

Fiscal Estimate Narratives

DA 3/11/2019

LRB Number	19-1025/1	Introduction Number	AB-0016	Estimate Type	Original
Description committing a fifth or sixth offense related to operating a vehicle while intoxicated and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

This bill imposes a mandatory minimum period of confinement in prison for fifth and sixth offenses of operating a motor vehicle while intoxicated (OWI).

Under current law, it is an OWI offense for a person to operate a motor vehicle while under the influence of an intoxicant, a controlled substance, a controlled substance analog, or any combination thereof, under the influence of any substance to a degree that renders him or her incapable of safely driving, with a detectable amount of a restricted controlled substance in his or her blood, or with a prohibited alcohol concentration. Under current law, a person who commits a fifth or sixth OWI offense is guilty of a Class G felony and may be fined up to \$25,000, imprisoned for up to ten years, or both. Under current law, a person who commits a fifth or sixth OWI offense must be fined at least \$600 and imprisoned for at least six months.

Under this bill, for a fifth or sixth OWI offense, a sentencing court is required to impose a sentence that orders the person to spend at least 18 months confined in prison.

According to the Wisconsin Department of Transportation, in 2017 there were 404 convictions for OWI 5th offense and 177 convictions for OWI 6th offense.

Responsive District Attorneys generally cited the belief that any increase in mandatory minimums in proposed legislation decreases the District Attorneys ability to resolve cases with plea agreements, reduces the Judge's discretion at sentencing and increases the likelihood that the defendant will contest his/her guilt at trial or via a pre-trial motion. Motion practice and jury trials consume significantly more prosecutorial resources and time than resolving matters via plea agreement. The number of additional cases that would be calendared for litigation rather than plea as a result of this legislation is unknown. Responsive District Attorneys further note that this change would also affect the ability to utilize treatment courts for 5th and 6th offense offenders which have borne fruit in reducing drunk driving recidivism.

Long-Range Fiscal Implications

Data with which to make a long range fiscal impact projection as to the effects of this proposed legislation is unavailable.