

### 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>	
<b>Description</b> Terms of imprisonment for certain drunken driving offenses and providing a penalty			
<b>Fiscal Effect</b>			
<b>State:</b>			
<input type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input 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 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			
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
SPD/ Mike Tobin (608) 266-8259		Krista Ginger (608) 264-8572	8/28/2007

## Fiscal Estimate Narratives

SPD 8/28/2007

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

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

Legislation that increases potential penalties also has the potential to increase SPD costs. The increase in offense severity from misdemeanor to felony level can increase costs because felony cases, on average, require substantially more attorney time to defend. Penalty increases can also make it more likely that cases will involve a trial or a contested sentencing hearing, either of which results in additional attorney time.

Because this bill increases the severity of some OWI cases to felony offenses, it would increase SPD costs. The average SPD cost to provide representation in a felony case is \$543.01 (for felony classes D-I, based upon FY 2007 data). The average SPD cost to provide representation in a misdemeanor case is \$224.78. In fiscal year 2007, the SPD appointed attorneys in 4,015 misdemeanor OWI cases. Because the SPD's data does not differentiate among these misdemeanor cases to identify which ones were 4th-offense OWI, the SPD cannot determine how many of those cases would have been felonies under this bill at an increased cost of \$318.23 each.

This bill also substantially increases the mandatory periods of incarceration for repeat OWI offenses. Under current law, plea negotiations resolve many cases, including negotiations resulting in the defendant receiving intensive treatment for alcohol dependency. The increased mandatory sentences are likely to result in a substantial increase in the number of cases proceeding to trial, which would likely result in some increase to the cost for these cases. As stated above, in fiscal year 2007, the SPD appointed attorneys in 4,015 misdemeanor OWI cases. The SPD also appointed attorneys in 1,027 felony OWI cases in fiscal year 2007. The bill would increase the mandatory sentences applicable to all these OWI cases (5,042 total cases last fiscal year).

Counties are also subject to increased costs when a new crime is created or when penalties are increased. 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. The counties also incur costs associated with incarceration of defendants, both pending trial and after sentencing.

### Long-Range Fiscal Implications