

### Fiscal Estimate - 2007 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>07-2464/1</b>	<b>Introduction Number</b> <b>AB-0490</b>
------------------------------------	---

**Description**  
 Terms of imprisonment for certain drunken driving offenses and providing a penalty

**Fiscal Effect**

**State:**

No State Fiscal Effect  
 Indeterminate

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

**Local:**

No Local Government Costs  
 Indeterminate

1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<b>5. Types of Local Government Units Affected</b> <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
--	--	--

<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

<b>Agency/Prepared By</b> DOC/ Sue Loniello (608) 240-5524	<b>Authorized Signature</b> Robert Nikolay (608) 240-5405	<b>Date</b> 9/18/2007
---	--	--------------------------

## Fiscal Estimate Narratives

DOC 9/18/2007

LRB Number	07-2464/1	Introduction Number	AB-0490	Estimate Type	Original
<b>Description</b>					
Terms of imprisonment for certain drunken driving offenses and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

Under current law there are various penalties for persons convicted of operating a motor vehicle while intoxicated (OWI), with the imprisonment terms and fines increasing with each subsequent conviction.

This bill increases confinement time for individuals who are convicted two or more times for operating a motor vehicle while intoxicated, depending on the number of drunk driving offenses. A person with two OWI offenses would be subject to a mandatory minimum sentence of 30 days imprisonment (up from the current minimum of 5 days). For a third offense, the penalty increases to a mandatory minimum of 1 year of imprisonment (up from the current mandatory minimum of 30 days). For a fourth offense, the penalty increases to a mandatory minimum of 2 years of imprisonment (up from the current mandatory minimum of 60 days). For a fifth and subsequent offense, the penalty increases to a mandatory minimum of 3 years of imprisonment (up from the current mandatory minimum of 6 months), plus 1 year of imprisonment for each offense exceeding five.

In 2005, there were 39,711 convictions for OWI, of which 8,162 were for 2nd offense OWI, 3,432 were for 3rd offense OWI, 1,439 were for 4th offense OWI, 556 were for 5th offense OWI and 261 were for 6th or greater offense OWI. Of these convictions, an estimated 1,800 offenders were charged with multiple OWI offenses, so an estimated 12,050 persons had at least one OWI conviction in 2005.

For 2nd and 3rd offense OWI, the mandatory minimum sentences increase under this bill, while the maximum term of confinement remains the same. For 2nd offense OWI the current term of confinement is at least 5 days and not more than 6 months in a county jail. For 3rd offense OWI the current term of confinement is at least 30 days and not more than 1 year in a county jail. It is assumed that this bill would result in significant increases in sentences for the 8,162 offenders convicted of 2nd offense OWI and the 3,432 offenders convicted under 3rd offense OWI. However, because data is not available on the current sentence length of offenders convicted for these offenses nor the current capacity of county jails, the fiscal impact is unknown.

The FY07 annual cost for an inmate in a DOC institution is approximately \$29,600. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$4,800, based on FY07 costs. When there is no excess capacity in DOC facilities, as is currently the case, the Department uses contract beds at rate of \$18,800 annually per person. The estimates below assume that sufficient contract beds will be available at the current rate.

In 2005 there were 1,439 convictions for 4th offense OWI. Under current law the maximum term of confinement is 1 year in a county jail. Under this bill, 4th offense OWI offenders would be required to serve a mandatory minimum term of confinement of 2 years in prison rather than a lesser term in the county jail. As a result, this bill could add up to 1,439 offenders annually to the prison system at an annualized contract bed cost of \$27,053,200 in the first year and \$54,106,400 by the second year. County jail costs would decrease for offenders convicted of 4th offense OWI as they would no longer be confined in the county jail. The cost reductions to the county would depend on the cost of housing an inmate in the county and the offenders' average sentence length in the county jail.

In 2005 there were 556 convictions for 5th offense OWI. Under current law the minimum term of confinement is 6 months in a county jail and a maximum of 3 years confinement in state prison. The average term of confinement for this offense is unknown. Under this bill, 5th offense OWI offenders would be required to serve a mandatory minimum term of confinement of 3 years in prison. Assuming 50% of OWI offenders are serving up to 1 year in county jails, the Department would see an additional 278 offenders in prison for at least 3 years, at an annualized contract bed cost of \$5,226,400 in the first year, \$10,452,800 by the second year, and \$15,679,200 by the third year under this bill. County jail costs would decrease for offenders convicted of 5th offense OWI who are currently sentenced to less than one year, as they would no longer be confined in the county jail. The cost reductions to the county would depend on the cost of housing

an inmate in the county and the offenders' average sentence length in the county jail. Additional state contract bed costs would be incurred if the prison terms of offenders sentenced to prison increased as a result of the 3-year mandatory minimum confinement equaling the current maximum period of confinement. Assuming the average sentence of offenders currently serving a prison term for 5th offense OWI increase by 6 months, the Department would see additional costs of \$2,613,200 annually.

In 2005 there were 182 convictions for 6th offense OWI, 53 convictions for 7th offense OWI, 18 convictions for 8th offense OWI, 7 convictions for 9th offense OWI and 1 conviction for 10th offense OWI. Under current law the minimum term of confinement is 6 months in a county jail and a maximum of 3 years confinement in state prison. The average term of confinement for this offense is unknown. Under this bill, offenders with 6 or more OWI convictions would be required to serve a mandatory minimum term of confinement of 4 years in prison plus 1 year for each OWI conviction above 6. Assuming 25% of these OWI offenders are serving up to 1 year in county jails, the Department would see an additional 45 offenders in prison for at least 4 years, 13 additional offenders for at least 5 years, 4 additional offenders for at least 6 years, and 2 offenders for at 7 years. The annualized contract bed cost of these additional offenders would be \$1,203,200 in the first year, \$2,406,400 by the second year, \$5,170,000 by the 5th year and \$5,320,400 by the seventh year. County jail costs would decrease for offenders convicted of 5th offense OWI who are currently sentenced to less than one year, as they would no longer be confined in the county jail. The cost reductions to the county would depend on the cost of housing an inmate in the county and the offenders' average sentence length in the county jail. Additional state contract bed costs would be incurred if the prison terms of offenders sentenced to prison increased as a result of the increased mandatory minimum confinement for these offenses.

In summary, the state fiscal impact of this bill could be significant, with costs of imprisonment the first full year potentially reaching \$36.1 million and increasing to \$69.6 million by the second year and \$76 million by the third year.

The local fiscal impact also cannot be estimated. Some offenders convicted for 4th offense or greater will be serving their confinement time in prisons rather than county jails. However, there will likely be a significant increase in county jail costs due to longer jail sentences for nearly 11,600 offenders convicted of 2nd or 3rd offense OWI resulting from the mandatory minimum jail time increasing from 5 days to 30 days for 2nd offense OWI and from 30 days to 1 year for 3rd offense OWI.

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