

Fiscal Estimate Narratives

DOC 8/3/2011

| | | | | | |
|---|-----------|---------------------|--------|---------------|----------|
| LRB Number | 11-2044/1 | Introduction Number | SB-152 | Estimate Type | Original |
| Description Penalties for driving a vehicle while under the influence of an intoxicant and providing a penalty. | | | | | |

Assumptions Used in Arriving at Fiscal Estimate

Under current law, first offense operating a motor vehicle under the influence of an intoxicant or controlled substance (OWI Offense) is a civil violation punishable by a fine of not less than \$150 nor more than \$300 and second offense OWI is a misdemeanor (in some instances it could be a felony) punishable by a fine of not less than \$350 nor more than \$1,100, and/or a county jail sentence not less than 5 days nor more than 6 months. In addition, offenders convicted of second offense OWI can be placed on a maximum of 2 years probation.

This bill makes first offense OWI convictions a crime punishable by a fine of not less than \$350 nor more than \$1,100 and a county jail sentence not less than 5 days nor more than 6 months if the offender is found guilty of having an alcohol concentration of .15 or greater. First offense OWI offenders would also be eligible for probation. This bill makes second offense OWI convictions punishable by a fine of not less than \$500 nor more than \$1,500, and/or a county jail sentence of not less than 10 days nor more than 6 months.

2009 Act 100 has only been effective since July 1, 2010, therefore data is not currently available to show what impact the legislation has had on first and second offense OWI convictions. 2007 blood alcohol content (BAC) conviction data received from the Department of Transportation (DOT) showed approximately 50% of offenders convicted of first offense OWI had a BAC of .15 or greater. Data available from DOT shows 23,056 individuals were convicted of first offense OWI in 2009. If it is assumed that these statistics are reflective of future data, there would be from 57,640-2,098,100 additional days of incarceration in county jails from a first offense OWI conviction with an alcohol concentration of .15 or more. Because first offense OWI offenders become eligible for probation under this bill, there could be additional costs to the Department of Corrections if offenders were placed on probation. The average FY10 annual cost to supervise one offender is approximately \$2,800.

Data received from the DOT indicates that in 2009 there were 6,235 convictions for second offense OWI. If it is assumed that 2009 statistics are reflective of future data, requiring second offense OWI offenders to spend an additional 5 days in jail would result in 31,175 additional days of incarceration in county jails.

Counties will incur additional costs for housing these offenders. In order to relieve the bed space pressures resulting from the increased population, some counties may need to consider building additional jail beds or transporting their offenders to other counties. In addition, individuals convicted of OWI may have health care/ treatment (e.g., AODA) needs that will result in increased costs to counties. The extent of the increased cost to counties from this legislation is dependent on an individual county's current bed space capacity and what their costs are to house additional inmates.

The precise cost impact of this legislation will ultimately depend on the sentencing practices of judges under the new penalty structure and the number of offenders who violate these specific offenses.

Long-Range Fiscal Implications