

**BALLOT PROPOSITION # 103
Bailable Offenses; Prohibition**

Fiscal Impact Summary

Proposition 103 amends the Arizona Constitution to add sexual assault, sexual conduct with a minor under 15 years of age, and child molestation to the offenses for which one cannot be released on bail. The Proposition is not expected to result in additional state expenditures, but could result in increased jail costs for Arizona counties. The precise cost to local government cannot be determined since there is a lack of information on how many offenders are currently released on bail.

	FISCAL YEAR		
	2003	2004	2005
STATE EXPENDITURES			
State General Fund	\$-0-	\$-0-	\$-0-

FISCAL ANALYSIS

Description

Proposition 103 amends the Arizona Constitution by adding sexual assault, sexual conduct with a minor who is under 15 years old, and child molestation to the list of crimes potentially ineligible for bail. In addition, Proposition 103 defines the purposes of bail to be: 1) assuring the appearance of the accused, 2) protecting against the intimidation of witnesses, and 3) protecting the safety of the victim, other individuals, and the community.

Estimated Impact

The JLBC Staff estimates no General Fund impact as a result of this bill. Any potential cost associated with this bill will be borne entirely by counties. The precise cost to local government cannot be determined since we do not have information on how many offenders are currently held without bail or how many offenders are unable to pay bail under current law. The JLBC Staff does, however, expect increased jail costs as a result of this measure.

Analysis

The Arizona Constitution currently does not include sexual assault, sexual conduct with a minor, or child molestation in the list of offenses potentially ineligible for bail. Proposition 103 adds these offenses, resulting in an increase in the number of offenders awaiting trial who are held without bail. Since those arrested for these types of offenses are held in county jail, and since the state does not fund pre-trial jail costs, any increase in jail time as a result of this bill will be experienced by counties (see Local Government Impact section). The state begins to fund incarceration costs after an offender has been convicted. Since Proposition 103 does not impact post-conviction expenditures or procedures, the costs associated with this bill will not be borne by the state.

Local Government Impact

Since the Proposition adds certain offenses to the list of crimes potentially ineligible for bail, the number of felony offenders held in county jails could increase as a result of Proposition 103. The increase in jail costs would be paid by the counties, as the state does not fund pre-conviction jail costs. The precise cost to local government cannot be determined without information on those offenders held without bail or unable to afford bail under current law.

(Continued)

Local Government Impact (Continued)

The total number of people charged with sexual assault, sexual conduct with a minor, and child molestation was approximately 3,700 in FY 2001. Since current law allows felony offenders to be held without bail, it is likely that a portion of these offenders are already held without bail. Therefore, based on previous case filing information, the number of offenders affected by Proposition 103 could range from zero to 3,700 in future years. We were not able to determine what percentage of these offenders are currently held without bail as information is not readily available on this issue.

The average cost per day for an offender to be jailed in the county jail is approximately \$45. This information was provided by the Arizona Association of Counties Office and represents data from Maricopa and Pima Counties. Actual per diem jail costs will vary by county. The county would pay an additional \$45 for every day an offender is incarcerated as a result of this measure.

In addition to increased jail time as a result of Proposition 103, there may also be an increase in court costs if defense counsel challenges the determination that a person may not be released on bail. It is possible that in each of these cases where a defendant is not released on bail, a full evidentiary hearing may occur to determine whether the court was justified in its judgement.

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This estimate was prepared by Kim Hohman (602-542-5491).