

Fiscal Estimate Narratives

DOC 2/5/2024

LRB Number	23-5054/1	Introduction Number	SB-0772	Estimate Type	Original
Description informing certain inmates and juveniles in custody of their rights under the law					

Assumptions Used in Arriving at Fiscal Estimate

STATE

This bill provides that for adult persons in our care (PIOCs), the Department of Corrections (DOC) for state correctional institutions or the county sheriff for county jails or county houses of correction must prepare a written document that lists the rights of all adult PIOC's afforded under the U.S. Constitution, the Wisconsin Constitution, the Wisconsin statutes, and any applicable administrative rules and that explains any complaint processes available to PIOC's. DOC or the sheriff must update the written document once per year or within one week of a legal change that affects PIOC's rights. DOC or the sheriff must post the document throughout the state correctional institution or county jail or house of correction and provide copies to each PIOC upon entering the facility, being placed under restricted movement, being placed in solitary confinement, or upon request at any time. The warden or superintendent of a state correctional institution or the sheriff of a county jail or house of correction must explain a PIOC's rights as set forth in the document upon the PIOC entering the state correctional institution, county jail, or house of correction; upon the PIOC transferring between state correctional institutions, county jails, or houses of correction; or upon request at any time.

The bill also provides the same requirements for juveniles in custody, except that DOC is responsible for preparing the document relating to juveniles, posting and distributing the document for type 1 juvenile detention facilities, and for ensuring that any juvenile detention facility, secured residential care center for children and youth, or juvenile portion of the county jail approved by DOC has a plan to distribute the document. The superintendent must explain a juvenile's rights as set forth in the document upon the juvenile entering a facility, upon the juvenile transferring between facilities, or upon request at any time.

Currently, officials at adult institutions provide PIOC handbooks outlining facility rules and regulations and how the PIOC can access services, such as medical and mental healthcare, mail, visitation, and the PIOC complaint process. These handbooks are provided either as hard copies or via kiosks accessible to the PIOC. The information outlined in these handbooks is grounded in state and federal statutes, administrative rules, and county policies, though usually does not include full statute or regulatory citations.

As written, this bill would require the Department to prepare a written document listing all the rights afforded to PIOC's under the U.S. Constitution, Wisconsin Constitution, Wisconsin Statutes, administrative code. The Department believes it would be challenging to produce and keep current a single document that complies with this request due to its scope and complexity. Further complicating matters is that within DOC, not all PIOC's have the same rights; for example, some PIOC's maintain the right to vote, while others have lost that right – the Department would therefore have to review each copy to ensure PIOC's are not misinformed about their individual rights. Finally, the Department is concerned that given the document's potential length and complexity, the legislation's requirement to explain to a PIOC all of their rights on request would impose a significant time burden on staff.

Should the Legislature modify this bill to enumerate a specific list of rights (and the corresponding Wisconsin statute) they want PIOC's to be informed of, the Department may be able to produce such a document. To compile this document, the Department would likely require an LTE paralegal at a one-time cost of \$66,400.

The Legislature could also consider requiring the Department to contract with Legal Action of Wisconsin to complete the initial document, keep the document updated and explain these rights to PIOC at a cost that is indeterminate at this time.

LOCAL

Currently, officials at county jails as well as at the Community Reintegration Center (CRC) in Milwaukee provide inmates handbooks outlining facility rules and regulations and how the inmate can access services, such as medical and mental healthcare, mail, visitation, and the inmate complaint process. These handbooks are provided either as hard copies or via kiosks accessible by inmates. The information outlined in these handbooks is grounded in state and federal statutes, administrative rules, and county policies, though usually

does not include full statute or regulatory citations.

If, for the purposes of creating the required written document on inmate rights, the counties were to adapt the written document that DOC would independently prepare per this bill's requirements, the department anticipates that they would still need to invest significant staff resources to ensure that the information in their version of the document fully captures the legal framework for inmates in their specific facilities (such as the potential impact of local or county ordinances). This may require the counties to hire additional legal staff and/or contract for additional legal services, at a cost to the county. In general, the counties would face similar challenges and complexities to what DOC would face, as outlined in the previous section, in preparing this document for their inmates.

The counties would also incur some additional costs related to posting the written document throughout their detention facilities, and replacing those postings as revisions are made to the document.

The bill's requirement that the sheriff explain the contents of the required written document on inmates' rights to an inmate whenever they enter a county jail or house of corrections, transfer between those facilities, or make a request for an additional explanation, would pose significant challenges to the counties, particularly as unlike state prisons, local inmates are booked 24/7 in jails. As mentioned, presently new or transferring inmates at jails are given a physical handbook or shown how to access an electronic handbook. If the inmate has trouble reading the handbook, an officer will help them. However, vastly greater staff time would be required to comprehensively explain the required document fully listing all inmate rights. To comply with that requirement, the counties would likely need to hire additional staff who could focus on providing these required explanations to inmates, which would raise costs for the counties. Note that DOC is assuming that a sheriff would be able to delegate this responsibility to detention facility staff – if instead this requirement is meant to apply specifically to a sheriff, the time commitment involved would make it infeasible given the many other duties of county sheriffs, both inside and outside of county detention facilities.

****STATE & LOCAL, REGARDING JUVENILE CORRECTIONS****

As mentioned, the bill also provides the same requirements for juveniles in custody, except that DOC is responsible for preparing the document relating to juveniles, posting and distributing the document for type 1 juvenile detention facilities, and for ensuring that any juvenile detention facility, secured residential care center for children and youth, or juvenile portion of the county jail approved by DOC has a plan to distribute the document. The superintendent must explain a juvenile's rights as set forth in the document upon the juvenile entering a facility, upon the juvenile transferring between facilities, or upon request at any time.

These provisions related to juvenile corrections would increase the workload on DOC, and necessitate additional staffing positions. With respect to the required written document on PIOC/inmate rights, DOC would need to capture not only the full spectrum of rights for juvenile PIOC in DOC facilities, but also detail any relevant differences that may exist concerning any of the local detention facilities across the state housing any juvenile inmates, thereby adding to the complexity of the written document.

Moreover, the bill would require DOC staff to ensure that any local detention facility housing any juveniles has a plan to distribute the required document on their rights. This would significantly add to the workload of DOC's Office of Detention Facilities (ODF), as ODF staff would need to expand their existing annual inspections of local detention facilities to include verifying compliance with this bill, and would also need to assist the department's legal staff with developing and maintaining the document outlining youth rights.

As with county jails housing adults, the bill's requirement that the counties post and distribute this document would impose some costs to the counties, and its requirement that superintendents explain a juvenile's rights as they enter a facility, transfer between facilities, or upon request would likely necessitate hiring additional staff (assuming the responsibility could be delegated), at further costs.

Long-Range Fiscal Implications