



## Fiscal Estimate Narratives

DA 9/20/2011

LRB Number	11-2144/2	Introduction Number	AB-0670	Estimate Type	Original
<b>Description</b> Offenses related to operating a vehicle while intoxicated, releasing persons arrested for offenses related to operating a vehicle while intoxicated, granting rule-making authority, and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

Currently, a first OWI-related offense is a civil violation, unless a minor passenger was in the vehicle at the time. A person who commits a civil OWI-related offense is subject to a forfeiture. Under this bill, a first OWI-related offense is guilty of a Class C misdemeanor. Under the bill, if a person is subject to a minimum period of imprisonment for any OWI-related offense, the person is not eligible for home detention, good time, release from jail for employment, etc., until he or she serves at least the minimum period of time in jail or prison.

Under the bill, \$10 million from revenues generated by the wine and liquor tax are deposited into the intoxicated and drugged drivers fund. The bill requires the Department of Administration, the Public Defender Board, the Department of Health Services, and the director of the state courts to prepare budget requests that would allocate funds to pay costs incurred by District Attorneys (DAs), Public Defenders, circuit courts, and counties in relation to prosecuting first OWI-related offenses and providing treatment programs.

Currently, a person arrested for certain OWI-related offenses may not be released from police custody until 12 hours have elapsed from the arrest or unless the person's alcohol concentration is less than 0.04, in which case the person may be released to their attorney, spouse, relative, or other responsible adult at any time after arrest. Under this bill, a person may be released to a responsible party if the party accepts legal responsibility for the actions of the arrested person for 12 hours after the arrest, and that if the arrested person is arrested for another OWI-related offense with that period, the responsible party may be guilty of a Class C misdemeanor.

DAs anticipate that enactment of this bill would place a severe strain on their offices. Currently, many counties have multiple municipal courts that normally prosecute first OWI offenses. Making all OWI-related offenses a criminal offense mandates that all OWIs be taken to circuit court and requires state prosecutors, not municipal prosecutors, to prosecute the cases.

DAs state that more OWI cases would go to jury trial because the stakes would have been raised so high (e.g. - first offense OWI-related cases would now be criminal; and, not allowing work release privileges until a minimum jail sentence has been served). Defendants will be less likely to plead due to a lack of manpower resources in DA offices and support funding for laboratory alcohol/drug testing. Prosecutors have stated that OWI cases are more heavily litigated than other cases, and would result in more criminal complaints, motions, and trials.

Statistics from the Department of Transportation reflect the following number of OWI first convictions on a statewide basis:

2008: 22,426  
2009: 23,056  
2010: 20,464.

The three-year average number of OWI first convictions is 21,982. DOT's figures reflect convictions; so, it is logical to assume that there is a larger number of cases than convictions. This estimate, however, will conservatively use the number of convictions in formulating the projected cost.

In the caseload formula that is used to estimate DA office staffing needs, criminal traffic cases are weighted at 2.91 hours per case. Some prosecutors believe that OWI-related cases require more than 2.91 hours to prosecute. In addition, the formula estimates the number of hours available to a prosecutor to work on specific cases is 1,162 hours per year.

To determine how many criminal traffic cases an Assistant District Attorney (ADA) could process in a year, 1,162 is divided by 2.91 hours per case. This equals 399.3 cases per year.

The three-year average number of cases of 21,982, divided by 399.3 cases per year, indicates that 55.05 ADAs would be needed to prosecute these cases. The additional cost for the DA program would be approximately:

Annual salary = \$49,429

Annual fringe = \$20,785

TOTAL = \$70,214 x 55.05 ADAs = \$3,865,281.

DAs do not anticipate that the provision which allows release of the arrested party to a responsible party prior to completing 12 hours in police custody will cause a significant increase in their workload.

DAs indicated that there would be a need for additional judges, public defenders, court personnel, clerical staff, additional computers, office supplies, office space, subpoena fees, witness fees, and so on.

### **Long-Range Fiscal Implications**

Please see the narrative provided above.

## Fiscal Estimate Worksheet - 2011 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

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<b>Description</b> Offenses related to operating a vehicle while intoxicated, releasing persons arrested for offenses related to operating a vehicle while intoxicated, granting rule-making authority, and providing a penalty			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes	\$3,865,281		\$
(FTE Position Changes)	(55.0 FTE)		
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
<b>TOTAL State Costs by Category</b>	<b>\$3,865,281</b>		<b>\$</b>
<b>B. State Costs by Source of Funds</b>			
GPR	3,865,281		
FED			
PRO/PRS			
SEG/SEG-S			
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>			
	Increased Rev		Decreased Rev
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
<b>TOTAL State Revenues</b>	<b>\$</b>		<b>\$</b>
<b>NET ANNUALIZED FISCAL IMPACT</b>			
	<u>State</u>		<u>Local</u>
NET CHANGE IN COSTS	\$3,865,281		\$
NET CHANGE IN REVENUE	\$		\$
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
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