

Fiscal Impact Statement for Initiative 1491

Summary

Initiative 1491 authorizes the court to issue extreme risk protection orders that require the respondent to surrender his/her firearms and concealed pistol license. Total expenditures for state and local government cannot be determined. The impact depends on the number of petitions filed and granted, and the number of violations of a granted order, which cannot be estimated. This fiscal impact statement uses data from similar types of protection orders to provide estimated costs that could result from the initiative. There would be an unknown revenue increase from assessed fines.

General Assumptions

- The effective date of the initiative is December 8, 2016.
- Unless otherwise noted, estimates use the state's fiscal year (FY) of July 1 through June 30. For example, FY 2018 is July 1, 2017, through June 30, 2018.
- FY 2017 is a partial fiscal year: from December 8, 2016, through June 30, 2017.
- One full-time equivalent (FTE) employee equates to 2,080 hours of work for one calendar year.

State and Local Government Expenditure Assumptions

- Initiative 1491 (I-1491) creates the authority for a court to issue a new protection order, known as an extreme risk protection order (ERPO).
- No data is available to determine the number of cases that will be filed with the court and the number of orders that will subsequently be issued.
- In some instances, information on similar protection orders may be available. These data may be used to estimate some expected costs.

State Expenditures

I-1491 would result in indeterminate fiscal impacts to the Department of Licensing, the Department of Corrections and the Administrative Office of the Courts.

Department of Licensing

Section 12 of I-1491 requires the Department of Licensing (DOL), upon the receipt of an ERPO from the court, to determine if the respondent has a concealed pistol license. If the respondent has a concealed pistol license, the DOL is required to immediately notify the license-issuing authority in order to revoke the license. This work is similar to work already conducted by the DOL and would require less than 0.1 FTE and less than \$7,000 per year to accomplish. In addition, the printing and postage costs for notification to license-issuing authorities of issuance of an ERPO are estimated to be \$1 per ERPO. There is no data to estimate the number of ERPOs that would be issued.

Department of Corrections

I-1491 creates a new felony offense for a person who is convicted of violating an ERPO and has two or more previous convictions for violating an ERPO. The creation of this new felony may increase the offender population. As an unranked class C felony, this crime is punishable by a standard range term of confinement of zero to 12 months in jail unless an aggravated exceptional sentence is imposed. Sentences for this new offense would likely affect only county jail facilities.

There would be no increase in state expenditures in cases where the sentence is served in a county jail facility.

Depending on the circumstances, a judge may impose an aggravated exceptional sentence. There is no data to estimate the increase to the prison offender population resulting from this action. However, the cost estimate to the state for one offender is \$13,422 annually, which includes staffing in the housing units, food and health care.

Administrative Office of the Courts

I-1491 creates a new protection order and establishes new crimes, both the above-referenced felony and misdemeanors for violation of the order and for filing petitions with false information. There is insufficient judicial data to determine how many cases would be filed each year as a result of this initiative. The Administrative Office of the Courts (AOC) used data for similar cases to provide estimated costs that may result from the initiative. Based upon these comparisons, the AOC assumes that I-1491 would result in indeterminate expenditures greater than \$100,000.

Domestic Violence Protection Orders

An average of 17,435 domestic violence protection orders are filed annually. The AOC assumes that the number of new cases filed for an ERPO will be approximately 5 percent of the number of domestic violence protection order cases. Therefore, the AOC assumes there will be 872 new cases filed in superior court each year for an ERPO. Superior court expenditures are funded by state and local funds. The state costs for the assumed number of new cases are estimated to be \$63,593 per fiscal year.

Stalking Protection Orders

An average of 386 petitions for stalking protection orders are filed annually. The AOC assumes there will be approximately the same number of ERPOs. The state costs for the assumed number of new cases are estimated to be \$28,150 per fiscal year.

