



BILL SUMMARY

AB 665: Counting Of Certain OWI Convictions

Date: March 29, 2000

BACKGROUND

Under current law, when sentencing a person who has been convicted of an OWI offense, the court is required to count the number of prior OWI offenses that the person has committed within certain time periods. OWI offenses are counted for the ten years preceding the current offense, unless the person has three or more prior convictions in their lifetime, in which case all prior offenses are counted.

Offenses that must be counted by the court for sentencing purposes include driving while under the influence of an intoxicant; driving while the person has a prohibited alcohol concentration; causing injury, great bodily harm or death while driving while under the influence of an intoxicant or while having a prohibited alcohol concentration; and improperly refusing to submit to a test to determine the alcohol concentration in the person's blood.

SUMMARY OF AB 665

Under AB 665, any person who has been convicted of causing great bodily harm or death while driving under the influence of an intoxicant or while having a prohibited alcohol concentration will have that offense counted as an OWI offense for sentencing purposes for their entire life.

FISCAL EFFECT

Fiscal estimates prepared by the Department of Justice, the State Public Defender's Office, and the Department of Health and Family Services indicated that AB 665 would have no fiscal effect on their operations.

A fiscal estimate prepared by the Department of Administration indicated that AB 665 might lead to increased workload for District Attorneys by possibly increasing the number of people who would seek a trial rather than agreeing to a plea bargain. DOA said that the increase in trials (if any) that results from the enactment of AB 665 should be closely monitored to determine if additional resources for DA's offices will be needed.

A fiscal estimate prepared by the Director of State Courts indicated that AB 665 might result in increased costs to the court system if more individuals affected by this bill chose to contest their cases. An exact estimate of this increase was not provided.

A fiscal estimate prepared by the Department of Transportation, Division of Motor Vehicles indicated that AB 665 would result in a one-time cost to DMV of \$6,220 in data processing costs to make changes to their computer system. DMV indicated that this increase could be absorbed within the agency's budget.

PROS

1. Causing serious injury or killing another person as a result of driving drunk is a serious offense, and one which should be taken into account in the future if the person commits another OWI offense.
2. Law enforcement officers testified that having this information available on an individual's driving record would help them make more informed decisions on how to handle an individual they may suspect of driving drunk. One officer testified that he once gave a ride home to a driver he suspected of being intoxicated after the man's driving record came up clean, only to find out later that the individual had been convicted of homicide by intoxicated use of a motor vehicle more than 10 years previously—information which was not available on the driver's record. Had the officer known of the man's history, he would have handled the situation very differently.

CONS

1. Some might argue that a person who has this information kept on their records permanently is being unfairly punished for a crime that they have already served a sentence for.

SUPPORTERS

Rep. Al Ott, author; Sen. Gary Drzewiecki, lead co-author; Rep. Jeff Stone; Bill Tyson, Calumet County Sheriff Dept.; Shelly Tyson, Clilton WI; Steven C. Werner, WI Professional Police Association; Casey Perry, WI Troopers Association; Maureen D Boyle, Walworth County District Attorney; Sen. Peggy Rosenzweig

OPPOSITION

Kenneth Naus, Cadott WI

HISTORY

Assembly Bill 665 was introduced on January 19, 2000 and referred to the Assembly Committee on Highway Safety. A public hearing was held on February 16, 2000. On March 2, 2000 the Committee voted 6-1-1 [Rep. Young voting no, Rep. Hasenohrl absent] to recommend passage of AB 665.

CONTACT: Mike Prentiss, Office of Rep. Jeff Stone

1999 Session		LRB Number -0791/1
FISCAL ESTIMATE DOA-2048 N(R06/99)	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	Bill Number AB 665
Subject Counting Certain Convictions in Drunk Driving Cases		Amendment No. if Applicable
		Administrative Rule Number
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.		
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation		<input checked="" type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
Local: <input type="checkbox"/> No local government costs		
1. <input checked="" type="checkbox"/> Increase Costs <input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Chapter 20 Appropriations
Assumptions Used in Arriving at Fiscal Estimate		
<p>Presently, when sentencing a person for OWI, the court is required to count certain prior OWI convictions within the previous 10 year-year period. This bill requires the court to count any causing great bodily harm or death while driving under the influence or while having a prohibited alcohol level convictions that have occurred at any time during the defendant's life in addition to the offenses that have occurred within the 10 year period.</p> <p>It is impossible to predict the number of sentencings that this would affect. By being counted the potential sentence becomes more severe and the increased charge may be contested more frequently. Any additional litigation increases state and county costs for operating the court system. The exact increase cannot be estimated with the data available.</p>		
Long-Range Fiscal Implications		
Prepared by: Sheryl Gervasi	Telephone No. 608-266-6984	Agency Director of State Courts
Authorized Signature: <i>Sheryl Gervasi</i>	Telephone No.	Date 2/4/00

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R06/99)

LRB Number - 0791/1	Amendment No. if Applicable
Bill Number AB 665	Administrative Rule Number

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Counting Certain Convictions in Drunk Driving Cases

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$	\$	-
(FTE Position Changes)	(FTE)	(-	FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category	\$	\$	-
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR	\$	\$	-
FED			-
PRO/PRS			-
SEG/SEG-S			-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$	-
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues	\$	\$	-

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS \$ _____ + indeter. \$ _____ + indeter.

