

Fiscal Estimate Narratives

DOJ 7/31/2013

LRB Number	13-0729/1	Introduction Number	AB-0069	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

Under current law, it is a misdemeanor to commit a first offense OWI causing injury and it is a felony to commit a first offense OWI causing great bodily harm. 2013 Assembly Bill 69, creates first offense OWI causing substantial bodily harm as a Class H felony.

While most felony prosecutions are handled by district attorneys, assistant attorneys general in the Department of Justice's Criminal Litigation Unit on occasion act as special prosecutors throughout Wisconsin at the request of district attorneys. In addition, the Department of Justice's Criminal Appeals Unit represents the State of Wisconsin in defending felony convictions when those convictions are challenged in state or federal court. Under Wisconsin law, this unit is charged with preparing briefs and presenting arguments in front of any state appellate or federal court hearing a challenge to a felony conviction.

Since AB 69 broadens the types of activities that can be prosecuted as a felony, enactment of the bill could result in an increase in caseload for DOJ, particularly the Criminal Appeals Unit.

In addition, creating a new felony OWI offense would allow submission of the blood samples to DOJ's Crime Laboratory Bureau for alcohol and drug analysis versus submission to the Wisconsin State Laboratory of Hygiene, where misdemeanor OWI samples are currently sent.

According to DOT, there were the following number of convictions for first offense OWI causing injury in the following years:

2010 - 183
2011 - 176
2012 - 126*

According to DOT, there were the following number of convictions for first offense OWI causing great bodily harm in the following years:

2010 - 26
2011 - 26
2012 - 10*

* It should be noted that some 2012 convictions may not have been adjudicated and recorded as of the date of this estimate.

It is difficult to estimate how many of the future first offense OWI causing injury cases would become first offense OWI causing substantial bodily harm cases should AB 69 be enacted. If the number of new felony OWI cases is low, DOJ will be able to absorb those cases with existing resources. If the number of new felony OWI cases is significant, DOJ will require additional resources for the Criminal Appeals Unit and the Crime Labs.

Total annual salary, fringe, supplies, and equipment costs for 1 Assistant Attorney General is \$81,900.

Total annual salary, fringe, supplies, and equipment costs for 1 forensic toxicologist is \$75,486.

Long-Range Fiscal Implications