

Fiscal Estimate Narratives

DOJ 1/24/2014

LRB Number	13-0728/2	Introduction Number	AB-0068	Estimate Type	Original
Description Penalties for driving a vehicle while under the influence of an intoxicant and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, it is a misdemeanor to commit a fourth offense OWI if the third offense OWI took place more than 5 years prior. Under 2013 Assembly Bill 68, as amended by Assembly Substitute Amendment 1, it is a felony to commit a fourth offense OWI regardless of when the third offense occurred.

Increasing this offense to a felony will allow submission of the blood samples to DOJ's Crime Laboratory Bureau (CLB) for alcohol and drug analysis versus submission to the Wisconsin State Laboratory of Hygiene (WSLH), where misdemeanor OWI samples are currently sent.

Based on data provided by the Department of Transportation, DOJ would expect to see an annual increase of approximately 575 toxicology cases, which is the four-year average of misdemeanor 4th OWI offenses from 2009-2012 (it should be noted that some 2012 convictions may not have been adjudicated and recorded as of the date of this estimate). This estimate considers what additional personnel, equipment, consumable supplies, and work space costs would be required to meet that demand without adversely affecting overall CLB toxicology turnaround times.

The CLB has a total of seven toxicologists assigned between the Madison and Milwaukee laboratories. The Wausau laboratory does not perform toxicology work. In 2012, the CLB analyzed 3,832 toxicology samples with a turnaround time of 36 days. Through July 29, 2013, the CLB has analyzed 2,482 toxicology samples with a turnaround time of 29 days.

In order to process the samples expected under AB 68 in a similar fashion, the CLB would need increased capacity as follows:

PERSONNEL

1 forensic toxicologists @ \$35,510 (salary) + \$13,700 (fringe)= \$49,210
office supplies and equipment @ \$3,900
rent, IT support, & other costs @ 21,950
Total personnel costs: \$75,060

EQUIPMENT

1 Headspace Gas Chromatograph @ \$62,000
1 Gas Chromatograph/Mass Spectrometer @ \$65,000
Total equipment costs: \$127,000

SUPPLIES

1 set of pipettes @ \$3,000
1 Centrifuge @ \$1,200
700 consumable supplies @ \$2.26= \$1,582
Total supply costs: \$5,782

Total CLB personnel, equipment, and supplies = \$207,842

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 68 broadens the types of activities that can be prosecuted as felonies, enactment of the bill could result in an increase in caseload for DOJ, particularly the Criminal Appeals Unit (CAU). If the bill results in a

substantial increase in the number of felony appeals cases handled by the CAU Unit, DOJ will require additional resources. Total salary, fringe, supplies, equipment, and other costs for 1 Assistant Attorney General is approximately \$81,900.

Long-Range Fiscal Implications