

Fiscal Estimate - 2009 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 09-2768/2	Introduction Number AB-0366											
Description Probation for certain drunken driving offenses and providing penalties												
Fiscal Effect												
State:												
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <table style="width: 100%; margin-top: 5px;"> <tr> <td style="width: 33%; padding: 2px;"><input type="checkbox"/> Increase Existing Appropriations</td> <td style="width: 33%; padding: 2px;"><input type="checkbox"/> Increase Existing Revenues</td> <td style="width: 33%; padding: 2px;"><input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</td> </tr> <tr> <td style="padding: 2px;"><input type="checkbox"/> Decrease Existing Appropriations</td> <td style="padding: 2px;"><input type="checkbox"/> Decrease Existing Revenues</td> <td style="padding: 2px;"><input type="checkbox"/> Decrease Costs</td> </tr> <tr> <td style="padding: 2px;"><input type="checkbox"/> Create New Appropriations</td> <td colspan="2"></td> </tr> </table>		<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"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Decrease Costs	<input type="checkbox"/> Create New Appropriations				
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Agency/Prepared By	Authorized Signature	Date										
DOC/ Cathy Halpin (608) 240-5538	Robert Margolies (608) 240-5056	9/25/2009										

Fiscal Estimate Narratives

DOC 9/25/2009

LRB Number	09-2768/2	Introduction Number	AB-0366	Estimate Type	Original
Description Probation for certain drunken driving offenses and providing penalties					

Assumptions Used in Arriving at Fiscal Estimate

Current penalties for Operating a Vehicle While Intoxicated include:

- 2nd offense—jail not less than 5 days nor more than 6 months
- 3rd offense—jail for not less than 30 days nor more than 1 year

Probation for 2nd and 3rd Offense OWI Convictions

Penalties under current law allow offenders convicted of OWI to be placed on probation to the Department of Corrections [DOC] only when the offender is convicted of a 4th offense or higher OWI. This bill allows trial courts to place an offender on Department probation for a 2nd or 3rd OWI if the court also requires the offender, as a condition of probation, to take a therapeutically indicated dose of the medication naltrexone or its pharmacological equivalent during the offender's probation term.

The Department is unable to predict the sentencing practices of the court under this new sentencing alternative. It is also not known how courts will sentence offenders whose use of the medication is medically contraindicated.

For purposes of this fiscal estimate, DOT's CY 2007 OWI conviction information is used to estimate additional staffing and funding needed if convictions remained as they were in 2007 under the new penalty structure [probation while using naltrexone].

Department of Transportation [DOT] data shows, during calendar year [CY] 2007, there were 1,902 convictions for 4th offense OWI. During this same CY period, DOC had 586 misdemeanor probation admissions for OWI [approximately 30.8% of the total DOT convictions]. In CY 2007, there were 9,196 statewide convictions for 2nd offense OWI and 4,114 statewide convictions for 3rd offense OWI. Because Winnebago County currently pilots a 2nd and 3rd offense OWI diversion program that will continue, Winnebago County 2nd and 3rd offenses are removed resulting in net convictions of 8,895 2nd offense and 3,962 3rd offense [12,857] which could be considered by courts for probation using naltrexone. If 30.8% [misdemeanor probation admissions in CY07 for OWI 4th] of these convictions resulted in a one year DOC probation term, the Department would see a permanent increase of 3,960 offenders on community supervision after the population increase is fully realized.

Community Corrections Staffing/Costs

Assuming these OWI offenders will have similar supervision needs to other community corrections offenders, and utilizing the Department's Case Classification/Staff Deployment calculations to estimate additional staffing needs associated with these increased populations, the Department would need 100.75 additional field FTE at the end of the first year of enactment [70.25 FTE Probation & Parole Agents, 7.00 FTE Correctional Field Supervisors, and 23.50 FTE clerical support and supervision positions].

If FY09 average costs of a Division of Community Corrections [DCC] probation/parole offender [\$7.12/day] are used to estimate additional funding needed to provide community supervision for this increased population, the Department would need approximately \$10,291,200 on an annual ongoing basis once the full population increase of 3,960 offenders is reached.

It is anticipated that purchase of services [assessment/treatment] funding for this type of offender would be much greater than the average DCC offender. Additional AODA treatment in the community could be needed in the following areas:

- Aftercare treatment—approximately \$24.47/offender [1x per month for 4 months]
- Outpatient treatment—approximately \$133.12/offender [1x per month for 3 months]
- Intensive outpatient treatment—approximately \$632.83/offender [4x per week for 3 months]

- Inpatient treatment—approximately \$120/day/offender
 - o 90 day program totals \$10,800/offender
 - o 120 day program totals \$14,400/offender
 - o 180 day program totals \$21,800/offender

Although it is assumed that 100% of the DCC OWI offenders will need some of the additional AODA treatment noted above, it is not possible to predict what percentage of these offenders will need each of these different types of AODA treatment options.

Electronic Monitoring

The Department estimates 25% of offenders placed on probation with naltrexone will be placed on electronic monitoring for the first 6 months of probation and 100% will be placed on sobriety and interlock devices for the full one year period of supervision. Costs for electronic monitoring are \$0.92/day and \$1.09/day for sobriety. Interlock devices require a \$60.00 installation fee, \$70.00 monthly fee, \$60.00 one-time security fee and \$90.00/year charge for recalibration required every 60 days. For purposes of this estimate all costs are assumed to be paid by the DOC. The annualized number of offenders on monitors results in an equipment cost of \$4,158,000, requires an additional 54.25 monitoring center FTEs, approximately \$3m in ongoing costs, and approximately \$525,500 for one-time startup costs.

Naltrexone or Equivalent

Currently, if a court orders an offender to take a drug such as Antabuse as a condition of probation or a rule of supervision (this medication causes an intolerance to alcohol), and if the offender is unable to afford the drug, the Department purchases the Antabuse for the offender. It is assumed the Department would also purchase naltrexone for those who are medically indicated and unable to afford it, rather than allow the offender to be jailed. A 30-day supply of naltrexone is approximately \$127 per offender.

Summary

It is anticipated that placing 2nd and 3rd offense OWI violators on probation will result in cost increases to the Department of Corrections. The precise cost impact of this legislation will ultimately depend on the sentencing practices of judges under the new law, the number of offenders who are convicted for 2nd and 3rd offenses and who are medically able to use naltrexone, the treatment needs of the offenders and the courts' acceptance of the practice of prescribing medication, making it impossible to estimate the precise fiscal impact.

Local Costs

There is no cost impact on county jails.

Long-Range Fiscal Implications