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Office of Research
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Office

S.B. 237
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 237's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Johnson

Local Impact Statement Procedure Required: No

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Highlights

- The bill may reduce the volume and/or complexity of certain criminal and civil actions creating a savings for the courts offset somewhat by additional pretrial immunity hearings.
- The bill may reduce arrests, pretrial incarceration, prosecutions, and resulting convictions creating a savings for the Department of Rehabilitation and Correction and local criminal justice agencies, including law enforcement and county prosecutors.

Detailed Analysis

Duty to retreat

The bill expands circumstances under which a person has no duty to retreat before using force, and expands the circumstances in which a person is presumed to have acted in self-defense. Under the bill, a person who is not engaged in illegal activity has no duty to retreat from any place where the person is lawfully present before using or threatening to use reasonable force, including deadly force, in self-defense, defense of another, or defense of that person's residence. These changes will likely reduce to some degree the number of cases in which a person is charged with, and subsequently convicted of, a criminal offense that occurred in any place in which the person has a lawful right to be, when that person is able to assert that the action was in defense of self or another.

Immunity

For purposes of a tort or criminal offense, the bill grants immunity to a person who is justified in using or threatening to use reasonable force, including deadly force. Under the bill, such a person is immune from arrest, the filing of criminal charges, criminal prosecution, or civil action arising from the person's use or threatened use of reasonable force, including deadly

force. In a tort action or criminal case, the bill provides that a person has a right to a pretrial immunity hearing.

The court is required to award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by a defendant in a civil action if the court finds that the defendant is immune from criminal prosecution or civil action for the use or threatened use of reasonable force, as described above.

State fiscal effects

The bill's changes may reduce the number of persons that would likely have been convicted, under current law, on homicide or other charges when such an individual claimed the use of force was necessary and justified as an act of self-defense. To the extent that such a reduction in convictions occurs as a function of the bill's self-defense and immunity provisions, there would likely be a corresponding reduction in the number of individuals sentenced to prison for committing certain felony offenses. Given the current state prison population in excess of 48,800 inmates, the magnitude of any reduction in offenders sent to prison because of the bill will likely be comparatively small, and the overall annual incarceration cost savings likely no more than minimal.

As a result of the potential reduction in certain criminal convictions, there could also be a corresponding reduction in state court cost revenues, which are collected locally and forwarded for deposit in the state treasury to the credit of the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0). The state court cost imposed for a felony offense is \$60, of which \$30 is credited to both Fund 4020 and Fund 5DY0. If the bill affects a relatively small number of criminal cases annually statewide, then any potential loss in court cost revenues that would otherwise have been collected and forwarded to the state treasury will likely be minimal at most.

Local fiscal effects

The provisions in the bill regarding self-defense, the use of force, and immunity may create some reduction in the number of persons prosecuted and sanctioned or subject to a tort action for an act of violence used in their own defense or the defense of another. Such an outcome could create some level of savings in county criminal and civil justice system operating expenses and a related loss in court cost, fee, and fine revenues that might otherwise have been collected. The magnitude of the potential changes in county criminal and civil justice system revenues and expenditures is likely to be no more than minimal annually.