraordinary Health Condition" criteria. Sentence modification decision is made by the sentencing court.
- Earned Release Program & Challenge Incarcerated Program to include only Alcohol & Drug Abuse treatment (back to law prior to Act 28.)
- The Earned Release Review Commission reverts back to the Parole Commission and deals only with offenders eligible for parole (sentenced before the date of December 31, 1999.)

479 inmates were released during the period from October 1, 2009 through March 2011, under the release mechanisms in 2009 Wisconsin Act 28. These releases did not all occur at the beginning of implementation of Act 28, but rather occurred over the stated time period.

The average FY10 annualized cost to incarcerate an inmate was \$32,100. Releasing an inmate early does not result in avoidance of that total cost, unless there are sufficient numbers of inmates removed from an institution which results in closure of part or all of the institution. Since the releases occurred throughout the correctional system and not at just one institution, DOC did not have enough of a decrease in population to warrant closure of housing units. Therefore, any cost avoidance would have been the result of less expenditures on variable costs (defined as food, clothing, health care and other incidentals).

Annualized variable costs in FY10 were approximately \$5,100 per inmate. Therefore, the cost avoided by releasing the 479 inmates for one day could be calculated as \$6,700 [479 x (\$5,100/365 days.)] However, any inmates released under the sentencing changes who returned to an institution due to a new sentence and/or revocation would offset any expected cost avoidance. Any cost avoidance experienced from these releases likely reduced the Department's operating deficits for those years.

In summary, any releases which occurred under the modified sentences would have generated little cost avoidance, due to:

- Releases occurring throughout the correctional system;
- Avoided costs would be for variable items; and
- Ongoing review to analyze the reason(s) for the general trend in the declining prison population beyond those released under Act 28.

Given these uncertainties the Department is not able to fully determine the fiscal impact of this legislation.

Long-Range Fiscal Implications