NET CHANGE IN REVENUES \$ _____ \$ _____

Prepared by: Sheryl Gervasi	Telephone No. 608-266-6984	Agency Director of State Courts
Authorized Signature: <i>Sheryl Gervasi</i>	Telephone No.	Date 2/4/00

LRB or Bill No./Adm. Rule No.
 AB 665 (LRB0791/1)
 Amendment No. if Applicable

FISCAL ESTIMATE
 DOA-2048 N(R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject
 Counting of certain convictions in drunk driving cases.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation
 or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb
 Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Conclusion:

1. No position impact on DMV.
2. One-time DP costs of \$6,220.

Basis for conclusion:

1. There are very few convictions and driver license withdrawals for Great Bodily Harm (GBH) and Negligent Homicide-Intoxicated (NHI) annually. In 1999:
 - GBH: 40 convictions and 32 driver license withdrawals
 - NHI: 17 convictions and 15 withdrawals.
 These counts are for occurrences of NHI and GBH, not necessarily the first occurrence for a particular driver.
2. Minimal impact on the Division of Motor Vehicles because the number of NHI and GBH convictions is very small.
3. One time data processing costs of \$6,220. (10 staff days; \$4,000 plus CPU cost of \$2,220) to change the system to include the counting of Great Bodily Harm (GBH) and Negligent Homicide - Intoxicated (NHI) as a prior conviction when a second OWI conviction occurs.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
 DOT/DMV Eileen Ostrowsky
 (608) 266-1449

Authorized Signature/Telephone No.
 Roger D. Cross 266-2233

Date
~~4/25/00~~
 2/2/00

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R1298)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
AB665 (LRB0791/1)

Amendment No.

Subject **Counting of certain convictions in drunk driving cases.**

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
Data Processing Development of \$6,220

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$ -	\$ -
(FTE Position Changes)		(FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category		\$ -	\$ -
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR		\$ -	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$ -	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$ -	\$ -


NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS \$ -0- \$

NET CHANGE IN REVENUES \$ -0- \$

Agency/Prepared by: (Name & Phone No.) DOT/DMV Eileen Ostrowsky 266-1449	Authorized Signature/Telephone No. Roger Cross 266-2233 	Date 1/25/00
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LRB or Bill No./Adm. Rule No.
LRB 99-0791/1
AB 665

Amendment No. if Applicable

- ORIGINAL UPDATED
- CORRECTED SUPPLEMENTAL

ISCAL ESTIMATE

DOA-2048 N(R10/96)

Subject

Counting of certain convictions in drunk driving cases

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

s. 20.550 (1)(d)

Assumptions Used in Arriving at Fiscal Estimate

This bill would require that convictions for causing injury by intoxicated use of a vehicle (s. 940.25) and homicide by intoxicated use of a vehicle (s. 940.09(1)) would be counted for life when determining the number of prior OWI offenses a person has on his or her record. According to the UW Law School's Resource Center on Impaired Driving, in 1998, there were 31 convictions for homicide by intoxicated use of a vehicle and 37 convictions for causing injury by intoxicated use of a vehicle.

The State Public Defender's Office (SPD) represents only those persons who are charged with a criminal offense OWI (i.e. a 2nd or subsequent offense). If enactment of this bill increased the number of persons who are charged with a criminal offense OWI, then the SPD would incur costs from the additional persons it would represent. On the other hand, if the number of persons who are charged with a criminal offense OWI remained the same upon enactment of this bill, then the SPD would not incur costs. Based on the statistics above, it's probably more likely that the actual number of persons charged with a criminal offense OWI would not change due to enactment of this bill. Therefore, the SPD does not at this time expect a fiscal effect upon enactment of this bill.

Long-Range Fiscal Implications

None anticipated, but agency will monitor fiscal effect of bill, if enacted, for future budget considerations.

Agency/Prepared by: (Name & Phone No.)
Public Defender/Gina Pruski/6-6782

Authorized Signature/Telephone No.



