

Fiscal Estimate Narratives

DOC 6/10/2009

LRB Number	09-2173/1	Introduction Number	AB-0274	Estimate Type	Original
Description Allowing probation after certain convictions related to drunken driving					

Assumptions Used in Arriving at Fiscal Estimate

Probation for 2nd and 3rd Offense OWI Convictions

Under current law a trial court may not place a person on probation if the person has committed a second or third violation related to operating a vehicle while intoxicated. This bill authorizes a court to place a person on probation for a maximum of one year.

Also under current law if a crime carries a mandatory minimum period of incarceration of one year or less, the person must be incarcerated for at least the mandatory minimum period as a condition of his or her probation. This bill makes this mandatory minimum incarceration requirement applicable to these convictions as well (5 days for a 2nd OWI conviction and 30 days for a 3rd).

Under current penalties, the Department of Corrections (DOC) may receive offenders when they reach a 4th Offense OWI conviction (misdemeanor probation). During calendar year (CY) 2007 Department of Transportation (DOT) data shows that there were 1,902 convictions for 4th offense OWI. During this same calendar year period, DOC had 586 misdemeanor probation admissions for driving while intoxicated, approximately 30.81% of the total DOT convictions.

For purposes of this fiscal estimate, DOT's CY 2007 OWI conviction information is used to estimate additional staffing and funding that would be needed if convictions remained as they were in 2007 under the new penalty structures. In CY2007, there were 9,196 convictions for 2nd offense OWI and 4,114 convictions for 3rd offense OWI. If 30.81% of these convictions resulted in a one year probation term, the Department would see a permanent increase of 4,101 offenders on community supervision after the first full year of enactment of this legislation.

Community Corrections Staffing/Costs – If it is assumed that these OWI offenders will have similar supervision needs to other community corrections offenders, and the Department's Case Classification/Staff Deployment calculations are utilized to estimate additional staffing needs associated with these increased populations, the Department would need 104.50 additional FTE within the first year of enactment (73.00 FTE Probation and Parole Agents, 7.00 FTE Unit Supervisors and 24.50 FTE clerical support positions).

If FY08 average costs of a DCC probation/parole offender (\$6.68/day) are used to estimate additional funding needed to provide community supervision for this increased population, the Department would need approximately \$10 million on an annual ongoing basis once the full population increase of 4,101 is reached.

It is anticipated that purchase of services (assessment/treatment) funding for this type of offender would be much greater than the average DCC offender. Additional AODA treatment in the community could be needed in the following areas:

- . . . Aftercare treatment - approx. \$24.47/offender (1x per month for 4 months)
- . . . Outpatient treatment – approx. \$133.12/offender (1x per month for 3 months)
- . . . Intensive outpatient treatment – approx. \$632.83/offender (4x per week for 3 months)
- . . . Inpatient Treatment – approximately \$120/day/offender
- 90 day (3 mo) program totals \$10,800/offender
- 120 day (4 mo) program totals \$14,400/offender
- 180 day (6 mo) program totals \$21,800 per offender

Although it is assumed that 100% of the DCC OWI offenders will need some of the additional AODA treatment noted above, it is not possible to predict what percentage of these offenders will need each of these different types of AODA treatment options.

Electronic Monitoring – The Department would utilize electronic monitoring on an estimated 25% of the community OWI offenders for the first 6 months of supervision and place 100% of the community OWI

offenders on sobriety and interlock devices for the term of their community supervision. Costs for electronic monitoring are \$0.92/day and \$1.09/day for sobriety. Interlock devices require a \$60.00 installation fee, \$70.00 monthly fee, \$60.00 one time security fee and a \$90.00/year charge for recalibration which is needed every 60 days. For purposes of this estimate all of the interlock costs are assumed to be paid by the Department.

Using the CY2007 DOT conviction numbers, equipment costs are projected to be \$2.2 million per year. An additional 56.00 FTE Monitoring Center staff would be needed at a cost of approximately \$3.1 million per year plus an initial \$550,700 in startup costs.

4th Offense OWI Convictions

Under current law, a 4th offense OWI conviction is a misdemeanor punishable by a \$600 to \$2,000 fine and 60 days to one year imprisonment. Sentencing courts can also place a 4th offense OWI offender on probation for up to two years. Under this bill 4th offense OWI is limited to a probation term of up to one year.

In CY2007 DOC had 586 admissions to probation for misdemeanor Driving While Intoxicated. If it is assumed that all of these individuals received a probation term of two years, by the end of the second year they would represent an average daily population (ADP) on probation of 1,172 offenders. The reduction in probation term to a maximum of one year would reduce the ADP to 586 resulting in annual cost savings in the Department's Community Corrections costs of approximately \$1.4 million.

SUMMARY:

It is anticipated that placing 2nd and 3rd offense OWI offenders on probation will result in cost increases to the Department of Corrections. The reduction to a one year maximum probation term for 4th offense OWI could result in cost savings that would offset a portion of these increased costs.

The precise cost impact of this legislation will ultimately depend on the sentencing practices of judges under the new penalty structures and the number of offenders who violate these specific offenses, making it impossible to provide a specific fiscal impact.

Long-Range Fiscal Implications