

Fiscal Estimate Narratives

DOJ 7/31/2013

LRB Number	13-0731/2	Introduction Number	AB-0071	Estimate Type	Original
Description Penalties for operating-while-intoxicated offenses and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, it is a misdemeanor to commit a third offense OWI or to commit a fourth offense OWI if the third offense OWI took place more than 5 years prior. Under 2013 Assembly Bill 71, it is a felony to commit a third offense OWI or to commit a fourth offense OWI regardless of when the third offense occurred.

Increasing these offenses to a felony would allow submission of the blood samples to DOJ's Crime Laboratory Bureau (CLB) for alcohol and drug analysis versus submission to the Wisconsin State Laboratory of Hygiene (WSLH), where misdemeanor OWI samples are currently sent.

Based on data provided by the Department of Transportation, DOJ would expect to see an annual increase of approximately 3,690 toxicology cases, which is the four-year average of misdemeanor 3rd & 4th OWI offenses from 2009-2012 (it should be noted that some 2012 convictions may not have been adjudicated and recorded as of the date of this estimate). This estimate considers what additional personnel, equipment, consumable supplies, and work space costs would be required to meet that demand without adversely affecting overall CLB toxicology turnaround times.

The CLB has a total of seven toxicologists assigned between the Madison and Milwaukee laboratories. The Wausau laboratory does not perform toxicology work. In 2012, the CLB analyzed 3,832 toxicology samples with a turnaround time of 36 days. Through July 29, 2013, the CLB has analyzed 2,482 toxicology samples with a turnaround time of 29 days.

In order to process the samples expected under AB 71 in a similar fashion, the CLB would need increased capacity as follows:

PERSONNEL

6 forensic toxicologists @ \$52,200 (salary) + \$19,836 (fringe)= \$432,216
1 forensic supervisor @ \$68,094 (salary) + \$26,184 (fringe)= \$95,088
7 initial supplies and equipment @ \$3,450= \$24,150
Total personnel costs: \$551,454

EQUIPMENT

3 Headspace Gas Chromatographs @ \$62,000= \$186,000
3 Gas Chromatograph/Mass Spectrometers @ \$65,500= \$196,000
Total equipment costs: \$382,000

SUPPLIES

6 sets of pipettes @ \$3,000= \$18,000
3 Centrifuges @ \$1,200= \$3,600
4,000 consumable supplies @ \$2.26= \$9,040
Total supply costs: \$30,640

Total CLB personnel, equipment, and supplies \$964,094

In addition to the above costs, an expansion of laboratory space would be necessary for the personnel and equipment. To facilitate this project, a minimum of 2,000 square feet would be needed. There is no available space at any of the current laboratories. There is a current capitol budget project underway to expand the Madison Laboratory to accommodate DNA at arrest as part of 2013 Wisconsin Act 20, which becomes effective on April 1, 2015. That project is well underway with the Department of Administration (DOA) and is confined to the refurbishing and code upgrades of existing lab space in Building D of the Hills Farm Buildings. Building D is located within the same building footprint as the current Madison Laboratory, but separated in the middle by the Wisconsin Department of Agriculture, Trade, and Consumer Protection

(DATCP) Laboratory. The DATCP laboratory is slated to be vacated in late 2013 and could offer a potential option for CLB expansion and merging of the two spaces, however, a complete assessment would need to be performed by DOA. Experience with the Building D project has shown that many of the mechanicals are out of date and require significant upgrades. Thus, this option would require significant time, as well as capitol budget monies. As a DOA tenant agency, DOJ is not in control of these issues.

While most felony prosecutions are handled by district attorneys, assistant attorneys general in the Department of Justice's Criminal Litigation Unit on occasion act as special prosecutors throughout Wisconsin at the request of district attorneys. In addition, the Department of Justice's Criminal Appeals Unit represents the State of Wisconsin in defending felony convictions when those convictions are challenged in state or federal court. Under Wisconsin law, this unit is charged with preparing briefs and presenting arguments in front of any state appellate or federal court hearing a challenge to a felony conviction.

Since AB 71 broadens the types of activities that can be prosecuted as felonies, enactment of the bill could result in a substantial increase in caseload for DOJ, particularly the Criminal Appeals Unit (CAU).

DOJ estimates that a few hundred felony convictions under AB 71 may be appealed annually. If approximately 400 convictions are appealed each year (just over 10% of the 4-year average of 3rd & 4th OVI convictions covered by the bill), DOJ's CAU will need 2 Assistant Attorneys General and 1 Legal Secretary to handle this increased caseload and to successfully defend the convictions in those appeals.

Costs for 2 Assistant Attorneys General and 1 Legal Secretary are as follows:

Personnel

2 Assistant Attorneys General @ \$49,700 (salary) + \$19,200 (fringe) = \$137,800

2 position supplies and equipment @ 13,000 = \$26,000

1 Legal Secretary @ \$34,300 (salary) + \$13,200 (fringe) = \$47,500

1 position supplies and equipment @ \$9,200

Total CAU cost = \$220,500

Total DOJ costs = \$1,184,594

Long-Range Fiscal Implications