New Crimes and More Cases Filed

Section 13 of the initiative creates a new gross misdemeanor for providing false information in a petition and for a person possessing firearms with knowledge that the respondent is prohibited from doing so by an ERPO. Section 13 also creates a class C felony on the third instance of violating the provisions of an ERPO. This would amend the felony of unlawful possession of a firearm in the second degree to include those who possess a firearm when subject to this new protection order.

There is no judicial data available to estimate how many cases would be filed each year as a result of this initiative. If 50 more criminal cases are filed, the superior courts would see higher expenditures. The state costs are estimated to be \$5,926 per fiscal year.

Forms and Informational Materials

Section 16 of the initiative requires the AOC to develop and prepare instructions; informational brochures; standard petitions and extreme risk protection order forms; and a court staff handbook on the ERPO process. These materials must be prepared in consultation with gun violence prevention groups, judges and law enforcement personnel. Forms, brochures and handbooks would be distributed to elected clerks and court administrators in superior, district and municipal courts in electronic format.

Development of instructional materials and translation costs are estimated at \$25,000, depending on final word counts, cost per word per language and number of required languages for translation.

System Modifications

The initiative requires modification to the Judicial Information System to add codes for the protection order and new crimes created by this initiative. The modifications are estimated to take 239 hours of staff time, resulting in a one-time cost of \$13,000.

Local Government Expenditures

Law Enforcement Costs

Local government may have higher costs to fulfill duties in the initiative. However, due to the lack of data to determine the level of activity, the expenditure impact to local governments cannot be determined. Based on data from domestic violence protection orders, local governments estimate that new misdemeanor violations of ERPOs would cost approximately \$300,000 statewide annually. The cost for most jurisdictions is estimated to be less than \$50,000 annually.

According to the Washington Association of Sheriffs and Police Chiefs, 9,883 instances of violations of no contact/protection orders involved domestic violence in 2015. An officer may spend up to four hours to arrest an individual charged with a domestic violence crime, at an average cost of \$31 per hour. Additional work for prosecutors when charging and appearing at the sentencing for an offender typically takes three hours, at an average cost of \$62 per hour. Local governments assume ERPO violations would compose approximately 5 percent of domestic violence protection orders, resulting in 494 ERPOs annually.

- Total cost to law enforcement: \$61,256 annually (4 hours x 494 violations x \$31 hourly wage)
- Related prosecution costs: \$91,884 annually (3 hours x 494 violations x \$62 hourly wage)

For a person with two or more previous convictions for violating an ERPO, the third convicted violation constitutes a class C felony. It is not possible to determine the number of felonies that would result from this initiative. However, local governments estimate the number would be low and result in costs of less than \$50,000.

The new class C felony charge and misdemeanor charges that may result from this legislation create an indeterminate cost to county jails. Misdemeanor charges carry jail sentences of 0 to 90 days. Sentences of less than one year in length are typically served in county jails. The average cost of a jail bed is \$104 per day. The new class C felony charge that would result from three ERPO violation convictions may be punishable by a range of one to three months in jail and 51 to 68 months in prison.

Judicial Costs

I-1491 would result in indeterminate fiscal impacts to local courts, based on information from the AOC and using the same comparisons to similar types of protection orders. Assuming the number of ERPOs would be 5 percent of domestic violence protection orders, and equal to the number of stalking protection orders, the cost to local courts would be \$401,205. Due to new crimes and more cases filed, local superior courts could see an additional increase of \$25,917 per fiscal year. Based on these assumptions, the total expenditure increase to local courts may be \$427,122 per fiscal year.

State and Local Revenues

Section 13 creates two new misdemeanors and a new felony. A person convicted of filing a petition knowing the information is false, or convicted of possessing or purchasing a firearm with knowledge that he or she is prohibited from doing so (gross misdemeanors), may be subject to a fine of up to \$5,000. A person convicted of violating an ERPO who has two or more previous ERPO violation convictions, which is a class C felony, may be subject to a fine of up to \$10,000. Fines may be assessed, reduced or waived at the discretion of the judge. Therefore, revenue from these fines cannot be estimated.