



## Fiscal Estimate Narratives

DA 11/12/2009

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

If this bill were to be enacted, it would have a significant impact on DA offices. Because first offense OWIs currently are non-criminal, the majority of these cases are prosecuted by city and municipal authorities. A large number of first offense OWI violators plead at their initial appearance.

If such offenses become criminal, however, they must be handled in criminal courts by DAs. Once offenders realize that they may face jail time they would be more likely to retain counsel; and, it would be less likely that there would be plea bargains if jail time would be mandatory. A case could be in the court system for months having scheduling conferences, status conferences, and pre-trial conferences. Many may have suppression hearings challenging the stop and arrest.

To estimate the fiscal impact on the DA program, calculations used the same timeframe used in the annual DA Workload Study for criminal traffic (i.e. - 1.68 hours per case). Prosecutors are unanimous in stating that the 1.68 hour timeframe is unrealistically low for criminal OWI cases, and that the 1.68 hour figure was based on an LAB study conducted in 1995.

As mentioned above, prosecutors believe that currently most first offense OWI cases are prosecuted by city and municipal authorities. If these were to become criminal, virtually all of these cases would represent an addition to the prosecutorial workload. In 2007, there were 23,689 OWI first offense convictions. This number does not include arrests, only convictions; so, the potential number of cases could be greater than 23,689. Multiplying 23,689 cases by the 1.68 hour timeframe for prosecution of a criminal traffic case reflects a need for an additional 39,798 hours of prosecutorial time. In accordance with the LAB study, 1,227 hours are used to estimate time available per year for prosecutors to prosecute individual cases. 39,798 hours divided by 1,227 hours represents a need of 32.4 additional prosecutors.

Using the current pay range minimum of \$23.673/hour for an ADA, the annual salary equates to approximately \$49,429. Using a full fringe rate of 39.19%, the annual fringe costs would be approximately \$19,371. The salary and fringe cost for each new prosecutor would be approximately \$68,800 per year. The annual cost for 32.4 additional prosecutors would be approximately \$2,229,120.

When considering the estimate above, please keep in mind the following:

- (1) Prosecutors believe that it would take much more than 1.68 hours to prosecute a criminal OWI case, thereby increasing the number and cost of additional prosecutors needed
- (2) The fringe rate of new employees frequently is much higher than the 39.19% rate, primarily due to the relatively low salary of new prosecutors
- (3) The number of first offense OWI cases in 2007 was significantly lower than the number of cases in the preceding three calendar years. This could mean that the number of cases will increase in subsequent years, resulting in an increase in the number and cost of additional prosecutors needed.

There would be a fiscal effect for counties if this bill were to be enacted because of mandatory jail time for violators.

### Long-Range Fiscal Implications

Please see the narrative above regarding the potential fiscal impact.