

Fiscal Estimate - 2015 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 15-1581/1	Introduction Number AB-0353
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Description
 Requiring a mandatory minimum sentence for causing bodily harm to another while driving while intoxicated and providing a penalty

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Decrease Costs	

Local:

<input type="checkbox"/> No Local Government Costs	<input checked="" type="checkbox"/> Indeterminate	5. Types of Local Government Units Affected	
1. <input checked="" type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	<input type="checkbox"/> Towns	<input type="checkbox"/> Village <input type="checkbox"/> Cities
<input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input checked="" type="checkbox"/> Counties	<input type="checkbox"/> Others
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	<input type="checkbox"/> School Districts	<input type="checkbox"/> WTCS Districts
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		

Fund Sources Affected	Affected Ch. 20 Appropriations
<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)	

Agency/Prepared By SPD/ Anna Oehler (608) 267-0311	Authorized Signature Adam Plotkin (608) 264-8572	Date 10/7/2015
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Fiscal Estimate Narratives

SPD 10/7/2015

LRB Number	15-1581/1	Introduction Number	AB-0353	Estimate Type	Original
Description Requiring a mandatory minimum sentence for causing bodily harm to another while driving while intoxicated 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 mandates that if a person causes an Operating While Intoxicated (OWI)-related injury and the injured person suffers bodily harm, the offender who caused the OWI-related injury must serve at least 30 days in jail. If the injured person suffers substantial bodily harm, the offender is guilty of a Class H felony and must serve at least two years confined in prison, and if the injured person suffers great bodily harm, the offender is guilty of a Class F felony and must serve at least three years confined in prison. Under this bill, a person with a prior OWI-related offense is guilty of a Class H felony and must serve a minimum of one year confined in prison if the OWI-related injury causes bodily harm, and a minimum of three years confined in prison if the OWI-related injury causes substantial bodily harm. Under the bill, if the injured party was a passenger in the person's care, a court may sentence the person to less than the minimum if the court finds that the best interests of the community will be served and that the public will not be harmed. If the court sentences a person to less than the minimum, the bill requires the court to put its findings in writing. The bill eliminates the doubling provisions for causing an OWI-related injury that results in bodily harm or substantial bodily harm and eliminates the opportunity for a reduced sentence in exchange for completing a period of probation that includes drug or alcohol treatment.

The SPD does not have data regarding the number of OWI cases resulting in bodily harm, substantial bodily harm, or great bodily harm. In cases resulting in bodily harm, a mandatory penalty of 30 days will result in additional misdemeanor cases. The average cost during Fiscal Year 2014 for SPD representation by a private bar attorney in a misdemeanor case was \$255.54. The mandatory prison sentence for a conviction in cases resulting in great or substantial bodily harm could increase the complexity, and resulting cost, of providing representation; however, that incremental cost cannot be quantified. The elimination of provisions that offer reduced sentences in exchange for completing a period of probation that includes drug or alcohol treatment are also likely to increase the number of cases that receive a trial by jury. The average cost during fiscal year 2014 for SPD representation by a private bar attorney in a felony case was \$551.02.

Because of the increased minimum penalty in these cases, the 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