Date
January 27, 2000

LRB or Bill No./Adm. Rule No.
LRB 99-0791/1
AB 665

Amendment No. if Applicable

- X ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

ISCAL ESTIMATE

DOA-2048 N(R10/96)

Subject

Counting of certain convictions in drunk driving cases

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

- | | | |
|---|---|--|
| <p>1. <input type="checkbox"/> Increase Costs
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>3. <input type="checkbox"/> Increase Revenues
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>4. <input type="checkbox"/> Decrease Revenues
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>5. Types of Local Governmental Units Affected:
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<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts</p> |
|---|---|--|

Fund Sources Affected

- X GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

s. 20.550 (1)(d)

Assumptions Used in Arriving at Fiscal Estimate

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The State Public Defender's Office (SPD) represents only those persons who are charged with a criminal offense OWI (i.e. a 2nd or subsequent offense). If enactment of this bill increased the number of persons who are charged with a criminal offense OWI, then the SPD would incur costs from the additional persons it would represent. On the other hand, if the number of persons who are charged with a criminal offense OWI remained the same upon enactment of this bill, then the SPD would not incur costs. Based on the statistics above, it's probably more likely that the actual number of persons charged with a criminal offense OWI would not change due to enactment of this bill. Therefore, the SPD does not at this time expect a fiscal effect upon enactment of this bill.

Long-Range Fiscal Implications

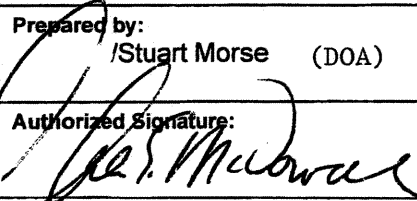
None anticipated, but agency will monitor fiscal effect of bill, if enacted, for future budget considerations.

Agency/Prepared by: (Name & Phone No.)
Public Defender/Gina Pruski/6-6782

Authorized Signature/Telephone No.

Gina Pruski

Date
January 27, 2000

1999 Session		LRB Number 0791/1
FISCAL ESTIMATE DOA-2048 N(R06/99)		Bill Number AB 665
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL		Amendment No. if Applicable Administrative Rule Number
Subject Counting of certain convictions in drunk driving cases		
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.		
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation		<input checked="" type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
Local: <input type="checkbox"/> No local government costs		
1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Chapter 20 Appropriations s. 20.475(1)(d)
Assumptions Used in Arriving at Fiscal Estimate This bill would increase the number of persons facing certain penalties for intoxicated driving. Without this bill, these persons would face lesser penalties. This would tend to increase the number of persons who would seek a trial rather than plead and thus would increase the workload of district attorneys. Data are not available with which to determine the actual number of additional trials that would result.		
Long-Range Fiscal Implications The actual increase, if any, in trials should be carefully monitored to determine if additional prosecutorial resources are needed.		
Prepared by: /Stuart Morse (DOA)	Telephone No. (608) 267-2700	Agency DA
Authorized Signature: 	Telephone No. (608) 267-3836	Date Jan. 26, 2000

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

LRB #0791/1

INTRODUCTION # AB 665

Admin. Rule #

Subject

Counting of certain convictions in drunk driving cases.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:

- Towns
- Villages
- Cities
- Counties
- Others _____
- School Districts
- WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

This will have no fiscal effect on the Department of Justice.

Long-Range Fiscal Implications:

Prepared By: / Phone # / Agency Name
Steve Tinker/266-0764/DOJ

Authorized Signature / Telephone No.
267-1932

John A. Richard

Date
January 26, 2000

FISCAL ESTIMATE FORM

1999 Session

ORIGINAL

UPDATED

LRB # -0791/1

CORRECTED

SUPPLEMENTAL

INTRODUCTION # AB 665

Admin. Rule #

Subject

Counting of certain convictions in drunk driving cases

Fiscal Effect

State: No State Fiscal Effect

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Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation

Increase Existing Revenues

Decrease Existing Appropriation

Decrease Existing Revenues

Decrease Costs

Create New Appropriation

Local: No local government costs

1. Increase Costs

Permissive Mandatory

3. Increase Revenues

Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs

Permissive Mandatory

4. Decrease Revenues

Permissive Mandatory

Counties Others _____

School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

This bill makes changes to statutes governing the circumstances under which courts must suspend driving privileges because of past convictions, license suspensions and license revocations.

It is estimated that this bill will have no fiscal effect on DHFS or on county human services/social services agencies.

Long-Range Fiscal Implications:

Prepared By: / Phone # / Agency Name

Andrew Forsaith / 266-7684 / DHFS/OSF

Authorized Signature / Telephone No.

John Kiesow, 266-9622

Date

3-6-00