

### Fiscal Estimate - 2009 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>09-3640/1</b>	<b>Introduction Number</b> <b>AB-0547</b>
<b>Description</b> Operating a vehicle while intoxicated, granting rule-making authority, and providing a penalty	
<b>Fiscal Effect</b>	
<b>State:</b>	
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> 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
<b>Local:</b>	
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> 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
5. Types of Local Government Units Affected <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>	
<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>Affected Ch. 20 Appropriations</b>	
<b>Agency/Prepared By</b>	<b>Authorized Signature</b>
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<b>Date</b>	
12/1/2009	

## Fiscal Estimate Narratives

DOC 12/1/2009

LRB Number	09-3640/1	Introduction Number	AB-0547	Estimate Type	Original
<b>Description</b> Operating a vehicle while intoxicated, granting rule-making authority, and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

Under current law, first offense operating a motor vehicle under the influence of an intoxicant or controlled substance (OWI Offense) is a civil violation. This bill makes first offense OWI convictions a Class C misdemeanor, which can include punishment of up to 30 days in a county jail. This proposal also provides that a person subject to a minimum period of imprisonment for any OWI offense is not eligible for home detention, good time, release from jail for employment (Huber privileges), or community service work until that minimum has been served.

Data received from the Department of Transportation (DOT) indicates that in calendar year (CY) 2007 there were 24,158 convictions of a first offense OWI. The Department of Corrections (DOC) is unable to predict the number of first offense OWI convictions that will occur or the exact length of incarceration that will be ordered under this proposed legislation. If it is assumed 2007 statistics are reflective of future data, there would be up to 724,740 additional days of incarceration in county jails from a first offense OWI conviction.

The elimination of good time, home detention, and Huber privileges for all OWI offenses until the minimum confinement term has been served would further increase county costs. It is not possible to estimate the number of additional county jail bed days that would result from this provision.

Counties will incur additional costs for housing these offenders. In order to relieve the bed space pressures resulting from the increased population, some counties may need to consider building additional jail beds. The extent of the increased cost to counties from this legislation is dependent on an individual county's current bed space capacity and what their costs are to house additional inmates.

DOC had discussions with the Legislative Reference Bureau to clarify the intent of Section 44 (Wis Stat 973.09(1)(d)). Based on these discussions, DOC is assuming this bill would authorize a court to place a person who has committed a second or third OWI violation under probation for a maximum of one year.

#### PROBATION FOR 2nd AND 3rd OFFENSE OWI CONVICTIONS

Under current law a trial court may not place a person on probation if the person has committed a second or third violation related to operating a vehicle while intoxicated. Also under current law if a crime carries a mandatory minimum period of incarceration of one year or less, the person must be incarcerated for at least the mandatory minimum period as a condition of his or her probation.

DOC is assuming this bill authorizes a court to place a person on probation for a maximum of one year, and that the mandatory minimum incarceration requirement would be applicable to these convictions as well (5 days for a 2nd OWI conviction and 30 days for a 3rd).

Under current penalties, the DOC may receive offenders when they obtain a 4th Offense OWI conviction (misdemeanor probation). During CY 2007 DOT data shows that there were 1,902 convictions for 4th offense OWI. During this same calendar year period, DOC had 586 misdemeanor probation admissions for driving while intoxicated, approximately 30.81% of the total DOT convictions.

For purposes of this fiscal estimate, DOT's CY 2007 OWI conviction information is used to estimate additional staffing and funding that would be needed if convictions remained as they were in 2007 under the new penalty structures. In CY2007, there were 9,196 convictions for 2nd offense OWI and 4,114 convictions for 3rd offense OWI. If 30.81% of these convictions resulted in a one year probation term, the Department would see a permanent increase of 4,101 offenders on community supervision after the first full year of enactment of this legislation.

Community Corrections Staffing/Costs – If it is assumed that these OWI offenders will have similar supervision needs to other community corrections offenders, and the Department's Case Classification/Staff Deployment calculations are utilized to estimate additional staffing needs associated with these increased

populations, the Department would need 104.50 additional FTE within the first year of enactment (73.00 FTE Probation and Parole Agents, 7.00 FTE Unit Supervisors and 24.50 FTE clerical support positions).

If FY09 average costs of a 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 \$5.8 million in year one and then \$10.7 million starting in year two and on an annual ongoing basis once the full population increase of 4,101 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 - approx. \$24.47/offender (1x per month for 4 months)
- Outpatient treatment – approx. \$133.12/offender (1x per month for 3 months)
- Intensive outpatient treatment – approx. \$632.83/offender (4x per week for 3 months)
- Inpatient Treatment – approximately \$120/day/offender
  - ..... 90 day (3 mo) program totals \$10,800/offender
  - ..... 120 day (4 mo) program totals \$14,400/offender
  - ..... 180 day (6 mo) program totals \$21,800 per 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 would utilize electronic monitoring on an estimated 25% of the community OWI offenders for the first 6 months of supervision and place 100% of the community OWI offenders on sobriety and interlock devices for the term of their community 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 a \$90.00/year charge for recalibration which is needed every 60 days. For purposes of this estimate all of the interlock costs are assumed to be paid by the Department.

The Department would need approximately \$2.2 million in equipment costs on an ongoing basis. An additional 56.00 FTE Monitoring Center staff would be needed at a cost of approximately \$3.1 million per year plus an initial \$550,700 in startup costs.

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