

### Fiscal Estimate - 2013 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>13-4045/2</b>	<b>Introduction Number</b> <b>AB-0846</b>	
<b>Description</b> Making the first offense of operating a motor vehicle while under the influence of an intoxicant a crime, making an appropriation, and providing a penalty		
<b>Fiscal Effect</b>		
<b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input checked="" type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input checked="" type="checkbox"/> Increase Costs                          3. <input type="checkbox"/> Increase Revenue                          5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs                          4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.550(1)(b-d)		
<b>Agency/Prepared By</b> SPD/ Anna Oehler (608) 267-0311	<b>Authorized Signature</b> Adam Plotkin (608) 264-8572	<b>Date</b> 3/12/2014

## Fiscal Estimate Narratives

SPD 3/12/2014

LRB Number	13-4045/2	Introduction Number	AB-0846	Estimate Type	Original
<b>Description</b> Making the first offense of operating a motor vehicle while under the influence of an intoxicant a crime, making an appropriation, and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a significant role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill would reclassify first offense Operating While Intoxicated (OWI) offenses from a civil charge to a criminal charge. Under this bill, a person who commits a first offense OWI on or after April 1, 2015 is guilty of a crime and may be fined not less than \$150 nor more than \$300 and imprisoned for not more than five days, or both. The SPD's average cost to provide representation with a private bar attorney in a misdemeanor case was \$247.54, calculated on the basis of the SPD's average cost per case in fiscal year 2013.

The Department of Transportation (DOT) reported 16,619 convictions for first offense OWIs committed in fiscal year 2012, assuming a 95% conviction rate, as most prosecutions would be successfully supported by blood alcohol evidence, assuming that 60% of the defendants would meet the SPD's financial eligibility criteria, the SPD could appoint counsel in as many as 10,470 misdemeanor cases under this bill, at an annual cost of \$2,591,700 (\$247.54 per case in FY13) for first offenses.

It is likely that charging first offense OWI as a misdemeanor will also result in a significant increase in cases in which the SPD provides representation such as operating after revocation. We are unable to estimate the number or cost of these additional proceedings.

Because of the increased minimum penalty in these cases, counties are also subject to increased costs. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. Thus, the counties would experience increased costs attributable to the higher penalties for these charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

### Long-Range Fiscal Implications