

Fiscal Estimate - 2013 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 13-0729/1	Introduction Number AB-0069
Description Requiring a mandatory minimum sentence for causing bodily harm to another while driving while intoxicated and providing a penalty	
Fiscal Effect	
State:	
<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	
Local:	
<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	
Fund Sources Affected	
<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 20.550(1)	
Affected Ch. 20 Appropriations	
Agency/Prepared By	Authorized Signature
SPD/ Kathy Smith (608) 267-0974	Adam Plotkin (608) 264-8572
Date	
3/20/2013	

Fiscal Estimate Narratives

SPD 3/20/2013

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

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

This bill mandates that if a person causes an Operating While Intoxicated (OWI)-related injury and the injured person suffers bodily harm, the individual who caused the injury must serve at least six months in jail. If the injured person suffers substantial bodily harm, the offender is guilty of a Class H felony and must serve at least two years confined in prison, and if the injured person suffers great bodily harm, the offender is guilty of a Class F felony and must serve at least three years confined in prison. This bill increases the length of prison confinement if the offender had a prior OWI-related offense.

The SPD does not have data regarding the number of OWI cases resulting in bodily harm, substantial bodily harm, or great bodily harm. In cases resulting in bodily harm, a mandatory penalty of six months will result in additional misdemeanor cases. The average cost during Fiscal Year 2012 for SPD representation by a private bar attorney in a misdemeanor case was \$237.02. The mandatory prison sentence for a conviction in cases resulting in great or substantial bodily harm could increase the complexity, and resulting cost, of providing representation; however, that incremental cost cannot be quantified. The elimination of provisions that offer reduced sentences in exchange for completing a period of probation that includes drug or alcohol treatment are also likely to increase the number of cases that receive a trial by jury. The average cost during Fiscal Year 2012 for SPD representation by a private bar attorney in a felony case was \$576.73.

Because of the increased minimum penalty in these cases, the counties are also subject to increased costs. 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. Thus, the counties would experience increased costs attributable to the higher penalties for these charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications