

Fiscal Estimate Narratives

DOC 10/9/2017

LRB Number	17-2337/2	Introduction Number	SB-408	Estimate Type	Original
Description furnishing, purchasing, or possessing a firearm for a person who is prohibited from possessing a firearm, mandatory minimum sentences for individuals who commit certain firearm violations, and providing criminal penalties					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, a person who knowingly furnishes with a firearm a person who is prohibited from possessing a firearm may be convicted of illegal possession of a firearm. Under this bill, a person is guilty of a Class G felony if they intentionally furnish, purchase (which is known as "straw purchasing"), or possess a firearm for a person they know is prohibited from possessing a firearm.

Under current law, a person who intentionally provides false information regarding whether he or she is purchasing a firearm with the purpose or intent of transferring the firearm to another person who the purchaser knows or reasonably should know is prohibited from possessing a firearm shall be fined and may be imprisoned for up to 9 months. This bill would increase that penalty to a Class H felony. This bill authorizes the Department of Justice to prosecute such violations.

This bill also creates an affirmative defense to these crimes if the defendant has ever filed a petition for a domestic abuse injunction or a child abuse injunction against the person for whom the defendant was furnishing, purchasing, or possessing the firearm, or for whom the defendant provided false information on a firearms form.

This bill also creates a mandatory minimum sentence for repeat firearm crimes, with the term of confinement in prison portion of the bifurcated sentence being at least 4 years.

The Department of Corrections (DOC) is unable to estimate the state fiscal effect of this bill, as it is unable to estimate how many individuals will be subject to the bill's new criminal penalty provisions. The precise cost of this legislation will ultimately depend on the number of offenders and the sentencing practices of judges.

The mandatory minimum sentence for repeat firearm crimes applies both to violations of Wis. Stat. ss. 941.29 and 941.2905 (the latter being created by this bill) as well as to the commissioning of any crime specified under chapters 939 to 951 and 961 if the person used a firearm in the commissioning of the crime. DOC is unable to determine whether violations of chapters 939 to 951 and 961 involved the use of a firearm, and thus cannot determine the total number of currently incarcerated individuals who would have been subject to this mandatory minimum sentence requirement.

DOC was able to determine that, as of 9/19/2017, there were 1,914 inmates who had at least one count of an offense under 941.29. Of these, 117 inmates were convicted of a 941.29 offense on more than one case within a 5-year period. The average projected sentence length of incarceration for repeat offenders of 941.29 is 16.42 years. Note that these offenders may have also been sentenced for other crimes, in which case their sentence length would not solely be the result of violating 941.29. This average also does not include offenders with unknown sentence information or a life sentence. There were 9 repeat offenders of 941.29 with a life sentence.

Any increase in sentence length as a result of the mandatory minimum sentence requirement would increase costs to DOC.

The average FY16 annual cost for an inmate in a DOC institution is approximately \$32,300. 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 FY16 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person.

If there is a large increase in the number of offenders placed on probation or extended supervision or their

time on supervision is extended as a result of this bill, additional community corrections funding and/or positions may be necessary to handle the population. The average FY16 annual cost to supervise one offender is approximately \$3,000.

The local fiscal impact of the bill cannot be predicted because the Department of Corrections 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 FY16 annual cost to jail an adult inmate was \$18,800.

Long-Range Fiscal Implications